NEW YORK STATE 2021

Department of Taxation and Finance

Instructions for Form DTF-626

Recapture of Low-Income Housing Credit

DTF-626-I

General instructions

Use Form DTF-626 if you **must** recapture part of the low-income housing credit you claimed in previous years because:

- the qualified basis of a building decreased from one year to the next. The decrease may result from:
  - a change in the eligible basis or the applicable fraction; or
  - the building no longer meets the minimum set-aside requirements of Internal Revenue Code (IRC) section 42(g)(1); or
  - the building no longer meets the minimum set-aside requirements of New York State Public Housing Law (PHL), Article 2-A, section 21(5)(b); or
  - the building no longer meets the gross rent requirement of IRC section 42(g)(2); or
  - the units are not suitable for occupancy as described in IRC section 42(i)(3)(B)(ii); or
  - the building no longer meets the other requirements for the units which are set aside.
- you disposed of the building or an ownership interest in it.

Note: If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years (see IRC section 42(k) before you calculate the recapture amount on this form).

To complete this form you will need copies of the following forms that you have filed:

- Form DTF-624, *Claim for Low-Income Housing Credit*;
- Form DTF-625, *Low-Income Housing Credit Allocation and Certification*;
- Form DTF-625-ATT, *Low-Income Housing Credit Annual Statement;* and
- Form DTF-626.

Note: Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in *Address of building, Building identification number,* and *Date placed in service* sections and the information reported in Part 1.

Transferability of low-income housing credit

For tax years beginning on or after January 1, 2019, PHL § 22(8)(a) allows a taxpayer (owner) of a building that received an allocation of low-income housing credit on or after May 12, 2018, to transfer the credit, in whole or in part, to another person or entity (transferee). Transfer of the credit will not affect the period for claiming the credit.

A transferee may **not** transfer any portion of its credit.

Transfer of the credit **must** be pre-authorized by Division of Housing and Community Renewal. Any credit claimed without proper authorization will be denied in full.

Note: Transferees are not required to compute recapture.

Credit recapture

Recapture **does not** apply if:

- you disposed of the building or an ownership interest in it and it is reasonably expected that the building will continue to be operated as an eligible low-income building for the remainder of its compliance period;
- you disposed of not more than 33⅓% in the aggregate of your ownership interest in a building that you held through a partnership, or you disposed of an ownership interest in a building that you held through a partnership to which IRC section 42(j)(5) applies or through an electing large partnership;
- the decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowed in years after the year the building was placed in service;
- you correct a noncompliance event within a reasonable period after it is discovered or should have been discovered; or
- the qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

Record-keeping requirements

To verify changes in qualified basis from year to year, you must keep, for 3 years after the 15-year compliance period ends, a copy of all Forms DTF-625, DTF-625-ATT, DTF-624, DTF-626, and DTF-627 or DTF-627.1 you have filed.

Specific instructions

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

Part 1

If the building is financed with tax exempt bonds, enter the following information:

1. name of the entity that issued the bond (not the name of the entity receiving the benefit of the financing);
2. date of issue (generally the first date there is a physical exchange of the bonds for the purchase price);
3. name of the issue, or if not named, other identification of the issue; and
4. Committee on Uniform Security Identification Procedures (CUSIP) number of the bond with the latest maturity date (if the issue does not have a CUSIP number, enter *None)*.

Part 2

Line 1 – Enter the total credits claimed on the building for **all** prior years from Form(s) DTF-624, Part 1. For tax years beginning in or after 2005, get these amounts from Form(s) DTF-624, line 3, **or** for tax years prior to 2005, line 4. **Do not** include credits taken by a previous owner. No credit may be claimed in the year of recapture.

Line 2 – Determine the amount to enter on this line by completing a separate *Line 2 Worksheet* on the back of Form DTF-626 for each prior year that a Form DTF-625-ATT, line 7, was completed.

Line 4 – Enter the credit recapture percentage, expressed as a decimal carried to 3 places, from the table below:

If the recapture event occurs in:	Then enter on line 4:
Years 2 through 11	.333
Year 12	.267
Year 13	.200
Year 14	.133
Year 15	.067

Line 6 – Enter the percentage decrease in qualified basis from the close of the previous year to the close of the current year.

For this purpose, compute qualified basis without regard to any additions to qualified basis after the first year of the credit period. Compare any decrease in qualified basis first to additions to qualified basis. **Recapture applies only if the decrease in qualified basis exceeds additions to qualified basis after the first year of the credit period.**

If you disposed of the building or an ownership interest in it, you must recapture all of the accelerated portion shown on line 5 unless it is reasonably expected that the building will continue to be operated as an eligible low-income building for the remainder of its compliance period. Enter 1.000 on line 6. Do not leave line 6 blank.

Note: If the decrease causes the qualified basis to fall below the minimum set-aside requirements of IRC section 42(g)(1) or PHL, Article 2-A, section 21(5)(b), then 100% of the amount shown on line 5 must be recaptured. Enter 1.000 on line 6. If you elected the 40-60 test or the 40-90 test for this building and the decrease causes you to fall below 40%, you **cannot** switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.

Line 7 – If there was a prior recapture of accelerated credits on the building, do not recapture that amount again as the result of the current reduction in qualified basis.

The following example demonstrates how to incorporate into the current (Year 4) recapture the first year (Year 1) accelerated portion as a result of a prior year (Year 2) recapture event.

Example: *$2,700 of accelerated portion of low-income housing credit spread over a 10-year period and not falling below the minimum set-asides for the building. Also, there was a 20% reduction in qualified basis in Year 2 and 30% in Year 4.*

	Low-income housing credit	Recapture of Year 1 low-income housing credit
Year 1	$270	
Year 2	$216 *(($270 x .8) (20% reduction in qualified basis))*	$18 *(($270 x .333 x .2) (20% reduction in qualified basis))*
Year 3	$270	
Year 4*	$189 *(($270 x .7) (30% reduction in qualified basis))*	$9 *(($27 ($270 x .333 x .3) (30% reduction in qualified basis) minus $18 Year 2 recapture))*

**You will have to complete the rest of the form to compute the recapture as the result of the current year reduction in basis as it affects the year 2 and year 3 credits.*

Line 9 – If you have any unused carryover of credit from a previous tax year or years that is attributable to this building, use the *Line 9 Worksheet* on the back page of Form DTF-626 to determine the unused portion of the accelerated amount. If you have no carryover of credit from a previous tax year(s) for this building, leave line 9 blank.

Special rule for electing large partnerships: Leave line 9 blank. An electing large partnership is treated as having fully used all prior-year credits.

Line 11 – Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest must be computed at the **overpayment rate** determined under Tax Law section 1096 and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of (a) the due date (not including extensions) of the return for the recapture year, or (b) the date the return for the recapture year is filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest are published on the Tax Department's website (at *www.tax.ny.gov*).

Note: If the line 8 recapture amount is from an IRC section 42(j)(5) partnership, the partnership will compute the interest and include it in the recapture amount reported to you. Leave line 11 blank and write ***section 42(j)(5)*** to the left of the entry space for line 11.

Line 13 – Subtract the amount on line 9, if any, from the total of all prior year(s) unused carryover of credit attributable to the building and enter the result on line 13.

Line 14

- **Individuals:** Enter the line 14 amount and code ***626*** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.
- **Partnerships:** Enter the line 14 amount and code ***626*** on Form IT-204, line 148.
- **Fiduciaries:** Include the line 14 amount on Form IT-205, line 12.
- **C corporations:** Include the line 14 amount on Form DTF-624, line 10.

Special rule for electing large partnerships: Subtract the current-year credit, if any, shown on Form DTF-624, line 8, from the total of line 14 amounts from all Forms DTF-626. Enter the result (but not zero or less) and code ***626*** on Form IT-204, line 148.

Note: You must also reduce the current year low-income housing credit, before allocation to each partner, by the amount of the reduction to the total of the recapture amount(s).

Line 15 – Include this amount in the total on Form DTF-624, line 4.

Part 3 – Only IRC section 42(j)(5) partnerships need to complete lines 16 and 17

Lines 16 and 17 – Only IRC section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large partnership) that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as an IRC section 42(j)(5) partnership. For purposes of this definition, a married couple is treated as one partner.

For purposes of determining the credit recapture amount, an IRC section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under IRC section 42(a).

See the instructions for line 11 to compute the interest on line 16. Enter the line 17 amount and code ***626*** on Form IT-204, line 148. The partnership must submit Form DTF-626 with its Form IT-204 and allocate this amount to each partner in the same manner as the partnership's taxable income is allocated to each partner.