



# Instructions for Form DTF-620

## Application for Certification of a Qualified Emerging Technology Company

# DTF-620-I

(10/06)

### 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 (LLC).

Certification of a QETC by the Commissioner of Taxation and Finance is required for a taxpayer to claim a QETC capital tax credit on Form DTF-622. If the QETC **is not** certified by the Commissioner of Taxation and Finance, taxpayers who make a qualified investment in the QETC will not be able to claim a QETC capital tax credit on Form DTF-622. For more information regarding the QETC capital tax credit, see TSB-M-99(2.1)C, *Qualified Emerging Technology Company Tax Credits (Article 9-A Taxpayers Only)*, or TSB-M-00(2)I, *Qualified Emerging Technology Company Tax Credits (Personal Income Tax)*.

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(1)(b) of the PAL.

A company qualifies under Category 2 if:

- The company has research and development (R&D) activities in New York State; and
- The company's ratio of R&D funds to net sales equals or exceeds the average ratio for all surveyed companies classified, as determined by the National Science Foundation (NSF). The average ratio for all surveyed companies as last determined by the NSF is 3.2%.

### 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 tax 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, lines 14 and 15, and lines 19 and 20. Divide the data by 9, and multiply the result by 12.

**Example:** *OZ Company is a calendar year taxpayer for federal tax purposes. On 12/1/05, OZ Company files Form DTF-620 for the certification period 1/1/06-12/31/06. Assuming 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 (1/1/05-9/30/05.) The information for lines 12, 14, and 15, and for lines 19 and 20 must be annualized by dividing the data by nine and multiplying the result by 12. If the company's product sales for the period 1/1/05-9/30/05 were \$4,500,000, the annualized product sales on line 12 would be \$6,000,000.*

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

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 1 — Business information

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

## Part 2 — Eligibility requirements

**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 R&D 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 that it would own or rent real property to be used in its emerging technology primary products or services business, or in its R&D activities in New York State.

**Line 12** — See the definition of *total annual product sales* on page 3, and refer to *Preceding period* on page 1. If you use annualized data for the preceding period, attach a worksheet to the application for certification showing the computation of the annualized product sales and mark the *Yes* box on line 12. Then complete the information required under Category 1 or Category 2 for the preceding period.

### Category 2 — Research and development (R&D) activities

**Line 19** — Enter the amount of R&D funds that represent expenditures paid or incurred in the conduct of R&D activities. These funds are the same as those used by the NSF in their most recent survey, *Research and Development in Industry: 2003*.

**Include** as expenses:

- wages, salaries, and related costs
- materials and supplies consumed
- R&D depreciation
- cost of computer software used in R&D activities
- 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 R&D organization or the facilities they use
- insurance expenses
- 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 R&D organization

**Exclude** as expenses:

- R&D from acquired companies prior to acquisition (in process R&D)
- capital expenditures
- test and evaluation once a prototype becomes a production model
- patent expense
- income taxes and interest

**Line 20** — Enter total annual product sales less the amount reported or that should have been reported for federal income tax purposes as returns and allowances.

## Definitions

A *qualified emerging technology company (QETC)* 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 R&D activities in New York State, and its ratio of R&D 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 *Research and Development in Industry: 2003*, 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 R&D funded by the federal government, and the other average ratio is for companies doing R&D without funding by the federal government. The average ratio for all surveyed companies classified is the lesser of these two ratios.

Currently, the average ratio is 3.5% for companies doing R&D funded by the federal government, and 3.2% for companies doing R&D without funding by the federal government. (Single copies of the survey are available free of charge from the Division of Science Resources Statistics, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington VA 22230.) Accordingly, the lesser average ratio of the two categories is 3.2%. Therefore, to qualify under item 2) above, a company must have a ratio of R&D funds to net sales of at least 3.2%.

*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. The technologies include, but are not 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;

- 4) Information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. The technologies include, but are not 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;
- 5) *Biotechnologies* are technologies involving the scientific manipulation of living organisms, especially at the molecular and or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching, bio-augmentation, bio-enrichment, bio-remediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.
- 6) Remanufacturing technologies are processes whereby eligible commodities are restored to their original performance standards and are thereby diverted from the solid waste stream, retaining the majority of components that have been through at least one life cycle and replacing consumable portions to enable such commodities to be restored to their original functions. For the purposes of this subdivision, *eligible commodities* are commodities (excluding paper) used in conjunction with or as a part of equipment performing the functions of facsimile machines, photocopiers, printers, duplication equipment, or any combination thereof, including, but not limited to the following: magnetic ink character recognition cartridges, photo conductor assemblies, electrostatic cartridges, thermal imaging cartridges, toner cartridges, ink jet cartridges, and printer cartridges. In addition, *eligible commodities* also include equipment used to record single frame images on film, where such equipment and film are marketed and sold as a single integrated consumer product, and where such equipment and film may be submitted in whole to a photograph processor for the purposes of processing.

*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 expenditures paid or incurred in the conduct of R&D 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 R&D 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 survey *Research and Development in Industry: 2003*:

*Research and development* includes the following:

- the planned systematic pursuit of new knowledge or understanding toward general application (basic research)
- the acquisition of knowledge or understanding to meet a specific, recognized need (applied research)
- the application of knowledge or understanding toward the production or improvement of product, service, process, or method (development)

*Research and development activities include*:

- Activities that incorporate:
  - basic and applied research in the sciences and engineering
  - design and development of new products and processes
  - enhancement of existing products and processes
- Activities carried on by persons trained, either formally or by experience, in:
  - biological sciences (for example, medicine)
  - computer science
  - engineering
  - mathematical and statistical sciences
  - physical sciences (for example, chemistry and physics)
- Activities that take place in:
  - separate R&D organizational units of the company
  - company laboratories
  - technical groups not part of an R&D organization

The following activities are **excluded** from R&D:

- R&D from acquired companies prior to acquisition (in process R&D)
- Amortization above the actual cost of property and equipment related to your R&D activities
- Test and evaluation once a prototype becomes a production model
- Routine product testing
- Geological and geophysical exploration activities

- Technical services such as:
  - quality and quantity control
  - technical plant sanitation control
  - troubleshooting 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 R&D
- Social science R&D including:
  - personnel R&D
  - economic R&D
  - artificial intelligence and expert systems R&D
  - consumer, market, and opinion R&D
  - engineering psychology R&D
  - management and organizational R&D
  - actuarial and demographic R&D
  - educational processes and applications R&D
  - R&D in law

*Basic research* is the pursuit of new scientific knowledge or understanding that does not have specific immediate commercial objectives, although it may be in fields of present or potential commercial interest.

*Applied research* applies the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific commercial objectives with respect to new products, services, processes, or methods.

*Development* is the systematic use of the knowledge or understanding gained from research or practical experience directed toward the production or significant improvement of useful products, services, processes, or methods, including the design and development of prototypes, materials, devices, and systems.

**Include** as development:

- expenditures for designing and conducting clinical trials of drugs, pharmaceuticals, or other products that have not been marketed
- software development including: designing and/or adapting software if the application has commercial value (exclude software development for internal use); beta version of software being developed which has potential commercial application; and design and operation of pilot plants and semi-work 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 including test models for defense contracts
- designs for special manufacturing equipment and tools
- preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals

**Exclude** as development:

- software development intended for within company use only
- routine technical services to customers
- toolmaking and tool tryout
- production of detailed construction drawings and manufacturing blueprints

**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 5-a, 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.