



# Instructions for Form IT-213

## Claim for Empire State Child Credit

## General information

### What is the Empire State child credit?

The Empire State child credit is available to full-year New York State residents (see *Spouses required to file separate New York State returns*) who have (1) a federal child tax credit or a federal additional child tax credit and a qualifying child **or** (2) a qualifying child and meet certain income limitations. For purposes of this credit, a *qualifying child* is a child who qualifies for the federal child tax credit and is at least four but less than 17 years of age. If the credit exceeds your tax for the tax year, the excess credit will be refunded without interest.

### How do I claim the Empire State child credit?

You must file Form IT-213 with your New York State income tax return.

## Specific instructions

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

### Step 2 – Determine eligibility

Complete lines 1 through 5.

**Line 3** – For purposes of this credit, *federal adjusted gross income* means the amount entered on Form 1040A, line 22, or on Form 1040, line 38, less any interest included on Form 1040A or Form 1040, line 8a, for *Build America Bonds* as defined in IRC section 54AA.

**Line 4** – Enter the number of children who qualify for the federal child tax credit or additional child tax credit, whether or not you claimed the credit on your federal return (see the instructions for federal Form 1040A, line 35, or Form 1040, line 52).

**Note:** If for federal income tax purposes your child is claimed as a dependent by your child's noncustodial parent, you **cannot** claim that child as a qualifying child for purposes of the Empire State child credit. Do not include that child on line 4.

### Step 3 – Enter child information

Enter the name, including suffix (for example, Jr., Sr., III), social security number (SSN), and date of birth for each child included on line 4. If you have more than six children, complete the required information for the additional children on Form IT-213-ATT, *Child Information for Empire State Child Credit*. Enter your name and SSN on Form IT-213-ATT, and submit it with Form IT-213.



**Caution:** To be eligible to claim the Empire State child credit, you must provide a correct and valid SSN or individual taxpayer identification number (ITIN) for each child listed on your claim.

If your or your child's SSN or ITIN was issued after the **due date of the return**, you may claim only \$100 per qualifying child (line 15). You **cannot** claim the 33% of the federal child tax credit and federal additional child tax credit (line 13). This is due to federal identification number requirements. For more information, see Important Notice N-16-2, *Changes to Federal and New York State Filing Requirements for New York Earned Income Credits and Empire State Child Credit*.

### Step 5 – Spouses required to file separate New York State returns

If you filed a joint federal return but are required to file separate New York State returns because you were a full-year New York State resident for 2016 and your spouse was a part-year resident or nonresident for 2016, the credit may be claimed by either spouse or may be divided in any manner you wish. Form IT-213 must be completed by the spouse who is the New York State resident and must include both spouses' names and social security numbers. The resident spouse's name and social security number must be listed first on Form IT-213. You must enter **0** on line 17 if the part-year resident or nonresident spouse is claiming the entire line 16 amount. You must enter **0** on line 18 if the resident spouse is claiming the entire line 16 amount. Submit a copy of Form IT-213, and, if applicable, a copy of Form IT-213-ATT with each spouse's New York State income tax return. However, you do not need to submit a copy of Form IT-213 with the part-year resident or nonresident spouse's Form IT-203 if you entered **0** on line 18.