



Instructions for Form IT-602

Claim for EZ Capital Tax Credit

New for 2001

Because of increased participation in the tax incentives established by the New York State Empire Zones Program Act, the Tax Department has improved the forms associated with EZ and ZEA credits by making them specific to either corporation franchise tax or personal income tax. For tax years beginning on or after January 1, 2001, Form DTF-602, *Claim for EZ Capital Tax Credit*, and the instructions, Form DTF-602-I, have been replaced with personal income tax Form IT-602 and Form IT-602-I and corporation tax Form CT-602 and Form CT-602-I. The titles will remain unchanged.

General information

Section 606(l) of the Tax Law allows an empire zone (EZ) capital tax credit to be applied against the taxes imposed by Article 22, based upon qualified investments in an EZ capital corporation.

The Laws of 1993 amended section 606(l) of the Tax Law effective for tax periods beginning on or after January 1, 1994. In addition to qualified investments in an EZ capital corporation, the credit was expanded to include contributions in the form of donations to an EZ capital corporation, qualified investments in certain certified EZ businesses, and monetary contributions to EZ community development projects.

The EZ capital tax credit is equal to 25% of the sum of the following investments and contributions made during the tax year that are certified by the Commissioner of Empire State Development:

- Qualified investments made in, or contributions in the form of donations made to, one or more empire zone capital corporations established pursuant to section 964 of the General Municipal Law;
- Qualified investments in certain certified empire zone businesses; and
- Contributions of money to community development projects as defined in regulations issued by the Commissioner of Empire State Development.

The term *qualified investment* means the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, the contribution of property to a partnership in exchange for an interest in the partnership, and similar contributions to a business entity not in a corporate or partnership form in exchange for an ownership interest in that entity.

Section 606(l) imposes three limitations on the capital tax credit, as follows:

- The credit may not exceed the tax due under Article 22;
- The total amount of credit allowable to a taxpayer for all years may not exceed \$300,000; and the total credit allowed for each of the three categories of qualified investments and contributions may not exceed \$100,000 (for additional limitations under section 606(l), see the instructions for line 26); and
- The credit and carryover of such credit may not exceed 50% of the tax imposed by section 601 of Article 22, without regard to any credit.

This 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 from the tax for succeeding tax years.

Attachments required

Empire State Development Corporation issues Form Z10, *Eligibility to Apply for a Zone Capital Tax Credit*, to taxpayers. Form Z10 authorizes the taxpayer to receive an EZ capital tax credit against the taxpayer's New York State personal income or franchise tax. Therefore, attach a copy of Form Z10 to Form IT-602, *Claim for EZ Capital Tax Credit*, when applying for the EZ capital tax credit.

Line instructions

- Partners in a partnership, shareholders in an S corporation, and beneficiaries of an estate or trust — Complete Schedules D, E, F, G, and H.

- Fiduciaries, and self-employed individuals — Complete all schedules.
- Partnerships — Complete only Schedules A, B, C, and G.

Schedule A — Investments in and donations to EZ capital corporations

Line 1 — Enter the total consideration paid for original issue stock purchased during the tax year from one or more EZ capital corporations established pursuant to section 964 of the General Municipal Law.

Line 2 — Enter the donations made during the tax year to one or more EZ capital corporations established pursuant to section 964 of the General Municipal Law.

Line 5 — Partnerships transfer this amount to Form IT-204, line 31a. Fiduciaries transfer this amount to the *Totals* line of Schedule I, Column C.

Line 6 — Enter the total of original issue stock purchased and donations that are itemized in Schedule A. Submit supporting documentation from the capital corporation indicating the name of the corporation, the dollar amount of the stock purchased, and a statement that the stock is original issue or the dollar amount of donations and the date received.

Schedule B — Investments in certified EZ businesses

Line 7 — Enter the amount of qualified investments made in certified EZ businesses during the tax year. A *certified EZ business* is one certified pursuant to Article 18-B of the General Municipal Law that, during the 12-month period immediately preceding the month of the investment, employed full time within the state an average of 250 or fewer individuals. The average number of individuals is computed pursuant to section 606(k)(2)(C) of the Tax Law.

Qualified investments do not include investments made by or on behalf of an owner of the business, including but not limited to a stockholder, partner, sole proprietor, or any related person (as described in section 465(b)(3)(C) of the Internal Revenue Code (IRC)).

Line 9 — Partnerships transfer this amount to Form IT-204, line 31b. Fiduciaries transfer this amount to the *Totals* line of Schedule I, Column D.

Line 10 — Enter the total amount of qualified investments made in certified EZ businesses that are itemized in Schedule B. Submit supporting documentation from the certified EZ business indicating the name of the business and the dollar amount of the qualified investment.

Schedule C — Monetary contributions to EZ community development projects

Line 11 — Enter the amount of monetary contributions made to EZ community development projects. *Community development projects* are defined in regulations issued by the Commissioner of Empire State Development.

Line 13 — Partnerships transfer this amount to Form IT-204, line 31c. Fiduciaries transfer this amount to the *Totals* line of Schedule I, Column E.

Line 14 — Enter the total amount of monetary contributions made to EZ community development projects. Submit supporting documentation indicating the name(s) of the community development project(s) and the amount of the monetary contributions.

Schedule D — Partnership, S corporation, and estate and trust information

Enter the appropriate information for each partnership, S corporation, or estate or trust for which you receive a share of the EZ capital tax credit. If you need more space, attach a separate schedule.

Schedule E — Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the EZ capital tax credit received from a partnership, New York S corporation, or an estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares of credit on the appropriate line.

Partner

Lines 15 through 17 — Enter your share of the EZ capital tax credit from your partnership. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, combine all amounts on lines 15 through 17.

S corporation shareholder

Lines 18 through 20 — Enter your share of the EZ capital tax credit from your S corporation. This information should be provided to you by the S corporation. If you are claiming a credit from more than one S corporation, combine all amounts on lines 18 through 20.

Beneficiary

Lines 21 through 23 — Enter your share of the EZ capital tax credit from the estate or trust. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, combine all amounts on lines 21 through 23.

Schedule F — Limitations of EZ capital tax credit

Line 24 — Calculate the amount to enter on this line according to the return you filed:

- IT-201 — Enter the total of your tax from line 38 and Form IT-230-I, Worksheet A, line 1, reduced by any resident credit and accumulation distribution credit.
- IT-203 — Enter the total of your tax from line 44 and Form IT-203-B, line 1, reduced by any resident credit and accumulation distribution credit.
- IT-205 — Residents: enter the tax from line 8, reduced by any resident credit and accumulation distribution credit.
- IT-205 — Nonresidents and part-year residents: enter the tax from line 9, reduced by any resident credit and accumulation distribution credit.

Line 25 — Enter 50% of the amount on line 24.

If the credit and carryovers of the credit allowable for any tax year exceed the taxpayer's tax for the tax year, the excess and the amount disallowed because of the 50% limitation may be carried over to the following year or years and may be deducted from the taxpayer's tax for that year or years.

Line 26 — The total amount of credit allowable to a taxpayer for all years may not exceed \$300,000, and the total credit allowed in each of the three categories may not exceed \$100,000. However, if a husband or wife is required to file a separate return, the \$100,000 limitation is reduced to \$50,000, and the \$300,000 limitation is reduced to \$150,000, unless the taxpayer's spouse has no credit allowable for the tax year that ends with or within the taxpayer's tax year.

For an estate or trust, the \$100,000 limitation and the \$300,000 limitation of the credit is reduced to an amount that bears the same ratio to \$100,000 and an amount that bears the same ratio to \$300,000 as the portion of the income of the estate or trust that is not allocated to beneficiaries bears to the total income of the estate or trust.

Line 27 — Enter the EZ capital tax credit that was allowed in previous tax years, less any recaptured credit.

Line 28 — Subtract line 27 from line 26. The result represents the amount of credit that may still be claimed in each of the categories.

Line 29 — Column A

Partner in a partnership - enter the amount from line 15 or line 28, whichever is smaller. **S corporation shareholder** - enter the amount from line 18 or line 28, whichever is smallest. **Beneficiary** - enter the amount from line 21 or line 28, whichever is smaller. **Fiduciary** - enter

the amount from the *Fiduciary* line of Schedule I, Column C, or line 28, whichever is smaller. **All others** - enter the amount from line 5 or line 28, whichever is smaller.

Line 29 — Column B

Partner in a partnership - enter the amount from line 16 or line 28, whichever is smaller. **S corporation shareholder** - enter the amount from line 19 or line 28, whichever is smaller. **Beneficiary** - enter the amount from line 22 or line 28, whichever is smaller. **Fiduciary** - enter the amount from the *Fiduciary* line of Schedule I, Column D, or line 28, whichever is smaller. **All others** - enter the amount from line 9 or line 28, whichever is smaller.

Line 29 — Column C

Partner in a partnership - enter the amount from line 17 or line 28, whichever is smaller. **S corporation shareholder** - enter the amount from line 20 or line 28, whichever is smaller. **Beneficiary** - enter the amount from line 23 or line 28, whichever is smaller. **Fiduciary** - enter the amount from the *Fiduciary* line of Schedule I, Column E, or line 28, whichever is smaller. **All others** - enter the amount from line 13 or line 28, whichever is smaller.

Schedule G — Recapture of EZ capital tax credit

If a taxpayer sells, transfers, or otherwise disposes of stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, or if a contribution or investment is recovered by the taxpayer that was the basis for the allowance of the credit, and the disposal or recovery occurs during the tax year or within 36 months from the close of the tax year when the credit was allowed, the difference between the credit taken and the credit allowed must be added back.

Column C — For recapture purposes, the amount of the credit to be added back must be the portion of the credit attributable to the stock, or other ownership interest disposed of, or the payment or contribution recovered, multiplied by the following percentages:

- 100%, if the disposition or recovery occurs within the tax year or within 12 months of the close of the tax year in which the credit was allowed;
- 67%, if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed; **or**
- 33%, if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed.

Line 31 — This information should be provided to you by your partnership, New York S corporation or estate or trust.

Schedule H — Computation of EZ capital tax credit and carryover

Line 36 — Fiduciaries enter the amount from the *Fiduciary* line of Schedule I, Column F. All others enter the amount from line 32.

Line 37 — Subtract line 36 from line 35. Enter this amount on line 37 and continue with line 38.

If line 36 is greater than line 35, subtract line 35 from line 36. This is your net EZ capital tax credit recapture. Do not complete lines 38 and 39. Enter this amount here and transfer as follows:

Enter the recapture amount on Form IT-201-ATT, line 21; Form IT-203-B, line 5; or Form IT-205, line 12.

Line 39 — Subtract line 38 from line 37 to arrive at your EZ capital tax credit to be carried forward to future years. You will need to refer to this figure when completing your Form IT-602 in 2002.

Schedule I — Beneficiary's and fiduciary's share of credit and recapture of credit

An estate or trust must complete Schedule I. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's share of the income of the estate or trust.