



Instructions for Forms IT-647 and IT-647-ATT

Farm Workforce Retention Credit and Attachment

Tax Law – Article 1, Section 42 and Article 22, Section 606(fff)

General information

For tax years beginning on or after January 1, 2017, and before January 1, 2022, the farm workforce retention credit is available to taxpayers who meet the eligibility requirements.

Eligibility

To be eligible for this credit, you must meet **all** of the following requirements:

- you are subject to tax under Tax Law Article 9-A or 22,
- you are a farm employer or an owner of a farm employer, **and**
- you employ eligible farm employees.

Definitions

You are *engaged in the business of farming* if you cultivate, operate, or manage a farm for gain or profit, even though the operation may not produce a profit every year.

You are also engaged in the business of farming if you rent your farm property to another person who uses the property in agricultural production and the rental arrangement meets one of the following conditions:

- A. The amount of the rental is a crop share (shared rental agreement). That is, the amount of rent is based upon the actual production of the land, whether paid to you in cash or in kind; **or**
- B. You have an arrangement with your tenant for your participation in the farm business and you meet **one** of the following four tests:
 - 1 You do **any** three of the following: (1) pay or stand good for at least half of the direct costs of producing the crop; (2) furnish at least half of the tools, equipment, and livestock used in producing the crop; (3) consult with your tenant; **and** (4) inspect the production activities periodically.
 - 2 You regularly and frequently make, or take an important part in making, management decisions substantially contributing to or affecting the success of the enterprise.
 - 3 You work 100 hours or more, spread over a period of 5 weeks or more, in activities connected with crop production.
 - 4 You do things that, considered in their total effect, show that you are materially and significantly involved in the production of farm commodities.

Farming includes the operation or management of livestock, dairy, poultry, fish, fruit, fur-bearing animal, and vegetable (commonly referred to as truck) farms. *Farming* also includes the operation or management of plantations, ranches, ranges, and orchards.

For example, *farming* includes, but is not limited to, the raising or production of the following commodities:

- field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;
- fruits, including apples, peaches, grapes, cherries, and berries;
- vegetables, whether raised conventionally or hydroponically, including tomatoes, snap beans, cabbage, carrots, beets, and onions;

- horticultural specialties, including nursery stock, ornamental shrubs and ornamental trees, and flowers;
- livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, ostrich, emus, fur-bearing animals, milk, and eggs;
- aquaculture products, including fish, fish products, water plants, and shellfish (provided the aquaculture products are grown and raised, not merely being harvested or caught); **and**
- honey and beeswax produced from the farmer's own bees.

You are **not** engaged in the business of farming if your principal source of income is from providing agricultural services, such as soil preparation, veterinary services, or farm labor. You are not engaged in the business of farming if you manage or operate a farm for a salary or fee. Furthermore, if you are cultivating or operating a farm for recreation or leisure (such as a hobby farm), you are not engaged in the business of farming. Also, forestry and logging are not farming unless the products are used in the operation of a farm or are connected with an otherwise qualifying farm operation as described above (that is, the income from these operations is properly reportable on federal Schedule F).

A *farm employer* is a taxpayer subject to tax under Article 9-A or 22 that:

- is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company (LLC), or a partnership, **and**
- is also an *eligible farmer*.

An *eligible farmer* is a taxpayer whose federal gross income from farming for the tax year is at least two-thirds of excess federal gross income.

Excess federal gross income is the amount of federal gross income from all sources for the tax year in excess of \$30,000. For purposes of this credit, farmers must include payments from the state's Agricultural and Farmland Protection Program administered by the New York State Department of Agriculture and Markets in federal gross income from farming.

An *eligible farm employee* is an individual who is employed for 500 hours or more per tax year by a farm employer in New York State, but excluding general executive officers of the farm employer. Workers who are part of the H-2A Temporary Agricultural Worker Program that meet the definition of an eligible farm employee may be included in the computation of this credit.

If an individual employed by a farm employer in New York State becomes unable to work due to a documented illness or disability, the farmer may combine the hours this individual was employed during the tax year with the hours of another individual hired to replace the ill or disabled individual in the same tax year when determining the 500-hour-per-tax-year threshold for an eligible farm employee. The ill or disabled worker and the worker hired to replace the ill or disabled worker are considered one eligible farm employee for purposes of computing the credit.

The farm employer must obtain proof of illness or disability for the ill or disabled worker in the form of a written statement from a physician or other health care provider who is licensed, certified, or otherwise permitted by law to diagnose or treat the

physical or mental condition that led to the claimed illness or disability. The statement must include:

- the name and a description of the farm employee's illness or disability;
- the physician's or health care provider's medical opinion that the illness or disability prevented the individual from working;
- to the best of the physician's or health care provider's knowledge, the specific time period during which the individual is or was unable to work due to illness or disability; **and**
- the following certification signed by the physician or health care provider: *"I hereby certify that, to the best of my knowledge and belief, the above representations are true, correct, and complete."*

Note: A farm employer must retain documentation of the hours worked (and proof of illness or disability, if applicable) for all eligible farm employees and make it available to the Tax Department upon request.

Credit information

The credit is equal to a fixed dollar amount per eligible farm employee. The credit amounts per eligible farm employee by tax year are shown in the table below:

Tax years beginning on or after	Credit amount per eligible farm employee
January 1, 2017, and before January 1, 2018	\$250
January 1, 2018, and before January 1, 2019	\$300
January 1, 2019, and before January 1, 2020	\$500
January 1, 2020, and before January 1, 2021	\$400
January 1, 2021, and before January 1, 2022	\$600

A farm employer may not use any farm employees used in the computation of the farm workforce retention credit to claim any other tax credit.

A shareholder, partner, LLC member, or beneficiary of an estate or trust that is taxable under Article 9-A or 22 is allowed to claim a pro rata share of the credit passed through from a New York S corporation, partnership, LLC, estate, or trust that is a farm employer eligible for the credit. The credit amount is determined at the entity level.

Any unused amount of credit for the current tax year will be treated as a refund or overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

Who must file

File Form IT-647 if you are an individual, a beneficiary or fiduciary of an estate or trust, a partner in a partnership, or a shareholder of an S corporation, and you are claiming the farm workforce retention credit.

An estate or trust that divides the credit among itself and its beneficiaries must submit Form IT-647 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

A partnership must submit Form IT-647 with Form IT-204, *Partnership Return*, showing the total credit.

An S corporation does not file Form IT-647; it must file Form CT-647, *Farm Workforce Retention Credit*. If you are a shareholder of an S corporation, obtain your share of the S corporation's credit from the S corporation and follow the instructions on this form for claiming your credit on your personal income tax return.

File a separate Form IT-647 for each farm employer completing Schedule A.

Line instructions

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

Line A – Mark an **X** in the appropriate box to determine the schedules of this form you need to complete.

Individuals (including sole proprietors): Complete lines A, B, C, and D, schedules A and D, and Form IT-647-ATT, *Eligible Farm Employee Information for the Farm Workforce Retention Credit*, if applicable.

Fiduciaries: Complete lines A, B, C, and D, schedules A, C, and D, and Form IT-647-ATT, if applicable.

Partnerships: Complete lines A, B, C, and D, schedules A and D, and Form IT-647-ATT, if applicable.

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 lines A, B, C, and D, schedules A and D, and Form IT-647-ATT, if applicable.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete line A and schedules B and D.

Note: If more than one set of instructions applies, follow all the instructions that apply to you.

Line B – Complete *Worksheet A* on page 3, *Worksheet B* on page 4, or *Worksheet C* on page 5, whichever is applicable. If the percentage shown on Worksheet A, line 17, Worksheet B, line 16, or Worksheet C, line 15 is at least 0.6667 (66.67%), mark an **X** in the **Yes** box in line B and continue with line C. If the percentage shown is less than 0.6667 (66.67%), **stop**, you do not qualify for this credit.

Caution: If you are married, your eligibility for the credit may depend on whether you file a joint or separate New York return. However, in order to file separate New York returns, you generally must file separate federal returns. Since many federal and state tax benefits are eliminated or reduced when separate returns are filed, you may want to compute your federal and state taxes both ways to determine the most beneficial way to file.

Worksheet A

Worksheet A: Individuals – 2018 Farming Gross Income

(Form IT-201 and IT-203 filers: Complete this worksheet and keep for your records.)

1	Add the income amounts from federal Form 1040, lines 1, 2b, 3b, 4b, and 5b	1	_____
1a	Add the income (not loss) amounts from federal Form 1040, Schedule 1, lines 10, 11, 19, and 21 (see instructions).....	1a	_____
2	Enter the income (not loss) from federal Schedule C, line 7	2	_____
3	Enter the amount from federal Schedule C-EZ, line 1	3	_____
4	Add the gain (not loss) amounts on federal Schedule D, column (h), lines 1a, 1b, 2, 3, 4, 8a, 8b, 9, 10, 11, and 13 (see instructions)	4	_____
5	Enter the amount of capital gain from federal Form 1040, Schedule 1, line 13, if you were not required to file federal Schedule D and have no entry on line 4	5	_____
6	Add the amounts on federal Schedule E, lines 3, 4, 37, and 39	6	_____
7	Enter the income (not loss) from federal Schedule F, line 9	7	_____
8	Add the gain (not loss) amounts from federal Form 4797, column (g), lines 2 through 6, 10, and 13 through 16 (see instructions). If you were not required to file federal Form 4797 and have a gain (not loss) reported on federal Form 1040, Schedule 1, line 14, from federal Form 4684, enter that amount here	8	_____
9	Enter amount from federal Form 4835, line 7	9	_____
10	Enter the code B and C amounts shown in box 14 on all federal Schedule K-1s (Form 1065) you received from partnerships that you are a partner in, less any partnership amounts from such partnerships already included in lines 1 through 8 (If you are a partner in a partnership that files federal Form 1065-B, see instructions.).....	10	_____
11	Enter your share of S corporation gross income (see instructions)	11	_____
12	Federal gross income (add lines 1 through 11)	12	_____
13	Excess federal gross income (subtract 30,000 from line 12; if line 12 is less than 30,000, enter 0)	13	_____
14	Enter the amount from federal Schedule E, line 42 (see instructions)	14	_____
15	Add the amounts on federal Form 4797, column (g) that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes (see instructions)	15	_____
16	Gross income from farming (add lines 7, 14, and 15)	16	_____
17	Divide line 16 by line 13, and round the result to the fourth decimal place (see instructions)	17	_____

Instructions for Worksheet A

Line 1a – If federal Form 1040, Schedule 1, line 21, includes both income and loss items, include only the income amounts on line 1a. For example, on federal Form 1040, Schedule 1, line 21, you report gambling winnings of \$2,000 and a net operating loss carryover of (\$3,000), for a net amount of (\$1,000). In computing the amount on line 1a of the worksheet, include only the gambling winnings of \$2,000.

Line 4 – Include on line 4 only gains used in computing the amounts reported in column (h) of federal Schedule D. Loss transactions cannot be netted against gain transactions. However, do not include on line 4 any gain from federal Form 4797 reported on line 11, column (h) of federal Schedule D.

Line 8 – Include on line 8 only gains used in computing the amounts entered in column (g) of federal Form 4797. Loss transactions cannot be netted against gain transactions.

Line 10 – If you are a partner in a partnership that files federal Form 1065-B, include on line 10 the amount of gross **non-farm** income reported on the federal Schedule K-1 (Form 1065-B) in box 9 that you received from the partnership (less any amounts from such partnership included in lines 1 through 8 of Worksheet A).

Line 11 – Obtain this information from the S corporation. Do not include on line 11 any S corporation income included in lines 1 through 8 of Worksheet A.

Line 14 – Do not include on line 14 gross income from fishing included in federal Schedule E, line 42.

Line 15 – Include on line 15 only gains (not losses) reported on federal Form 4797 that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes. Do not include any other gains or losses reported on federal Form 4797 (such as gains from the sale of farm machinery), even though these gains may be related to your farming business.

Line 17 – If the line 13 amount is 0 and you have an amount (other than 0) on line 16, enter **1.00** (100%) on line 17.

Worksheet B

Worksheet B: Estates and Trusts – 2018 Farming Gross Income
(Form IT-205 filers: Complete this worksheet and keep for your records.)

1	Add the income (not loss) amounts from federal Form 1041, lines 1, 2a, and 8	1	_____
2	Enter the income (not loss) from federal Schedule C, line 7	2	_____
3	Enter the amount from federal Schedule C-EZ, line 1	3	_____
4	Add the gain (not loss) amounts from federal Schedule D (Form 1041), lines 1a, 1b, 2, 3, 4, 8a, 8b, 9, 10, 11, and 13 (see instructions below)	4	_____
5	Add the amounts on federal Schedule E, lines 3, 4, 37, and 39	5	_____
6	Enter the income (not loss) amount from federal Schedule F, line 9	6	_____
7	Add the gain (not loss) amounts from federal Form 4797, column (g), lines 2 through 6, 10, and 13 through 16 (see instructions). If the estate or trust was not required to file federal Form 4797 and has a gain (not loss) reported on federal Form 1041, line 7, from federal Form 4684, enter that amount here	7	_____
8	Enter amount from federal Form 4835, line 7	8	_____
9	Enter the code B and C amounts shown in box 14 on all federal Schedule K-1s (Form 1065) you received from partnerships that you are a partner in, less any partnership amounts from such partnerships already included in lines 1 through 7 (If you are a partner in a partnership that files federal Form 1065-B, see instructions.)	9	_____
10	Enter the estate's or trust's share of S corporation gross income (see instructions)	10	_____
11	Federal gross income (add lines 1 through 10)	11	_____
12	Excess federal gross income (subtract 30,000 from line 11; if line 11 is less than 30,000, enter 0)	12	_____
13	Enter the amount from federal Schedule E, line 42 (see instructions)	13	_____
14	Add the amounts on federal Form 4797, column (g) that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes (see instructions)	14	_____
15	Gross income from farming (add lines 6, 13, and 14)	15	_____
16	Divide line 15 by line 12, and round the result to the fourth decimal place (see instructions)	16	_____

Instructions for Worksheet B

Line 4 – Include on line 4 only gains used in computing the amounts reported in column (h) of federal Schedule D. Loss transactions cannot be netted against gain transactions.

Line 7 – Include on line 7 only gains used in computing the amounts entered in column (g) of federal Form 4797. Loss transactions cannot be netted against gain transactions.

Line 9 – If you are a partner in a partnership that files federal Form 1065-B, include on line 9 the amount of gross **non-farm** income reported on the federal Schedule K-1 (Form 1065-B) in box 9 that you received from the partnership (less any amounts from such partnership included in lines 1 through 7 of Worksheet B).

Line 10 – Obtain this information from the S corporation. Do not include on line 10 any S corporation income included in lines 1 through 7 of Worksheet B.

Line 13 – Do not include on line 13 any gross income from fishing included in federal Schedule E, line 42.

Line 14 – Include on line 14 only gains (not losses) reported on federal Form 4797 that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes. Do not include any other gains or losses reported on federal Form 4797 (such as gains from the sale of farm machinery), even though these gains may be related to your farming business.

Line 16 – If the line 12 amount is 0, and you have an amount (other than 0) on line 15, enter **1.00** (100%) on line 16.

Worksheet C

Worksheet C: Partnerships – 2018 Farming Gross Income

(Form IT-204 filers: Complete this worksheet and keep for your records.)

Partnerships should use the amounts from federal Form 1065 and the applicable federal attachments used to complete Form IT-204 when completing the worksheet below.

1	Add the amounts from federal Form 1065, lines 3 and 7 (<i>see instructions</i>)	1	_____
2	Add the amounts from federal Form 1065, Schedule K, lines 5, 6a, 7, and 11 (<i>see instructions</i>)	2	_____
3	Add the amounts from federal Forms 8825, line 18a, and 1065, Schedule K, line 3a	3	_____
4	Add the gain (not loss) amounts from federal Schedule D (Form 1065), column (h), lines 1a through 5, 8a through 12, and 14 (<i>see instructions</i>)	4	_____
5	Enter the amount from federal Schedule F (Form 1040), line 9	5	_____
6	Add the gain (not loss) amounts on federal Form 4797, column (g), lines 2 through 6, 10, and 13 through 16. However, when federal Form 4797 is not filed, but you have amounts reported on federal Form 4684, line 31 or line 38a, include the total gain amount (without netting losses) from those lines. (<i>See instructions</i>)	6	_____
7	Enter the code B and C amounts shown in box 14 on all federal Schedule K-1s (Form 1065) you received from partnerships that you are a partner in, less any partnership amounts from such partnerships already included in lines 1 through 6 (<i>If you are a partner in a partnership that files federal Form 1065-B, see instructions.</i>)	7	_____
8	Enter the partnership share of estate or trust gross income (<i>see instructions</i>)	8	_____
9	Federal gross income (<i>add lines 1 through 8</i>)	9	_____
10	Excess federal gross income (<i>subtract 30,000 from line 9</i>)	10	_____
11	Gross rents from certain rentals of farm property included on federal Forms 8825, line 18a, and 1065, Schedule K, line 3a (<i>see instructions</i>)	11	_____
12	Add the amounts on federal Form 4797, column (g), that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes (<i>see instructions</i>)	12	_____
13	Enter the code B amount shown in box 14 on federal Schedule K-1 (Form 1065), received from another partnership and code F amount shown in box 14 of federal Schedule K-1 (Form 1041) (<i>see instructions</i>)	13	_____
14	Gross income from farming (<i>add line 5 and lines 11 through 13</i>)	14	_____
15	Divide line 14 by line 10, and round the result to the fourth decimal place (<i>see instructions</i>)	15	_____

Instructions for Worksheet C

Line 1 – If federal Form 1065, line 7, includes both income and loss items, include only the income amounts on line 1. In addition, do not include on line 1 any income from another partnership, an estate, or a trust included on federal Form 1065, line 7.

Line 2 – If federal Form 1065, Schedule K, line 11, includes both income and loss items, include only the income amounts on line 2. In addition, do not include on line 2 any income from another partnership, an estate, or a trust included on federal Form 1065, Schedule K, line 11.

Line 4 – Include on line 4 only gains used in figuring the amounts reported in column (h) of federal Schedule D. You cannot net loss transactions against gain transactions.

Line 6 – Include on line 6 only gains used in figuring the amounts entered in column (g) for federal Form 4797 or on federal Form 4684, line 31 or line 38a. You cannot net loss transactions against gain transactions. Do not include on line 6 any amounts included in line 2 of this worksheet.

Line 7 – If you are a partner in a partnership that files federal Form 1065-B, include on line 7 the amount of gross **non-farm** income reported on the federal Schedule K-1 (Form 1065-B) in box 9 that you received from the partnership (less any amounts from such partnership included in lines 1 through 6 of Worksheet C).

Line 8 – Obtain this information from the estate or trust. Do not include on line 8 any estate or trust income included in lines 1 through 6 of Worksheet C.

Line 11 – Include only gross rents from the rental of farm property, and only if the rental arrangement meets one of the two conditions listed under *Definitions*.

Line 12 – Include on line 12 only gains (not losses) reported on federal Form 4797 that represent gains from the sale of livestock used for draft, breeding, sport or dairy purposes. Do not include any other gains reported on federal Form 4797 (such as gains from the sale of farm machinery) even though these gains may be related to your farming business.

Line 13 – Do not include gross income from fishing included on federal Schedule K-1 (Form 1065), box 14, code B or federal Schedule K-1 (Form 1041), box 14, code F.

Line 15 – If the line 10 amount is 0 and you have an amount other than 0 on line 14, enter 1.00 (100%) on line 15.

Schedule A – Eligible farm employee information

Complete Schedule A, listing each eligible farm employee's name, work location, social security number, and hours worked for the tax year of this claim for credit. See the definition of *eligible farm employee*.

Line 1 – Enter the total number of eligible farm employees listed in Schedule A. If you combined the hours worked of an ill or disabled worker with the worker hired to replace them to determine the 500 hour threshold of an eligible farm employee (see the definition of *eligible farm employee*), enter the information for both individuals in Schedule A, but count them as one eligible farm employee on line 1 for calculating the credit.

If you have more employees to report than will fit in this schedule, complete the required information for the additional employees on Form IT-647-ATT, *Eligible Farm Employee Information for the Farm Workforce Retention Credit*. Use the instructions for this schedule to complete Form IT-647-ATT.

Enter your name and identifying number as shown on your return and the business name and EIN on Form IT-647-ATT and submit it with Form IT-647.

Schedule B – Partner's, shareholder's or beneficiary's share of credit

Enter the appropriate information for each partnership, New York S corporation, or estate or trust from which you received a share of the farm workforce retention credit. Obtain your share of the credit from your partnership, S corporation, estate or trust.

If you need more space, enter your name and taxpayer identification number as shown on your return, and complete only Schedule B on additional Form(s) IT-647. Place the additional forms behind the first Form IT-647. Include on line 6 of the first Form IT-647 the total of column D from all additional Form(s) IT-647.

Schedule C – Beneficiary's and fiduciary's share of credit

An estate or trust must complete this schedule. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust. Provide the beneficiaries with their share of the credit. If you need more space, enter your name and taxpayer identification number as shown on your return, and complete only Schedule C on additional Form(s) IT-647. Place the additional forms behind the first Form IT-647. Include on line 8 of the first Form IT-647, the total of column C from all additional Form(s) IT-647.

Schedule D – Computation of credit

Fiduciaries: Do not enter any amounts on lines 10 or 11. Enter the amount from line 12 on line 13.

Line 13 – Enter this amount and code **647** on Form IT-201-ATT, line 12; or on Form IT-203-ATT, line 12; or on Form IT-204, line 147; or include it on Form IT-205, line 33.
