New York State Department of Taxation and Finance

Taxpayer Services Division
Technical Services Bureau

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Important Notice

Economic Development Zone Equivalent Area (ZEA) Wage Tax Credit

For tax years beginning on or after January 1, 1994, a wage tax credit is allowed for certified businesses that provide jobs in a ZEA. A ZEA includes those census tracts and block numbering areas that had a poverty rate of at least 20% and an unemployment rate at least 1.25 times the statewide unemployment rate as of the 1990 census. These areas are eligible to be designated as economic development zones, but have not been so designated. Should you need additional information on areas which qualify, please contact the New York State Department of Economic Development, by writing to the Department of Economic Development, One Commerce Plaza, Albany, New York 12245, or by calling (518) 473-6929.

A business subject to the general business, bank or insurance corporation franchise tax or the personal income tax may be eligible for the ZEA wage tax credit. To qualify for the ZEA wage tax credit, the average number of individuals (excluding general executive officers) employed full-time by the taxpayer in the state and the ZEA in the year for which the credit is claimed must exceed the average number of individuals (excluding general executive officers) employed full-time in the state and the ZEA in the four years immediately preceding the first tax year in which economic development zone wages are paid. If the taxpayer provided full-time employment for less than four years, the shorter period is used. A taxpayer will not be allowed both the ZEA wage credit and the employment incentive credit set forth in section 210.12-D of the Tax Law for the same employees. In addition, the business must be certified by the Commissioners of Economic Development and Labor and have paid economic development zone wages to a full time employee. **Economic development zone wages** are wages a ZEA business pays to full-time employees (excluding general executive officers) working at a job created in an area designated as a ZEA, during the five-year period immediately following the date of designation as a zone equivalent area.

The ZEA wage tax credit may be taken for two consecutive years, beginning with the first tax year in which economic development zone wages are paid.

For other than targeted employees, a credit of $500 in the first year and $250 in the second year is allowed for each full-time employee who receives economic development zone wages for more than half of the tax year. For targeted employees, the credit is $1,000 in the first year and $500 in the second year for each targeted employee provided the targeted employee is paid at least 135% of the minimum wage set forth in section 652 of the Labor Law. A **targeted employee** is a New York State resident who receives economic development zone wages and who: (1) is an eligible individual under the Federal Targeted Jobs Tax Credit Act; (2) is eligible for benefits under the Job Training Partnership Act; (3) received public assistance benefits any time within the previous two years; (4) has income that is below the US Commerce Department's established poverty level; or (5) is a member of a family whose income is below the poverty level.

The amount of the wage tax credit and credit carryovers may not exceed 50% of the tax computed without regard to this or any **other** credits. Any portion of the credit not claimed may be **carried** forward and claimed in the following year or years. For the franchise tax, the credit plus any credit carryovers may not reduce the tax to an amount less than: (1) in the case of general business corporations, the tax due on the minimum taxable income base or the fixed dollar minimum, whichever is higher; (2) in the case of banking corporations, the alternative minimum tax; (3) in the case of insurance corporations, the fixed dollar minimum.

Instead of carrying over the unused wage tax credit, a new business subject to the franchise tax on general business corporations, or the owner of a new business taxed under the personal income tax, may elect to treat 50% of the ZEA wage tax credit carryover as a tax overpayment in the tax year the credit is earned and have the overpayment refunded or credited against any outstanding tax liability owed to the Department of Taxation and Finance. The remaining 50% of the credit carryover may be carried over. In the carryover year, any carryover credits are claimed before the credit earned in that year.

New business - The franchise tax on general business corporations defines a new business as any corporation **except:**

1. a subsidiary of a corporation subject to the general business, transportation, transmission, agricultural, utilities, banking or insurance corporation franchise tax; or

2. a corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under the general business, transportation, transmission, agricultural, utilities, banking or insurance corporation franchise tax; or Article 23 of the Tax Law (former New York State unincorporated business tax) or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980, or the income (or losses) of which is (or was) includable under Article 22 (personal income tax) of the tax law whereby the intent and purpose of refunding the ZEA wage tax credit to new businesses would be evaded; or

3. a corporation that has been subject to the general business franchise tax for more than four years (excluding short periods) before each tax year during which the taxpayer becomes eligible for the wage tax credit (that is, the year for which the credit is allowed).

Owner of a new business - The personal income tax defines the owner of a new business as an individual who is either a sole proprietor or a member of a partnership unless:

1. the individual has previously received a refund of an economic development zone or a ZEA wage tax credit; or

2. the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity taxable, or previously taxable under the general business, transportation, transmission, agricultural, utilties, banking or insurance corporation franchise tax; or the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity previously taxable under Article 23 of the Tax Law (former New York State unincorporated business tax) or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980, or the income (or losses) of which is (or was) includable under Article 22 (personal income tax) of the tax

law whereby the intent and purpose of refunding the ZEA wage tax credit to new businesses would be evaded; or

3. the individual has operated such new business entity for more than four years prior to the first day of each tax year during which such individual becomes eligible for the wage tax credit or for which the refund is claimed with respect to such new business entity.

Example 1:
In 1994, Wonder Widget Works, Inc. (Wonder), at its facility located in a ZEA, employed both targeted and nontargeted individuals. The average number of employees in the four years prior to 1994 is 100. The number of individuals employed in 1994 is 140. In 1994, the first year that Wonder qualified to claim the ZEA wage tax credit, it hired and paid economic development zone wages to 10 individuals who were targeted employees paid at least 135% of the minimum wage and 30 nontargeted individuals paid the minimum wage. Its first year credit is $25,000 computed as follows:

1. $1,000 x 10 targeted employees paid at least 135% of the minimum wage	$10,000
2. $500 x 30 nontargeted employees paid the minimum wage	15,000
Total Credit Available	**$25,000**

The first year credit is claimed as follows:

1. Tax imposed under section 209 of the Tax Law (computed without regard to any credits)	$ 12,000
2. Credit claimed (limited to 50% of the tax imposed under section 209)	$ 6,000
3. Carryover of credit to following year or years ($25,000 less $6,000)	$19,000 **

Year Two:
The credit available in year two is computed in the following manner:

$500 x 10 =	$ 5,000
$ 250 x 30 =	7,500
Credit Year Two	$ 12,500
Plus carryover from year one	19,000
Total Credit Available Year two	$ 31,500
Tax imposed under section 209 of the Tax Law, before credits	$ 7,500
Credit claimed (limited to 50% of the tax imposed)	$ 3,750
CarryOver of credit to following year or years ($31,500 less $3,750)	$ 27,750 **

** If Wonder Widget qualifies as a "new business", it may claim 50O/o of the carryover credit as an overpayment in the tax year in which the credit was earned and have the amount refunded or credited against any outstanding tax liability.

Computation as a New Business:

The amount of the refund of the ZEA credit for year one is $9,500 or 50% of the carryover credit for this year ($19,000 x 50%). The remainder of the credit earned in year one of $9,500 may be carried over to year two.

To determine the amount of the refundable credit for year two, you must first look to see if there is any carryover credit from year one that can be offset against any tax due for year two. This is because in the carryover year, any carryover credits are claimed before the credit earned in the carryover year. Taking the credits in this order maximizes the amount of the carryover credit earned in the second year that can be included in the computation of the refundable credit for that year.

In the example, the credit allowed to be claimed for year two is $3,750 (tax due of $7,500 subject to the 50% limitation). There is a carryover credit from year one of $9,500 (total credit eligible to be carried over from year one of $19,000 less the amount refunded in year one of $9,500). The carryover credit of $9,500 exceeds the maximum credit allowable in year two of $3,750. The excess of $5,750 ($9,500 - $3,750) is available to be carried over to year three. Also, since the maximum credit allowable of $3,750 was completely absorbed by the carryover from year one, all of the $12,500 credit for year two is available to be carried over to year three. All of this $12,500 may therefore be included when computing the amount of the refundable credit for year two. The amount of the refund of the ZEA credit for year two is $6,250 or 50% of the carryover credit for this year. The remainder of the credit earned in year two of $6,250 may be carried over to year three. This results in a total carryover to year three of $12,000 ($5,750 + ;$6,250).

The previous example would also apply to a taxpayer subject to the personal income tax, with one exception. For personal income tax purposes, a taxpayer who qualifies as an owner of a new business is allowed to claim only one refund of the ZEA wage credit. If the taxpayer claimed a refund in year one of $9,500, the taxpayer would not be entitled to claim a refund for year two. If the taxpayer did not claim a refund in year one, the taxpayer would be entitled to claim a refund of $6,250 for year two. However, any amount not eligible for the personal income tax refund may be carried over in the same manner described in the example.