



# Instructions for Form IT-216

## Claim for Child and Dependent Care Credit



This form may be e-filed as an attachment to an e-filed return; you cannot e-file this form by itself.

### General information

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

### Who qualifies

If you **qualify** to claim the federal child and dependent care credit, you can **claim** the New York State credit (whether you actually claim the federal credit or not).

If you did not file federal Form 2441, or federal Form 1040A, Schedule 2, you can still claim the New York State child and dependent care credit on Form IT-216 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 special rule for *Married persons filing separate federal and New York State returns* below.
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 line 7 instructions on page 3.
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 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 2005.

**Married persons filing separate federal and New York State returns** — If your filing status is *Married filing separate return* and **all** of the following apply, you are considered unmarried for purposes of figuring the child and dependent care credit:

- you lived apart from your spouse during the last six months of 2005; **and**
- the qualifying person lived in your home more than half of 2005; **and**
- you provided over half the cost of keeping up your home.

If you meet **all** the requirements to be treated as unmarried and meet items 2 through 4 above, you may claim the credit. If you do not meet all the requirements to be treated as unmarried, you **cannot** claim the credit.

**Married persons filing joint federal returns, but required to file separate New York returns** — If you and your spouse file jointly for federal purposes, but are required to file separate New York returns

because one spouse is a resident and the other spouse is either a nonresident or part-year resident, you may still claim the credit. However, the credit must be claimed on the return of the spouse with the lower taxable income (computed without regard to the credit).

**Married persons not required to file a federal return** — If you and your spouse are not required to file a federal income tax return, the New York State child and dependent care credit is allowed only if you file a joint New York State tax return (Form IT-150, IT-201, or IT-203).

### How to claim the credit

In addition to the above federal requirements, to claim the New York State child and dependent care credit you must:

- file (or have filed) a New York State income tax return for 2005,
- report the required information about the care provider on line 2 of Form IT-216, **and**
- complete Form IT-216.

### Important terms

A **qualifying person** is:

- Any child **under age 13** whom you can claim as a dependent (but see *Exception for children of divorced or separated parents* below). If the child turned 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.
- Your disabled spouse who is not able to care for himself or herself.
- Any disabled person not able to care for himself or herself who has the same principal place of abode and who you can claim as a dependent for federal purposes (or could claim as a dependent for federal purposes, except that the person had gross income of \$3,200 or more). If this person is your child, see *Exception for children of divorced or separated parents* below. To find out who is a dependent, see the instructions for federal Form 1040 or Form 1040A, line 6c.

**Caution:** To be a qualifying person, the person **must** have shared the same home with you in 2005.

**Exception for children of divorced or separated parents** — If you were divorced, legally separated, or lived apart from your spouse during the last six months of 2005, you may be able to take the credit even if your child is not your dependent. If your child is not your dependent, he or she is a qualifying person only if **all five** of the following **federal** requirements apply to you:

1. You had custody of the child for a longer time in 2005 than the other parent. For the definition of custody, see federal Publication 501, *Exemptions, Standard Deduction, and Filing Information*.
2. One or both of the parents provided over half of the child's support in 2005.

3. One or both of the parents had custody of the child for more than half of 2005.
4. The child was under age 13 or was disabled and could not care for himself or herself.
5. The other parent claims the child as a dependent because of **one** of the following:
  - As the custodial parent, you signed **federal Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents**, or a similar statement agreeing not to claim the child's exemption for 2005.
  - Your divorce decree or written agreement went into effect before 1985 and states that the other parent can claim the child as a dependent, and the other parent gave at least \$600 for the child's support in 2005. This rule does not apply if your decree or agreement was changed after 1984 to say that the other parent cannot claim the child as a dependent.

**Dependent care benefits** — include amounts your employer paid directly to either you or your care provider for the care of your qualifying person(s) while you worked. These benefits also include the fair market value of care in a day-care facility provided or sponsored by your employer. Your salary may have been reduced to pay for these benefits. If you received dependent care benefits, they should be shown in box 10 of your 2005 federal W-2 form(s).

Benefits you received as a partner should be shown in box 13 of your Schedule K-1 (federal Form 1065) with code N.

**Qualified expenses** — include amounts paid for household services and care of the qualifying person(s) while you worked or looked for work. Child support payments are **not** qualified expenses. Expenses reimbursed by a state social service agency are **not** qualified expenses unless you included the reimbursement in your income. Also, expenses paid through a dependent care account are not qualified expenses.

**Household services** — are services needed to care for the qualifying person as well as to run the home. They include, for example, the services of a cook, maid, babysitter, housekeeper, or cleaning person if the services were partly for the care of the qualifying person(s). Do not include services of a chauffeur or gardener.

You may also include your share of the employment taxes paid on wages for qualifying child and dependent care services.

**Care of the qualifying person** — includes the cost of services for the qualifying person's well-being and protection. It does not include the cost of clothing or entertainment.

You may include the cost of care provided outside your home for your dependent under age 13 or any other qualifying person(s) who regularly spends at least 8 hours a day in your home. If the care was provided by a dependent care center, the center must meet all applicable state and local regulations. A **dependent care center** is a place that provides care for more than six persons (other than persons who live there) and receives a fee, payment, or grant for providing services for any of those persons, even if the center is not run for profit.

You may include amounts paid for food and schooling **only** if these items are part of the total care and cannot be separated from the total cost. But **do not** include the cost of schooling for a child in the first grade or above. Also, **do not** include any expenses for sending your child to an overnight camp.

Some disabled spouse and dependent care expenses may qualify as **medical expenses** if you itemize deductions on federal Schedule A (Form 1040). For more information on qualifying medical expenses, see federal Publication 503, *Child and Dependent Care Expenses*, and Publication 502, *Medical and Dental Expenses*.

**Prior year's expenses** — If you had qualified expenses for 2004 that you didn't pay until 2005, you may be able to claim these qualified expenses and increase the amount of credit you can take in 2005. For more information, see *Amount of Credit* in federal Publication 503, *Child and Dependent Care Expenses*. Also see the instructions for line 11 on the next page.

**Earned income** — Generally, this is your wages, salaries, tips, and other taxable employee compensation. This is the amount shown on federal Form 1040 or Form 1040A, line 7, reduced by:

- any amount for a scholarship or fellowship grant if you did not get a wage and tax statement (federal form W-2) for it;
- any amount also reported on federal Schedule SE because you were a member of the clergy or a church employee; **and**
- any amount received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernment section 457 plan.

Earned income **does not** include certain nontaxable earned income, such as meals and lodging provided for the convenience of your employer, voluntary salary deferrals, military basic quarters and subsistence allowances and in-kind quarters and subsistence, and military pay earned in a combat zone. For more information, see federal Publication 503, *Child and Dependent Care Expenses*.

If you were a statutory employee and are filing Schedule C or C-EZ with your federal return to report income and expenses as a statutory employee, earned income also includes the amount from line 1 of that Schedule C or C-EZ.

If you were self-employed, earned income also includes the amount shown on federal Schedule SE, line 3, minus any deduction you claim on federal Form 1040, line 27. If you use either optional method to figure self-employment tax, subtract any deduction you claim on federal Form 1040, line 27, from the total of the amounts on federal Schedule SE, Section B, lines 3 and 4b, to figure your earned income.

**Note:** You must reduce your earned income by any loss from self-employment.

If you are **filing a joint federal return**, disregard community property laws. If your spouse died in 2005 and had no earned income, see federal Publication 503. If your spouse was a student or disabled in 2005, see the line 7 instructions on the next page.

### Where to file

If you have previously filed your 2005 New York State income tax return and you answered **Yes** at line 1, mail your completed form to:

**STATE PROCESSING CENTER  
PO BOX 61000  
ALBANY NY 12261-0001**

If you need information about using a *Private delivery service* instead of the U.S. Postal Service, see the instructions for your tax return.

### Important reminder to file a complete return

You must complete all required schedules and forms that make up your return, and include all pages of those forms and schedules when you file. Attach **only** those forms and schedules that apply to your return, and be sure that you have made all required entries. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

### Filling in your tax forms

For complete information on how to fill in New York State scannable income tax forms, see the instructions for:

- resident returns (Forms IT-150 and IT-201),
- nonresident and part-year resident return (Form IT-203),
- partnership return (Form IT-204), **or**
- fiduciary return (Form IT-205).

Also see the instructions for the above returns for the *Privacy notification* or if you *Need help* in contacting the Tax Department.

### Line instructions (for all filers)

**All filers** complete lines 1 through 14 as applicable.

**Line 1** — File Form IT-216 with your original 2005 New York State income tax return. If you have already filed your original return, you may file Form IT-216 by itself. If you haven't previously filed your income tax return for this year, you **must** file one with this claim.

**Line 2** — Complete columns A through D for each person or organization that provided the care. If you have more than two providers, enter the required identifying information for two providers in the spaces provided on the form. Attach a statement to your return with the same required identifying information for the additional providers. Be sure to put your name and social security number on the statement. You can use federal Form W-10, *Dependent Care Provider's Identification and Certification*, or any other source listed in its instructions to get the information from the care provider. If you do not give correct or complete information, your credit may be disallowed unless you can show you used due diligence (a serious and earnest effort) in trying to get the required information.

You can show **due diligence** to get the information by keeping in your records a federal Form W-10 completed by the care provider; or, you may keep one of the other sources of information listed in the instructions for Form W-10. If the provider does not give you the information, complete the entries you can on line 2 of Form IT-216. For example, enter the provider's name and address. Write **See attached** in the columns for which you do not have the information. Then, attach an explanation to your Form IT-216 indicating that the care provider did not give you the information you requested.

**Line 2 columns A and B** — Enter the care provider's name and address. If you were covered by your employer's dependent care plan, and your employer furnished the care (either at your workplace or by hiring a care provider), enter your employer's name in column A. Next, write **See Form IT-2** in column B. Then leave columns C and D blank. If your employer paid a third party (not hired by your employer) on your behalf to provide the care, you must give information on the third party in columns A through D.

**Line 2 column C** — If the care provider is an individual, enter his or her social security number (SSN). Otherwise, enter the provider's employer identification number (EIN). If the provider is a tax-exempt organization, write **Tax-exempt** in column C.

**Line 2 column D** — Enter the total amount you **actually paid** in 2005 to the care provider. Also include amounts your employer paid to a third party on your behalf. It does not matter when the expenses were incurred. Do not reduce this amount by any reimbursement you received.

**Line 3** — List the name, qualified expenses paid in 2005, social security number, and year of birth for the qualifying person(s) for whom you are claiming the New York State child and dependent care credit.

If you have more than two qualifying persons, mark an **X** in the box at line 3. Enter the required information for two qualifying persons in the spaces provided on the form. Attach a statement to your return with the required identifying information for all additional qualifying persons. Be sure to put your name and your social security number on the attachment.

**Caution:** To be eligible to claim the New York State child and dependent care credit, you must provide a correct and valid social security number (SSN) for each person listed on your tax return. If the Internal Revenue Service (IRS) has issued you an individual taxpayer identification number (ITIN) because either you or a qualifying person claimed on Form IT-216 is a resident or nonresident alien, enter this ITIN in place of the social security number.

If you have applied for a social security number by filing federal Form SS-5 with the Social Security Administration or you have applied for an ITIN by filing federal Form W-7 with the IRS, but you have not received your SSN or ITIN by the due date of your return, you can either:

1. File Form IT-370 requesting an automatic extension of time to file until October 16, 2006. (This extension does not give you any extra time to pay any tax owed. You should pay any New York taxes you expect to owe to avoid interest or penalty charges. For more information, see Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals*.)
2. File your return on time without claiming the child and dependent care credit and do not attach Form IT-216. After receiving the SSN, file Form IT-216 and claim the credit.

Also be sure to mark an **X** in the box under the heading *Person with disability* if the qualifying person had a disability and was incapable of caring for himself or herself during 2005. If you have marked the box *Person with disability* and your qualifying person is 13 years of age or older, you must attach a letter from a doctor stating that the person is disabled. When we receive a letter from your qualifying person's doctor stating that your qualifying person is, by definition, permanently and totally disabled, we will keep that statement on file, and you will not have to provide this information again.

**Line 5** — Using the filing description below that fits you, enter the amount of your qualified expenses as instructed.

- If you filed federal Form 2441 or federal Form 1040A, Schedule 2 to claim the federal child and dependent care credit, enter on Form IT-216, line 5, the line 3 amount from federal Form 2441, or federal Form 1040A, Schedule 2.
- If you did not file federal Form 2441 or federal Form 1040A, Schedule 2 but are completing Form IT-216 to claim the New York State child and dependent care credit, enter the amount of qualifying expenses you incurred and paid in 2005. **Do not include** the following expenses on line 5:
  1. Qualified expenses you incurred in 2005 but did not pay until 2006. However, next year you may be able to use these expenses to increase your 2006 credit.
  2. Qualified expenses you incurred in 2004 but did not pay until 2005. If you

had prior year expenses you did not pay until 2005, see the instructions for line 11 below.

3. Expenses you paid through a dependent care account.

For more information, see *Qualified expenses* on the front page.

**Line 6** — Enter **only your** earned income on line 6 (do not include your spouse's). If this amount is zero or less, **stop**. You cannot claim the child and dependent care credit. For more information, see *Earned income* on the previous page.

**Line 7** — If you are filing your return using filing status **2**, *Married filing joint return*, enter **only your spouse's** earned income on line 7. If this amount is zero or less, **stop**. You cannot claim the child and dependent care credit. If you are using any other filing status, enter the amount from line 6 on line 7.

**Spouse who was a student or disabled**  
Your spouse was a **student** if he or she was enrolled as a full-time student at a school during any five months of 2005. Your spouse was **disabled** if he or she was not capable of self-care. Figure your spouse's earned income on a monthly basis.

For each month or part of a month your spouse was a student or was disabled, he or she is considered to have worked and earned income. His or her other earned income for each month is considered to be at least \$250 (\$500 if more than one qualifying person was cared for in 2005). If your spouse also worked during that month, use the higher of \$250 (or \$500) or his or her actual earned income for that month. If, in the same month, both you and your spouse were either students or disabled, this rule applies to only one of you for that month.

For any month that your spouse was not disabled or a student, use your spouse's actual earned income if he or she worked during the month.

**Line 8** — Enter the smallest of line 5, 6, or 7. Federal limitations require you to use the lesser of qualified expenses, your earned income, or your spouse's earned income (if applicable) in the computation of the federal credit.

**Line 9** — Enter your federal adjusted gross income from federal Form 1040A, line 22, or federal Form 1040, line 38.

**Line 10** — Enter on line 10 the appropriate decimal amount for your federal adjusted gross income shown on line 9.

**Line 11** — This is your eligible federal child and dependent care credit before any federal limitation. If you claimed the child and dependent care credit on your federal return, the amount shown on Form IT-216, line 11, should be the same as the amount shown on federal Form 2441, line 9, or federal Form 1040A, Schedule 2, line 9, before any federal limitation.

If you had qualified expenses for 2004 that you didn't pay until 2005, you may be

able to claim these qualified expenses and increase the amount of credit you can take in 2005. If you can take a credit for 2004 expenses paid in 2005, write **PYE** and the amount of the credit you are claiming for prior year expenses on the dotted line next to line 11. Also include this amount in the line 11 amount box. Attach a statement showing how you figured the credit for 2004 expenses.

**Line 12** — Transfer the amount from line 11 to line 12, and complete the remainder of Form IT-216.

**Line 13** — For 2005, the New York State child and dependent care credit is a minimum of 20% and as much as 110% of the federal credit, depending on the amount of your New York adjusted gross income. Enter in the space provided your New York adjusted gross income using the following:

- **Form IT-150 filers** — amount from line 21 of Form IT-150.
- **Form IT-201 filers** — amount from line 33 of Form IT-201.
- **Form IT-203 filers** — amount from line 31 of Form IT-203.

If you filed a federal joint tax return, but were allowed to file as *Married filing separate return* for New York State income tax purposes, enter from the table below the decimal amount that applies to the amount shown on your federal return as federal adjusted gross income.

**Line 14** — If you are attaching this claim to your original 2005 New York State income tax return and you answered *No* at line 1:

- **Residents:** Enter the line 14 amount on Form IT-150, line 38, or Form IT-201, line 63.
- **Nonresidents:** Enter the line 14 amount on Form IT-203, line 41.
- **Part-year residents:** Enter the line 14 amount on Form IT-203, line 41 **and continue** on line 15 of Form IT-216.

If you pay someone to prepare your return, the paid preparer must also sign and fill in the other blanks in the paid preparer's area of your return. A person who prepares your return and does not charge you should not fill in the paid preparer's area.

### Line instructions for part-year residents only (lines 15-22)

**Lines 15 through 22** need to be completed **only** by part-year residents claiming the New York State child and dependent care credit who are filing, or have previously filed, Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, for 2005. The amounts for these lines can be found on the appropriate lines of Form IT-203 or Form IT-203-ATT, *Other Tax Credits and Taxes*, or the instructions for Form IT-203.

The New York State child and dependent care credit must first reduce your tax liability to zero before the remaining excess is eligible to be refunded. The amount to be refunded will be based on the ratio of resident period income to the combined income from both the resident and nonresident periods.

**Line 21** — Divide line 19 by line 20 and round the result to the fourth decimal place. **Do not enter more than 100% (1.0000)** even if your actual result is more than 100%. If the result is zero percent (0%), you have no remaining excess child care credit available to be refunded. Do not complete line 22.

**Line 22** — If line 21 is greater than 0%, multiply line 18 by line 21 and enter the result on line 22. If you answered *No* at line 1, transfer the line 22 amount to Form IT-203-ATT, line 9 and attach Form IT-216 to your Form IT-203. This amount represents the refundable portion of your part-year resident child and dependent care credit.

**New York State child and dependent care credit limitation table**

If your New York adjusted gross income is -			If your New York adjusted gross income is -			If your New York adjusted gross income is -			If your New York adjusted gross income is -		
Over	But not over	Enter on line 13	Over	But not over	Enter on line 13	Over	But not over	Enter on line 13	Over	But not over	Enter on line 13
\$	- 25,000*	1.100	32,400	- 32,600	1.050	40,000	- 50,000	1.000	57,400	- 57,600	0.600
25,000	- 25,200	1.099	32,600	- 32,800	1.049	50,000	- 50,200	0.995	57,600	- 57,800	0.589
25,200	- 25,400	1.098	32,800	- 33,000	1.047	50,200	- 50,400	0.984	57,800	- 58,000	0.579
25,400	- 25,600	1.097	33,000	- 33,200	1.046	50,400	- 50,600	0.973	58,000	- 58,200	0.568
25,600	- 25,800	1.095	33,200	- 33,400	1.045	50,600	- 50,800	0.963	58,200	- 58,400	0.557
25,800	- 26,000	1.094	33,400	- 33,600	1.043	50,800	- 51,000	0.952	58,400	- 58,600	0.547
26,000	- 26,200	1.093	33,600	- 33,800	1.042	51,000	- 51,200	0.941	58,600	- 58,800	0.536
26,200	- 26,400	1.091	33,800	- 34,000	1.041	51,200	- 51,400	0.931	58,800	- 59,000	0.525
26,400	- 26,600	1.090	34,000	- 34,200	1.039	51,400	- 51,600	0.920	59,000	- 59,200	0.515
26,600	- 26,800	1.089	34,200	- 34,400	1.038	51,600	- 51,800	0.909	59,200	- 59,400	0.504
26,800	- 27,000	1.087	34,400	- 34,600	1.037	51,800	- 52,000	0.899	59,400	- 59,600	0.493
27,000	- 27,200	1.086	34,600	- 34,800	1.035	52,000	- 52,200	0.888	59,600	- 59,800	0.483
27,200	- 27,400	1.085	34,800	- 35,000	1.034	52,200	- 52,400	0.877	59,800	- 60,000	0.472
27,400	- 27,600	1.083				52,400	- 52,600	0.867	60,000	- 60,200	0.461
27,600	- 27,800	1.082	35,000	- 35,200	1.033	52,600	- 52,800	0.856	60,200	- 60,400	0.451
27,800	- 28,000	1.081	35,200	- 35,400	1.031	52,800	- 53,000	0.845	60,400	- 60,600	0.440
28,000	- 28,200	1.079	35,400	- 35,600	1.030	53,000	- 53,200	0.835	60,600	- 60,800	0.429
28,200	- 28,400	1.078	35,600	- 35,800	1.029	53,200	- 53,400	0.824	60,800	- 61,000	0.419
28,400	- 28,600	1.077	35,800	- 36,000	1.027	53,400	- 53,600	0.813	61,000	- 61,200	0.408
28,600	- 28,800	1.075	36,000	- 36,200	1.026	53,600	- 53,800	0.803	61,200	- 61,400	0.397
28,800	- 29,000	1.074	36,200	- 36,400	1.025	53,800	- 54,000	0.792	61,400	- 61,600	0.387
29,000	- 29,200	1.073	36,400	- 36,600	1.023	54,000	- 54,200	0.781	61,600	- 61,800	0.376
29,200	- 29,400	1.071	36,600	- 36,800	1.022	54,200	- 54,400	0.771	61,800	- 62,000	0.365
29,400	- 29,600	1.070	36,800	- 37,000	1.021	54,400	- 54,600	0.760	62,000	- 62,200	0.355
29,600	- 29,800	1.069	37,000	- 37,200	1.019	54,600	- 54,800	0.749	62,200	- 62,400	0.344
29,800	- 30,000	1.067	37,200	- 37,400	1.018	54,800	- 55,000	0.739	62,400	- 62,600	0.333
			37,400	- 37,600	1.017				62,600	- 62,800	0.323
30,000	- 30,200	1.066	37,600	- 37,800	1.015	55,000	- 55,200	0.728	62,800	- 63,000	0.312
30,200	- 30,400	1.065	37,800	- 38,000	1.014	55,200	- 55,400	0.717	63,000	- 63,200	0.301
30,400	- 30,600	1.063	38,000	- 38,200	1.013	55,400	- 55,600	0.707	63,200	- 63,400	0.291
30,600	- 30,800	1.062	38,200	- 38,400	1.011	55,600	- 55,800	0.696	63,400	- 63,600	0.280
30,800	- 31,000	1.061	38,400	- 38,600	1.010	55,800	- 56,000	0.685	63,600	- 63,800	0.269
31,000	- 31,200	1.059	38,600	- 38,800	1.009	56,000	- 56,200	0.675	63,800	- 64,000	0.259
31,200	- 31,400	1.058	38,800	- 39,000	1.007	56,200	- 56,400	0.664	64,000	- 64,200	0.248
31,400	- 31,600	1.057	39,000	- 39,200	1.006	56,400	- 56,600	0.653	64,200	- 64,400	0.237
31,600	- 31,800	1.055	39,200	- 39,400	1.005	56,600	- 56,800	0.643	64,400	- 64,600	0.227
31,800	- 32,000	1.054	39,400	- 39,600	1.003	56,800	- 57,000	0.632	64,600	- 64,800	0.216
32,000	- 32,200	1.053	39,600	- 39,800	1.002	57,000	- 57,200	0.621	64,800	- 65,000	0.205
32,200	- 32,400	1.051	39,800	- 40,000	1.001	57,200	- 57,400	0.611	65,000	- No Limit	0.200

\*This may be any amount up to \$25,000, including zero or a negative amount.