CT-46-I
(10/85)

New York State Department of Taxation and Finance

Instructions for Form CT-46

Claim for Investment Tax Credit

General Instructions

Section 210.12 allows an investment tax credit against the tax imposed by Article 9-A, when qualified property is placed in service. The percentage to be used to compute the investment tax credit will depend upon the period during which the property was acquired, constructed, reconstructed or erected. Periods and the applicable rates are listed below:

Property acquired during	Percentage
January 1, 1974 through December 31, 1977	2%
January 1, 1978 through December 31, 1978	3%
January 1, 1979 through May 31, 1981	4%
June 1, 1981 through June 30, 1982	5%
On or after July 1, 1982	6%

If an acquisition, construction, reconstruction or erection, started in one taxable period and was completed in another period, the applicable rates must be applied to the portion of cost (or other federal basis) attributable to each period. The method that must be used to compute the investment tax credit in this situation may be found in Article 9-A, Franchise Tax Regulations, Section 5-2.5.

Section 210.12-A allows an additional investment tax credit with respect to property, the acquisition, construction, reconstruction or erection of which began on or after January 1, 1976. For details see instructions for completing Schedule C of Form CT-46.

These credits may not reduce the tax liability to an amount less than the minimum tax.

Any investment tax credit that cannot be used to reduce current year tax liability may be carried over to the following year or years.

Qualified property as used in these instructions is tangible personal property and other tangible property, including buildings and structural components of buildings, that:

(a) was acquired, constructed, reconstructed or erected by the taxpayer after 12-31-68;
(b) is depreciable pursuant to Section 167 or 168 of the Internal Revenue Code;
(c) has a useful life of 4 years or more;
(d) was acquired by the taxpayer by purchase pursuant to Section 179(d) of the Internal Revenue Code;
(e) has a situs in New York State; and
(f) is principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing.

Effective taxable years beginning after December 31, 1981, an investment tax credit will be allowed the lessee/user of qualified property in a 'Safe Harbor' lease.

If qualified property is acquired to replace other insured property which was stolen or destroyed by fire, storm, shipwreck or other casualty, the basis of the replacement property is its cost reduced by any amount of gain not recognized for federal income tax purposes because the insurance proceeds were invested in the replacement.

Recapture of investment tax credit previously claimed must be computed if the property was stolen or destroyed prior to the end of its useful life.

Manufacturing as used in these instructions means the process of working raw material into wares suitable for use or giving new shapes, new quality or new combination to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment.

Property used in the production of goods includes machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in production of goods.

Types of property that do **not** qualify for this investment tax credit are:

(a) Property leased to others
(b) Retail equipment, office furniture and office equipment
(c) Excavating and road building equipment
(d) Transportation equipment used on public roads
(e) Public warehouse used to store the taxpayer's goods

At the option of the taxpayer, air and water pollution control facilities which qualify for elective deductions under Section 208.9(g), eligible business facilities for which a credit is allowable under 210.11 or research and development facilities which qualify for elective deduction under 210.3(e)(2) may be treated as property eligible for investment tax credit in lieu of the other elections.

Rehabilitated "Retail Enterprise" Property Expenditures

Section 210.12(k), effective for investments made on or after June 1, 1981, allows certain retail enterprises a New York State investment tax credit on qualified rehabilitated buildings.

Qualified rehabilitated expenditures are defined in part by Section 48(g) of the Internal Revenue Code as those amounts chargeable to a capital account, which have a useful life or recovery period as provided by that section, in connection with the rehabilitation of a qualified rehabilitated building. They do not include the cost of acquiring any building or an interest therein or of enlarging an existing building. The expenditure must be to a qualified rehabilitated building that has been in service, for that period of time as provided by Section 48(g), prior to the physical commencement date of the rehabilitation for which the current credit is claimed. In addition, 75 per or more of the existing external walls must be retained. For New York State purposes it is also required that the "retail enterprise" claiming the credit be a registered vendor under Article 28 of the New York State Tax Law and be "primarily" (at least 75% or more) engaged in retail sales as defined by Section 1101(b)(4)(i). The rehabilitated property must be located in New York State and is limited to that portion of the property employed in "retail sales" of such retail enterprise. Provisions for recapture applicable to investment tax credit property (Section 210.12(g)) also applies to the credit allowed under Section 210.12(k). Refer to instructions for computing recapture, Schedule E on Page 3.

Schedule A - Part I

Computation of Available Investment Tax Credit

Line 5 - Enter from Schedule E, line 16, recaptured investment tax credit.

Line 6 - Subtract line 5 from line 4 to obtain the net investment tax credit available for use this period. If the net investment tax credit reduces your franchise tax **below** the minimum tax, then you **must** complete Part II, lines 7 through 12. If the net investment tax credit does **not** reduce your franchise tax below the minimum tax, enter the amount shown on this line on Form CT-3, Schedule A, line 6(b).

Schedule A - Part II

Line 7 - Enter amount of franchise tax computed on Form CT-3, Schedule A, line 6(a) less tax credits claimed on forms CT-45 (Eligible Business Facility Tax Credit) and CT-3C (DISC Export Credit).

Line 8 - Total tax credits may not reduce the franchise tax to less than the minimum tax.

Line 9 - Subtract minimum tax (line 8) from franchise tax (line 7) to obtain the amount of investment tax credit used this period. Enter this amount on Form CT-3, Schedule A, line 6(b).

Line 10 - Subtract line 9 from line 6 to arrive at investment tax credit available before deduction of refund claimed on Form CT-46.1.

Line 11 - Enter amount of refund of investment tax credit claimed on line 16, Schedule G of Form CT-46.1.

Line 12 - Subtract line 11 from line 10 to arrive at investment tax credit available to be carried forward to future years.

Schedule B-1

Columns (a) and (b) - List in these columns a clear description of qualified property acquired during this taxable period. Individual items of machinery and equipment must be listed separately and may not be shown as one general category such as "machinery." The description should be made in terms that a layman will understand. Attach additional pages if necessary.

Column (d) - Enter the useful life of each item claimed; the useful life is the number of years an item is expected to be of service to the taxpayer. DO NOT use the recovery period for depreciation under the Accelerated Cost Recovery System (ACRS).

Column (f) - Enter in this column the percentage that applies to the period in which the qualified property is acquired. Taxpayers using a fiscal reporting period may be using two different percentages to compute its investment tax credit. See General Instructions for the various periods and percentages.

Example:

A corporation using a June reporting period acquired qualified property in November 1977 and May 1978.

(c) Date Acquired	(e) Cost	(f) %	(g) Investment Tax Credit
11/77	$10,000	2%	$200.00
5/78	$10,000	3%	$300.00
Investment Tax Credit available for June 30,1978			$500.00

Line 13 - Column (e) - enter total cost of all property claimed in this schedule.

Line 13 - Column (g) - enter total investment tax credit claimed on property listed in this schedule.

Enter total of Column (g) in Schedule A, line 1.

Schedule B-2

Columns (a) and (b) - Provide the information required. Attach a separate rider if you need more space. Follow instructions for columns (c) through (g) as required for Schedule B-1.

Schedule C

Additional Investment Tax Credit on Property Acquired on or after January 1, 1976 - Section 210.12-A.

Beginning on or after January 1, 1976, a corporation which acquires, constructs, reconstructs or erects property, for which an investment tax credit is allowed under Section 210.12 of the Tax Law, will be allowed an additional investment tax credit.

The amount of the added investment tax credit allowed is 50% of the original tax credit, for each of the three years following the year for which the original investment tax credit under Section 210.12 was allowed. However, the additional credit shall only be allowed for those years during which the taxpayer's average number of employees in New York, except general executive officers, is at least 101% of the average number of employees in New York, except general executive officers, during the taxable year immediately preceding the taxable year for which the original investment tax credit was allowed.

For taxable years beginning on or after January 1, 1981, the additional 50% of the original tax credit will be allowed to a taxpayer that was not subject to corporation franchise tax under Article 9-A and did not have a taxable year for New York

State, immediately preceding the year in which the investment tax credit (Section 210.12) is claimed. In order for the corporation to qualify, the average number of employees in New York State of said corporation in the taxable year in which the additional investment tax credit is claimed must be at least 101% of the average number of employees in New York State in the taxable year in which the investment tax credit was originally claimed.

The additional investment tax credit may not reduce the tax liability to an amount less than the minimum tax.

Additional investment tax credit that cannot be used to reduce the current year's tax liability may be carried over to the following year or years.

You must complete schedule D if you claim an additional investment tax credit under Section 210.12-A.

Column (a) - Enter the taxable period in which the property was acquired and the original investment tax credit was claimed.

Column (b) - Enter the amount of original investment tax credit allowed.

Column (c) - To obtain the amount of the additional investment tax credit, multiply each amount listed in column (b) by 50%.

Example:

A corporation acquired qualified property in 1976 at a cost of $100,000.

Year	Average # of N.Y.Employees	Investment Tax Credit Available for Use
1975	200	XXX
1976	not required	$2,000.00 (2% of $100,000)
1977	202	1,000.00 (50% of $2,000)
1978	199	-0-
1979	205	$1,000.00 (50% of $2,000)

* In 1978, the average number of N.Y. employees was less than 101% of the number employed in 1975.

Schedule D

Section 210.12-A(b) defines the average number of employees as the total number of employees that are employed within New York State on March 31st, June 30th, September 30th and December 31st divided by the number of these dates occurring during the taxable period. Employees must be located in New York State. Do not include general executive officers.

Example - Fiscal Period

A taxpayer filing a report for a fiscal period beginning September 1, 1977 and ending August 31, 1978 would use the following dates to compute the average number of New York Employees:

September 30, 1977, December 31, 1977, March 31, 1978 and June 30, 1978

For each period listed in Schedule C (lines A, B and C) claiming an additional investment tax credit you must provide information requested in sections A, B and C of Schedule D.

Schedule E

Recapture of Investment Tax Credit

When property on which an investment tax credit has been allowed is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification. In 1982, Section 210.12(g) was amended to provide different formulas to be used to compute the amount of recaptured investment tax credit for property depreciated for federal purposes under Internal Revenue Code Sections 167 and 168.

(1) For property placed in service before December 31, 1980 and depreciated under IRC Section 167, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Months of Useful Life}} \times \text{Investment Tax Credit Allowed}$$

(2) For three-year property placed in service after December 31, 1980 and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{36 Months}} \times \text{Investment Tax Credit Allowed}$$

Investment tax credit cannot be recaptured on three-year property that ceases to be in qualified use or is disposed of after 36 months.

(3) For five-year property, 10-year property and 15-year real property placed in service after December 31, 1980 and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{60 Months}} \times \text{Investment Tax Credit Allowed}$$

(4) For recovery property that is a building or structural component of a building placed in service after December 31, 1980 and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Number of Months Allowed by IRC Section 168 and used by taxpayer}} \times \text{Investment Tax Credit Allowed}$$

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use for more than 12 consecutive years.

In years that the taxpayer is not claiming additional investment tax credit, the recaptured tax credit must be added to the tax on Form CT-3, Schedule A, line 6. Investment tax credit recapture may be offset against investment tax credit claimed as provided in Form CT-46, Schedule A, Page 1.

Column (d) - Enter the life of the property in months. Do not use years.

Column (e) - Enter the unused life in months.

Column (f) - Divide unused life (Column (e)) by the total life of the property (Column (d)) to obtain the percentage of unused life.

Column (g) - Enter the total amount of investment tax credit allowed. Include the original investment tax credit and any additional investment tax credit allowed.

Column (h) - Multiply the total investment tax credit allowed by the percentage of unused life (Column (g) x Column (f)) to obtain the amount of recaptured investment tax credit.

Line 16 - Total Column (h) and enter the total in Schedule A, line 5.

Refundable Unused Investment Tax Credit
For taxable years (excluding short periods) beginning on or after January 1, 1982, a corporation that is eligible to claim an investment tax credit and is also a new business as defined in Article 9-A, Section 210.12(j), may elect to receive a refund of its unused investment tax credit instead of carrying the credit forward. Section 210.12(j) defines a new business as any corporation **except**:

- a corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned by a taxpayer subject to the tax under Article 9-A; Sections 183, 184, 185 or 186 of Article 9; Article 32; or Article 33 of the Tax Law
- a corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32; or Article 33; or that would have been subject to the 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 of the New York State Tax Law
- a corporation that has been subject to tax under Article 9-A for more than four taxable years (excluding short periods) prior to the taxable year during which the taxpayer first becomes eligible for the investment tax credit

This refund must be claimed on Form CT-46.1. Further information regarding the refund of unused investment tax credit by a new business is contained on Form CT-46.1 and in Technical Services Bureau Memorandum TSB-M-81(8)C.