



# Instructions for DTF-620, Application For Certification of a Qualified Emerging Technology Company

## General information

This annual Application for Certification is filed with the Commissioner of Taxation and Finance to certify that the company named on the application is a qualified emerging technology company (QETC), as defined under section 3102-e(1)(c) of the Public Authorities Law (PAL). The term *company* includes, but is not limited to, corporations, partnerships, and limited liability companies.

Certification of a QETC by the Commissioner of Taxation and Finance is required in order for a taxpayer to claim a QETC capital tax credit on Form DTF-622. A QETC capital tax credit is available to a corporation that files Form CT-3 or Form CT-3-A (that is, a taxpayer subject to tax under Article 9-A of the Tax Law) for qualified investments made in a certified QETC for taxable years beginning on or after January 1, 1999 (section 210.12-F of the Tax Law). The credit is available to Article 22 taxpayers (that is, individuals, including partners of partnerships, shareholders of New York S corporations, estates and trusts, and beneficiaries of estates and trusts) for qualified investments made in a certified QETC for taxable years beginning on or after January 1, 2000 (section 606 (r) of the Tax Law). If the QETC is **not** certified by the Commissioner of Taxation and Finance, taxpayers who make a qualified investment in a QETC will not be able to claim a QETC capital tax credit on Form DTF-622.

A QETC may seek certification under either Category 1 or Category 2. All companies seeking certification, under either category, must also meet the following two requirements:

- the company must be located in New York State, and
- the company's annual product sales must be \$10 million or less.

A company qualifies under Category 1 if:

- the company has primary products or services that are classified as emerging technologies under section 3102-e(b) of the PAL.

A company qualifies under Category 2 if:

- the company has research and development activities in New York State; and
- the company's ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies as determined by the National Science Foundation (NSF).

The average ratio for all surveyed companies as last determined by the NSF is 2.9%.

## When to file Application for Certification

The Application for Certification should be filed 30 days before the beginning date of the period of certification, as shown on the Application for Certification. This will allow the Commissioner of Taxation and Finance 30 days to review the Application for Certification and notify the company whether it is certified as a QETC for the certification period. You may, however, file your Application for Certification at any time during the period for which you seek certification.

## Certification period

In the upper right corner of Form DTF-620 enter as the certification period the beginning date and ending date for which you are filing the Application for Certification. The beginning and ending dates on the Application for Certification should coincide with the dates reported for the company's taxable year for federal income tax purposes. However, the beginning date cannot start before the date the company was located or began business in New York State.

## Preceding period

Since the Application for Certification generally should be filed 30 days before the beginning date on the Application for Certification, the information for Category 1 and Category 2 is based on data for the first nine months of the preceding period. If, however, data is available for the entire twelve months of the preceding period, use the actual data for the preceding twelve months. The preceding period is the period occurring immediately before the period for which you filed the Application for Certification. In addition, if you used data for the first nine months of the preceding period, then you must annualize the information on line 12, and lines a and b of both worksheets by dividing the data by 9 and multiplying the result by 12.

*Example:*

*OZ Company is a calendar year taxpayer for federal tax purposes. On 5/1/99, OZ Company files Form DTF-620, Application for Certification of a Qualified Emerging Technology Company, for the certification period 1/1/99-12/31/99. Because data for the entire twelve months of the preceding period is not available, the information for Category 1 and Category 2 is based on data for the first nine months of the preceding period (1/1/98-9/30/98.) The information for line 12 and Worksheet for line 14, lines a and b, and Worksheet for line 16, lines a and b, must be annualized by dividing the data by 9 and multiplying the result by 12. If the company's product sales for the period 1/1/98-9/30/98 were \$4,500,000, the annualized product sales on line 12 would be \$6,000,000.*

$$\frac{\$4,500,000}{9 \text{ mo.}} = \$500,000 \times 12 \text{ mo.} = \$6,000,000$$

*Accordingly, OZ Company would attach a worksheet to the Application for Certification showing the computation of the annualized product sales and check the Yes box on line 12.*

If the preceding period is less than nine months, the information for Category 1 and Category 2 is based on data for the short preceding period. The information must be annualized by dividing the data by the number of months in the short preceding period and multiplying the result by 12.

If there is no preceding period occurring immediately before the period for which the Application for Certification is being filed, complete the information for Category 1 and Category 2 on the basis of projected information for the filing period shown on the Application for Certification (no consideration is given to the preceding period).

## Line Instructions

### Part I

**Line 1** — Enter the exact legal name of your business. The legal name is the name in which the business owns property or acquires debt. A corporation's legal name is the name that appears on the certificate of incorporation. A partnership's legal name is the name that appears on its partnership agreement. A limited liability company's legal name is the name that appears on its articles of incorporation.

**Line 2** — Enter the trade name, doing-business-as name, or assumed name if different from line 1. For a corporation, this is the name that appears on the trade name certificate filed with the New York State Department of State. For an unincorporated business, this is the name filed with the county clerk's office under section 130 of the General Business Law.

**Line 3** — Enter the actual street address where business is conducted in New York State or its principal place of business if there is more than one location in New York State. Do not enter a representative's address or a post office box number.

**Line 4** — Enter the mailing address (a post office box number or a representative's address is acceptable) where you want information from the Tax Department to be sent.

**Line 7** — Enter the date that you began business in New York State, or the date that you expect to begin business in New York State.

**Line 8** — Enter your federal employer identification number (EIN). If you do not have one, enter **N/A**.

**Line 9** — Check the type of business organization that applies.

**Line 10** — You must check the *Yes* or *No* box.

Check the *Yes* box to indicate that the company authorizes the Commissioner of Taxation and Finance and the Department of Taxation and Finance to disclose publicly that the company is a certified QETC for the certification period shown on this Application for Certification. For example, this information may appear on the Tax Department website.

Check the *No* box to indicate that the company does not authorize the Commissioner of Taxation and Finance and the Department of Taxation and Finance to disclose publicly that the company is a certified QETC for the certification period shown on this Application for Certification.

### Part II

If you answered *Yes* to both questions 11 and 12, complete the information required under Category 1 or Category 2 for the preceding period.

If there is no preceding period occurring immediately before the period for which you are filing the Application for Certification, complete the information for Category 1 and Category 2 on the basis of projected information for the filing period shown on the Application for Certification (no consideration is given to the preceding period).

**Line 11** — A *company located in New York State* means a corporation, partnership, or limited liability company, or any other entity (such as a sole proprietorship) that, during the preceding period for which this application is being filed, owned or rented real property used in its emerging technology primary products or

services business, or in its research and development activities in New York State. If there is no preceding period, a *company located in New York State* means a corporation, partnership, or limited liability company, or any other entity (including a sole proprietorship) that, during the filing period shown on the Application for Certification (no consideration is given to the preceding period), projected it would own or rent real property to be used in its emerging technology primary products or services business, or in its research and development activities in New York State.

**Line 12** — See *Definitions* for explanation of *total annual product sales*.

### Category 1 — Primary products and services

**Line 13** — If the company has products or services that are included in the definition of emerging technologies, check the *Yes* box and enter the description of the company's products or services. If the company's products or services are not included in the definition of emerging technologies, check the *No* box.

**Line 14** — Check the *Yes* or *No* box to indicate if the company's receipts from its emerging technology products or services described on line 13 are more than 50% of the company's total receipts from the sale of all products or services.

### Category 2 — Research and development activities

#### Worksheet for line 16

**Line a** Enter the amount paid or incurred in the conduct of research and development activities. Research and development funds are the same as that used by the NSF in its most recent *Survey of Industry Research and Development*. These funds represent expenditures paid or incurred in the conduct of research and development activities.

#### Include as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- research and development depreciation
- cost of computer software used in research and development activities
- total charges for work done on contract, including profit
- utilities, such as telephone, telex, electricity, water, and gas
- travel costs and professional dues
- property taxes and other taxes (except income taxes) incurred on account of the research and development organization or the facilities they use
- insurance costs
- maintenance and repair, including maintenance of buildings and grounds
- company overhead including: personnel, accounting, procurement, and inventory, and salaries of research executives not on the payroll of the research and development organization.

#### Exclude as expenses:

- research and development performed abroad (outside the continental U.S.), such as in Canada and Puerto Rico

- research and development performed by non-company research and development organizations of any kind
- capital expenditures
- patent expense
- income taxes and interest
- the portion of company-held research and development contracts that were subcontracted outside the reporting company
- fellowships, grants, and gifts to promote research and development or the study of science and engineering
- social science research and development

**Line b** Enter total annual product sales less the amount reported or that should have been reported for federal income tax purposes as returns and allowances.

**Line 16** — Check the *Yes* or *No* box to indicate if the research and development funds percentage on line c of the worksheet for line 16 equals or exceeds the average ratio for all surveyed companies as last determined by the NSF (currently 2.9%). See further information under *qualified emerging technology company* definition below.

## Definitions

A *qualified emerging technology company* is defined under section 3102-e of the PAL as a company located in New York State that has total annual product sales of \$10 million or less, and meets either of the following criteria:

- (1) its primary products or services are classified as emerging technologies under section 3102-e(1)(b) of the PAL; or
- (2) it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the NSF in the most recently published results from its *Survey of Industry Research and Development*, or a comparable successor survey as determined by the Tax Department).

There are two average ratios for all surveyed companies classified on the NSF's survey. One average ratio is for companies doing research and development funded by the federal government, and the other average ratio is for companies doing research and development without funding by the federal government. The average ratio for all surveyed companies classified is deemed to be the lesser of these ratios.

Currently, the average ratio is 3.4% (see Table A-21 of the advanced release of the NSF's 1997 *Survey of Industry Research and Development*) for companies doing research and development funded by the federal government, and 2.9% (see Table A-22 of the advanced release of the NSF's 1997 *Survey of Industry Research and Development*) for companies doing research and development without funding by the federal government. Single copies of the survey are available free of charge from the Division of Science Resources Studies, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington VA 22230. It is also available through their website (<http://www.nsf.gov/sbe/srs/stats.htm>).

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 2.9%. Therefore, to qualify under item (2) above, a company must have a ratio of research and development funds to net sales of at least 2.9%.

*Emerging technologies under section 3102-e(1)(b) of the PAL* means:

(1) advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such technologies shall include, but not be limited to, the following: metal alloys, metal matrix and ceramic composites, advanced polymers, thin films, membranes, superconductors, electronic and photonic materials, bioactive materials, bioprocessing, genetic engineering, catalysts, waste emissions reduction, and waste processing technologies;

(2) engineering, production, and defense technologies that involve knowledge-based control systems and architectures, advanced fabrication and design processes, equipment, and tools, or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies shall include, but not be limited to, the following: computer-aided design and engineering, computer-integrated manufacturing, robotics and automated equipment, integrated circuit fabrication and test equipment, sensors, biosensors, signal and image processing, medical and scientific instruments, precision machining and forming, biological and genetic research equipment, environmental analysis, remediation, control, and prevention equipment, defense command and control equipment, avionics and controls, guided missile and space vehicle propulsion units, military aircraft, space vehicles, and surveillance, tracking, and defense warning systems;

(3) electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment and products of electronic distribution with interactive media content. Such technologies shall include, but not be limited to, the following: microprocessors, logic chips, memory chips, lasers, printed circuit board technology, electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays, optical fibers, magnetic and optical information storage, optical instruments, lenses, and filters, simplex and duplex data bases, and solar cells; and

(4) information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies shall include, but not be limited to, the following: operating and applications software, artificial intelligence, computer modeling and simulation, high-level software languages, neural networks, processor architecture, animation and full-motion video, graphics hardware and software, speech and optical character recognition, high-volume information storage and retrieval, data compression, broadband switching, multiplexing, digital signal processing, and spectrum technologies.

*Total annual product sales* means the amount reported or that should have been reported, for federal income tax purposes, as gross receipts or sales from the sale of all products during the preceding period for which you are filing this application. If there is no preceding period, *total annual product sales* means the amount projected to be reported for federal income tax purposes as gross receipts or sales from the sale of all products during the filing period shown on the Application for Certification (no consideration is given to the preceding period).

*Net sales* means total annual product sales less the amount reported or that should have been reported for federal income tax purposes as returns and allowances during the preceding period for which you are filing this application. If there is no preceding period, *net sales* means the amount projected to be reported for federal income tax purposes as returns and allowances during the filing period shown on the Application for Certification (no consideration is given to the preceding period).

*Primary products or services* means that more than 50% of a taxpayer's receipts from products or services are derived from emerging technology products or services during the preceding period for which this application is being filed. If there is no preceding period, *primary products or services* means that more than 50% of a taxpayer's receipts from products or services are projected to be derived from emerging technology products or services during the filing period shown on the Application for Certification (no consideration is given to the preceding period).

*Research and development funds* are the same as that used by the NSF in its most recent *Survey of Industry Research and Development* (see *Definitions from the Survey* below). These funds represent expenditures paid or incurred in the conduct of research and development activities during the preceding period for which you are filing this application. If there is no preceding period, these funds represent projected expenditures to be paid or incurred in the conduct of research and development activities during the filing period shown on the Application for Certification (no consideration is given to the preceding period).

## Definitions from the Survey

The following definitions are from the NSF's 1996 *Survey of Industry Research and Development*.

*Research and development activities* include basic and applied research in the sciences and engineering, and the design and development of prototypes and processes, excluding quality control, routine product testing, market research, sales promotion, sales service, other nontechnological activities or routine technical services, and research in the social sciences or psychology.

Activities to be **excluded** from research and development:

- Routine product testing
- Research in social sciences or psychology
- Geological and geophysical exploration activities
- Technical services such as:
  - Quality and quantity control
  - Technical plant sanitation control
  - Trouble shooting in connection with breakdowns in full-scale production
  - Advertising programs to promote or demonstrate new products or processes
  - Assistance in preparation of speeches and publications for persons not engaged in research and development.
- Social science research and development is **excluded**. *Social science research and development* is defined to encompass those activities devoted to further understanding the behavior of groups of human beings or of individuals as members of groups. Some of the excluded social science topics are as follows:
  - Personal research and development
  - Economic research and development
  - Artificial intelligence and expert systems research and development

- Consumer, market, and opinion research and development
- Engineering psychology research and development
- Management and organizational research and development
- Actuarial and demographic research and development
- Educational processes and applications research and development
- Research and development in law

*Basic research* means original investigations for the advancement of scientific knowledge not having specific immediate commercial objectives.

*Applied research* means investigations for the discovery of new scientific knowledge having specific commercial objectives with respect to products or processes.

*Development* means technical activities not routine in nature, concerned with translating research findings or other scientific knowledge into products or processes.

**Include** as development:

- Design and operation of pilot plants and semiwork plants
- Engineering activity required to advance the design of a product or process so it meets specific functional and economic requirements
- Design, construction, and testing of prototypes and models
- Design for special manufacturing equipment and tools
- Preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals
- Software development

**Exclude** as development:

- Routing technical services to customers
- Toolmaking and tool tryout
- Production of detailed construction drawings and manufacturing blueprints
- Pre-production planning

### Privacy notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 9, 9-A, 13, 19, 27, 32, 33, and 33-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department uses this information primarily to determine and administer corporate tax liabilities under the Tax Law, for certain tax refund offsets, and for any other purpose authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.