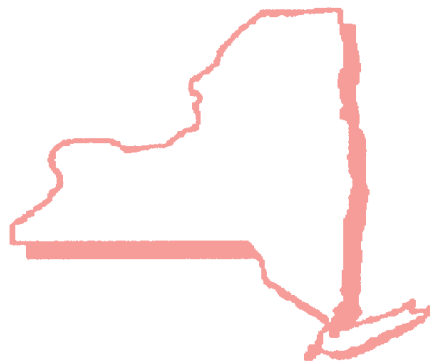


GENERAL INFORMATION ON NEW YORK STATE AND NEW YORK CITY INCOME TAX CREDITS FOR INDIVIDUALS

For tax year 2008



The information presented is current as of this publication's print date. Visit our Web site at www.nystax.gov for up-to-date information.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

Table of Contents	Page
New for 2008	5
Introduction.....	6
New York State credits:	
Accumulation distribution credit	6
Automated external defibrillator credit.....	7
Child and dependent care credit.....	7
Claim of right credit.....	9
Clean heating fuel credit – <i>Reinstated for 2008</i>	10
College tuition credit.....	12
Conservation easement tax credit	14
Empire State child credit.....	15
Fuel cell electric generating equipment credit	16
Green building credit	17
Historic homeownership rehabilitation credit.....	18
Home heating system credit.....	21
Long-term care insurance credit	21
New York State earned income credit	23
Noncustodial parent New York State earned income credit.....	23
New York State household credit	24
Nursing home assessment credit.....	24
Real property tax credit.....	25
Resident credit	26
Resident credit against separate tax on lump-sum distributions.....	27
Solar energy system equipment credit	27
Volunteer firefighters’ and ambulance workers’ credit.....	29
New York City credits:	
New York City child and dependent care credit.....	30
New York City earned income credit	30
New York City household credit	31
New York City school tax credit	31
Credits available to sole proprietors, partners, and New York S corporation shareholders	32
New York State tax credits and the taxes they are applied against	34

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New for 2008

Clean heating fuel credit

The clean heating fuel credit has been reinstated to include purchases of bioheat on or after January 1, 2008, and before January 1, 2012. Under previous law, the credit applied to bioheat purchased on or after July 1, 2006 and before July 1, 2007. For more information, see page 10.

New York City school tax credit

The scheduled increase in the amount of New York City school tax credit allowed for tax years beginning in 2008 and after has been delayed by one year. In addition, the credit is no longer allowed for taxpayers with incomes of more than \$250,000. For more information, see page 31.

Introduction

This publication identifies the New York State and New York City personal income tax credits available to individuals. It also explains the qualifications for the credits, whether or not the credits are refundable, the forms involved, and where to get additional information.

New York State taxpayers may be able to reduce their income tax liability by claiming certain tax credits. Individuals who do not owe any income tax may qualify to claim a refund of certain credits. Although the New York State Tax Law conforms generally to the federal tax law, New York State tax credits are different from federal credits. New York State taxpayers may claim only those credits that are specifically allowed by the New York State and New York City personal income tax laws.

Certain credits described in this publication are also available to estates and trusts, and beneficiaries of estates and trusts, if the estate or trust qualifies for the credit.

For information on who must file a New York State income tax return, see the instructions for Form IT-150, *Resident Income Tax Return* (short form), Form IT-201, *Resident Income Tax Return* (long form), Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, or Form IT-205, *Fiduciary Income Tax Return*.

For information on income tax credits available for businesses and their owners, see *Credits available to sole proprietors, partners, and New York S corporation shareholders* on page 32; and Publication 99-B, *General Information on New York State and New York City Income Tax Credits for Businesses – For Tax Year 2008*.

New York State credits

Accumulation distribution credit

Tax Law sections 621, 635, and 1310(a)

An accumulation distribution results when a trust distributes income that was received by the trust in a prior year or years and which the trust retained. If you are the beneficiary of a trust who receives an accumulation distribution, and you include the distribution in your New York State income, you may be entitled to a credit for New York State and New York City income taxes paid by the trust in the prior tax year or years. The credit is for all or a proportionate part of those taxes paid which would not have been paid if the trust had made distributions to beneficiaries.

This credit is available to resident, part-year resident and nonresident individuals of New York State.

The accumulation distribution credit is not refundable, and any unused credit cannot be carried forward to a future year.

To claim this credit, you must complete Form IT-201-ATT, *Other Tax Credits and Taxes*, and attach it to your Form IT-201, or complete Form IT-203-ATT, *Other Tax Credits and Taxes*, and attach it to your Form IT-203.

Automated external defibrillator credit

Tax Law sections 606(s) and 606(i)

If you purchase an automated external defibrillator(s), you may be entitled to the automated external defibrillator credit. However, the credit is not allowed for automated defibrillators purchased for resale.

An *automated external defibrillator*, as defined under Public Health Law section 3000-b, is a medical device approved by the United States Food and Drug Administration, that:

- is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia;
- is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient;
- upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient’s heart; and
- then, upon action by an operator, delivers an appropriate electrical impulse to the patient’s heart to perform defibrillation.

The credit is equal to the lesser of the purchase cost of the unit, or \$500. There is no limit on the number of units purchased during the tax year for which the credit may be taken. However, the credit cannot exceed \$500 for **each** unit purchased.

The automated external defibrillator credit is not refundable, and any unused credit cannot be carried forward to a future year.

To claim this credit, you must complete Form IT-250, *Claim for Credit for Purchase of an Automated External Defibrillator*, and attach it to your Form IT-201, IT-203, or IT-205.

Child and dependent care credit

Tax Law section 606(c)

If you **qualify** to claim the federal child and dependent care credit, you can **claim** the New York State child and dependent care credit (whether or not you actually claimed the federal credit). The New York State credit is based on a percentage of the federal credit.

Full-year and part-year New York City residents may also qualify for the New York City child and dependent care credit (see page 30).

If you did not file a claim for the federal child and dependent care credit, you can still claim the New York State child and dependent care credit if **all four** of the following apply:

1. Your filing status is *Single, Head of household, Qualifying Widow(er) with dependent child*, or *Married filing joint return*. However, see the special rule for *Married persons filing separate federal and New York State returns* in the instructions for Form IT-216, *Claim for Child and Dependent Care Credit*.
2. The care was provided so you (and your spouse, if you were married) could work or look for work. However, if you did not find a job and have no earned income for the year, you cannot take the credit. If your spouse was a student or disabled, see the instructions for Form IT-216.
3. Your child (or other qualifying person(s) for whom the care was provided) lived in the same home with you for more than half the year.
4. The person who provided the care was not your spouse, the parent of your qualifying child under age 13, or a person whom you can claim as a dependent. If your child provided the care, he or she must have been age 19 or older by the end of 2008.

A **qualifying person** is:

- A child **under age 13** whom you can claim as a dependent (see also *Special rule for children of divorced or separated parents* on page 9). If the child turned age 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.
- Your spouse who is disabled and not able to care for himself or herself.
- Any person who is disabled and not able to care for himself or herself whom you can claim as a dependent (or could claim as a dependent except that the person had gross income of \$3,500 or more or filed a joint return).
- Any person who is disabled and not able to care for himself or herself whom you could claim as a dependent except that you (or your spouse if filing a joint return), could be claimed as a dependent on someone else's 2008 return.

Caution: To be a qualifying person, the person must have lived with you for more than half of 2008.

Special rule for children of divorced or separated parents. Even if you cannot claim your child as a dependent, he or she is treated as your qualifying person if:

- The child was under age 13 or was physically or mentally not able to care for himself or herself; and
- You were the child's custodial parent (the parent with whom the child lived for the greater part of 2008).

The noncustodial parent cannot treat the child as a qualifying person even if that parent is entitled to claim the child as a dependent under the special rules for a child of divorced or separated parents. To find out when a noncustodial parent is entitled to claim the dependency exemption for a child, see federal Publication 501, *Exemptions, Standard Deduction, and Filing Information*.

The New York State child and dependent care credit is a minimum of 20% and can be as much as 110% of the federal credit, depending on the amount of your New York adjusted gross income.

The credit is available to resident, part-year resident and nonresident individuals.

New York State residents and part-year residents may qualify for a refund of any child and dependent care credit in excess of their New York State tax liabilities. Nonresidents do not qualify for a refund of the New York State child and dependent care credit.

How to claim the child and dependent care credit:

To claim this credit, you must complete Form IT-216, *Claim for Child and Dependent Care Credit*, and attach it to your Form IT-150, IT-201, or IT-203.

For more information on the qualifications to claim the federal child and dependent care credit, see federal Publication 503, *Child and Dependent Care Expenses*. This federal publication is available on the Internal Revenue Service (IRS) Web site at www.irs.gov.

Claim of right credit

Tax Law section 662

Claim of right income is income that was properly reported on a prior year's tax return, but was later determined to have been paid to you in error and therefore, had to be repaid. If you have claim of right income for federal tax purposes and are taking a federal claim of right credit on your federal return, you may also be entitled to a claim of right credit on your New York State return for New York State, New York City, and Yonkers taxes.

If you have federal claim of right income and elect to take the federal deduction instead of the federal credit, you cannot claim a credit for New York State, New York City, or Yonkers.

The credit is available to individuals, estates, and trusts. The amount of the credit for New York State residents, part-year residents, and nonresidents, and New York City or Yonkers residents, is the difference between the amount of New York State, New York City, or Yonkers tax originally reported on the prior year's return, and the tax that would have been reported on that return if the income had not been included on that return.

Example: In 2008, you repaid under a claim of right \$5,000 of unemployment compensation benefits that were included on your 1999 New York State return. The New York State tax originally reported on your 1999 return was \$809. Your 1999 New York State tax computed without including the \$5,000 on your return is \$467. Your 2008 New York State claim of right credit is \$342 (\$809-\$467).

If you were subject to the New York City nonresident earnings tax (for tax years prior to 2000) or the Yonkers nonresident earnings tax, and the claim of right income affects the computation of wages or net earnings from self-employment, a claim of right credit may be allowed. The credit is the difference between the amount of New York City or Yonkers nonresident earnings tax originally reported on the prior year's return, and the tax that would have been reported if the income had not been included on that nonresident earnings tax return.

You may claim a refund of any claim of right credit that is in excess of your New York State tax liability.

To claim this credit, you must complete Form IT-257, *Claim of Right Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

Clean heating fuel credit

Tax Law section 606(mm)

If you purchase bioheat for space heating or hot water production for residential purposes within New York State, you may be entitled to the clean heating fuel credit. The credit is available for tax years beginning in 2006 through 2011 and applies to bioheat purchased on or after July 1, 2006, and before July 1, 2007, and on or after January 1, 2008, and before January 1, 2012. (The credit is not available for bioheat purchased on or after July 1, 2007, and before January 1, 2008.)

Bioheat is a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials (ASTM) designation D 396 or D 975.

Biodiesel is a fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B 100

(pure biodiesel), which meets the specifications of ASTM designation D 6751.

Residential purposes means any use of a structure, or part of a structure, as a place of abode maintained by or for a person, whether or not owned by the person, on other than a temporary or transient basis. This includes multi-family dwelling units such as multi-family homes, apartment buildings, condominiums, and cooperative apartments. The structure must be located in New York State. Residential purposes do not include the part of a structure used as a hotel, motel, or similar space, except for those units used by the same occupant for at least 90 consecutive days.

The credit amount equals \$0.01 per gallon for each percent of biodiesel included in the bioheat, not to exceed \$0.20 per gallon. If you make more than one purchase of bioheat that qualifies for this credit during the tax year, and the percentage of biodiesel included in the bioheat varies, a separate calculation must be made for each purchase of bioheat.

Note: The percentage of biodiesel included in the bioheat is the number or numbers preceded by the letter *B* in the bioheat designation. For example, bioheat designated **B5** contains 5% biodiesel.

If two or more taxpayers share in the purchase of bioheat, the amount of the credit allowable to each taxpayer is to be prorated according to the percentage of the total bioheat purchased by each taxpayer.

If you purchase bioheat for a premises that has both residential and nonresidential space but has only one tank for the storage of the bioheat fuel, you will need to determine the percentage of the premises used for residential purposes in order to properly compute the credit (see the instructions for Form IT-241, *Claim for Clean Heating Fuel Credit*).

The credit is claimed for the tax year in which the bioheat is purchased. In general, bioheat is deemed purchased on the date of delivery regardless of when the payment is made. For example, bioheat that is paid for through a budget payment plan whereby you make monthly payments to the supplier and the supplier charges your account for the cost of the bioheat delivered, will be deemed purchased on the date the delivery was made, even if your budget account does not contain sufficient funds to cover the cost of the delivery. However, bioheat that is purchased under a plan that requires you to prepay the supplier for a certain number of gallons of bioheat at a fixed price will be treated as purchased on the date the prepayment was made, not the date of delivery.

You may claim a refund of any clean heating fuel credit that is in excess of your New York State tax liability.

To claim this credit you must complete Form IT-241, *Claim for Clean Heating Fuel Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

For more information, see TSB-M-08(5)C, (1)I, *Clean Heating Fuel Credit*.

College tuition credit

Tax Law section 606(t)

If you, your spouse, or your dependent(s) were a student enrolled at or attending an institution of higher education, you may be entitled to a college tuition credit. The credit is available to full-year New York State resident individuals only.

If an eligible student is claimed as a dependent on another person's New York State tax return, only the person who claims the student as a dependent may claim the credit. However, if your spouse is the eligible student, see *Spouses filing separately* on page 14.

Eligible student means you, your spouse, or your dependent (for whom an exemption for New York State income tax purposes is allowed).

Qualified college tuition expenses mean the tuition required for the enrollment or attendance of the eligible student at an institution of higher education. The expenses may be paid by cash, check, credit card, or with borrowed funds. In addition, the eligible student does not have to be enrolled in a degree program or attend full time for the expenses to qualify. However, **only expenses for undergraduate enrollment or attendance qualify**. Expenses for enrollment or attendance in a course of study leading to the granting of a postbaccalaureate or other graduate degree **do not qualify**.

Generally, qualified tuition expenses paid on behalf of an eligible student by someone other than the student (such as a relative) are treated as paid by the student. However, if the eligible student is claimed as a dependent on another person's New York State income tax return, qualified tuition expenses paid (or treated as paid) by the student are treated as paid by the person who claims the student as a dependent. Therefore, if you claim the student as a dependent, you are treated as having paid expenses that were paid from the student's earnings, gifts, inheritances, or savings.

Qualified college tuition expenses paid on behalf of an eligible student from a qualified state tuition program (such as New York's 529 College Savings Program) are considered qualified college tuition expenses for purposes of this credit. However, if the student is claimed as a dependent on your New York State tax return, these payments are also treated as paid by you.

Qualified tuition expenses do not include:

- Tuition paid through the receipt of scholarships or financial aid. (For this purpose, financial aid does not include student loans, other loans, and

grants that must be repaid either before or after the student ceases attending school.)

- Amounts paid for room and board, insurance, medical expenses (including student health fees), transportation, or other similar personal, living, or family expenses.
- Fees for course-related books, supplies, equipment, and nonacademic activities, even if the fees are required to be paid as a condition of enrollment or attendance.

An *institution of higher education* means any institution of higher education or business, trade, technical, or other occupational school, located in or outside of New York State, that is recognized and approved by either the regents of the University of New York or a nationally recognized accrediting agency or association accepted by the regents. In addition, the institution or school must provide a course of study leading to the granting of a post-secondary degree, certificate, or diploma.

The maximum amount of qualified college tuition expenses allowed for each eligible student is \$10,000, and there is no limit on the number of eligible students for whom you may claim a credit.

If your total qualified college tuition expenses allowed for all eligible students are \$5,000 or more, the credit for 2008 is 4% of your qualified college tuition expenses (up to \$10,000 per eligible student).

Accordingly, the college tuition credit allowed for tax year 2008 is limited to \$400 for each eligible student.

If your total qualified college tuition expenses for all eligible students are less than \$5,000, the credit is equal to the lesser of your total qualified college tuition expenses or \$200.

You may claim a refund of any college tuition credit that is in excess of your New York State tax liability.

College tuition itemized deduction:

In lieu of claiming the credit, you may elect to claim the New York college tuition itemized deduction if you itemized your deductions on your federal return. A worksheet is provided in the instructions for Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*, to help you determine whether the credit or the deduction offers you the greater tax savings. **You may claim the credit or the deduction, but not both.**

The college tuition itemized deduction is also available to nonresident and part-year resident taxpayers. To claim the college tuition itemized deduction, nonresidents and part-year residents must complete Schedule C

of Form IT-203-B, *Nonresident and Part-Year Resident Income Allocation and College Tuition Itemized Deduction Worksheet*, and attach it to Form IT-203.

Spouses filing separately:

If you and your spouse are filing separate returns, you can each claim your own credit, or one spouse may claim the college tuition credit and the other spouse may claim the itemized deduction. However, you must each claim your separately computed credit or deduction based only on the amount of qualified college tuition expenses **you paid** (or were treated as paid by you) for yourself, your spouse, or a person whom you claim as a dependent on your separate return. You cannot claim a credit or deduction for qualified college tuition expenses that you paid for your spouse's dependent. (These expenses are treated as paid by your spouse for purposes of the credit.) To claim this credit, you must complete Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*, and attach it to Form IT-150 or Form IT-201.

For more information, see Publication 10-W, *FAQs: New York State College Tuition Credit and Itemized Deduction*.

Conservation easement tax credit

Tax Law section 606(kk)

If you own land in New York State that is subject to a conservation easement held by a public or private conservation agency, you may be entitled to a credit of 25% of the allowable school district, county, and town real property taxes you paid in 2008 on this land (excluding real property taxes paid on buildings, structures, and improvements).

Conservation easement means a perpetual and permanent conservation easement as defined in Article 49 of the Environmental Conservation Law (ECL) on land located in New York State that:

- is held by a public or private conservation agency;
- serves to protect open space, biodiversity, or scenic, natural, agricultural, watershed, or historic preservation resources;
- is filed with the Department of Environmental Conservation (DEC) by the person causing the document to be so recorded, as provided for in ECL Article 49;
- complies with the provisions of ECL, Article 49, Title 3; and
- complies with the provisions of the Internal Revenue Code (IRC) section 170(h).

Note: You should maintain adequate records to substantiate the conservation easement's compliance with the provisions of IRC 170(h), including but not limited to a copy of federal Form 8283, *Noncash*

Charitable Contributions, for the year of the donation. Under certain circumstances, a letter from the public or private conservation agency may also be adequate.

Dedications of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits are **not** considered conservation easements for purposes of this credit.

Land means a fee simple title to real property located in New York State, with or without improvements. This includes rights of way; water and riparian rights; easements; privileges and all other rights or interests relating to or connected with real property, excluding buildings, structures, and improvements.

Public or private conservation agency means:

- any state, local, or federal government body, or
- any private not-for-profit charitable corporation or trust that is authorized to do business in New York State; organized and operated to protect land for natural resources, conservation or historic preservation purposes; is exempt from federal tax under Internal Revenue Code (IRC) section 501(c)(3); and has the power to acquire, hold, and maintain land or interests in land for these purposes.

The conservation easement credit cannot exceed \$5,000 in any given year. Additionally, when this credit is combined with any other income tax credit claimed for school district, county, and town real property taxes, the amount of the combined credits cannot exceed the total amount of these taxes.

You may claim a refund of any conservation easement tax credit that is in excess of your New York State tax liability.

To claim this credit, you must complete Form IT-242, *Claim for Conservation Easement Tax Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

Empire State child credit

Tax Law section 606 (c-1)

If you are a full-year New York State resident or married to a full-year resident, you may be entitled to the Empire State child credit.

You may claim the Empire State child credit if you have a qualifying child **and**:

1. you have a federal child tax credit or a federal additional child tax credit (claimed on federal Form 1040 or Form 1040A), **or**

2. your federal adjusted gross income is \$110,000 or less and your filing status is *married filing joint return*; \$75,000 or less and your filing status is *single, head of household, or qualifying widow(er)*; or \$55,000 or less and your filing status is *married filing separate return*.

A *qualifying child* is a child who meets the definition of a qualifying child under the federal child tax credit (Internal Revenue Code section 24(c)) **and** is at least four years of age on December 31st of the tax year. (There is no minimum age for the federal child tax credit.)

If you claimed the federal child tax credit, the amount of the Empire State child credit is equal to the greater of 33% of the portion of the federal child tax credit attributable to qualifying children, **or** \$100 multiplied by the number of qualifying children.

If you did not claim the federal child tax credit and your income does not exceed a particular amount (see item 2. above), the amount of the Empire State child credit is \$100 multiplied by the number of qualifying children.

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 2008, and your spouse was a part-year resident or nonresident for 2008, the credit may be claimed by either spouse or may be divided in any manner you wish.

You may claim a refund of any Empire State child credit that is in excess of your New York State tax liability.

To claim this credit, you must complete Form IT-213, *Claim for Empire State Child Credit*, and attach it to your Form IT-150, IT-201, or IT-203.

Fuel cell electric generating equipment credit

Tax Law section 606(g-2)
and 606(i)

If you purchase and install eligible fuel cell electric generating equipment, you may be entitled to the fuel cell electric generating equipment credit. The equipment must be installed and used in New York State and must be placed in service on or after July 1, 2005.

Fuel cell electric generating equipment means an on-site electricity generation system that utilizes proton exchange membrane fuel cells, providing a rated baseload capacity of at least one kilowatt (1,000 watts) but no more than 100 kilowatts (100,000 watts) of electricity operated in accordance with applicable industry standards.

Qualified fuel cell electric generating equipment expenditures means qualified expenditures incurred on or after July 1, 2005, associated with the purchase of fuel cell electric generating equipment that is installed and used in New York State.

Qualified expenditures include expenditures incurred on or after July 1, 2005, for materials, labor costs properly allocated to on-site preparation, assembly and original installation, engineering services, designs and plans directly related to the construction or installation, and utility compliance costs of the fuel cell electric generating equipment.

Expenditures made with nontaxable federal, state, and local grants, and any interest or finance charges, **do not** qualify as fuel cell electric generating equipment expenditures.

The credit is 20% of your qualified fuel cell electric generating equipment expenditures **or** \$1,500, whichever is less. There is no limit on the number of fuel cell units you may purchase during the year; however, the credit cannot exceed \$1,500 for **each** unit purchased. The credit will be allowed for the tax year in which the fuel cell electric generating equipment is placed in service.

The fuel cell electric generating equipment credit is not refundable. However, any credit in excess of the tax due can be carried over to the following five years.

To claim this credit, you must complete Form IT-259, *Claim for Fuel Cell Electric Generating Equipment Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

Green building credit

Tax Law section 19, 606(y), and 606(i)

If you create, rehabilitate, and maintain a building that meets specified environmental and energy efficiency standards, you may be entitled to the green building credit. This will be accomplished through the use of environmentally preferable building materials and the utilization of technologies that focus on renewable and clean energy and which also provide energy efficiency. The credit will be administered by the New York State Department of Environmental Conservation (DEC) which is responsible for determining both eligibility for the credit and the amount of credit. The credit is allowed for tax years beginning in 2001 through 2014. To qualify for this credit, you must obtain an initial credit component certificate from DEC.

The green building credit is not refundable. However, any amount of credit or carryover of credit not deductible in the current year may be carried over to the following year or years.

To claim this credit, you must complete Form DTF-630, *Claim for Green Building Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

For more information on the green building credit, see the instructions for Form DTF-630 and Publication 99-B, *General Information on New York State and New York City Income Tax Credits for Businesses* –

**Historic
homeownership
rehabilitation
credit**

Tax Law section 606(pp)

For tax year 2008, or access the New York State Department of Environmental Conservation Web site (www.dec.state.ny.us).

If you rehabilitate a qualified historic home in New York State, or purchase a rehabilitated qualified historic home in New York State, you may be entitled to the historic homeownership rehabilitation credit. The credit is based on the qualified rehabilitation expenditures paid or incurred for the rehabilitation of the historic home. To qualify for the credit, you must own **and** reside in the historic home in New York State in the year for which you claim the credit.

The credit is administered by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). To qualify for the credit, the rehabilitation plan for exterior work on the qualified historic home must be certified by a local landmark commission established under section 96-a or section 119-dd of the General Municipal Law or by OPRHP. If the rehabilitation plan includes both interior and exterior work the expenditures must be approved by OPRHP or by a local government certified under section 101(c)(1) of the National Historic Preservation Act.

Qualified historic home means a *certified historic structure* located in New York State:

- which has been substantially rehabilitated. (A building will be treated as being substantially rehabilitated where qualified rehabilitation expenditures in relation to the building total \$5,000 or more.)
- which, or any portion of which, is owned, in whole or in part, by the taxpayer (including tenant-shareholders of a cooperative housing corporation),
- where the taxpayer resides during the tax year in which the taxpayer is allowed the credit, and
- which is a targeted area residence within the meaning of section 143(j) of the IRC and is located in an area of a city, town, or village whose governing body has identified by resolution that such area is in need of community renewal and, by local law, has adopted an historic preservation and community renewal program.

Certified historic structure means any building (and its structural components) which is listed in the State or National Register of Historic Places; or is located in a state or national registered historic district and is certified as being of historic significance to the district.

Historic preservation and community renewal program means a program that coordinates all applicable governmental benefits and programs with the aims of preserving and/or revitalizing neighborhoods, encouraging property

owners to complete substantial rehabilitation projects, and promoting smart growth economic development. Local laws governing the program must be filed with the Office of Parks, Recreation, and Historical Preservation.

Certified rehabilitation means any rehabilitation of a certified historic structure which has been approved and certified as being consistent with the standards established by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for rehabilitation by the OPRHP, a local government certified under section 101(c)(1) of the National Historic Preservation Act, or a local landmark commission established under section 96-a or 119-dd of the General Municipal Law.

The certified rehabilitation process requires three steps:

1. an initial certification that the structure meets the definition of the term certified historic structure,
2. a second certification to be issued prior to construction certifying that the proposed rehabilitation work is consistent with standards established by the Commissioner of OPRHP for rehabilitation, and
3. a final certification (*Certificate of Completion*) to be issued when the construction is completed, certifying that the work was completed as proposed and that the costs are consistent with the work completed.

Qualified rehabilitation expenditure means any amount properly chargeable to a capital account (1) in connection with the certified rehabilitation of a qualified historic home, and (2) for property for which depreciation would be allowable under section 168 of the Internal Revenue Code if the qualified historic home was used in a trade or business. Qualified rehabilitation expenditures do not include the cost of acquiring any building or interest therein, any expenditure attributable to the enlargement of an existing building, or any expenditure made prior to January 1, 2007. Additionally, at least 5% of the total expenditures made in the rehabilitation process must be attributable to the exterior of the building.

In the case of a building where less than the entire building is used as the residence of a taxpayer(s), only the portion of the total expenditures made in the rehabilitation that are attributable to the residence of the taxpayer(s) shall be treated as qualified rehabilitation expenditures.

A purchased qualified historic home means any qualified historic home purchased by the taxpayer if:

- the taxpayer is the first purchaser of the home following the date of the final certification step **and** the purchase occurs within five years of the date of final certification step (see item 3 above),

- the taxpayer resides in the home during the tax year in which he or she is allowed the credit,
- no credit was allowed to the seller with regard to this rehabilitation, and
- the taxpayer is furnished with the necessary information (as determined by the Commissioner of Taxation and Finance) to determine the credit.

In the case of a building that is owned by two or more taxpayers (other than a husband and wife), the qualified rehabilitation expenditures for the building are divided based on each taxpayer's percentage of ownership as shown on the *Certificate of Completion (COC)*. Only the taxpayers who own **and** reside in the home will be allowed to claim the credit based on his or her share of the qualified rehabilitation expenditures.

Example: In 2008, the New York State Office of Parks, Recreation and Historic Preservation issued the final certification for the rehabilitation of a certified historic home located in New York State. The qualified expenditures for this rehabilitation are \$240,000.

*This certified historic home is owned by four siblings and each sibling owns one quarter interest (25%) in the property. Only two siblings actually reside in the home in 2008. Each sibling that owns **and** resides in the home in 2008 is allowed \$60,000 of the qualified expenditures ($\$240,000 \times .25$) based on his or her ownership interest in the property. Therefore, each sibling who owns and resides in the home is allowed a credit of \$12,000 ($\$60,000 \times .20$) for tax year 2008. The two siblings who own an interest in the property but did not reside in the home in 2008 are not allowed to claim the credit even if they paid a portion of the rehabilitation expenses.*

If a taxpayer(s) holds stock as a tenant-shareholder in a cooperative housing corporation located in New York State, the taxpayer(s) shall be treated as owning the house or apartment that he or she is entitled to occupy as a shareholder. For purposes of computing the credit amount allowed to each shareholder, a percentage of the qualified rehabilitation expenditures for exterior work on the building containing the cooperative dwelling units shall be attributed to each unit within the building based on the percentage of space such unit occupies within the building.

If a taxpayer(s) purchases a qualified historic home, qualified rehabilitation expenditures made by the seller are deemed to have been made by the taxpayer(s) purchasing the property if the purchaser meets certain conditions. (See, the definition of *purchased qualified historic home* on page 19.)

The amount of the credit is equal to 20% of the qualified rehabilitation expenditures. The credit cannot exceed \$25,000 per taxpayer per year (\$50,000 for married taxpayers filing a joint return). Additionally, if a

taxpayer owns and resides in more than one qualified certified historic home in the same tax year, and each home has qualified expenditures, the total amount of credit claimed by a taxpayer cannot exceed \$25,000 per year (\$50,000 for married taxpayers filing a joint return).

The credit is allowed in the tax year in which the COC is issued by OPRHP. The COC constitutes proof that the expenditures related to the work are qualified rehabilitation expenditures for purposes of claiming this credit. For a purchased qualified historic home, the taxpayer(s) will be treated as having made the qualified rehabilitation expenditures made by the seller of the home on the date of purchase and may claim the credit in the tax year of the purchase.

You will have to recapture all or a portion of the credit you previously claimed if you no longer reside in the qualified historic home before the end of a two-year period beginning on the later of (1) the date the final certification was issued or (2) the date of purchase of a qualified historic home.

The historic homeownership rehabilitation credit is not refundable. However, any amount of credit or carryover of credit not deductible in the current year may be carried over to the following year or years.

To claim this credit, you must complete Form IT-237, *Claim for Historic Homeownership Rehabilitation Credit*, and attach it to your Form IT-201 or IT-203.

For more information, visit the New York State Office of Parks, Recreation, and Historic Preservation Web site (www.nysparks.state.ny.us).

Home heating system credit

Tax Law section 606(l)

Tax year 2007 was the last year you could claim the home heating system credit for costs incurred after July 1, 2006, and before July 1, 2007, that are directly associated with the replacement of the existing home heating system.

For more information, see TSB-M-06(6)I, *Home Heating System Credit and the Clean Heating Fuel Credit*.

Long-term care insurance credit

Tax Law sections 606(aa) and 606(i)

If you pay premiums for qualified long-term care insurance, you may be entitled to the long-term care insurance credit.

A qualified long-term care insurance policy is one that:

- is approved by the New York State Superintendent of Insurance under section 1117(g) of the Insurance Law; **and**

- is a qualified long-term care insurance contract under section 7702B of the Internal Revenue Code (IRC). (Note: Section 7702B relates to policies for which a federal itemized deduction is allowed);

or

- is a group contract delivered or issued for delivery outside New York State; **and**
- the group contract is a qualified long-term care insurance contract under section 7702B of the IRC. The premiums paid for this insurance qualify for the credit even if the policy is not approved by the New York State Superintendent of Insurance.

A qualified long-term care insurance contract under section 7702B of the IRC is an insurance contract that provides only coverage of qualified long-term care services. The contract must:

1. be guaranteed renewable;
2. not provide for cash surrender value or other money that can be paid, assigned, pledged, or borrowed;
3. provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract must be used only to reduce future premiums or increase future benefits; **and**
4. generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or the contract makes per diem or other periodic payments without regard to expenses.

The insurance company that issued your policy should be able to tell you if the policy qualifies under section 7702B of the IRC.

The credit is equal to 20% of the premiums paid during the tax year for the purchase of or for continuing coverage under a qualifying long-term care insurance policy.

The credit is limited for part-year and nonresident individuals, estates, and trusts to the amount determined by multiplying the total credit amount by your income percentage.

The long-term care insurance credit is not refundable. However, any amount of credit or carryover of credit not deductible in the current tax year may be carried over to be deducted for the following year or years.

To claim this credit, you must complete Form IT-249, *Claim for Long-Term Care Insurance Credit*, and attach it to your Form IT-201, IT-203, or IT-205.

**New York State
earned income
credit**

Tax Law section 606(d)

The New York State earned income credit is a special income tax credit for certain people who earn income from work. If you claimed the federal earned income credit and file a New York State income tax return, you qualify to claim the New York State earned income credit.

For tax year 2008, the New York State earned income credit is equal to 30% of your allowable federal earned income credit. However, the New York State earned income credit will be reduced by the amount of any household credit you are allowed.

New York State residents and part-year residents qualify for refunds of any earned income credit in excess of their New York State tax liabilities. Nonresidents do not qualify for refunds of the New York State earned income credit.

To claim this credit, you must complete Form IT-215, *Claim for Earned Income Credit*, and attach it to your Form IT-150, IT-201, or IT-203. For more information, see Publication 310-NY, *Information on the Earned Income Credit for Tax Year 2008*. For information on the New York City earned income credit, see page 30.

**Noncustodial parent
New York State
earned income credit**

Tax Law section 606(d-1)

For tax years beginning on or after January 1, 2006, and before January 1, 2013, New York State full-year residents who are noncustodial parents and pay child support may be eligible for the noncustodial parent New York State earned income credit (noncustodial EIC). The noncustodial EIC may be claimed instead of the New York State earned income credit.

You may claim this credit if you meet **all** of the following conditions for tax year 2008. You must:

- be a full-year New York State resident,
- be at least 18 years of age,
- be a parent of a child (or children) who **did not reside with you** and was under 18 years of age on December 31, 2008,
- have an order in effect for at least one-half of the tax year requiring you to make child support payments payable through a support collection unit pursuant to Social Services Law section 111(h), **and**
- have paid an amount in child support in the tax year at least equal to the amount of child support you were required to pay by all court orders.

The amount of the credit is equal to the greater of:

- 20% of the federal earned income credit that you would have been allowed if the noncustodial child met the definition of a qualifying child, computed as if you had one qualifying child and without benefit of the joint return phase out amount (even if your filing status is *Married filing joint return*);
or
- 2.5 times the federal earned income credit that would have been allowed if you had satisfied the eligibility requirements, computed as if you had no qualifying children.

You may claim a refund of any noncustodial parent New York State earned income credit in excess of your New York State tax liability.

To claim this credit, you must complete Form IT-209, *Claim for Noncustodial Parent New York State Earned Income Credit*, and attach it to your Form IT-150 or IT-201.

New York State household credit

Tax Law section 606(b)

If you cannot be claimed as a dependent on another taxpayer's federal income tax return, you may qualify for the New York State household credit.

The credit is available to resident, part-year resident and nonresident individuals.

The amount of the credit is determined by income and filing status. If you are a single taxpayer, and you have federal adjusted gross income of \$28,000 or less, you may qualify for a credit of up to \$75. If you are married filing jointly, a qualifying widow(er) with a dependent child, or a head of household with a qualifying person, and you have federal adjusted gross income of \$32,000 or less, you may qualify for a credit of \$20 to \$90, plus \$5 to \$15 more for each additional exemption claimed on your federal return. Married taxpayers filing separate returns may also qualify for this credit. The tables used to determine the amount of credit allowed can be found in the instructions for Forms IT-150, IT-201 and IT-203.

The household credit is not refundable, and any unused credit may not be carried over to a future year.

You must claim this credit directly on Form IT-150, IT-201, or IT-203.

Nursing home assessment credit

Tax Law section 606(hh)

If you paid a portion of the assessment imposed on a residential health care facility (nursing home) pursuant to Public Health Law section 2807-d(2)(b) that is passed through to a private-pay resident of the nursing home, you may be entitled to claim the nursing home assessment credit. The amount of the credit is equal to the total portion of the assessment that is passed through and directly paid by an individual during the year (e.g., the total

portion paid during 2008). The portion of the assessment must be separately stated and accounted for on the billing statements or other statements provided to a resident of a nursing home, and must be paid directly by the individual claiming the credit. If an individual other than the resident of the home is actually paying the portion of the assessment, the individual who paid that portion, not the resident, is entitled to claim the credit. If more than one individual is directly paying the total nursing home bill, the total portion of the assessment paid must be divided between them according to the percentage of the total nursing home expenses paid by each individual.

An individual may claim the full credit even though the resident may be receiving benefits from a long-term insurance policy. If a resident assigns his or her long-term insurance benefits to a nursing home, the resident is treated as having paid that amount toward the total nursing home bill. The credit cannot be claimed for any portion of the assessment that is paid directly to the nursing home by a health insurance policy, with public funds (e.g., Medicaid or Medicare), or that is paid by a trust or other entity. Where a nursing home does not separately state the portion of the assessment passed through to a resident on the resident's billing statements, the nursing home should provide the resident (or the person to whom the resident's billing statements are sent) with a summary statement that indicates the total portion of the assessment paid by or on behalf of the resident during 2008 (or any succeeding year). There is no particular form for this statement. However, the statement must contain the name of the residential health care facility, the name of the resident of the facility, the period covered by the statement (e.g., calendar year 2008) and the amount of the assessment that was passed through and actually paid (not the billed amount) by or on behalf of the resident during the calendar year. For example, if the resident's January 2009 bill was actually paid in December 2008, the amount of the assessment passed through for January would be included on the 2008 statement.

You may claim a refund of any nursing home assessment credit in excess of your New York State tax liability.

To claim the credit, you must complete Form IT-258, *Claim for Nursing Home Assessment Credit*, and attach it to your Form IT-201 or IT-203.

Real property tax credit

Tax Law section 606(e)

If you are a full-year New York State resident and your household gross income was \$18,000 or less, you may be entitled to a credit for part of the real property taxes or rent paid for your residence during 2008. Part-year residents and nonresidents of New York State do not qualify for this credit.

If all members of your household are under age 65, the credit can be as much as \$75. If at least one member of your household is age 65 or older, the credit can be as much as \$375.

New York State residents qualify for a refund of any real property tax credit in excess of their New York State tax liabilities. Residents who are not required to file New York State income tax returns may qualify for a refund of the full amount of the credit.

If you are required to file a New York State income tax return, you must file Form IT-150 or IT-201 and attach Form IT-214, *Claim for Real Property Tax Credit for Homeowners and Renters*. If you are not required to file a New York State income tax return, you can file Form IT-214 by itself. You should file this form as soon as possible after January 1, 2009.

For more information, see Publication 22, *FAQs: New York State's Real Property Tax Credit for Homeowners and Renters*.

Resident credit

Tax Law section 620

If you are a full-year or part-year resident of New York State and if any part of your income was taxed by another state, a local government within another state, the District of Columbia, or a Canadian province, you may claim a credit against your New York State tax. The credit is allowable only for the part of the tax that applies to income received in the other taxing authority while you were a New York resident.

The resident credit is available to full-year and part-year resident individuals of New York State, or New York State resident estates or trusts.

A shareholder of an S corporation **is not** allowed the resident credit for any income tax imposed on or payable by the corporation to another state, local government, the District of Columbia, or a province of Canada. However, a shareholder is allowed the resident credit if taxes are calculated on the income of the S corporation, but are imposed upon and payable by the shareholder. For more information see Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*.

Taxpayers with dual residency status – If you are a resident of New York State for personal income tax purposes and you are also deemed a resident of another state for income tax purposes under its law or a resident of a province of Canada for income tax purposes under its law, no credit is allowed if the other jurisdiction allows a credit against its tax for the total resident tax paid to New York.

The resident credit is not refundable, and it may not reduce your New York State tax payable to an amount less than would have been due if the income subject to taxation by the other jurisdiction(s) was excluded from your New York income.

To claim this credit for taxes paid to another state, local government, or the District of Columbia, you must complete Form IT-112-R, *New York State Resident Credit*. Attach Form IT-112-R to your Form IT-201, IT-203, or IT-205.

To claim this credit for taxes paid to a province of Canada, you must complete Form IT-112-C, *New York State Resident Credit for Taxes Paid to a Province of Canada*. Attach Form IT-112-C to your Form IT-201, IT-203, or IT-205.

**Resident credit
against separate
tax on lump-sum
distributions**

Tax Law section 620-A

If you are a full-year or part-year resident individual of New York State, and if the ordinary income portion of a lump-sum distribution you received was taxed by another state, a local government within another state, the District of Columbia, or a province of Canada, you may claim a resident credit against separate tax on lump-sum distributions. The credit can be claimed against New York State tax and is allowable only for the part of the other jurisdiction's tax that applies to the income received in that jurisdiction while the taxpayer was a New York State resident.

The resident credit against separate tax on lump-sum distributions is available to full-year and part-year resident individuals of New York State, or New York State resident estates or trusts.

Generally, if your employer distributes the entire balance of your qualified pension, stock bonus, or profit-sharing plans within one year, it is a lump-sum distribution. The ordinary income portion is that part of the lump-sum distribution that applies to your years of participation in the plan after 1973. However, you may elect to treat the entire taxable portion of the distribution as ordinary income.

This credit is not refundable, and it may not reduce your New York State tax payable to an amount less than would have been due if the income subject to taxation by the other jurisdiction(s) was excluded from the computation of your separate tax on the lump-sum distribution.

To claim this credit, you must complete Form IT-112.1, *New York State Resident Credit Against Separate Tax on Lump-Sum Distributions*. Attach Form IT-112.1 and a copy of federal Form 4972, *Tax on Lump-Sum Distributions*, to your Form IT-201, IT-203, or IT-205.

**Solar energy
system equipment
credit**

Tax Law section 606(g-1)

The solar energy system equipment credit is allowed for the purchase and installation of an eligible solar energy system. The equipment must be installed and used at your principal residence in New York State.

If the solar energy system equipment provides electricity, you must enter into a net energy metering contract with your electric corporation or comply with the electric corporation's net energy metering schedule before you can qualify for the credit. The completed solar energy system must also be connected to the electric corporation's transmission and distribution facility. Other conditions and limitations set by the electric company may apply.

Solar energy system equipment means an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces energy designed to provide heating, cooling, hot water, or electricity. The arrangement or components do not include equipment connected to solar energy system equipment that is a component or part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates electricity for use in a residence must conform to the applicable requirements in Public Service Law section 66-j (for example, the rated capacity of the system cannot exceed 10 kilowatts (10,000 watts)). However, if the solar energy system is purchased and installed by a condominium management association or a cooperative housing corporation, the rated capacity of the system cannot exceed fifty kilowatts (50,000 watts).

Qualified solar energy system equipment expenditures means expenditures, for the purchase of solar energy system equipment that is installed and used at residential property located in New York State that is your principal residence at the time the solar energy system equipment is placed in service.

Qualified expenditures include expenditures for materials, labor costs properly allocated to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of the solar energy system equipment.

Expenditures made with nontaxable federal, state, and local grants, and any interest or finance charges, do not qualify as solar energy system equipment expenditures.

In the case of tenant-shareholders in a cooperative housing corporation or condominium owners, a percentage of the qualified expenditures for qualified solar energy system equipment purchased and installed by the cooperative housing corporation or the condominium management association will be attributed to each unit within the building.

Principal residence means the home where you and your family live most of the time. A summer or vacation home does not qualify. Your principal residence can be a house, whether owned or rented, a mobile home, cooperative apartment, or condominium. If you move from one principal residence to another principal residence in New York State, a separate credit is allowed for each principal residence. You must file separate Forms IT-255, *Claim for Solar Energy System Equipment Credit*, to compute your allowable credit for each principal residence.

The credit will be allowed for the tax year in which the solar energy system equipment is placed in service.

The credit is 25% (but not to exceed \$5,000) of the qualified expenditures for the purchase and installation of a system that generates solar energy for residential use.

The solar energy system equipment credit is not refundable. However, any credit in excess of the tax due can be carried over for a maximum of five years.

To claim this credit, you must complete Form IT-255, *Claim for Solar Energy System Equipment Credit*, and attach it to your Form IT-201 or IT-203.

**Volunteer
firefighters' and
ambulance
workers' credit**

Tax Law section 606(e-1)

If you were an active volunteer firefighter or volunteer ambulance worker for the entire 2008 tax year, you may be entitled to the volunteer firefighters' and ambulance workers' credit. A \$200 credit is available to full-year New York State resident individuals only.

Active volunteer firefighter means a person who has been approved by the authorities in control of a duly organized New York State volunteer fire company or New York State volunteer fire department as an active volunteer firefighter of the fire company or department and who is faithfully and actually performing service in the protection of life and property from fire or other emergency, accident, or calamity in connection with which the services of the fire company or fire department are required.

Volunteer ambulance worker means an active volunteer member of a New York State ambulance company as specified on a list regularly maintained by the company for purposes of the volunteer ambulance workers' benefit law.

You may claim a refund of any volunteer firefighters' and ambulance workers' credit in excess of your New York State tax liability.

To claim this credit you must complete Form IT-245, *Claim for Volunteer Firefighters' and Ambulance Workers' Credit*, and attach it to your Form IT-201.

Note: For tax year 2008, you cannot claim the volunteer firefighters' and ambulance workers' credit if you receive a real property exemption that relates to your volunteer service under Real Property Tax Law, Article 4, Title 2. However if the property has multiple owners, the owner(s) whose volunteer service was not the basis of the exemption may be eligible to claim the credit.

New York City credits

New York City child and dependent care credit

Section 11-1706(e) of the Administrative Code of the City of New York

Full-year and part-year New York City residents who paid child care expenses for children under the age of four may be eligible to claim the New York City child and dependent care credit. This credit may be claimed in addition to the New York State child and dependent care credit.

To qualify for the **New York City** child and dependent care credit you must:

- qualify to claim the New York State child and dependent care credit (see page 7);
- have paid qualified expenses for a qualifying person who was under age four on December 31, 2008;
- have federal adjusted gross income of \$30,000 or less; **and**
- have been a full-year or part-year resident of New York City for 2008.

For tax year 2008, the New York City child and dependent care credit can be as much as 75% of the New York State child and dependent care credit, depending on the amount of your federal adjusted gross income.

The New York City child and dependent care credit is applied against the New York City personal income tax. New York City residents and part-year residents qualify for refunds of any child and dependent care credit in excess of their tax liability. Nonresidents of New York City do not qualify for the New York City child and dependent care credit.

To claim this credit you must complete Form IT-216, *Claim for Child and Dependent Care Credit*, and attach it to your Form IT-150, IT-201, or IT-203.

New York City earned income credit

Tax Law section 1310(f)

New York City full-year residents and New York City part-year residents who claimed the federal earned income credit may claim a New York City earned income credit. You must file a New York income tax return to claim the New York City earned income credit. This credit is in addition to the New York State earned income credit or noncustodial parent New York State earned income credit (see *New York State earned income credit* starting on page 23).

For tax year 2008, the New York City earned income credit is equal to 5% of your allowable federal earned income credit. (For part-year residents, the amount of the credit is subject to proration.)

Note: Because of the difference in methods used in computing the New York State and New York City earned income credits, if you meet the conditions to qualify for the New York City earned income credit you will have a New York City earned income credit even if your New York State earned income credit amount is zero.

The New York City earned income credit is applied against the New York City personal income tax. New York City residents and part-year residents qualify for refunds of any earned income credit in excess of their tax liability. Nonresidents of New York City do not qualify for the New York City earned income credit.

To claim this credit you must complete Form IT-215, *Claim for Earned Income Credit*, or Form IT-209, *Claim for Noncustodial Parent New York State Earned Income Credit*, and attach it to your Form IT-150, IT-201, or IT-203.

**New York City
household credit**
Tax Law section 1310(d)

If you cannot be claimed as a dependent on another taxpayer's federal income tax return, you may qualify for the New York City household credit. The credit is available to resident and part-year resident individuals of New York City.

The amount of the credit is determined by income and filing status. If you are single, and you have federal adjusted gross income of \$12,500 or less, you may qualify for a credit of up to \$15. If you are married filing jointly, a qualifying widow(er) with a dependent child, or a head of household with a dependent child, and you have federal adjusted gross income of \$22,500 or less, you may qualify for a credit of \$10 to \$30, plus \$10 to \$30 more for each additional exemption claimed on your federal return. The tables used to determine the amount of credit allowed are found in the combined instructions for Forms IT-150 and IT-201, *Resident Income Tax Return*, and the instructions for Form IT-360.1, *Change of City Resident Status*. The city household credit is applied against the New York City personal income tax.

The credit is not refundable, and cannot be carried forward to future years.

Full year New York City residents claim this credit directly on Form IT-150 or IT-201. Part-year New York City residents must complete Form IT 360.1, *Change of City Resident Status*, and attach it to Form IT-203.

**New York City
school tax credit**
Tax Law section 1310(e)

The New York City school tax credit is available to a New York City resident or part-year resident who cannot be claimed as a dependent on another taxpayer's federal income tax return.

For tax year 2008, married persons filing a joint return and surviving spouses with income of \$250,000 or less are entitled to a refundable credit

of up to \$290. All other taxpayers with income of \$250,000 or less are entitled to a refundable credit of up to \$145.

There is no credit allowed for taxpayers with income of more than \$250,000.

The credit is required to be prorated if the taxpayer changes his or her New York City resident status during the tax year.

The New York City school tax credit is applied against the New York City personal income tax for New York City residents and part-year residents.

If the credit exceeds your tax for the year, the excess will be refunded without interest.

If you file Form IT-150 or IT-201, *Resident Income Tax Return*, or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, you can claim this credit directly on your income tax return.

You may claim the New York City school tax credit even if you are not required to file a New York State income tax return. See Form NYC-210, *Claim for New York City School Tax Credit*, and the instructions for Form NYC-210.

**Credits
available to sole
proprietors,
partners, and
New York
S corporation
shareholders**

The following income tax credits are available to sole proprietors, partners in a partnership (including members of limited liability companies (LLC's) that are treated as partnerships for federal tax purposes) and shareholders in a New York S corporation (unless otherwise noted):

- alternative fuels credit
- automated external defibrillator credit
- biofuel production credit
- brownfield credits
- clean heating fuel credit
- conservation easement tax credit (does not apply to New York S corporation shareholders)
- Empire State commercial production credit
- Empire State film production credit
- empire zone (EZ) and qualified empire zone enterprises (QEZE) credits

- employment of persons with disabilities credit
- farmers' school tax credit
- fuel cell electric generating equipment credit
- green buildings credit
- handicapped-accessible taxicabs and livery services vehicle credit
- historic barn rehabilitation credit
- investment tax credits (including employment incentive credits)
- long-term care insurance credit
- low-income housing credit
- qualified emerging technology company (QETC) credits
- rehabilitation of historic properties credit
- security officer training tax credit
- special additional mortgage recording tax credit
- credit for New York City unincorporated business tax (does not apply to New York S corporation shareholders)

A partnership or New York S corporation must provide its partners or shareholders with information to enable the partners or shareholders to claim the credit. For more information, see the instructions for Form IT-204, *Partnership Return*, or CT-3-S, *New York S Corporation Franchise Tax Return*.

To claim any of these credits, or to carry over these credits from prior years, you must use the appropriate credit claim form. For more information on these credits, see Publication 99-B, *General Information on New York State and New York City Income Tax Credits for Businesses – For Tax Year 2008*.

New York State tax credits and the taxes they are applied against			
Credit	NYS personal income tax	NYS minimum income tax	NYS separate tax on lump-sum distributions
Accumulation distribution credit ¹	X		
Automated external defibrillator credit ¹	X		
Child and dependent care credit:			
Resident ²	X	X	X
Nonresident ¹	X		
Part-year resident:			
nonresident period ¹	X		
resident period ²	X	X	X
Claim of right credit ²	X	X	X
Clean heating fuel credit ²	X	X	X
College tuition credit ²	X	X	X
Conservation easement tax credit ²	X	X	X
Empire State child credit ²	X	X	X
Fuel cell electric generating equipment credit ³	X		
Green buildings credit ⁴	X		
Historic homeownership rehabilitation credit ⁴	X		
Long-term care insurance credit ⁴	X		
New York State earned income credit:			
Resident ²	X	X	X
Nonresident ¹	X		
Part-year resident:			
nonresident period ¹	X		
resident period ²	X	X	X
Noncustodial parent New York State earned income credit ²	X	X	X
New York State household credit ¹	X	X	
Nursing home assessment credit ²	X	X	X
Real property tax credit ²	X	X	X
Resident credit ¹	X		
Solar energy system equipment credit ³	X		
Volunteer firefighters' and ambulance workers' credit ¹	X		
<ol style="list-style-type: none"> 1. If the credit exceeds the tax, the excess will not be refunded and cannot be carried forward to future years. 2. If the credit exceeds the tax, the excess will be treated as an overpayment of tax to be credited or refunded (without interest). 3. If the credit exceeds the tax, the excess will not be refunded but may be carried forward for a limited duration. 4. If the credit exceeds the tax, the excess will not be refunded but may be carried forward to future years for an unlimited duration. 5. If the credit exceeds the tax, a taxpayer in a new business may qualify to claim a refund. 			



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(Automated service for refund status is available
24 hours a day, 7 days a week.)

Personal Income Tax Information Center: (518) 457-5181

In-state callers without free long distance: 1 800 225-5829

To order forms and publications: (518) 457-5431

In-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.