



Instructions for Forms CT-647 and CT-647-ATT

CT-647-I

Farm Workforce Retention Credit and Attachment

General information

For tax years beginning on or after January 1, 2017, 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 Your employees 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);
- honey and beeswax produced from the farmer's own bees; **and**
- maple syrup or cider.

Farming also includes:

- the sale of wine from a licensed farm winery, as provided in Alcoholic Beverage Control Law Article 6;
- the commercial boarding of horses as defined in Agriculture and Markets Law § 301(13);
- a managed Christmas tree operation whether dug for transplanting or cut from the stump; **and**
- the sale of cider from a licensed farm cidery, as provided in Alcoholic Beverage Control Law § 58-c.

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 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.

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.

Qualified agricultural property means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program or land that at the time it becomes subject to a conservation easement, as defined under New York State Tax Law § 606(kk), met the requirements under this paragraph.

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.

The credit cannot reduce the tax due to less than the fixed dollar minimum tax. Any unused amount of credit for the current tax year will be treated as a refund or an overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

The credit is not allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9-A.

New York S corporations: New York S corporations will calculate the credit, however the S corporation may not use the credit against its own tax liability. Instead, the credit is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns. Complete only lines A, B, C, D, and E, and Schedules A and D.

Combined filers: A taxpayer filing as a member of a combined group is allowed to claim the credit, which is computed on a separate basis but applied against the combined tax.

Line instructions

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 a corporation that earned the credit **and** as a corporate partner receiving a share of the credit, mark an **X** in the Yes box and complete all appropriate schedules on one Form CT-647.

Line B – Complete *Worksheet A* or *Worksheet B*, as applicable.

If the percentage shown on line 12 of *Worksheet A* or on line 14 of *Worksheet B* is at least 0.6667 (66.67%), mark an **X** in the Yes box in line B.

If the percentage shown on *Worksheet A* or *Worksheet B* is less than 0.6667 (66.67%), stop; you do not qualify for this credit.

Line E – If you answered Yes, each eligible farm employee listed in Schedule D must be employed on *qualified agricultural property* (see definitions).

Worksheet A (for line B) for Form CT-3 and Form CT-3-A filers: Keep for your records

| | | | |
|----|---|----|-------|
| 1 | Add the amounts from federal Form 1120, lines 3 through 7, and 10 (see instructions) | 1 | _____ |
| 2 | Add the gain (not loss) amounts from federal Schedule D (Form 1120), column (h) lines 1a through 5, 8a, 8b, 9, 10, 12, 13, and 14 (see instructions) | 2 | _____ |
| 3 | Add the gain (not loss) amounts from 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 (see instructions) | 3 | _____ |
| 4 | 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, 2, and 3 | 4 | _____ |
| 5 | Federal gross income (add lines 1 through 4) | 5 | _____ |
| 6 | Excess federal gross income (subtract 30,000 from line 5) | 6 | _____ |
| 7 | Gross profit from farming included on federal Form 1120, line 3 (see instructions) | 7 | _____ |
| 8 | Gross rents from certain rentals of farm property included on federal Form 1120, line 6 (see instructions) | 8 | _____ |
| 9 | 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) | 9 | _____ |
| 10 | Enter the code B amount shown in box 14 of federal Schedule K-1 (Form 1065) (see instructions) | 10 | _____ |
| 11 | Gross income from farming (add line 7 through 10) | 11 | _____ |
| 12 | Divide line 11 by line 6, and round the result to four decimal places | 12 | _____ |

Instructions for Worksheet A

Line 1 – If federal Form 1120, line 10, includes both income and loss items, include only the income amounts on line 1. In addition, do not include on line 1 any partnership income included on federal Form 1120, line 10.

Line 2 – Include on line 2 only gains used in figuring the amounts reported in column (h) of federal Schedule D. You cannot net loss transactions against gain transactions.

Line 3 – Include on line 3 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.

Line 7 – If the corporation has both farm and non-farm income, include in line 7 only the gross profit attributable to farming activities (see Definitions). In this situation, it may be helpful if the corporation completes a pro forma federal Schedule F (Form 1040), to determine its gross profit (income) from farming.

Line 8 – 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 9 – Include on line 9 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 10 – Do not include gross income from fishing included on federal Schedule K-1 (Form 1065), box 14, code B.

Worksheet B (for line B) for Form CT-3-S filers: Keep for your records

| | | |
|-----------|--|-----------|
| 1 | Add the amounts from federal Form 1120S, lines 3 and 5 (<i>see instructions</i>) | 1 |
| 2 | Add the amounts on federal Form 1120S, Schedule K, lines 4, 5a, 6, and 10 (<i>see instructions</i>) | 2 |
| 3 | Add the amounts from federal Forms 8825, line 18a, and 1120S, Schedule K, line 3a | 3 |
| 4 | Add the gain (not loss) amounts from federal Schedule D (Form 1120S), column (h), lines 1a through 5, 8a, 8b, 9, 10, 11, 12, and 13 (<i>see instructions</i>) | 4 |
| 5 | Add the gain (not loss) amounts from 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>) | 5 |
| 6 | 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 5 | 6 |
| 7 | Federal gross income (<i>add lines 1 through 6</i>) | 7 |
| 8 | Excess federal gross income (<i>subtract \$30,000 from line 7</i>) | 8 |
| 9 | Gross profit from farming included on federal Form 1120S, line 3 (<i>see instructions</i>) | 9 |
| 10 | Gross rents from certain rentals of farm property included on federal Forms 8825, line 18a, and 1120S, Schedule K, line 3a (<i>see instructions</i>) | 10 |
| 11 | Add the amounts from 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>) | 11 |
| 12 | Enter the code B amount shown in box 14 of federal Schedule K-1 (Form 1065) (<i>see instructions</i>) | 12 |
| 13 | Gross income from farming (<i>add lines 9 through 12</i>) | 13 |
| 14 | Divide line 13 by line 8, and round the result to four decimal places | 14 |

Instructions for Worksheet B

Line 1 – If federal Form 1120S, line 5, includes both income and loss items, include only the income amounts on line 1. In addition, do not include on line 1 any partnership income included on federal Form 1120S, line 5.

Line 2 – If federal Form 1120S, Schedule K, line 10 includes both income and loss items, include only the income amounts on line 2. In addition, do not include on line 2 any partnership income included on federal Form 1120S, Schedule K, line 10.

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 5 – Include on line 5 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 5 any amounts included on line 2.

Line 9 – If the corporation has both farm and non-farm income, include in line 9 only the gross profit attributable to farming activities (*see Definitions*). In this situation, it may be helpful if the corporation completes a pro forma federal Schedule F (Form 1040), to determine its gross profit (income) from farming.

Line 10 – Include only gross rents from the rental of farm property, and only if the rental arrangement meets one of the two conditions listed under the *Definitions*.

Line 11 – Include on line 11 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 12 – Do not include gross income from fishing included on federal Schedule K-1 (Form 1065), box 14, code B.

Schedule A – Computation of credit

Line 3 – New York S corporations: Enter this amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide your shareholders with their pro rata share of this line. The shareholders will file their own Forms IT-647, *Farm Workforce Retention Credit*, to claim the credit on their NYS personal income tax returns.

All others: Complete Schedule B.

Schedule B – Computation of credit used, refunded, or credited as an overpayment to the next tax year (New York S corporations do not complete this schedule)**Lines 4 and 7 entries table**

| If you filed | Enter on line 4 any net recapture of other tax credits, plus the amount from | Enter on line 7 the fixed dollar minimum tax below |
|--------------|---|--|
| Form CT-3 | Part 2, line 2 | Part 2, line 1c |
| Form CT-3-A | Part 2, line 2 | Part 2, line 1c |

Line 4 – Enter your tax due before credits using the *Lines 4 and 7 entries table* above.

Line 5 – If you are claiming more than one tax credit for this year, enter the total amount of credits claimed before applying this credit. Otherwise, enter **0**. You must apply certain credits before this credit.

See Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the correct order of credits.

If you are included in a combined return, include any amount of tax credit(s) being claimed by other members of the combined group, including the farm workforce retention credit, that you wish to apply before the credit claimed on this form.

Line 7 – Enter your fixed dollar minimum tax using the *Lines 4 and 7 entries table* above.

Schedule C – Partnership information

Complete this schedule only if you were a partner in a partnership and received a share of the farm workforce retention credit from that entity. Enter the name, employer identification number (EIN), and credit amount passed through to you from each partnership. Obtain this information from the partnership(s) allocating the credit to you.

Additional sheets – If you have more entries than will fit on the lines provided, attach additional sheets in the same format. Include your name and EIN on each sheet and attach them and Form CT-647 with your return.

Schedule D – Eligible farm employee information

Complete Schedule D, listing each eligible farm employee's name, work location zip code, Social Security number, and hours worked for the tax year of this claim for credit. See the definition of *eligible farm employee*. If you answered **Yes** on Line E, each eligible farm employee must be employed on *qualified agricultural property* (see definitions).

Line 14 – Enter the total number of eligible farm employees listed in Schedule D. 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 D, but count them as one eligible farm employee on line 14 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 CT-647-ATT, *Eligible Farm Employee Information for the Farm Workforce Retention Credit*. Use the instructions for this schedule to complete Form CT-647-ATT.

Enter the legal name and EIN of the corporation on Form CT-647-ATT and attach it to Form CT-647.

Need help? and Privacy notification

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