Department of Taxation and Finance

Instructions for Form IT-606

Claim for QEZE Credit for Real Property Taxes

IT-606-I

Expiration of Empire Zones Program

The New York State Empire Zones Program expired as of July 1, 2010. A business enterprise that was certified pursuant to Article 18-B of the General Municipal Law as of June 30, 2010, will be deemed certified under Article 18-B for purposes of the qualified empire zone enterprise (QEZE) credit for real property taxes for the remainder of its business tax benefit period and it may continue to claim the credit so long as it meets the requirements of the statute. However, any business that was required to obtain an empire zone (EZ) retention certificate but was denied one will not be eligible for the QEZE credit for real property taxes.

Important information

Form IT-606 is divided into two sections. It is very important that you complete the appropriate section. You must **submit all pages** (1 through 8) with your return even though you only completed one section. You must submit copies of all EZ certificates of eligibility and EZ retention certificates, issued by Empire State Development (ESD). Flow-through entities, such as partnerships, S corporations, and fiduciaries should distribute copies of the EZ retention certificate to their partners, shareholders, and beneficiaries for use in filing their tax returns claiming EZ credits.

All taxpayers must complete the information above Section 1 on page 1.

- QEZEs **first certified** prior to April 1, 2005, should complete Section 1, Schedules A through G.
- QEZEs **first certified** on or after April 1, 2005, should complete Section 2, Schedules H through Q.
- QEZEs **first certified** between August 1, 2002, and March 31, 2005, that conduct operations on real property they own or lease, that is located in an EZ and that is subject to a brownfield site cleanup agreement (BCA) executed prior to January 1, 2006, complete Section 2, Schedules H through Q.

Note: If you are certified in multiple zones, you must complete **only** Section 1 (pages 1 through 4) **or** Section 2 (pages 5 through 8) based on the effective date of the **first** certificate of eligibility issued by ESD. **Do not complete both**.

Example: *Business A was certified in the Albany County Empire Zone on February 1, 2001. On October 15, 2005, the business was also certified in the Buffalo Empire Zone. Because Business A was **first certified** on February 1, 2001, it must complete **only** Section 1 to compute its QEZE credit for real property taxes.*

General information

The Empire Zones Program Act provides the QEZE credit for real property taxes for a business certified as eligible to receive benefits under General Municipal Law (GML) Article 18-B and that qualifies as a QEZE. The credit is available to a sole proprietor of a QEZE, a shareholder of an S corporation that is a QEZE, or a member of a partnership that is a QEZE, including members of a limited liability company (LLC) if the LLC is treated as a partnership for federal tax purposes and is subject to tax under Article 22.

The QEZE credit for real property taxes is a credit against New York State corporate franchise and personal income taxes. The credit is for eligible real property taxes paid or incurred on real property owned, or in some cases leased, by the QEZE that is located in an EZ in which the QEZE is certified.

If the QEZE eligible real property taxes, which were the basis for a QEZE credit for real property taxes, are subsequently reduced as a result of a final order in any proceeding under the Real Property Tax Law Article 7 or other provision of law, the QEZE must recapture a portion of the credit allowed in the year the final order is issued. The recapture amount is equal to the amount of credit originally taken, less the amount of credit recalculated using the reduced property taxes. If the taxes are reduced for more than one year, the QEZE must determine how much of the reduction is attributable to each year covered by the final order and calculate the amount of credit required to be recaptured for each year based on the reduction.

Any amount of the QEZE credit for real property taxes not deductible in the current tax year may be refunded without interest.

Definitions for all QEZEs

A *qualified empire zone enterprise (QEZE)* is a business enterprise that is certified as eligible to receive benefits under GML Article 18-B prior to July 1, 2010, and that annually meets the employment test. A QEZE also includes a clean energy enterprise (CEE) certified under GML Article 18-B that annually meets the employment test.

Tax year means the tax year of the business enterprise under the Tax Law, Article 22.

Employment number means the average number of individuals employed full-time by the business enterprise for at least one-half of the tax year. For tax years beginning on or after January 1, 2005, all QEZEs will exclude from the employment number any individual employed within New York State in the immediately preceding 60 months by a related person to the QEZE (as related person is defined in Internal Revenue Code (IRC) section 465(b)(3)(C)).

The employment number will be computed for a QEZE's first tax year using only those employees employed full-time on the last day of the short tax year if the QEZE meets the following criteria:

- The QEZE acquires real or tangible property during its first tax year from an entity that is not a related person;
- The QEZE has at least 190 full-time employees on the last day of the tax year, substantially all of whom were previously employed by the entity from which the taxpayer purchased its assets; and
- The QEZE has a first tax year of not more than seven months.

The term *related person* means a related person as defined in IRC section 465(b)(3)(C) or 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.

The information below represents the Internal Revenue Service (IRS) interpretation of the definition of related persons in IRC section 465(b)(3)(C) as contained in IRS Publication 925, *Passive Activity and At-Risk Rules*. When preparing your tax return, you should refer to section 465(b)(3)(C) to see if the definition of related persons has been amended.

Related persons include the following:

- Members of a family, but only an individual's brothers and sisters, half-brothers and half-sisters, a spouse, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.).

- Two corporations that are members of the same controlled group of corporations determined by applying a 10% ownership test.
- The fiduciaries of two different trusts, or the fiduciary and beneficiary of two different trusts, if the same person is the grantor of both trusts.
- A tax-exempt educational or charitable organization and a person who directly or indirectly controls it (or a member of whose family controls it).
- A corporation and an individual who owns directly or indirectly more than 10% of the value of the outstanding stock of the corporation.
- A trust fiduciary and a corporation of which more than 10% in value of the outstanding stock is owned directly or indirectly by or for the trust or by or for the grantor of the trust.
- The grantor and fiduciary, or the fiduciary and beneficiary, of any trust.
- A corporation and a partnership if the same persons own over 10% in value of the outstanding stock of the corporation and more than 10% of the capital interest or the profits interest in the partnership.
- Two S corporations if the same persons own more than 10% in value of the outstanding stock of each corporation.
- An S corporation and a regular corporation if the same persons own more than 10% in value of the outstanding stock of each corporation.
- A partnership and a person who owns directly or indirectly more than 10% of the capital or profits of the partnership.
- Two partnerships if the same persons directly or indirectly own more than 10% of the capital or profits of each.
- Two persons who are engaged in business under common control.
- An executor of an estate and a beneficiary of that estate.

To determine the direct or indirect ownership of the outstanding stock of a corporation, apply the following rules:

1. Stock owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered owned proportionately by or for its shareholders, partners, or beneficiaries.
2. Stock owned directly or indirectly by or for an individual's family is considered owned by the individual. The family of an individual includes only brothers and sisters, half-brothers and half-sisters, a spouse, ancestors, and lineal descendants.
3. Any stock in a corporation owned by an individual (other than by applying rule 2) is considered owned directly or indirectly by the individual's partner.

When applying rule 1, 2, or 3, stock considered owned by a person under rule 1 is treated as actually owned by that person. However, if a person constructively owns stock because of rule 2 or 3, he or she does not own the stock for purposes of applying either rule 2 or 3 to make another person the constructive owner of the same stock.

Full-time employment means a job consisting of at least 35 hours per week or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week. A seasonal business (a business that regularly operates for less than an entire tax year, such as a ski resort) that employs individuals full-time for at least three months of continuous duration may include these individuals in the employment number if they are working in a job consisting of at least 35 hours per week.

Value of real and tangible personal property is the federal adjusted basis of your property (except rental property, which is eight times your gross yearly rent).

Eligible real property taxes refers to taxes for the current tax year imposed on real property located in an EZ in which the QEZE is certified, provided that:

- the property is owned by the QEZE;
- the taxes become a lien on the property in a tax year in which the owner is certified and qualifies as a QEZE; and
- the owner paid the real property taxes, or a tenant paid the real property taxes. If a tenant paid the real property taxes, the owner may take the credit for those taxes paid by the tenant if the tenant does not qualify as a QEZE or if the taxes do not constitute eligible real property taxes for the tenant (see *Lessees* below).

The term *tax* means a charge imposed on real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes, provided that the charge is levied for the general public welfare by the proper taxing authorities at a like rate against all property in the territory over which such authorities have jurisdiction, and provided that where taxes are levied pursuant to Real Property Tax Law Article 18 or 19, the property must have been taxed at the rate determined for the class in which it is contained, as provided by such Article 18 or 19, whichever is applicable. The term *tax* does not include a charge for local benefits, including any portion of that charge that is properly allocated to the costs attributable to maintenance or interest, when (1) the property subject to the charge is limited to the property that benefits from the charge, or (2) the amount of the charge is determined by the benefit to the property assessed, or (3) the improvement for which the charge is assessed tends to increase the property value.

This definition of the term *tax* is effective for tax years beginning on or after January 1, 2010, and for all tax returns previously filed that are still open for refund or assessment under the statute of limitations. However, for tax years beginning prior to January 1, 2010, charges properly allocated to the costs attributable to maintenance or interest may be included in tax for purposes of this credit.

Lessees – Eligible real property taxes include taxes paid by a QEZE that is a lessee if:

- the taxes are paid under a written lease agreement executed or amended on or after June 1, 2005; and
- the taxes become a lien on the property during a tax year in which the lessee is both certified and a QEZE; and
- the lessee made direct payments to the taxing authority and has received a receipt for the payment from the authority.

Payments in lieu of taxes (PILOT) – Eligible real property taxes include PILOT payments made by the QEZE to the state, a municipal corporation, or a public benefit corporation. PILOT payments made by the QEZE under a written agreement executed or amended on or after January 1, 2001, but prior to January 1, 2005, are not eligible real property taxes unless both the Department of Economic Development (DED) and the Office of Real Property Tax Services (ORPTS) approve the written agreement. For tax years beginning on or after January 1, 2005, PILOT payments are not eligible real property taxes in any tax year to the extent that the payment exceeds:

- the greater of the basis for federal income tax purposes on the certification date of real property (including buildings and structural components of buildings) owned by the QEZE and located in EZs for which it is certified or the basis on the last day of the tax year;
- multiplied by the county's full-value tax rate (For these rates, see the Tax Department's website (at *www.tax.ny.gov*). Use the full-value tax rates by county for the local fiscal year ending in 2015.);
- divided by 1,000.

Note: The basis is calculated without regard to depreciation. If the basis is adjusted pursuant to any IRC provisions, the QEZE may petition the Tax Department, DED, and ORPTS to disregard the adjustment or reduction for purposes of this calculation.

Sole proprietors and partnerships – Complete Section 1 (Schedules A, B, C, D, F, and G) if first certified prior to April 1, 2005; complete Section 2 (Schedules H, I, J, K, L, M, N, P, and Q) if first certified on or after April 1, 2005, or if first certified between August 1, 2002, and March 31, 2005, and you conduct operations on real property owned or leased that is located in an EZ, and that is subject to a BCA executed prior to January 1, 2006.

Fiduciaries – Complete Section 1 (Schedules A through G) if first certified prior to April 1, 2005; complete Section 2 (Schedules H through Q) if first certified on or after April 1, 2005, or if first certified between August 1, 2002, and March 31, 2005, and you conduct operations on real property owned or leased that is located in an EZ, and that is subject to a BCA executed prior to January 1, 2006.

Partners in a partnership, shareholders in a New York S corporation, and beneficiaries of an estate or trust – Enter the employer identification number of the QEZE business, the name of the business, the name of the EZ and the date of certification. This information can be obtained from your partnership, New York S corporation, or the fiduciary of the estate or trust. Complete Section 1 (Schedule D) if first certified prior to April 1, 2005; complete Section 2 (Schedule N) if first certified on or after April 1, 2005, or if first certified between August 1, 2002, and March 31, 2005, and you conduct operations on real property owned or leased that is located in an EZ, and that is subject to a BCA executed prior to January 1, 2006.

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

General information for Section 1 – For QEZEs first certified prior to April 1, 2005

Complete Section 1 **only** if the QEZE was first certified **prior to** April 1, 2005. **Do not** complete Section 2.

QEZEs first certified between August 1, 2002, and March 31, 2005, that conduct operations on real property they own or lease that is located in an EZ and is subject to a BCA executed prior to January 1, 2006: **do not** complete this section. Instead complete Section 2, Schedules H through Q.

Eligibility for QEZEs first certified prior to April 1, 2005

A business enterprise that was first certified as eligible to receive benefits under GML Article 18-B prior to April 1, 2005, is a QEZE during its business tax benefit period if in those tax years the business enterprise meets the annual employment test.

The amount of the credit is the product of:

- the benefit period factor,
- the employment increase factor, and
- the eligible real property taxes paid or incurred by the QEZE during the current tax year.

Taxpayers first certified under GML Article 18-B on or after August 1, 2002, are subject to a limitation on the amount of QEZE real property tax credit which may be claimed.

The credit limitation is the greater of the employment increase limitation or the capital investment limitation. Any taxpayer first certified before August 1, 2002, is not subject to this limitation in any year of the business tax benefit period. **The limitation is computed on Worksheet B on page 6.**

Schedule A – Employment test for QEZEs first certified prior to April 1, 2005

Complete Schedule A to determine if you meet the annual employment test. If you marked *No* on either line 3 or line 6, you **do not** qualify for the QEZE credit for real property taxes for the current tax year. **Do not** complete the rest of this form, **unless** you are required to recapture QEZE real property tax credit from a prior year. To compute a recapture, complete Worksheet A on page 5.

The employment test will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, equals or exceeds its employment number in all EZs for the base period; and the business enterprise's employment number in New York State outside all EZs for the tax year equals or exceeds its employment number in New York State outside all EZs for the base period. For information as to whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD.

There are additional employment test requirements for businesses with a base period of zero years or zero employment in the base period. See additional instructions on page 4.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business was located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A business incubator facility provides business support services or space, or both, to newly established enterprises.

Test date is the later of July 1, 2000, or the date prior to July 1, 2010, on which the business enterprise was **first certified** under GML Article 18-B. Subsequent certifications will not change the test date.

Test year is the last tax year **ending before the test date**. If a business enterprise does not have a tax year that ends before the test date, the enterprise will be deemed to have a test year that will be either the last calendar year ending before its test date, or, if the enterprise is a fiscal filer, the test year will be the fiscal year ending before its test date.

Base period is the five tax years immediately preceding the test year. If your QEZE has fewer than five years preceding the test year, then your base period is the smaller set of years. If you are a business enterprise in your first tax year of doing business in New York State, your base period is zero years.

Employment increase factor is an amount which cannot exceed one, but that is the greater of the following:

1. The excess of the QEZE's employment number in EZs in which the QEZE is certified for the current tax year over the QEZE's test year employment number in those zones, divided by the QEZE's test year employment number in those zones; **or**
2. The excess of the QEZE's employment number in the EZs in which it is certified for the current tax year over the QEZE's test year employment number in those zones, divided by 100.

Business tax benefit period means either the first 15 tax years beginning on or after January 1, 2001 if your test date occurred on or before December 31, 2001, or the 15 tax years after your

test year if your test date occurred on or after January 1, 2002. (See new business definition below for exception.)

However, owners of qualified investment projects (QUIPS) (as defined under GML section 957(s)) that have been approved by the Commissioner of Economic Development will be allowed an additional business tax benefit period of ten years for purposes of the QEZE credit for real property taxes and the QEZE tax reduction credit. For these owners, the business tax benefit period is extended to include an additional ten tax years starting with the tax year in which the business enterprise's benefit period commencement date occurs (but only for those years in which the employment test is met).

The benefit period commencement date will be determined by an election made by the business enterprise on its report for the tax year which includes the date of certification of the business enterprise at the location of the QUIP. The benefit period commencement date is either (A) the business enterprise's date of certification under GML Article 18-B at the location of the QUIP, or (B) the date when property constituting a QUIP is first placed in service. If you choose to make the election under (B), submit a statement with the form. If no election is made, the benefit period commencement date will be (A) as described above.

If a QEZE that is an owner of a QUIP is also approved by the Commissioner of Economic Development as the owner of a significant capital investment project (as defined under GML section 957(t)), the business tax benefit period is increased to include an additional ten years beginning with the tax year in which the significant capital investment project is placed in service. The property must be placed in service during the business enterprise's business tax benefit period as described above.

If a QEZE is an owner of a QUIP, or a significant capital investment project, or both, the business tax benefit period may extend beyond 10 years.

Benefit period factor is a number from zero to one, based on the tax year of the business tax benefit period, that is designed to phase out the benefit in the last five years of the business tax benefit period. (See Form IT-606, page 3, *Benefit period factor table*.)

For an owner of a QUIP or a significant capital investment project, the benefit period factor will be 1.0 during the entire business tax benefit period.

Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first **certified prior to August 1, 2002,** if the base period is zero years or the base period employment is zero, and the enterprise is similar in ownership and operation to an existing or previously existing taxpayer, it can continue to access QEZE benefits only if the enterprise was formed for a valid business purpose and not solely to gain EZ benefits.

Valid business purpose means one or more business purposes, other than the avoidance or reduction of taxation, which alone or combined are the primary motivation for some business activity or transaction that changes the economic position of the taxpayer in a meaningful way (apart from tax effects). The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

For a business enterprise first **certified on or after August 1, 2002, and before April 1, 2005,** if the base period is zero years and the employment number in the zone is greater than zero in a tax year, then the enterprise meets the employment test **only** if it qualifies as a new business.

New business means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A or 33; former Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); former Article 32 (or that would have been subject to Article 32 as it was in effect on December 31, 2014); or the income (or losses) of which is (or was) included under Article 22.

A business enterprise that is approved by the Commissioner of Economic Development as the owner of a QUIP or a significant capital investment project, has a base period of zero years, and places in service property (or a project that includes such property) which comprises a QUIP or significant capital investment project, will be considered a new business for purposes of the QEZE credit for real property taxes if the new business is certified by December 31, 2007.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are operating in different counties in the state. The new business must use the remaining business tax benefit period of the existing identical taxpayer.

Specific instructions for Section 1 – QEZEs first certified prior to April 1, 2005

Schedule A – Employment test for QEZEs first certified prior to April 1, 2005

Part 1 – EZ employment – Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the five-year base period. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Refer to *Definitions for all QEZEs* on page 1 of these instructions when computing the employment test.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

Line 1 – For each date specified of the current tax year, enter the number of full-time employees who are located in an EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the employment number for the current tax year. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

Line 2 – For each date specified of the base period, enter the number of full-time employees who are located within all EZs whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified of the five-year base period by the number of dates occurring during the five-year base period (even if you had no employees on those dates) to obtain the employment number for the base period. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

Example: *A QEZE, a calendar-year filer, begins business in New York on April 1, 2001, and is certified on January 1, 2003. The QEZE's test date is January 1, 2003. The test year is the tax year ending December 31, 2002. The base period is April 1, 2001 - December 31, 2001, a short tax year. Since March 31, 2001, does not occur during this enterprise's base period, no entry is made for this date. The QEZE has no employees on June 30, 2001. It hires three employees on July 1, 2001. The*

QEZE will compute its total number of full-time employees within all EZs in the base period as follows:

Base period employment number	Tax year ending *(mm-yyyy)*	Mar 31	June 30	Sept 30	Dec 31	Total
Number in base year one	*122001*		*0*	*3*	*3*	*6*
Number in base year two						
Number in base year three						
Number in base year four						
Number in base year five						
Total number of full-time employees within all EZs in the base period						*6*

In this example, the employment number within all EZs in the base period is 2 (six divided by three). The QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was only one short tax year.

Line 3 – The EZ employment number for the current tax year (line 1) must equal or exceed the EZ employment number in the base period (line 2) to qualify for the QEZE credit for real property taxes. If you marked *No,* you **do not** qualify for the credit. **Do not** complete the rest of this form unless you are required to recapture QEZE real property tax credit from a prior year. To compute a recapture, complete Worksheet A.

Part 2 – New York State employment outside all EZs – Complete Part 2 in the same manner as you completed Part 1; however, include only those employees who are not located in any EZ, but who are located outside EZs within New York State. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Line 6 – The employment number in New York State, outside all EZs, for the current tax year (line 4) must equal or exceed the employment number in New York State, outside all EZs, in the base period (line 5) to qualify for the QEZE credit for real property taxes. If you marked *No,* you **do not** qualify for this credit. **Do not** complete the rest of this form unless you are required to recapture the QEZE credit for real property taxes from a prior year. To compute a recapture, complete Worksheet A.

Schedule B – Computation of test year employment number within the EZs in which you are certified

Line 7 – Divide the total number of full-time employees within the EZs for your test year by the number of the dates occurring during the year (even if you had no employees on those dates) to obtain your test year employment number. Make no entries for any dates that did not occur during your test year. Do not include those dates in the calculation. Include only the employees working within EZs in which you are certified that were employed by the QEZE for at least one-half of the tax year.

Schedule C – Employment increase factor

The employment increase factor (as defined on page 4) cannot exceed 1.0. If your test year employment number is zero, and your current tax year employment number is greater than zero, your employment increase factor is 1.0.

Line 8 – Include on this line the current tax year employment number in the EZs in which you are certified.

Note: If you have employment in an EZ in which you are not certified, your current tax year employment number will not be the same as the number computed on line 1. For purposes of this calculation, you will include only those employees working in EZs in which you are certified that were employed by the QEZE for at least one-half of the tax year.

Schedule D – Computation of QEZE credit for real property taxes for QEZEs first certified prior to April 1, 2005

Line 16 – See page 2 for a definition of eligible real property taxes. **Submit copies of all real property tax bills (including school tax bills) that are the basis for your QEZE credit.** If the real property taxes include PILOT payments, submit a copy of the PILOT agreement. If you are a lessee claiming the real property tax credit on leased property, submit a copy of the lease.

Line 18 – If the QEZE's eligible real property taxes that were the basis for a credit previously claimed are subsequently reduced, the QEZE must add back a recapture amount computed in Worksheet A below:

Worksheet A

a The amount of credit originally allowed ..... **a** _____

b The amount of credit calculated using the reduced tax amount..... **b** _____

c Recapture amount *(subtract line b from line a; enter result on line 18)* ..... **c** _____

Note: If property taxes are reduced for more than one tax year, you must determine how much of the reduction is attributable to each year and recapture the apportioned amount for each year.

Partners, shareholders, and beneficiaries – If you are a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust, and that entity had a recapture of QEZE credit for real property taxes, enter your share of the recapture on line 18. This information should be provided to you by your partnership, S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, S corporation, or estate or trust, enter the total of all your shares of recapture on line 18.

Line 19 – Net recapture of QEZE credit for real property taxes

If the amount to be recaptured (line 18) exceeds any credit to be claimed in this year (line 17), you have a net recapture. Do not complete lines 20, 21, and 22.

Partnerships – Enter the line 19 amount and code ***166*** on Form IT-204, line 148.

Fiduciaries – Enter the line 19 amount on the total line of Schedule E, column D.

All others – Enter the line 19 amount and code ***166*** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.

Line 21 – The credit limitation is the greater of the employment increase limitation or the capital investment limitation.

QEZEs first certified under GML Article 18-B prior to August 1, 2002: You do not have a credit limitation in any year of your business tax benefit period. **Do not make an entry on this line**.

QEZEs certified on or after August 1, 2002: Complete Worksheet B and enter the greater of Worksheet B, line 2 or Worksheet B, line 8 on line 21.

Worksheet B

Employment increase limitation

1	Enter the amount shown on Form IT-606, line 10	**1** _____
2	Multiply line 1 by $10,000	**2** _____

Capital investment limitation

3	Cost or other basis of real property	**3** _____
4	Multiply line 3 by 10% (.1)	**4** _____
5	The percentage of the QEZE's (and related person's) physical occupancy and use of the building	**5** _____ %
6	Percentage of line 3 attributable to the construction, rehabilitation, or expansion of building for which the credit is claimed *(if 50% or more, enter 100%)*	**6** _____ %
7	Enter the greater of line 5 or 6	**7** _____ %
8	Multiply line 4 by line 7 *(enter the greater of the line 2 or the line 8 amount of this worksheet on line 21)*	**8** _____

Line instructions for worksheet

Line 3 – Enter the greater of the cost or other basis of real property on the later of January 1, 2001, or the date of the QEZE certification; or the cost or other basis on the last day of the current tax year, for real property, including buildings and structural components of buildings owned by the QEZE and located in the EZ.

Line 5 – Enter the percentage of the QEZE's (and any related person's, as related person is defined on page 1) physical occupancy and use of the real property, as measured in square feet.

Worksheet B instructions

In Worksheet B, line 2, the employment increase limitation is calculated by multiplying the excess of the QEZE's employment number in the zones in which the QEZE is certified for the tax year over the QEZE test year employment number by $10,000 (see definition of employment number on page 1).

In Worksheet B, line 8, the capital investment limitation is calculated at 10% of the cost or other basis of the real property multiplied by the greater of:

- the percentage of the property which is physically occupied and used by the QEZE or by a related person to the QEZE, as related person is defined in IRC section 465(b)(3)(C) (see definition of related persons (related entities) on page 1); **or**
- the percentage of the cost or other basis attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition). If 50% or more of the cost or other basis is attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition), then this percentage will be 100%.

The cost or other basis of the real property is the greater of:

- the cost or other basis of the real property for federal income tax purposes on the later of January 1, 2001, or the effective date of certification under GML Article 18-B; **or**
- the cost or other basis of the real property for federal income tax purposes on the last day of the tax year.

Line 22 – If you are not subject to the credit limitation on line 21, enter the amount from line 20. If you are subject to the credit limitation on line 21, enter the lesser of line 20 or 21.

Line 23 Partners, shareholders, and beneficiaries – If you were a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust and received a share of the QEZE credit for real property taxes from that entity, enter your share of the credit on line 23. This information should be provided to you by your partnership, New York S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of the credit on line 23.

Line 24

Fiduciaries: Include the amount from line 24 on the *Total* line of Schedule E, column C.

All others: Enter the amount from line 24 and code ***166*** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or Form IT-204, line 147.

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

An estate or trust must complete Schedule E. If an estate or trust allocates or assigns the credits 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 and recapture.

Include the amount from the *Fiduciary* line of Schedule E, column C, on Form IT-205, line 33. Include the amount from the *Fiduciary* line of Schedule E, column D, on Form IT-205, line 12.

Schedule G – Valid business purpose for QEZEs first certified prior to August 1, 2002

If the QEZE was first certified prior to August 1, 2002, and the base period is zero years or the employment number is zero in the base period, and the QEZE is similar in ownership and operation to an existing or previously existing New York State taxpayer, the QEZE must have been formed for a valid business purpose to continue qualifying for QEZE benefits. If applicable, mark an ***X*** in the box and submit a notarized statement describing how the QEZE meets this test (see definition of valid business purpose on page 4).

General information for Section 2 – For QEZEs first certified on or after April 1, 2005

Complete Section 2 if the QEZE is first certified **on or after** April 1, 2005, or if the QEZE was first certified between August 1, 2002, and March 31, 2005, and its operations are conducted on real property subject to a BCA executed prior to January 1, 2006. Do not complete Section 1.

Eligibility for QEZEs first certified on or after April 1, 2005

A business enterprise that has been certified as eligible to receive benefits under GML Article 18-B **on or after** April 1, 2005, and prior to July 1, 2010, or a business enterprise first certified between August 1, 2002, and March 31, 2005, whose operations are conducted on real property subject to a BCA executed prior to January 1, 2006, is a QEZE during its business tax benefit period if in those tax years the business enterprise meets the annual employment test. Owners of QUIPs and significant capital investment projects may qualify for an extended business tax benefit period (see the definition below).

Year of the business tax benefit period – Enter a year between 1 and 10. However, if the QEZE was first certified between August 1, 2002, and March 31, 2005, and the QEZE's operations are conducted on real property subject to a BCA executed prior to January 1, 2006, enter a year between 1

and 15. Owners of QUIPs, see the definition of *business tax benefit period* below.

Schedule H – Employment test for QEZEs first certified on or after April 1, 2005

Complete Schedule H to determine if you meet the annual employment test. If you marked *No* on either line 27 or line 30, you **do not** qualify for the QEZE credit for real property taxes for the current tax year. **Do not** complete the rest of this form, **unless** you are required to recapture QEZE real property tax credit from a prior year.

Refer to *Definitions for all QEZEs* on page 1 of these instructions when computing the employment test.

The employment test will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, exceeds its employment number in all EZs for the base period; and the business enterprise's employment number in New York State for the tax year exceeds its employment number in New York State for the base period. For information as to whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD. CEEs (as defined in GML section 959-b) will determine whether the employment test is met by comparing their employment number in NYS for the current tax year to their employment number in NYS for their base period.

There are additional employment test requirements for businesses with a base period of zero years or zero employment in the base period. See additional instructions below.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business were located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A business incubator facility provides business support services or space, or both, to newly established enterprises.

Base period is the four tax years immediately preceding the tax year in which the QEZE was first certified under GML Article 18-B for QEZEs first certified on or after April 1, 2005. If the business enterprise has fewer than four such years, then your base period is the smaller set of years. If you are a business enterprise in your first tax year of doing business in New York State, your base period is zero years.

Development zone (DZ) employment increase factor (see Form IT-606, Schedule J) is an amount which cannot exceed 1.0, based on the QEZEs net new employees.

Business tax benefit period means the 10 years beginning with the tax year in which the QEZE's first date of certification occurs. However, the business tax benefit period is 15 years for a QEZE that was first certified between August 1, 2002, and March 31, 2005, and whose operations are conducted on real property subject to a BCA executed prior to January 1, 2006.

Owners of QUIPs (as defined under GML section 957(s)) that have been approved by the Commissioner of Economic Development, will be allowed an additional business tax benefit period of ten years for purposes of the QEZE credit for real property taxes. For these owners, the business tax benefit period is extended to include an additional ten tax years starting with the tax year in which the business enterprise's benefit period commencement date occurs (but only for those years in which the employment test is met).

The benefit period commencement date will be determined by an election made by the business enterprise, on its report for the tax year which includes the date of certification of the business enterprise at the location of the QUIP. The benefit period commencement date is either (A) the business enterprise's date of certification under GML Article 18-B at the location of the QUIP, or (B) the date when property constituting a QUIP is first placed in service. If you choose to make the election under (B), submit a statement with the form. If no election is made, the benefit period commencement date will be (A) as described above.

If a QEZE that is an owner of a QUIP is also approved by the Commissioner of Economic Development as the owner of a significant capital investment project (as defined under GML section 957(t)), the business tax benefit period is increased to include an additional ten years beginning with the tax year in which the significant capital investment project is placed in service. The property must be placed in service during the business enterprise's business tax benefit period as described above.

If a QEZE is an owner of a QUIP, or a significant capital investment project, or both, the business tax benefit period may extend beyond 10 years.

Development zone (DZ) is an empire zone, usually located within a county, as designated by ESD.

Investment zone (IZ) is an empire zone designated by ESD based on census tract statistics or location in a municipality. CEEs are considered to be located in an IZ.

Manufacturer means a taxpayer that during the tax year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, or a business engaged in emerging technologies under Public Authorities Law section 3102(e).

A QEZE's net new employees equals the QEZE's current year employment number in the EZ(s) in which it is certified for the tax year less the QEZE's employment number in the EZ(s) for the base period.

Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first **certified on or after April 1, 2005,** if the base period is zero years or the base period employment is zero and the employment number in the zone is greater than zero in a tax year, the enterprise meets the employment test **only** if the enterprise qualifies as a new business.

New business means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A or 33; former Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); former Article 32 (or that would have been subject to Article 32 as it was in effect on December 31, 2014); or the income (or losses) of which is (or was) included under Article 22.

A business enterprise that is approved by the Commissioner of Economic Development as the owner of a QUIP or a significant capital investment project, has a base period of zero years, and places in service property (or a project that includes such property) which comprises a QUIP or significant capital investment project, will be considered a new business for

purposes of the QEZE credit for real property taxes if the new business is certified by December 31, 2007.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are operating in different counties in the state. The new business must use the remaining business tax benefit period of the existing identical taxpayer.

Part 1 – EZ employment – Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the four-year base period. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year. **CEEs:** do not complete Part 1; complete Part 2 only.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

Line 25 – For each date specified of the current tax year, enter the number of full-time employees who are located in an EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the employment number for the current tax year. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

Line 26 – For each date specified in the base period, enter the number of full-time employees who are located within all EZs whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified in the four-year base period by the number of dates occurring during the four-year base period (even if you had no employees on those dates) to obtain the employment number in the base period. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

Example: *A QEZE, a calendar-year filer, begins business in New York on April 1, 2004, and is first certified on June 1, 2005. The base period is April 1, 2004 - December 31, 2004, a short tax year. Since March 31, 2004, does not occur during this enterprise's tax year, no entry is made for this date. The QEZE has no employees on June 30, 2004. It hires three employees on July 1, 2004. The QEZE will compute its total number of full-time employees within all EZs in the base period as follows:*

Base period employment number	Tax year ending *(mm-yyyy)*	Mar 31	June 30	Sept 30	Dec 31	Total
Number in base year one	*122004*		*0*	*3*	*3*	*6*
Number in base year two						
Number in base year three						
Number in base year four						
Total number of full-time employees within all EZs in the base period						*6*

In this example, the employment number within all EZs in the base period is 2 (six divided by three). The QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was only one short tax year.

Line 27 – The EZ employment number for the current tax year (line 25) must exceed the EZ employment number in the base period (line 26) to qualify for the QEZE credit for real property taxes. If you marked *No,* you **do not** qualify for this credit. **Do not** complete the rest of this form unless you are required to recapture QEZE real property tax credit from a prior year. **Exception:** CEEs use Part 2 only.

Part 2 – New York State employment

Complete Part 2 in the same manner as you completed Part 1; however, include all employees who are located in New York State including those in EZs. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Line 30 – The employment number in New York State for the current tax year (line 28) must exceed the employment number in New York State for the base period (line 29) to qualify for the QEZE credit for real property taxes. If you marked *No,* you **do not** qualify for either credit. **Do not** complete the rest of this form unless you are required to recapture the QEZE credit for real property taxes from a prior year. To compute a recapture, complete Worksheet C.

Schedule I – Computation of net new employment

Lines 31 and 32 – Include on these lines the current and base year's employment numbers only for the EZs in which you are certified. If you have employees only in EZs for which you are certified, your current tax year employment number will be the same as the number computed on line 25, and your base year employment number will be the same as the number computed on line 26.

However, if you have employees in EZs in which you are not certified, you must recalculate your employment numbers for lines 31 and 32, excluding those employees who are working in EZs in which you are not certified.

Note: CEEs, enter the employment number from line 28 on line 31; also enter the employment number from line 29 on line 32.

Schedule K – Employee information

Line 35 – Wages, health, and retirement benefits **do not** include social security payments, supplemental social security payments, withholding tax payments, or unemployment tax payments. Wages are those reported on federal Form W-2. Health benefits include the employer contribution for insurance payments. Retirement benefits include employer contributions to non-mandatory pension plans. **Do not** include wages, health, and retirement benefits in excess of $40,000 for any employee.

Column C – Enter the name of the EZ in which the employee works. Indicate whether the EZ is an IZ or a DZ. **CEEs:** enter ***IZ*** in Column C.

Schedule L – Computation of credit for QEZEs certified in DZs

If your QEZE is certified in a DZ and you are not a manufacturer, complete Schedule L.

If you are certified in more than one zone and any of those zones is a DZ, and you are not a manufacturer, complete Schedule L.

Schedule M – Computation of QEZE credit for real property taxes for manufacturers and QEZEs certified only in an IZ

If you are certified in one or more zones and all the zones are IZs, or you are a manufacturer, complete Schedule M. CEEs are considered to be certified in an IZ.

Schedule N – QEZE credit for real property taxes

Line 48 – If the QEZE's eligible real property taxes, which were the basis for a credit previously claimed, are subsequently reduced, the QEZE must add back a recapture amount computed in Worksheet C below:

Worksheet C

a	The amount of credit originally allowed.....	**a** _____
b	The amount of credit calculated using the reduced tax amount.....	**b** _____
c	Recapture amount *(subtract line b from line a; enter result on line 48)*	**c** _____

Note: If property taxes are reduced for more than one tax year, you must determine how much of the reduction is attributable to each year and recapture the apportioned amount for each year.

Partners, shareholders, and beneficiaries – If you were a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust and that entity had a recapture of QEZE credit for real property taxes, enter your share of the recapture on line 48. This information should be provided to you by your partnership, S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of recapture on line 48.

Line 49 – Net recapture of QEZE credit for real property taxes

If the amount to be recaptured (line 48) exceeds any credit to be claimed in this year (line 47b), you have a net recapture. Do not complete line 50.

Partnerships – Enter the line 49 amount and code ***166*** on Form IT-204, line 148.

Fiduciaries – Enter the line 49 amount on the total line of Schedule O, column D.

All others – Enter the line 49 amount and code ***166*** on Form IT-201-ATT, line 20 or Form IT-203-ATT, line 19.

Line 51 Partners, shareholders, and beneficiaries – If you were a partner in a partnership, a shareholder of a New York S corporation, or a beneficiary of an estate or trust and received a share of the QEZE credit for real property taxes from that entity, enter your share of the credit on line 51. This information should be provided to you by your partnership, New York S corporation, or the fiduciary of the estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of the credit on line 51.

Line 52

Fiduciaries: Include the amount from line 52 on the *Total* line of Schedule O, column C.

All others: Enter the amount from line 52 and code ***166*** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or Form IT-204, line 147.

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

An estate or trust must complete Schedule O. If an estate or trust allocates or assigns the credits 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 and recapture.

Include the amount from the *Fiduciary* line of Schedule O, column C, on Form IT-205, line 33. Include the amount from the *Fiduciary* line of Schedule O, column D, on Form IT-205, line 12.

Schedule Q – Capital investment amount

(complete only Part 1 or Part 2)

If your QEZE is certified in a DZ and you are not a manufacturer, complete Part 1.

If you are certified in more than one zone, and any of those zones is a DZ, and you are not a manufacturer, complete Part 1.

If you are certified in one or more zones and all zones are IZs, or you are a manufacturer or a CEE, complete Part 2.

Part 1 – Capital investment amount for QEZEs certified in DZs

Calculate the capital investment amount separately for each property owned by the QEZE. Add column F amount(s) from each property listed, including any additional schedules (line 54), and enter the result on line 55.

If you are a lessee and have no basis in any property, do not complete Schedule Q. Enter ***0*** on line 44.

Column C – Enter the cost or other basis for real property, including buildings and structural components of buildings owned by the QEZE and located in the EZ. Only costs attributable to the construction, expansion, or rehabilitation of the property are included in this calculation. Do not include acquisition costs. The cost or other basis is calculated using the greater of the cost or other basis for federal income tax purposes on the effective date of certification or the cost or other basis for federal income tax purposes on the last day of the tax year.

Column E – Enter the percentage of the QEZE's (and any related person's, as related person is defined on page 1) physical occupancy and use of the real property, measured in square feet. If the amount in column C equals or exceeds 50% of the total cost or basis of the property, including acquisition costs, then the percentage of physical occupancy is considered to be 100%; enter 100% in column E.

Part 2 – Capital investment amount for QEZEs certified only in IZs or for manufacturers

Calculate the capital investment amount separately for each property. Add the column G amount(s) from each property listed, including any additional schedules (line 57), and enter the result on line 58.

Column C – Enter the cost or other basis for real property including buildings and structural components of buildings owned by the QEZE and located in the EZ. The cost or other basis of the real property is the greater of the cost or other basis of the real property for federal income tax purposes on the effective date of certification, or the cost or other basis of the real property for federal income tax purposes on the last day of the tax year.

Column E – Enter the percentage of the QEZE's (and any related person's, as related person is defined on page 1) physical occupancy and use of the real property, measured in square feet.

Column F – Compute the percent of column C attributable to construction, rehabilitation, or expansion of the building. If 50% or more, enter 100%.