



# Instructions for Form IT-601.1

## Claim for ZEA Wage Tax Credit

# IT-601.1-I

### Changes for 2004

The ZEA wage tax credit for all zone equivalent areas expired on June 13, 2004. Qualified taxpayers who were certified on or before June 13, 2004, may claim the ZEA wage tax credit for tax years beginning on or before that date.

### General information

A *zone equivalent area* (ZEA) is an area within New York State that has been designated as a ZEA pursuant to Article 18-B of the General Municipal Law, based on the following:

- a poverty rate of at least 20%, and
- an unemployment rate at least 1.25 times the statewide unemployment rate.

To be eligible to claim the ZEA wage tax credit, a taxpayer must be certified under Article 18-B of the General Municipal Law. A copy of the *Certificate of Eligibility* issued by Empire State Development (ESD) must be attached to Form IT-601.1 each year the credit or carryforward of the credit is claimed. For information on certification, call ESD at (518) 292-5240.

For tax years beginning on or after January 1, 2001, the ZEA wage tax credit is allowed for up to five consecutive tax years, beginning in the first tax year in which all three eligibility requirements are met. Taxpayers who first claimed a credit in tax years prior to 2001 were previously allowed to claim the ZEA wage tax credit for only two consecutive tax years. However, a taxpayer who first claimed the ZEA credit in 2000 or later may take the credit in 2004 if qualified. For more information, see *Eligibility requirements* below.

**Note:** A taxpayer certified in more than one ZEA must meet the requirements below for each qualifying zone and compute the credit for each ZEA on a separate Form IT-601.1.

**Eligibility requirements** — The ZEA wage tax credit must be claimed in the first tax year in which all three of the following eligibility requirements are met:

- empire zone (EZ) wages are paid; and
- the average number of full-time employees (including full-time equivalents) in New York State for the current tax year (line 2) exceeds the average number of full-time employees (including full-time equivalents) in New York State during the four years immediately preceding the first tax year for which the ZEA wage tax credit is claimed (line 3); and
- the average number of full-time employees (including full-time equivalents) in the ZEA for the current year (line 5) exceeds the average number of full-time employees (including full-time equivalents) in the ZEA or area comprising the ZEA during the four years immediately preceding the first tax year for which the ZEA wage tax credit is claimed (line 6).

Subsequent certifications under Article 18-B in the same ZEA or a different ZEA or EZ do not extend or create a new five-year period for claiming the ZEA wage tax credit.

The average number of employees on line 3 and line 6, once computed, remains the same for each of the five tax years for which the credit may be claimed.

When completing this form, if line 2 exceeds line 3, continue with Part II. If line 2 is less than line 3, you cannot compute a credit for the current tax year. However, if you are claiming any available ZEA wage tax credit carryover from a preceding tax year, go to Schedule E, line 23.

If line 5 exceeds line 6, complete Schedule A. If line 5 is less than line 6, you cannot compute a credit for the current tax year. However, if you are claiming any available ZEA wage tax credit carryover from a preceding tax year, go to Schedule E, line 23.

### Schedule A — Computation of ZEA wage tax credit for the current tax year

A ZEA wage tax credit cannot be computed in Schedule A for any tax year unless **all three** eligibility requirements are met for that tax year.

If you meet the three eligibility requirements, compute the ZEA wage tax credit in Schedule A, Part I and Part II.

The ZEA wage tax credit in Part I is \$3,000 multiplied by the average number of qualified targeted employees on line 8.

The ZEA wage tax credit in Part II is \$1,500 multiplied by the average number of qualified employees on line 11.

### Schedule E — Computation of the ZEA wage tax credit allowed for the current tax year

A taxpayer not allowed to compute a ZEA wage tax credit in Schedule A may claim any available ZEA wage tax credit carryforward from a preceding tax year in Schedule E. A ZEA wage tax credit carryforward in Schedule E is available until used.

The ZEA wage tax credit allowed in Schedule E (including any ZEA wage tax credit carryforward) is limited to 50% of the tax imposed under section 601 of Article 22, Personal Income Tax, before the allowance of any tax credits.

Any portion of the ZEA wage tax credit disallowed in Schedule E as a result of the above limitation may be carried forward on subsequent tax returns.

The ZEA wage tax credit must be deducted after any tax credit that cannot be carried forward and before any tax credit that can be carried forward.

### Schedule F — Computation of refundable portion of ZEA wage tax credit

For tax years beginning on or after January 1, 1994, an Article 22 taxpayer qualifying as the owner of a new business under section 606(a)(10) may elect to treat 50% of the ZEA wage tax credit available as a carryforward to following years as an overpayment to be refunded without interest or applied as a payment against next year's tax.

### Line instructions

Partners in a partnership, shareholders in a New York S corporation, and beneficiaries of an estate or trust: complete Schedule B, Schedule C, and Schedule E, and if applicable, Schedule D and Schedule F.

Fiduciaries and individuals (including sole proprietors): complete line 1. If you marked the **Yes** box, complete Parts I and II. Then complete all applicable Schedules A through F. If you marked the **No** box, skip lines 2 through 7, and Schedule A. Then complete all applicable Schedules B through F. However, fiduciaries and individuals should not complete Schedule F unless you elect to claim the refund for new business. For a definition of a new business, see *Owner of a new business* on page 4 of these instructions.

Partnerships: complete line 1. If you marked the **Yes** box, complete Parts I and II. Then complete Schedule A. If you marked the **No** box at question 1, **stop**; you cannot claim a ZEA wage tax credit for tax year 2004.

Sole proprietors or partnerships (or LLCs that are treated as sole proprietors or partnerships) that are claiming the ZEA wage tax credit for more than one business or have employees in more than one zone must complete a separate Form IT-601.1, lines 1 through 7 and Schedule A for each business or zone. Combine all Form IT-601.1 line 14 amounts on one Form IT-601.1 and enter the total on line 19.

**Line 1** — Mark an **X** in the **Yes** box if you paid EZ wages during the current tax year.

Mark the **No** box if you did not pay EZ wages during the current tax year. You **do not** qualify to compute the ZEA wage tax credit in Schedule A for the current tax year. However, you may claim as a ZEA wage tax credit for the current tax year any ZEA wage tax credit carryforward from a preceding tax year in Schedule E.

*EZ wages* are wages paid by a certified taxpayer for full-time employment during the tax year in an area designated or previously designated as a ZEA if such employment is in a job created in the ZEA during the ten-year period immediately following

the date of designation as a ZEA. Wages paid to individuals employed before a ZEA is designated do not qualify as EZ wages.

If certification under Article 18-B of the General Municipal Law is revoked, any wages paid by the taxpayer on or after the effective date of such revocation will not constitute EZ wages.

**Part I — Computation of average number of full-time employees in New York State for the current tax year and four-year test period**

*Full-time employment* means a job consisting of at least 35 hours per week, or two or more jobs that together constitute the equivalent of a job of at least 35 hours per week (full-time equivalent). A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

**Line 2** — Enter for each date specified of the current tax year the number of full-time employees in New York State.

Add the number of these employees on each date for the current tax year in the table and enter the total in *Total* column. Divide the total number of full-time employees by the number of such dates occurring during the current tax year to obtain the average number of full-time employees for the current tax year.

If the taxpayer provided full-time employment for only part of the current tax year, then the current tax year will be deemed to refer to that part.

**Example:**

*A calendar year taxpayer begins business in New York on February 15, 2004. The taxpayer files a tax return for the short tax year February 15, 2004, through December 31, 2004. The business has no employees until April 15, 2004, when it hires 100 full-time employees. The business has 100 full-time employees on June 30, 2004, 125 full-time employees on September 30, 2004, and 175 full-time employees on December 31, 2004. The taxpayer completes line 2 as follows:*

| Current tax year - 2004   | March 31 | June 30 | Sept 30 | Dec 31 | Total  |
|---|----------|---------|---------|--------|--------|
| Number of full-time employees in New York State   | 0        | 100     | 125     | 175    | 400    |
| 2 Average number of full-time employees in New York State for current tax year (400 divided by 4) ..... |          |         |         |        | 2. 100 |

**Line 3** — Enter for each date specified of the four-year period immediately preceding the first tax year in which the ZEA wage tax credit is claimed (that is, the four-year test period) the number of full-time employees in New York State.

Add the number of full-time employees on each date for the four-year test period in the table and enter the total in *Total* column. Divide the number of full-time employees by the number of such dates occurring during the four-year test period to obtain the average number of full-time employees for the four-year test period.

If the taxpayer provided full-time employment in New York State for only part of the four years immediately preceding the first year in which the ZEA wage tax credit is claimed, then the four-year period will be deemed to refer to that part.

If the taxpayer did not provide full-time employment in New York State in any of the four years immediately preceding the first year in which the ZEA wage tax credit is claimed, enter **0** on line 3.

**Example:**

*A calendar year taxpayer began business in New York State on July 1, 2001, and had full-time employees in New York State for the dates September 30, 2001, through December 31, 2003. The taxpayer would make no entries for the dates prior to July 1, 2001. Thus, the taxpayer would divide 790 by 10 to obtain 79.*

| Number of full-time employees in New York State during four-year test period            | March 31 | June 30 | September 30 | December 31 | Total |
|---|----------|---------|--------------|-------------|-------|
| First year - 2003   | 100      | 100     | 100          | 100         | 400   |
| Second year - 2002  | 50       | 75      | 75           | 100         | 300   |
| Third year - 2001   |          |         | 40           | 50          | 90    |
| Fourth year - 2000  |          |         |              |             |       |
| Total number of full-time employees in New York State for four-year test period .....   |          |         |              |             | 790   |
| 3 Average number of full-time employees in New York State for four-year test period ... |          |         |              |             | 3. 79 |

**Line 4** — The average number of full-time employees in New York State for the current tax year (line 2) must exceed the average number of full-time employees in New York State for the four-year test period (line 3). If you answer **No**, you **do not** qualify to compute the ZEA wage tax credit in Schedule A for the current tax year. However, you may claim as a ZEA wage tax credit for the current tax year any ZEA wage tax credit carryforward from a preceding tax year in Schedule E.

**Part II — Computation of average number of full-time employees in the ZEA for the current tax year and four-year test period**

**Line 5** — Enter for each date specified of the current tax year the number of full-time employees in the ZEA. Enter the total in *Total* column.

Compute the average number of full-time employees for the current tax year in the table in the same manner as line 2.

**Line 6** — Enter for each date specified of the four-year period immediately preceding the first tax year in which the ZEA wage tax credit is claimed (that is, the four-year test period), the number of full-time employees in the area that currently constitutes the ZEA. Enter the total in *Total* column.

Compute the average number of such employees for the four-year test period in the table in the same manner as line 3.

**Line 7** — The average number of full-time employees in the ZEA for the current tax year (line 5) must exceed the average number of full-time employees in the area that currently constitutes the ZEA for the four-year test period (line 6). If you answer **No**, you **do not** qualify to compute the ZEA wage tax credit in Schedule A for the current tax year. However, you may claim as a ZEA wage tax credit for the current tax year any ZEA wage tax credit carryforward from a preceding tax year in Schedule E.

**Schedule A — Computation of ZEA wage tax credit for the current tax year**

**Do not** include in Schedule A an individual who has been employed within the immediately preceding 60 months by a related person (as related person is defined in Internal Revenue Code (IRC) section 465(b)(3)(C)) unless the related person never received a wage tax credit for that employee.

*Related persons* include:

- members of a family, but only brothers and sisters, half-brothers and half-sisters, a spouse, ancestors (parents, grandparents, etc.), and linear descendants (children, grandchildren, etc.);
- two corporations that are members of the same controlled group of corporations determined by applying a 10% ownership test;
- the fiduciaries of two different trusts, or the fiduciary and beneficiary of two different trusts, if the same person is the grantor of both trusts;
- a tax-exempt educational or charitable organization and a person who directly or indirectly controls it (or a member of the family that controls it);
- a corporation and an individual who owns directly or indirectly more than 10% of the value of the outstanding stock of the corporation;
- a trust fiduciary and a corporation of which more than 10% in value of the outstanding stock is owned directly or indirectly by (or for) the trust or by (or for) the grantor of the trust;
- the grantor and fiduciary, or the fiduciary and beneficiary of any trust;
- a corporation and a partnership if the same individuals own over 10% in value of the outstanding stock of the corporation and more than 10% of the capital interest or the profits interest in the partnership;
- two S corporations if the same individuals own more than 10% of the outstanding stock of each corporation;
- an S corporation and a regular corporation if the same individuals own more than 10% in value of the outstanding stock of each corporation;
- a partnership and a person who own directly or indirectly more than 10% of the capital or profits of the partnership;

- two partnerships if the same individuals directly or indirectly own more than 10% of the capital or profits of each;
- two individuals who are engaged in business under common control; and
- an executor of an estate and a beneficiary of that estate.

### Part I — Computation of ZEA wage tax credit for qualified targeted employees

Enter for each date specified of the current tax year the number of qualified targeted employees.

A *qualified employee* is an employee who:

- is employed full time (see definition of full-time employment on page 2); and
- is a targeted employee (see definition below); and
- received EZ wages for more than half of the current tax year (see definition below); and
- received an hourly wage that is at least 135% of the minimum wage specified in section 652 of the Labor Law for more than half of the employee's period of employment during the current tax year; and
- is working in a job created in the ZEA since the ZEA was designated.

A *targeted employee* is a New York State resident who received EZ wages during the current tax year and who is **one or more** of the following:

- an eligible individual under the provisions of the Work Opportunity Credit (IRC section 51); **or**
- an individual eligible for benefits under the provisions of the Job Training Partnership Act (Public Law 97-300, as amended); **or**
- a recipient of public assistance benefits at any time during the previous two years; **or**
- an individual whose income is below the most recently established poverty rate promulgated by the U.S. Department of Commerce, Bureau of Census; **or**
- a member of a family whose family income is below the most recently established poverty rate promulgated by the U.S. Department of Commerce, Bureau of Census.

The Department of Labor (DOL) is required to provide a certificate verifying the targeted status of an individual for use by an employer seeking wage tax credits under the ZEA program. The Tax Department will only recognize Form ES 450-a-b, issued by the DOL, and signed by a DOL representative as proof of targeted status under the Wage Tax Credit program.

#### You must attach Form ES 450-a-b for each employee claimed in Schedule A, Part IV.

Any employee who qualified as a targeted employee at the time of initial employment will qualify as a targeted employee for subsequent years as long as he or she continues to receive EZ wages and remains a resident of New York State.

An employee received EZ wages *for more than half of the current tax year* when:

- the employee worked for a business that is certified under Article 18-B of the General Municipal Law; **and**
- for more than half of the current tax year:
  - the employee was employed by the ZEA business; and
  - the employee worked at the ZEA location; and
  - the business was located in the ZEA; and
  - the ZEA designation was in effect.

**Line 8** — Add the number of qualified targeted employees for the current tax year in the table and divide by the number of such dates (include 0 dates) occurring during the current tax year to obtain the average number of qualified targeted employees for the current tax year (see the example under the instructions for line 2).

#### Example:

*On March 1, 2004, a calendar-year taxpayer, located in a previously designated ZEA, applies for certification under Article 18-B of the General Municipal Law. The taxpayer is notified that such certification is effective September 1, 2004. For purposes*

*of the ZEA wage tax credit, the taxpayer is deemed to have been certified as of January 1, 2004, the first day of the taxpayer's tax year in which the taxpayer applied for certification. The taxpayer files a tax return for the tax year January 1, 2004 through December 31, 2004. Assuming the taxpayer met the eligibility requirements, the taxpayer would include in Schedule A, Part I, line 8, and Part II, line 11, any qualified employees who received EZ wages for more than six months of the tax year January 1, 2004 through December 31, 2004. If the taxpayer filed a tax return for the short tax year September 1, 2004 through December 31, 2004, the taxpayer would include in Schedule A, Part I, line 8, and Part II, line 11, any qualified employees who received EZ wages for more than two months of the tax year September 1, 2004 through December 31, 2004.*

### Part II — Computation of ZEA wage tax credit for qualified employees not included in Schedule A, Part I

Enter for each date specified of the current tax year the number of qualified employees.

For Part II a *qualified employee* is an employee who:

- is employed full time (see definition of full time employment on page 2, Part I); and
- was not included in Schedule A, Part I, line 8; and
- received EZ wages for more than half of the current tax year (see definition in Schedule A, Part I above); and
- is working in a job created in the ZEA since the ZEA was designated.

**Line 11** — Add the number of qualified employees for the current tax year in the table and divide by the number of such dates (include 0 dates) occurring during the current tax year to obtain the average number of qualified employees for the current tax year (see the example under the instructions for line 2).

### Part III — Computation of ZEA wage tax credit for the current year

**Line 14** — Individuals: enter the line 14 amount on Schedule E, line 19.

Partnerships: transfer the line 14 amount to Form IT-204, line 30.

Estates and trusts: transfer the line 14 amount to the total line of Schedule D.

All filers: If you computed a ZEA wage tax credit on line 14, you must complete the additional information requested in Schedule A, Parts IV and V.

### Schedule B — 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 ZEA wage tax credit. If you need more space, attach a separate schedule.

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

Enter your share of the total 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 on the appropriate line.

#### Partner

**Line 15** — Enter your share of the partnership's ZEA wage tax credit. 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 line 15.

#### S corporation shareholder

**Line 16** — Enter your share of the S corporation's ZEA wage tax credit. 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 line 16.

#### Beneficiary

**Line 17** — Enter your share of the estate's or trust's ZEA wage tax credit. 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 line 17.

### Schedule D — Beneficiary's and fiduciary's share of credit

An estate or trust must complete Schedule D. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust. If you need more space, attach a separate schedule.

### Schedule E — Computation of the ZEA wage tax credit allowed for the current tax year

**Line 19** — Individuals: enter the ZEA wage tax credit computed for the current tax year as shown on line 14. Enter 0 if you did not compute a ZEA wage tax credit on Schedule A for the current tax year.

**Line 20** — Partner in a partnership, New York S corporation shareholder, or a beneficiary of an estate or trust: enter your ZEA wage tax credit as shown on Schedule C, line 18.

**Line 23** — Enter the amount of the ZEA wage tax credit carryforward from the tax year immediately preceding the current tax year.

**Line 25** — Enter the tax shown on Form IT-201, line 38, and Form IT-230-I, Worksheet A, line 1; or Form IT-203, line 44 and Form IT-203-B, line 1; or Form IT-205, line 8 if a resident, or line 9 if a nonresident or part-year resident.

**Line 27** — Enter the lesser of line 24, line 25 (after deducting non-refundable or non-carryover credits, if any), or line 26. Transfer the line 27 amount to Form IT-201-ATT, line 52; Form IT-203-B, line 38; or Form IT-205, line 10.

**Line 28** — Subtract line 27 from line 24 to arrive at the unused ZEA wage tax credit available to be carried forward to future years. You will need to refer to this figure when completing your year 2005 Form IT-601.1. Any portion of the ZEA wage tax credit (including any wage tax credit carryforward from a preceding tax year) that is disallowed in the current tax year as a result of the limitation may be carried forward. If line 27 is larger than line 24, enter 0.

### Schedule F — Computation of refundable portion of ZEA wage tax credit

**Line 29** — Certain taxpayers may elect to treat a portion of the current year's ZEA wage tax credit available as a carryforward as an overpayment of tax to be refunded. The election applies to a ZEA wage tax credit computed for a current tax year beginning on or after January 1, 1994.

The election may be made by an Article 22 taxpayer qualifying as the owner of a new business under section 606(a)10.

Once made, the election may not be revoked. Interest will not be paid on any overpayment of tax refunded on line 31.

*Owner of a new business* under Article 22, section 606(a)10, means an individual who is either a sole proprietor or a member of a partnership **unless** any of the following apply:

- the business entity of which the individual is an owner is substantially similar in operation and in ownership to:
  - a business entity taxable, or previously taxable, under Article 9-A; Article 9 section 183, 184, 185, or 186; Article 32; or Article 33 of the Tax Law; or
  - a business entity that would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or
  - a business entity with income or losses that are or were includable under Article 22 if the intent and purpose of section 606(k)(5) with respect to refunding of credit to new business would be evaded; or
- the individual operated the new business entity in New York State for more than five tax years (excluding short tax years of the business).

An *owner of a new business* under Article 22 also includes a shareholder of a New York S corporation, **unless** any of the following apply:

- the S corporation is 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 or controlled either directly or indirectly by a taxpayer subject to tax under Article 9-A; Article 9, section 183, 184, 185, or 186; Article 32; or Article 33 of the Tax Law; or
- that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A, Article 9, section 183, 184, 185, or 186; Article 32; Article 33; or Article 23 (the New York State unincorporated business tax as it was in effect on January 1, 1980); or that has income or losses that are or were includable under Article 22 of the Tax Law, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded; or
- that has been in operation in New York State for more than five tax years (excluding short tax years of the business).

**Line 31** — Enter the refundable ZEA wage tax credit on Form IT-201-ATT, line 74; Form IT-203-B, line 59; or Form IT-205, line 33.

### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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

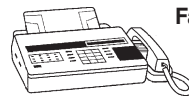
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

### Need help?



**Internet access:** [www.nystax.gov](http://www.nystax.gov)

Access our Answer Center for answers to frequently-asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.



**Fax-on-demand forms:** Forms are

available 24 hours a day,  
7 days a week.

1 800 748-3676



**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status:

1 800 443-3200

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

To order forms and publications:

1 800 462-8100

Personal Income Tax Information Center:

1 800 225-5829

From areas outside the U.S. and outside Canada: (518) 485-6800

**Hearing and speech impaired:** (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8:00 A.M. to 5:00 P.M., eastern time).



**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, please call 1 800 225-5829.