



# Instructions for Form CT-605

## Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry

### 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 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 CT-500 to determine the amounts to enter on your tax return.

### Effect of the expiration of the EZ program

The Empire Zones (EZ) Program expired on June 30, 2010. However, the Tax Law was amended to extend the period of eligibility to claim the empire zone investment tax credit (EZ-ITC) and empire zone employment incentive credit (EZ-EIC) for taxpayers that were certified as EZ businesses or as qualified investment projects (QUIPs) under General Municipal Law (GML) Article 18-B, prior to the expiration of the program.

### EZ-ITC

A taxpayer that is certified as an EZ business under GML Article 18-B as of June 30, 2010, will continue to be deemed certified under Article 18-B for purposes of the EZ-ITC until April 1, 2014. In addition, the areas designated as EZs in which the taxpayer is certified as an EZ business as of June 30, 2010, will continue to be deemed EZs for purposes of the EZ-ITC until April 1, 2014.

A taxpayer that is certified as a QUIP under GML Article 18-B as of June 30, 2010, will be deemed certified under Article 18-B for purposes of the EZ-ITC, for the remainder of the tax year in which the expiration occurred and for the next nine tax years. In addition, for purposes of the EZ-ITC, the areas designated as EZs in which the QUIP is certified as of June 30, 2010, will continue to be deemed EZs for the remainder of the tax year in which the expiration occurred and for the next nine tax years.

### EZ-EIC

For purposes of the EZ-EIC, a taxpayer that is certified as an EZ business under GML Article 18-B as of June 30, 2010, will continue to be deemed in the EZ in which the taxpayer was certified as an EZ business on the day immediately preceding the day the Empire Zones Program expired and for each of the three years next succeeding the tax year for which the ITC is allowed.

For purposes of the EZ-EIC, a taxpayer that is certified as a QUIP under GML Article 18-B on the day immediately preceding the day the Empire Zones Program expired will continue to be deemed certified for the remainder of the year in which the expiration occurred and for the next succeeding nine tax years. In addition, the areas designated as EZs in which the taxpayer is certified as a QUIP on the day immediately preceding the day the Empire Zones Program expired will continue to be deemed EZs for the remainder of the tax year in which the expiration occurred and for the next nine succeeding tax years.

### General information

The Tax Law allows an empire zone investment tax credit (EZ-ITC) for the financial services industry against the tax imposed by Articles 9-A and 22, respectively, for the tax year during which qualified property is placed in service in an EZ designated as such under General Municipal Law (GML) Article 18-B. The EZ-ITC allowed under Articles 9-A and 22 is computed at different rates. For New York C corporations taxable under Article 9-A (corporation franchise tax), the credit rate is 10%; for New York S corporation shareholders taxable under Article 22 (personal income tax), the credit rate is 8%. Compute the EZ-ITC by multiplying the appropriate credit rate by the cost (or other federal basis) of qualified property that was acquired, constructed, reconstructed, or erected in an EZ after its date of designation and before its date of expiration as an EZ.

The taxpayer claiming this credit must be certified under GML Article 18-B. Businesses must also obtain the EZ retention certificate to receive any EZ benefits. Include copies of the *Certificate of Eligibility* and EZ retention

certificate with this credit form. Flow-through entities such as partnerships, S corporations, and limited liability companies should distribute copies of the EZ retention certificate to their partners, shareholders, and members for use in filing their tax returns claiming the EZ credits. See Schedule A instructions for additional requirements necessary to claim the credit.

When an acquisition, construction, reconstruction, or erection is started during the period of designation of the EZ and completed subsequent to the expiration of such period, the credit is computed based on the expenditures paid or incurred during the period of designation. Expenditures paid or incurred after the designated period may qualify for the ITC under Tax Law, Article 9-A, section 210.12.

Also, an EZ employment incentive credit (EZ-EIC) for increasing employment is allowed. See the instructions for completing Schedule B.

The EZ-ITC used may not reduce the corporation franchise tax liability to an amount less than the higher of the tax on minimum taxable income or the fixed dollar minimum.

The EZ-EIC used may reduce your franchise tax liability to the fixed dollar minimum.

Any portion of EZ-ITC or EZ-EIC that cannot be used to reduce the current year tax liability may be carried over to the following year or years until it is used up. A taxpayer who has been decertified may carry forward the EZ-ITC for only seven years. However, a taxpayer who has been decertified as part of the 2009 recertification process will not be allowed any carryovers.

A corporation that is a new business may elect for a refund of 50% of the current year's unused EZ-ITC credit. In addition, a taxpayer that is approved by the Commissioner of Economic Development as an owner of a qualified investment project or a significant capital investment project (as defined under GML sections 957(s) and 957(t)) may elect to treat 50% of its unused EZ-ITC and EZ-EIC that is attributable to the project as an overpayment of tax to be credited or refunded. The refund is available for a maximum of ten years for each project beginning with the first year such property is placed in service.

### Qualified property

Qualified property for the EZ-ITC is tangible property, including buildings and structural components of buildings, that:

- A. was acquired, constructed, reconstructed, or erected by the taxpayer on or after the date of designation of the EZ and prior to the expiration of such designation, and was placed in service on or after October 1, 1998, and before April 1, 2014; and
- B. is depreciable according to Internal Revenue Code (IRC) section 167; and
- C. has a useful life of four years or more; and
- D. was acquired by the taxpayer by purchase according to IRC section 179(d); and
- E. is located in an EZ; and
- F. is principally used in the ordinary course of the taxpayer's business:
  - as a broker or dealer in connection with the purchase or sale of stocks, bonds, other securities (IRC section 475(c)(2)), or of commodities (IRC section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (IRC section 475(c)(2)); or
  - of providing investment advisory services for a regulated investment company (IRC section 851); or
  - as an exchange registered as a national securities exchange (sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934) (available to Article 9-A taxpayers only); or
  - as a board of trade (section 1410(a) of the Not-for-Profit Corporation Law) (available to Article 9-A taxpayers only); or
  - as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto (available to Article 9-A taxpayers only).

It is not necessary for the users of the property to be located in the EZ. For example, a computer system placed in service in an EZ would qualify for the credit even if the brokers accessing the system are located outside the EZ.

Property leased to a broker, dealer, registered investment advisor, national securities exchange, or board of trade that is an affiliate of the taxpayer,

that principally uses the property in the qualifying activities listed above, qualifies for the credit provided it otherwise meets the criteria for qualified property. Any contract or agreement to lease or rent, or for a license to use the property, is considered a lease. In addition, property qualifies if it meets the criteria and is purchased by the taxpayer but is principally used by a broker, dealer, registered investment advisor, national securities exchange, or board of trade that is an affiliate of the taxpayer, in the qualifying activities listed above.

For the purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer, the affiliated broker, dealer, and registered investment advisor may be aggregated.

A recapture of EZ-ITC and EZ-EIC previously allowed must be computed if the property is disposed of or ceases to be in qualified use prior to the end of its useful life.

If qualified property is acquired to replace other insured property that was stolen or was destroyed by fire, storm, shipwreck, or other casualty, the basis of the replacement property is its cost reduced by any amount of gain not recognized for federal income tax purposes because the insurance proceeds were invested in the replacement.

You may elect to take the EZ-ITC on qualified property in lieu of the investment tax credit.

## Definitions

An *affiliate* is any of the following:

- A partnership in which 80% or more of the interest in the partnership's capital or profits is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the taxpayer.
- A corporation that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.
- A corporation in which 80% or more of the voting stock is owned or controlled, directly or indirectly, by the entity that owns or controls, directly or indirectly, 80% or more of the voting stock of the taxpayer.

*Commodities* as referred to in these instructions are defined in IRC section 475(e)(2).

*Cost* is the basis of property as defined in IRC section 1012.

*Life or useful life* (of property) means the depreciable life as provided by IRC section 167 or 168.

*Other basis* means the adjusted basis for determining gain or loss used as the basis for depreciation under IRC section 167(g).

*Principally used* means more than 50%. A building or an addition to a building is principally used in qualifying activities when more than 50% of its usable business floor space is used in qualifying activities. Floor space used for bathrooms, cafeterias, and lounges is not usable business floor space. Equipment is principally used in qualifying activities when it is used in such activities more than 50% of its operating time. Operating time may be determined based on actual time, cost allocations to individual business units, or any other reasonable method that accurately reflects operating time.

*Purchase or sale* of stocks, bonds, commodities, or other securities includes, but is not limited to, the issuance, entering into, assumption, offset, assignment, termination, or transfer of stocks, bonds, commodities, or other securities.

A *security* is defined in IRC section 475(c)(2).

## Line instructions

**Line A** – If you are claiming a credit based on costs passed through to you from a partnership, mark an **X** in the box.

New York C corporations complete all applicable schedules.

New York S corporations complete schedules A through D.

## Schedule A – Eligibility and empire zone investment tax credit (EZ-ITC)

To claim this credit, taxpayers must meet one of the three eligibility tests described below. However, if this is your first tax year, do not complete Parts 1, 2, and 3. Begin with Part 4.

1. **80% current-year test** – 80% or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of the property must be located in New York State. For

example, if you have a quarterly average of 1,000 employees performing the administrative and support functions during your tax year, then a quarterly average of at least 800 (1,000 x 80%) of the employees must be located in New York State. (If the property is used by an affiliate in qualifying activities, it is the affiliate that must meet the eligibility test.) If you are claiming credit based on having met the 80% current-year test, then you must complete Part 1. For more information on this eligibility test, see TSB-A-03(10)C, *Morgan Stanley & Co. Incorporated*.

2. **95% three-year back-office test** – The average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of the property and are located in New York State during the tax year the credit is claimed is equal to or greater than 95% of the average number of employees that perform these functions and are located in New York State during the 36 months immediately preceding the tax year for which the credit is claimed. The average number of employees must be computed on a quarterly basis. (If the property is used by an affiliate in qualifying activities, it is the affiliate that must meet the eligibility test.) If you are claiming credit based on the 95% three-year back-office test, complete Part 2. For more information on this eligibility test, see TSB-M-98(8)C, *Tax Credits for the Financial Services Industry*.
3. **90% end-of-year test** – The number of New York State employees employed during the current tax year must be equal to or greater than 90% of your New York State employees on
  - a) December 31, 1998 (if you were a calendar year filer taxable in New York in 1998); or
  - b) the last day of your first tax year ending after December 31, 1998.

If a taxpayer aggregates its uses of property for the purpose of the principally used test, each affiliate may satisfy the employment test individually, or the test may be satisfied by the aggregation of the taxpayer and its affiliates.

Employees performing administrative and support functions include all employees other than brokers, dealers, or investment advisors to regulated investment companies. Generally, any employee whose compensation for the tax year is based more than 50% on commissions is presumed to be a broker, dealer, or investment advisor. However, if you do not compensate those employees who are employed as brokers, dealers, or investment advisors on a commission basis, you must specifically identify the employees performing those functions and must exclude those employees from the employment percentage calculation.

A national securities exchange, board of trade, or their wholly owned entity should identify those employees who are performing the administrative and support functions resulting from or related to the activities of the securities exchange, board of trade, or other entity, and calculate the employment percentage using those employees.

Combined filers apply the appropriate method on an individual entity basis for each company claiming a credit, to determine if each company has maintained the requisite number of employees performing administrative and support functions in New York State in the tax year for which the credit is claimed.

**If your corporation does not meet** any of the eligibility requirements as stated above, do not complete Part 4. **You are not eligible for the EZ-ITC.** However, you may need to complete other schedules if you are eligible for the EZ-EIC, if you need to recapture a credit previously taken, or to use a carryforward earned in a prior period.

## Schedule A – Part 1 – 80% current-year test

Use Part 1, if you wish to claim the credit using the 80% current-year test eligibility method.

All references to *current tax year* mean the tax year covered by this claim.

**Line 1a** – Enter the number of employees who perform administrative and support functions in New York State for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees in New York State for the current tax year. Divide the total by four to obtain the average number of employees in New York State for the current tax year.

**Line 1b** – Enter the number of employees who perform administrative and support functions everywhere for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees everywhere for the current tax year. Divide the total by four to obtain the average number of employees everywhere for the current tax year.

**Schedule A – Part 2 – 95% three-year back-office test**

Use Part 2, if you wish to claim the credit using the 95% three-year back-office test eligibility method.

All references to *current tax year* mean the tax year covered by this claim.

**Line 3a** – Enter the number of employees who perform administrative and support functions in New York State for each date specified for the current tax year. Add the number of these employees on each date (include 0 dates) occurring during the current tax year to obtain the total number of employees for the current tax year. Divide the total by the number of such dates (including 0 dates) occurring in the current tax year.

**Example 1:**

Current tax year	March 31	June 30	Sept. 30	Dec. 31	Total
Number of administrative and support employees in New York State	100	100	125	175	500

3a Average number of employees in New York State for current tax year (500 divided by four)..... 125

**Line 3b** – Enter the number of employees who perform administrative and support functions in New York State on each of the dates listed for the three tax years immediately preceding the year in which the EZ-ITC is claimed. Add the number of employees for the three-year period, and divide by the number of such dates (include 0 dates) occurring during the three-year period, to obtain the average number of employees for the three-year test period.

**Example 2:**

Number of administrative and support employees in New York State during the three-year test period	March 31	June 30	Sept. 30	Dec. 31	Total
A First year	100	100	100	100	400
B Second year	50	75	75	100	300
C Third year	0	0	40	50	90

D Total number of administrative and support employees in New York State for three-year test period..... 790

3b Average number of administrative and support employees in New York State for three-year test period (790 divided by 12)..... 65.83

**Schedule A – Part 3 – 90% end-of-year test**

Use Part 3 if you wish to claim the credit using the 90% end-of-year test eligibility method.

**Line 5a** – Enter the number of employees in New York State for each date specified for the current tax year. Add the columns (include zero dates) then divide the *Total* column by four to obtain the average number of employees in New York State for the current tax year.

**Line 5b** – If you were subject to tax in New York State for tax year 1998, enter one of the following two numbers:

- a) Calendar year filer – enter the number of employees in New York State on December 31, 1998.
- b) Fiscal year filer – enter the number of employees in New York State on the last day of your first fiscal year ending after December 31, 1998.

**Schedule A – Part 4 – EZ-ITC**

**Columns A and B:** List in these columns a clear description of qualified property placed in service during this tax period and the principal use of each item of property. Describe the property in terms that a layperson could understand. Attach additional sheets if necessary.

**Column E:** Enter your cost or other basis (see *Definitions*). Corporate partners enter your allocable share of the cost or other basis in the partnership's property listed in column A. This information is reported on Form IT-204-CP, *New York Corporate Partner's Schedule K-1*.

**Line 7a** – New York C corporations: Add column E to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by 10% (0.10).

**Line 7b** – New York S corporations: Add column E to obtain the total cost or other basis of all property claimed in this schedule. Multiply this figure by 8% (0.08).

**Schedule B – EZ-EIC**

If you acquire, construct, reconstruct, or erect property for which an EZ-ITC is allowed, an EZ-EIC may be allowed in the following three years.

The amount of the EZ-EIC allowed is 30% of the original EZ-ITC for each of the three years following the year for which the EZ-ITC was originally allowed. However, the credit is allowed only for those years during which your average number of employees (except general executive officers) in the EZ is at least 101% of the average number of employees (except general executive officers) in the EZ, during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

If you have claimed an EZ-ITC for property purchased that is principally used by your affiliate, you may also be eligible for an EZ-EIC. In this case, the credit is allowed based on your average number of employees in the EZ. The number of the affiliate's employees is not taken into consideration.

If you did not have a tax year for New York State immediately preceding the year in which the EZ-ITC is originally allowed, the average number of employees in the EZ in the tax year in which the EZ-EIC is claimed must be at least 101% of its average number of employees in the EZ in the tax year in which the EZ-ITC was originally allowed.

**New York C corporations:** The EZ-EIC can reduce the corporate tax liability to the fixed dollar minimum. Any EZ-EIC that cannot be used to reduce the current year's tax liability may be carried over to the following year or years.

Certain qualified corporations may claim a refund of the EZ-EIC (see Schedule E, Part 2).

**Schedule B – Part 1 – Employment information required to determine eligibility for EZ-EIC**

Complete Part 1 to determine if you are eligible for the credit. If you are eligible, complete Part 2.

All references to *current tax year* mean the tax year covered by this claim.

**Column A** – Enter in column A the current tax year and the base year. The *base year* is the year before the year you claimed the original EZ-ITC. However, if your business was not in operation in New York State during that year, the *base year* is the year in which you claimed the EZ-ITC.

**Columns B, C, D, and E** – Enter the total number of employees employed within the EZ on each of the dates listed that occur during your tax year.

**Example:** A taxpayer filing for a fiscal year beginning September 1, 2011, and ending August 31, 2012, would enter the number of employees employed in the EZ on the following dates: September 30, 2011, December 31, 2011, March 31, 2012, and June 30, 2012.

**Column G** – Unless you have a short tax year, divide the amount in column F by four. If you have a short tax year (a tax year of less than 12 months), divide the amount in column F by the number of dates shown in columns B through E that occur during the short tax year.

**Column H** – Divide the average number of EZ employees for the current tax year by the average number of employees in the base year (column G), and carry the result to two decimal places. If the percentage in column H is at least 101% (1.01), complete Schedule B, Part 2. **If the percentage in column H is less than 101%, stop. You do not qualify** for the employment incentive tax credit for this year.

**Schedule B – Part 2 – Computation of EZ-EIC**

Use Part 2 to determine the amount of the EZ-EIC allowed for each year of eligibility listed in Schedule B, Part 1.

**Example:**

A corporation acquired qualified property in 2009 at a cost of \$100,000. The EZ-ITC allowed was \$10,000.

Year	Average number of EZ employees	EZ-EIC available for use
2008	200	–
2009	not required	–
2010	202	\$3,000 (30% of \$10,000)
2011	199	0*
2012	205	\$3,000 (30% of \$10,000)

\* In 2011, the average number of EZ employees was less than 101% of the number employed in 2008.



**Schedule C – Computation of recapture of EZ-ITC and EZ-EIC**

When property on which an EZ-ITC has been allowed is disposed of, or ceases to be in qualified use before the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification.

The decertification of a business enterprise in an EZ constitutes a disposal or cessation of qualified use on the effective date of the decertification. If a business is decertified, any amount of credit not required to be recaptured may be carried forward for up to seven tax years after the tax year in which the credit is allowed. The taxpayer may claim the regular ITC for property that ceases to qualify as a result of the decertification.

For purposes of the recapture, the termination or expiration of an EZ's designation as an EZ will not be considered a disposal or cessation of qualified use.

Section 210.12-B(f) provides different formulas to compute the amount of EZ-ITC required to be recaptured.

- For property depreciated under IRC section 167, the formula is:  

$$\frac{\text{months of unused life}}{\text{months of useful life}} \times \text{original EZ-ITC allowed}$$

- For three-year property depreciated under IRC section 168, the formula is:

$$\frac{36 \text{ minus the number of months of qualified use}}{36} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 36 months.

- For property depreciated under IRC section 168, other than three-year property or buildings or structural components of buildings, the formula is:

$$\frac{60 \text{ minus the number of months of qualified use}}{60} \times \text{original EZ-ITC allowed}$$

Recapture is only required if the property is disposed of or ceases to be in qualified use prior to the end of 60 months.

- For buildings or structural components of buildings depreciated under IRC section 168, the formula is:

$$\frac{\text{months of unused life}}{\text{number of months allowed by IRC and used by taxpayer}} \times \text{original EZ-ITC allowed}$$

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use more than 12 consecutive years.

Attach additional sheets if necessary. Use the same format as requested in columns A through I.

**Column G** – Enter the total amount of EZ-ITC credit allowed. Include the original EZ-ITC but not any EZ-EIC allowed.

**Column I** – Multiply 30% of amount in column H by the number of years the EZ-EIC was allowed.

**Line 11** – If an EZ business is decertified pursuant to clauses (1), (2), or (5), of GML section 959(a), the recapture amount must be augmented by an amount equal to the recapture multiplied by the interest rate in effect on the last day of the tax year.

**Note:** A taxpayer that is approved by the Commissioner of Economic Development as an owner of a qualified investment project or a significant capital investment project (as defined under GML sections 957(s) and 957(t)) must recapture the total amount of credit allowed for all tax years for property which comprises the projects if, by the last day of the fifth tax year following the tax year in which a credit is first allowed, the taxpayer fails to:

- create a minimum number of jobs required at the project (see GML sections 957(s) and 957(t)); or
- place in service property comprising such qualified investment project or significant capital investment project with a federal basis equaling or exceeding the applicable minimum basis in GML sections 957(s) or 957(t) (whichever is relevant).

**Schedule D – Part 1 – Computation of EZ-ITC**

**Line 17** – If the amount on line 15 is greater than the amount on line 16, subtract line 16 from line 15. This is the amount of your EZ-ITC. **New York S corporations:** Transfer this amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.

If the recapture amount on line 16 is greater than the total EZ-ITC credit on line 15, you have a net recapture amount; continue with line 17 instructions.

**New York C corporations:** Subtract line 15 from line 16 and enter the result as a negative number with a minus (-) sign. Enter this negative amount in the appropriate box of the tax credits section of your franchise tax return.

**New York S corporations:** Subtract line 15 from line 16 and enter the result as a positive number in the recapture section on Form CT-34-SH.

If you have a net recapture amount of EZ-ITC and no EZ-EIC, **do not** complete the rest of this form. Otherwise, proceed to Schedule D, Part 2.

**Schedule D – Part 2 – Computation of EZ-EIC**

**Line 22** – If the amount on line 20 is greater than the amount on line 21, subtract line 21 from line 20. This is the amount of your EZ-EIC. **New York S corporations:** Transfer this amount to Form CT-34-SH.

If the recapture amount on line 21 is greater than the total EZ-EIC on line 20, you have a net recapture amount; continue with line 22 instructions.

**New York C corporations:** Subtract line 20 from line 21 and enter the result as a negative number with a minus (-) sign. Enter this negative amount in the appropriate box of the tax credits section of your franchise tax return.

**New York S corporations:** Subtract line 20 from line 21 and enter the result as a positive number in the recapture section on Form CT-34-SH.

**Schedule E – Part 1 – Computation of EZ-EIC and EZ-ITC used (New York C corporations only)**

**Use Column A** to determine the amount of EZ-EIC that you may apply in the current period.

**Use Column B** to determine the amount of EZ-ITC that you may apply in the current period.

**Line 23, Column A** – Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recapture of other tax credits, **minus** all other credits claimed, including credits claimed by other members of your combined group, before the EZ-EIC claimed on Form CT-605. If you wish to apply the EZ-ITC before the EZ-EIC, be sure to also subtract the EZ-ITC used this period (shown on line 27, Column B). Certain credits must be applied before the EZ-EIC. To determine the order of credits that applies, refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*.

**Line 23, Column B** – Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recapture of other tax credits, **minus** all other credits claimed, including credits claimed by other members of your combined group, before the EZ-ITC claimed on Form CT-605. If you wish to apply the EZ-EIC before the EZ-ITC, be sure to also subtract the EZ-EIC used this period (shown on line 27, Column A). Certain credits must be applied before the EZ-ITC. To determine the order of credits that applies, refer to Form CT-600-I.

**Line 28** – If your total credits from all sources are **\$2 million or less**, enter the amount from line 28 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete line 28 but do not enter the amount from line 28 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

**Schedule E – Part 2 – Credits available for refund or carryforward (New York C corporations only)**

If you are **not** a qualified or new business, skip lines 32, 33, and 34. Enter your line 31 amount on line 35.

**Lines 32, 33, and 34** – A qualified business or a new business may elect to treat 50% of the current year EZ-ITC available to be carried forward as an overpayment of tax to be refunded or applied to next year's tax.

A *qualified business* is a corporation that is an owner of a *qualified investment project* or *significant capital investment project* (as those terms are defined in GML sections 957(s) and 957(t)).

A *new business* under Article 9-A section 210.12(j) means any corporation **except**:

- A corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled either directly or indirectly by a taxpayer subject to tax under Tax Law Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; or Article 33.
- A corporation that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or former Article 23 (or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980); or the income or losses of which are or were includable under Tax Law Article 22, whereby the intent and purposes of sections 210.12(j) and 210.12(e) with respect to refunding of credit to new businesses would be evaded.
- A corporation that has been subject to tax under Article 9-A for more than five tax years (excluding short periods).

**Line 32** – A qualified business as defined above, when determining the amount to be included on line 32, may only include amounts attributable to the amount of credit allowed for property which is part of the qualified investment project or significant investment project. New businesses as defined above: Enter the lesser of 50% of line 31 or 50% of line 13.

**Lines 33 and 34** – If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 33 and 34 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete lines 33 and 34 but do not enter the amounts from lines 33 and 34 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

**Line 35** – Qualified businesses or new businesses: Subtract line 32 from line 31. All other businesses: Enter your line 31 amount on line 35. Refer to this figure when computing next year's EZ-ITC.

If you are not a qualified business, skip lines 39, 40, and 41. Enter your line 38 amount on line 42.

**Lines 39, 40, and 41** – Complete these lines only if you are a qualified business. You may elect to treat 50% of the current year unused EZ-EIC available to be carried forward as an overpayment of tax to be refunded or applied to next year's tax. Include only those amounts attributable to the amount of credit allowed for property which is part of the qualified investment project or significant investment project.

**Lines 40 and 41** – If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 40 and 41 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete lines 40 and 41 but do not enter the amounts from lines 40 and 41 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

**Line 42** – Qualified businesses: Subtract line 39 from line 38. All other businesses: Enter the line 38 amount on line 42. Keep this amount in your records. You will need to refer to this figure when completing your Form CT-605 for next year.

### **Need help? and Privacy notification**

See Form CT-1, *Supplement to Corporation Tax Instructions*.

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