



Instructions for Form IT-648

Life Sciences Research and Development Tax Credit

Tax Law – Article 1, Section 43 and Article 22, Section 606(hhh)

IT-648-I

General information

For tax years beginning on or after January 1, 2018, the life sciences research and development tax credit is available to taxpayers subject to tax under Article 22 (personal income tax) or Article 9-A (franchise tax on business corporations). Form IT-648 is for taxpayers subject to tax under Article 22. Taxpayers subject to tax under Article 9-A should complete Form CT-648, *Life Sciences Research and Development Tax Credit*.

To qualify for the life sciences research and development tax credit, a life sciences company must be issued a certificate of tax credit by Empire State Development (ESD). ESD will verify that the life sciences company has met all applicable eligibility criteria before issuing a certificate of tax credit.

For rules and regulations regarding the Life Sciences Research and Development Tax Credit Program, including the application process for the credit, visit ESDs website at www.esd.ny.gov.

Credit details

For a qualified life sciences company that employs 10 or more persons during the tax year, the amount of the credit is equal to 15% of the company's research and development expenditures in New York State for the tax year. For a qualified life sciences company that employs less than 10 persons during the tax year, the amount of the credit is equal to 20% of the company's research and development expenditures in New York State for the tax year.

The credit is allowed for up to three consecutive tax years during which the qualified life sciences company meets the eligible criteria. Subsequent certifications will not extend the three tax year limitation.

The amount of credit allowed for the current tax year is allocated by ESD. ESD will issue a certificate of tax credit annually showing the amount of tax credit and the tax year the credit may be claimed.

Use the information provided on the certificate to complete this form. Submit a copy of your certificate from ESD with your tax return. The credit may be claimed in the tax year specified on the certificate of tax credit issued by ESD. File a separate Form IT-648 for each certificate of tax credit issued to you by ESD.

The total amount of credit allowable to a qualified life sciences company cannot exceed \$500,000 in any tax year. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation that is a qualified life sciences company, the total amount of credit allowable will be applied at the entity level, so that the total credit allowable to all partners or shareholders of each such entity, taken in the aggregate, does not exceed \$500,000 in any tax year.

No credit will be allowed for tax years beginning on or after January 1, 2028.

If the amount of the credit allowable for any tax year exceeds the tax for that year, the excess is treated as an overpayment to be credited or refunded. No interest will be paid on the refund.

Qualified research and development expenditures used as the basis for the allowance of this credit or used in the calculation of this credit cannot be used to claim any other credits.

Note: Life sciences companies that are not eligible, or do not choose, to participate in the Life Sciences Research and Development Tax Credit Program may be eligible to participate in the Excelsior Jobs Program. For more information, see ESDs website.

Eligibility

After receiving a certificate of tax credit from ESD, the following taxpayers, subject to tax under Article 22, are eligible to claim the credit by filing Form IT-648 with their tax returns:

- Individuals (including sole proprietors);
- Fiduciaries of estates and trusts;
- Partners in a partnership (including members of a limited liability company (LLC) if the LLC is treated as a partnership for federal tax purposes);
- Shareholders of a New York S corporation; **and**
- Beneficiaries of an estate or trust.

Taxpayers subject to tax under Article 9-A must complete Form CT-648.

How to claim the credit

File Form IT-648 if you are an individual, a partnership, or an estate or trust and you received a certificate of tax credit from ESD. In addition, if you are a partner in a partnership (including members of an LLC treated as a partnership for federal tax purposes), a shareholder of a New York S corporation, or a beneficiary of an estate or trust, file Form IT-648 to claim your share of the credit from the entity.

An estate or trust that divides the credit among itself and its beneficiaries must submit Form IT-648 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

Partnerships must file Form IT-648 with Form IT-204, *Partnership Return*, showing the total amount of credit.

An S corporation does not file Form IT-648; it must file Form CT-648. If you are a shareholder of an S corporation that made the election under Tax Law § 660, obtain your share of the S corporation's credit from the S corporation and report it on Form IT-648.

Definitions

Certificate of tax credit means the document issued to a qualified life sciences company by ESD, after ESD has verified that the life sciences company has met all applicable criteria to be eligible for the life sciences research and development tax credit allowed under Tax Law § 43, including but not limited to verifying that the life sciences company is a new business. The certificate will be issued annually if all applicable criteria are satisfied and will specify the exact amount of the life sciences research and development tax credit and the tax year that it may be claimed by that qualified life sciences company.

Life sciences includes:

- agricultural biotechnology,
- biogenetics,
- bioinformatics,
- biomedical engineering,

- biopharmaceuticals,
- academic medical centers,
- biotechnology,
- chemical synthesis,
- chemistry technology,
- medical diagnostics,
- genomics,
- medical image analysis,
- marine biology,
- medical devices,
- medical nanotechnology,
- natural product pharmaceuticals,
- proteomics,
- regenerative medicine,
- ribonucleic acid (RNA) interference,
- stem cell research,
- medical and neurological clinical trials,
- health robotics, and
- veterinary science.

Life sciences company means a business entity or an organization or institution that devotes the majority of its efforts in the various stages of research, development, technology transfer, and commercialization related to any life sciences field.

New business means any business that qualifies as a new business under either Tax Law § 210-B(1)(f) or 606(a)(10).

Qualified life sciences company means a life sciences company, as defined in Economic Development Law (EDL) § 352(11), that has been certified by ESD as a life sciences company and is a new business. However, for purposes of this credit, ESD will **not** certify as a life sciences company any corporation, partnership, limited partnership, or other entity that has been within the immediately preceding 60 months a related person to an entity that is a life sciences company or an entity that is engaged in scientific research and development as defined in EDL § 352(22).

Research and development expenditures means qualified research expenses as defined in Internal Revenue Code (IRC) § 41(b). However, qualified research expenses do **not** include amounts under IRC § 41(b)(1)(B) and as further described in IRC § 41(b)(3). If IRC § 41 has expired, then the research and development expenses will be calculated as if the federal research and development credit structure and definition in effect in IRC § 41 in federal tax year 2009 were still in effect.

Related person means a related person as defined in IRC § 465(b)(3)(C). For this purpose, a related person will include an entity that would have qualified as a related person if it had not been dissolved, liquidated, merged with another entity or otherwise ceased to exist or operate.

Specific 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 parts of this form you need to complete. If you are claiming this credit **both** as an individual (sole proprietor), partnership, or estate or trust that earned the credit and received a certificate of tax credit from ESD **and** as a partner, shareholder, or beneficiary receiving a share of the credit, mark an **X** in the Yes box and complete all appropriate schedules on one Form IT-648.

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. Complete lines A through E, and Schedules A and D.

Line E – You may claim the credit for three consecutive tax years, beginning with the first tax year on or after January 1, 2018, during which the qualified life sciences company meets the eligibility criteria.

Additional sheets – If you have more entries than will fit on the lines provided in Schedules B and C, attach additional sheets in the same format as the schedule. Include your name and taxpayer identification number on each sheet and submit them and Form IT-648 with your tax return.

Schedule A – Individual (including sole proprietor), partnership, and estate or trust

Line 1 – Enter the amount of credit listed on your certificate of tax credit issued by ESD. This amount may not exceed \$500,000. Attach a copy of your certificate.

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 credit. Obtain your share of the credit and the certificate number from the partnership, S corporation, estate or trust. See *Additional sheets* above, if needed.

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 your beneficiaries with their proportionate amount of the credit. See *Additional sheets* above, if needed.

Schedule D – Computation of credit

Complete lines 6, 7, and 8 (whichever apply to you).

Fiduciaries: Do not enter any amounts on lines 6 and 7.

Line 9 – Enter the amount from line 9 and code **648** on:

- Form IT-201-ATT, line 12;
- Form IT-203-ATT, line 12; or
- Form IT-204, line 147.

For Form IT-205, include the amount on line 33.
