



# Instructions for Form DTF-621

## Claim for QETC Employment Credit

### Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form IT-500, *Income Tax Credit Deferral*, or Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form IT-500 or CT-500 to determine the amounts to enter on your tax return.

### General information

The qualified emerging technology company (QETC) employment credit under section 210.12-E of Article 9-A and section 606(q) of Article 22 of the Tax Law is designed to encourage the creation of jobs in a QETC. The credit is available to Article 9-A taxpayers or Article 22 taxpayers (individuals including sole proprietors, partners of partnerships, shareholders of New York S corporations, members of LLCs, estates and trusts, and beneficiaries of estates and trusts). The credit can be claimed for three consecutive years. For more information about the credit, see TSB-M-99(2.1)C or TSB-M-00(2)I. Also see TSB-M-12(9)C, (8)I, *Clarification of Qualifications for Qualified Emerging Technology Company Tax Credits*.

### Who is eligible

You may claim this credit if you are:

- A corporation that is subject to tax under Article 9-A.
- An individual who is subject to tax under Article 22 including:
  - a sole proprietor (including estates and trusts that are sole proprietors)
  - a partner of a partnership (including a member of a limited liability company (LLC) that is treated as a partnership for federal income tax purposes)
  - a shareholder of a New York S corporation
  - a beneficiary of an estate or trust where the estate or trust is a sole proprietor, partner in a partnership, or a shareholder of a New York S corporation

To claim this credit the corporation, individual, sole proprietorship, partnership, or S corporation:

- must be a QETC as defined in section 3102-e of the Public Authorities Law (PAL), **and**
- the average number of individuals employed full-time by the taxpayer in New York State during the tax year must be at least 101% of the taxpayer's base-year employment.

### Credit amount

The amount of the credit is equal to the average number of full-time employees in New York State for the current tax year, minus the taxpayer's base-year employment, multiplied by \$1,000.

See Schedule B for computation of credit for the current tax year.

### Application and refund of credit

The credit is available for three consecutive tax years selected by the taxpayer, and may be claimed for each of the three years that the eligibility requirements are met. For Article 9-A taxpayers, the credit cannot reduce the tax to an amount less than the tax due on the minimum taxable income base or fixed dollar minimum, whichever is larger. You may not apply the credit against the

metropolitan transportation business tax (MTA surcharge). If the credit allowable for any tax year exceeds the taxpayer's tax for the tax year, the excess is refunded.

Article 9-A taxpayers may also elect to have their overpayment amount credited as an overpayment to the next period, instead of refunded.

### Combined filers

A taxpayer filing as a member of a combined group may claim the QETC employment credit. The QETC employment credit is computed on a separate basis and applied against the combined tax.

### Percentages

When computing percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Round percentages to four decimal places.

**Example:**  $5,000 / 7,500 = 0.6666666 = 66.6667\%$ .

### General definitions

A *qualified emerging technology company* is, as defined in section 3102-e of the PAL, a company located in New York State that has total annual product sales of \$10 million or less, and meets **either** of the following criteria:

- Its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL.
- It has research and development (R&D) activities in New York State, and its ratio of R&D funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation (NSF) in the most recently published results from its Business R&D and Innovation Survey (BRDIS) or a comparable successor survey as determined by the Tax Department).

There are two average ratios for all surveyed companies classified on the NSF's survey. One average ratio is for companies doing R&D funded by the federal government. The other average ratio is for companies doing R&D without funding from the federal government. The average ratio for all surveyed companies classified is deemed to be the lesser of these ratios.

Currently, the average ratio is 3.8% for companies doing R&D funded by the federal government, and 3.1% for companies doing R&D without funding from the federal government. Single copies of the survey are available free of charge from the Division of Science Resources Statistics, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington VA 22230.

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 3.1%. Therefore, at the time these instructions were printed, to qualify a company must have a ratio of R&D funds to net sales of at least 3.1%, as determined on line 7.

A *company located in New York State* means a sole proprietorship, corporation, partnership, LLC, or any other entity that, during the tax year the credit is claimed, owns or rents real property used in its emerging technology primary products or services business, or in its R&D activities in New York State.

*Emerging technologies under section 3102-e(1)(b) of the PAL* means:

1. Advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies include, but are not limited to, the following: metal alloys,

metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction, and waste processing technologies.

2. Engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and tools; or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies include, but are not limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, and environmental analysis, remediation, control, and prevention equipment; defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, and space vehicles; and surveillance, tracking, and defense warning systems.
3. Electronic and photonic devices and components for use in producing electronic, optoelectronic, or mechanical equipment, and products of electronic distribution with interactive media content. Such technologies include, but are not limited to, the following: microprocessors, logic chips, memory chips, lasers, and printed circuit board technology; electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays; optical fibers, magnetic and optical information storage, and optical instruments; lenses, and filters, simplex and duplex data bases, and solar cells.
4. Information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies include, but are not limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband switching, multiplexing, digital signal processing, and spectrum technologies.
5. *Biotechnologies*, defined as technologies involving the scientific manipulation of living organisms, especially at the molecular or the submolecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research and pharmacological, mechanical, and computational applications and services connected with these improvements. Such activities include, but are not limited to, the following: alternative mRNA splicing; DNA sequence amplification; antigenetic switching; bioaugmentation; bioenrichment; bioremediation; chromosome walking; cytogenetic engineering; DNA diagnosis, fingerprinting, and sequencing; electroporation; gene translocation; genetic mapping; site-directed mutagenesis; biotransduction; biomechanical and bioelectrical engineering; and bioinformatics.
6. *Remanufacturing technologies*, defined as processes whereby eligible commodities are restored to their original performance standards and are thereby diverted from the solid waste stream, retaining the majority of components that have been through at least one life cycle, and replacing consumable portions to enable such commodities to be restored to their original functions. For the purposes of this subdivision, *eligible commodities* means commodities (excluding paper) used in conjunction with or as a part of equipment performing the functions of facsimile machines, photocopiers, printers, duplication equipment, or any combination thereof, including, but not limited to the following: magnetic ink character recognition cartridges, photo conductor assemblies, electrostatic cartridges, thermal imaging cartridges, toner cartridges, ink jet cartridges, and printer cartridges.

*Eligible commodities* also includes equipment used to record single frame images on film, where such equipment and film are marketed and sold as a single integrated consumer product, and where such equipment and film may be submitted in whole to a photograph processor for the purposes of processing.

*Total annual product sales* means the amount reported, or that should have been reported for federal income tax purposes, as gross receipts or sales from the sale of all products during the tax year that the credit is claimed.

*Net sales* means total annual product sales minus the amount reported, or that should have been reported for federal income tax purposes, as returns and allowances during the tax year that the credit is claimed.

*Primary products or services* means that more than 50% of a taxpayer's receipts from products or services are derived from emerging technology products or services during the tax year that the credit is claimed. Alternatively, if a business has no receipts from the sales of products and services, if more than 50% of the business' expenses are attributable to emerging technologies during the tax year that the credit is claimed, the business satisfies the test.

*Base-year employment* means the average number of individuals employed full time by the taxpayer in New York State during the three tax years immediately preceding the first tax year in which the credit is claimed. If the taxpayer provided full-time employment in the state for only part of the three-year base period, the credit cannot be claimed until the tax year following the first full tax year (a period of at least 12 calendar months) the taxpayer provided some full-time employment in the state.

*Full-time employment* means a job consisting of at least 35 hours per week, or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week. A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

## Information and definitions from the survey

The following information and definitions are from the NSF's BRDIS.

R&D includes **all** of the following:

- planned systematic pursuit of new knowledge or understanding toward general application (basic research)
- acquisition of knowledge or understanding to meet a specific, recognized need (applied research)
- application of knowledge or understanding toward the production or improvement of a product, service, process, or method (development)

R&D activities include the following:

- Activities that incorporate
  - basic and applied research in the sciences and engineering,
  - design and development of new products and processes, and
  - enhancement of existing products and processes.
- Activities carried on by persons trained, either formally or by experience, in
  - biological sciences (such as medicine),
  - computer science,
  - engineering,
  - mathematical and statistical sciences, and
  - physical sciences (such as chemistry and physics).
- Activities that take place in
  - separate R&D organizational units of the company,
  - company laboratories, and
  - technical groups not part of an R&D organization.

The following activities are excluded from R&D:

- R&D from acquired companies prior to acquisition (in process R&D)
- Amortization above the actual cost of property and equipment related to your R&D activities

- Test and evaluation once a prototype becomes a product model
- Routine product testing
- Geological and geophysical exploration activities
- Technical services including
  - quality and quantity control,
  - technical plant sanitation control, and
  - troubleshooting in connection with breakdowns in full-scale production.
- Advertising programs to promote or demonstrate new products or processes
- Assistance in preparation of speeches and publications for persons not engaged in R&D
- Social science R&D includes the following:
  - personnel R&D
  - economic R&D
  - artificial intelligence and expert systems R&D
  - consumer, market, and opinion R&D
  - engineering psychology R&D
  - management and organizational R&D
  - actuarial and demographic R&D
  - educational processes and applications R&D
  - R&D in law

*Basic research* is the pursuit of new scientific knowledge or understanding that does not have specific immediate commercial objectives; however, it may be in fields of present or potential commercial interest.

*Applied research* applies the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific commercial objectives with respect to new products, services, processes, or methods.

*Development* is the systematic use of knowledge or understanding gained from research or practical experience directed toward the production or significant improvement of useful products, services, processes, or methods including the design and development of prototypes, materials, devices, and systems.

**Include** as development:

- expenditures for designing and conducting clinical trials of drugs, pharmaceuticals, or other products that have not been marketed
- software development including designing or adapting software (or both) if the application has commercial value (exclude software development for internal use); beta versions of software being developed that have potential commercial application; and design and operation of pilot plants and semiwork plants
- engineering activity required to advance the design of a product or process so it meets specific functional and economic requirements
- design, construction, and testing of prototypes and models including test models for defense contracts
- design for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals

**Exclude** as development:

- software development intended for internal company use only
- routine technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints

## Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

**Individuals (including sole proprietors), S corporations, fiduciaries, and partnerships:** Complete Schedule A, Schedule B, and Schedule C.

**A married couple in a business enterprise that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return:** If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Schedule A, Schedule B, and Schedule C.

**Partners (including corporate partners), shareholders of New York S corporations, and beneficiaries of estates or trusts:** Complete line A and Schedule C.

Corporate partners must also complete Schedule D.

**Corporations:** Complete Schedule A, Schedule B, Schedule C, and Schedule D.

**Note:** If more than one of the above applies to you, complete all appropriate schedules on one Form DTF-621.

### Line A

**Partner:** Enter your share of the partnership's credit on line A. Provide the name and identification number of the partnership.

**Shareholder:** Enter your share of the New York S corporation's credit on line A. Provide the name and identification number of the New York S corporation.

**Beneficiary:** Enter your share of the estate or trust credit on line A. Provide the name and identification number of the estate or trust.

The partnership, New York S corporation, estate or trust should provide you with your share of the credit to be entered on line A.

If you are claiming a credit from more than one partnership, New York S corporation, or trust, combine all amounts on line A and attach a list showing a breakdown of the amounts and the name and identification number of each entity.

## Schedule A — Eligibility requirements

**All of the questions in Schedule A pertain to the tax year for which you are claiming the credit.**

### Part 2 — QETC business activities

#### Research and development (R&D) activities

**Lines 4 through 7** — Complete lines 4 through 7 to determine if the R&D funds percentage on line 6 equals or exceeds the average ratio for all surveyed companies as last determined by the NSF (currently 3.1%). For more information, see the definition of a *qualified emerging technology company* on page 1.

**Line 4** — Enter the amount paid or incurred in the conduct of R&D activities. These funds are the same as those used by the NSF in its most recent survey and represent expenditures paid or incurred in the conduct of R&D activities during the tax year that the credit is claimed.

**Include** as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- R&D depreciation
- cost of computer software used in R&D activities
- utilities, such as telephone, telex, electricity, water, and gas
- travel costs and professional dues
- property taxes and other taxes (except income taxes) incurred on account of the R&D organization or the facilities they use
- insurance expenses
- maintenance and repair, including maintenance of buildings and grounds

- company overhead including: personnel, accounting, procurement and inventory, and salaries of research executives not on the payroll of the R&D organization

**Exclude** as expenses:

- R&D from acquired companies prior to acquisition (in process R&D)
- capital expenditures
- test and evaluation once a prototype becomes a production model
- patent expense
- income taxes and interest

**Line 5** — Enter the amount of net sales for the current tax year that were reported on your federal return.

#### Primary products and services

**Line 9** — Enter the gross receipts or sales from the company's emerging technology products or services described on line 8 that were included on your federal return.

### Part 3 — Computation of average number of full-time employees in New York State for the current tax year and three-year base period

**Line 17** — For each date specified of the current tax year, enter the number of full-time employees employed in New York State. When computing full-time employees for line 17, include all full-time general executive officers and full-time employees, including full-time employees for whom an empire zone (EZ) wage tax credit or zone equivalent area (ZEA) wage tax credit has been claimed. Include also those for whom a credit for employment of persons with disabilities has been claimed.

Add the number of full-time employees on each date for the current tax year and divide by the number of these dates occurring during the current tax year to obtain the average number of full-time employees for the current tax year.

**Line 18** — For the three-year period immediately preceding the first tax year in which the credit is claimed (the base period) enter the number of full-time employees in New York State for each date specified. To be eligible to compute base-year employment, the taxpayer must have had some full-time employment and have been taxable in New York State for a period of at least 12 full calendar months in the tax year immediately preceding the year for which the credit is claimed.

Add the number of full-time employees for the three-year base period, and divide by the number of these dates occurring during the three-year base period, to obtain the average number of full-time employees for the three-year base period. The number of full-time employees on line 18, once computed, remains the same for each of the three tax years for which the credit is claimed.

When computing full-time employees for line 18, include all full-time employees and full-time general executive officers (but do not include full-time employees for whom an EZ wage tax credit or a ZEA wage tax credit has been claimed).

If the taxpayer provided full-time employment in New York State for only part of the three-year base period, then compute the base year employment using that part.

**Line 19** — If the percentage on line 19 is 101% or more, complete Schedules B and C and, if applicable, Schedule D. If the percentage is less than 101%, you are not eligible to compute the credit for the current tax year. However, if you have any credits being passed through to you from a partnership, S corporation or estate or trust, for this tax year, complete Schedule C.

**New York C corporations:** Also complete Schedule D.

### Schedule B — Computation of credit for the current tax year

**Line 24** — An **estate or trust** must allocate or assign the credit to itself and to its beneficiaries in the same manner that the income of

the estate or trust is allocated. An estate or trust should enter only its share of the line 24 amount on line 26.

**All others:** Enter the line 24 amount on line 26.

If you computed a QETC employment credit on line 24, you must complete the additional information requested for Schedule B.

### Additional information for Schedule B — Employee listing

List the name and social security number of each full-time employee used to compute the average number of full-time employees included on line 20. Attach additional sheets if necessary.

### Schedule C — Computation of QETC employment credit

**Line 25 — Estates or trusts:** Enter only your share of the QETC employment credit amount shown on line A. An estate or trust must allocate or assign the credit to itself and to its beneficiaries in the same manner that the income of the estate or trust is allocated.

#### Line 26

**Estates or trusts:** Enter only your share of the QETC employment credit amount shown on line 24.

**All others:** Enter the amount from line 24.

#### Line 27

**Partnerships:** Enter the line 27 amount and code **621** on Form IT-204, line 147.

**Individuals and fiduciaries:** If your total credits from all sources are **\$2 million or less**, enter the amount from line 27 and code **621** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or include it on Form IT-205, line 33.

If your total credits from all sources are **more than \$2 million**, you may be subject to a credit deferral. Complete line 27, but do not enter the amount from line 27 on your tax return. See Form IT-500, *Income Tax Credit Deferral*, to determine the proper amount to enter on your tax return.

**New York S corporations:** Transfer the line 27 amount to Form CT-34-SH and provide your shareholders with their pro rata share of this amount.

**New York C corporations:** Continue with Schedule D.

### Schedule D — Computation of QETC employment credit limitation (Article 9-A only)

**Line 28** — Enter the current year's tax after the addition of the tax on subsidiary capital and before the deduction of any tax credit or the addition of the MTA surcharge from Form CT-3 or Form CT-3-A. You may not apply the QETC employment credit against the MTA surcharge.

**Line 29** — Enter the total amount of any other tax credits applied before the QETC, including this credit from another member within your combined group, used against the current year's franchise tax. You must apply certain credits before the QETC employment credit. Refer to Form CT-600, *Ordering of Corporation Tax Credits*.

**Lines 33, 35, and 36** — On line 33, enter the line 27 or line 32 amount, whichever is less.

If your total credits from all sources are **\$2 million or less**, enter the amount from lines 33, 35, and 36 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to a credit deferral. Complete lines 33, 35, and 36, but do not enter the amounts from lines 33, 35, and 36 on your franchise tax return. See Form CT-500, *Corporation Tax Credit Deferral*, to determine the proper amounts to enter on your tax return.