2010

New York State Department of Taxation and Finance

Instructions for Form IT-212-ATT

Claim for Historic Barn Rehabilitation Credit and Employment Incentive Credit

IT-212-ATT-I

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than $2 million, the excess over $2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form IT-500, *Income Tax Credit Deferral.*

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form IT-500 to determine the amounts to enter on your tax return.

General information

Form IT-212-ATT is used to determine if you are eligible to claim the historic barn rehabilitation credit (Schedule A) or the employment incentive credit (Schedule B). If you qualify for either credit, complete the applicable schedule and attach Form IT-212-ATT to Form IT-212, *Investment Credit*.

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Schedule A — Historic barn rehabilitation credit

General information — Beginning in 1997, section 606(a)(12) allows a credit for qualified rehabilitation expenditures, as defined in Internal Revenue Code (IRC) section 47(c)(2), paid or incurred for any barn located in New York State that is a qualified rehabilitated building, as defined in IRC section 47(c)(1). A barn must be a building originally designed and used for storing farm equipment or agricultural products, or for housing livestock. No rehabilitation credit is allowed for a barn converted to a residence or for a barn whose historic appearance has been altered. A barn must either have been placed in service prior to 1936, or, if placed in service after that time, it must be a certified historic structure listed in the National Register of Historic Places, or located in a registered historic district and certified by the Secretary of the Interior. Expenditures for the enlargement of a barn do not qualify for the credit. However, a barn will not be disqualified from the credit because an enlargement has been made. In such cases, you must exclude expenditures attributable to the enlargement from the total expenditures paid or incurred for rehabilitation. See the instructions for Part 2 for the formula to use for the apportionment of expenditures. For detailed information concerning qualified rehabilitation expenditures, qualified rehabilitated buildings, alteration of the historic appearance of a barn, certified historic structures, registered historic districts, and enlargement of a barn, refer to TSB-M-97(1)I. To get a copy, see *Need help?* in your tax return instructions.

Part 1 — Eligibility criteria for claiming this credit

Answer questions 1 through 10 to determine if you are eligible to claim this credit. If you mark an ***X*** in the *Yes* box on line 1 or 6, or the *No* box on line 5, 9, or 10, you are not eligible to claim this credit. If all of your answers qualify you to take this credit, complete Part 2 and Part 3, if necessary.

Question 2: If a barn is listed in the National Register of Historic Places or is located in a registered historic district **and** is of historic significance to the district, the barn meets the definition of a certified historic structure. A certified historic structure must have a rehabilitation certified by the federal Secretary of Interior or New York State Office of Parks, Recreation and Historic Preservation. If the barn for which a credit is claimed is a certified historic structure, attach the appropriate certification. For more information, see TSB-M-97(1)I.

Question 7: To qualify for the credit, a barn must have been substantially rehabilitated. To determine whether a barn has been substantially rehabilitated, the expenditures incurred to rehabilitate the barn during a measurement period selected by the taxpayer must exceed the greater of the adjusted basis of the barn or $5,000. The measurement period is a 24-month period selected by the taxpayer and ending with or within the tax year. If the rehabilitation could reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, the measurement period may be 60 months long. You may be required to submit documentation of the architectural plans and specifications at a later date. The adjusted basis is generally determined as of the beginning of the first day of the measurement period.

Part 2 — Investments in qualified rehabilitation expenditures

Fill in columns A through E for qualified rehabilitation expenditures that were paid or incurred during this tax year. Attach a separate page if you need more space. Enter in column C the property's useful life under IRC section 167 even if the property is subject to the provisions of IRC section 168. Enter in column D of this schedule the amount of qualified rehabilitation expenditures paid or incurred with respect to a qualified rehabilitated barn. If the expenditures include an enlargement of a barn and the expenditures for the enlargement can be separately accounted for, exclude the expenditures attributable to the enlargement from this schedule. Otherwise, on a separate page, show the total expenditures (including the enlargement) and apportion them by dividing the volume of the barn excluding the enlargement by the total volume of the barn. Multiply the total amount of the expenditures by the resulting percentage to arrive at the amount of rehabilitation expenditures to be entered in column D. Attach to the claim for this credit documentation that the historic appearance of the barn has not been materially altered, and, where appropriate, documentation that the barn is of no historic significance to a registered historic district. Documentation that a federal rehabilitation credit of 10% or 20% has been allowed for a barn is acceptable documentation for the allowance of this credit as an alternative to the documentation previously mentioned in this section.

If qualifying property was disposed of or is not in qualified use at the end of the tax year it was placed in service, compute the amount of credit to claim as follows:

— For depreciable property under IRC section 167, multiply the credit by a fraction; the numerator is the number of months of qualified use, and the denominator is the number of months of useful life of the property.

— For property subject to the provisions of IRC section 168, multiply the credit by a fraction; the numerator is the number of months of qualified use, and the denominator is the number of months you chose for buildings or structural components of buildings.

Line 11 — When adding the amounts in column E, include amounts from attached sheets, if any.

Part 3 — Early dispositions of qualified property and addback of credit on early dispositions

Fill in columns A through H if you have claimed the credit on property that was disposed of or was removed from qualified use (a) in a tax year after the year in which the credit was allowed and (b) prior to the end of its useful life or specified holding period. Do not include property that has been in qualified use for more than 12 consecutive years. For a description of what constitutes an early disposition of property, see page 3 of Form IT-212-I, *Instructions for Form IT-212*.

Enter in column D:

- For depreciable property under IRC section 167, the number of months of useful life of the property.
- For recovery property under IRC section 168, the number of months you chose for buildings or structural components of buildings.

Enter in column E the number of months that the property was not in qualified use.

Line 12 — When adding the amounts in column H, include amounts from attached sheets, if any.

Schedule B — Employment incentive credit

General information — If you place property in service on or after January 1, 1997, and that property qualifies for the investment tax credit (other than at the optional rate applicable to research and development property), you may be entitled to the employment incentive credit. If you qualify, the credit is allowed for each of the two years immediately following the tax year in which the investment credit was allowed.

Example 1: *A partnership files its partnership return using a fiscal year of February 1, 2008, through January 31, 2009. The partnership placed property that qualified for the investment tax credit in service on January 15, 2009. The partnership should complete Schedule B for tax years February 1, 2009, through January 31, 2010, and February 1, 2010, through January 31, 2011, to determine if the partners of the partnership are eligible to claim the employment incentive credit.*

Example 2: *You are a farmer who files your personal income tax return on a calendar-year basis. You placed property that qualified for the investment tax credit in service on March 15, 2009. You should complete Schedule B for the 2010 and 2011 calendar tax years to determine if you are eligible to claim the employment incentive credit.*

The amount of the credit is a percentage of the original investment credit base on which the investment credit was allowed. The percentage used to compute the credit is based upon the level of employment in each of the two years during which the credit may be claimed compared to the level of employment in the base year. However, the credit will not be allowed for a year if the taxpayer's average number of employees in New York State during that year is not at least 101% of the taxpayer's average number of employees in New York State during the base year.

Generally, the base year is the tax year immediately preceding the tax year in which the original investment credit was claimed. However, if the business was not in operation in New York State during that year, the base year is the tax year in which the original investment credit was claimed.

If you cannot claim all of your employment incentive credit because it is more than your New York State tax less other credits, you can carry over the unused amount to the following ten tax years, or, if you are the owner of a new business, you may qualify for a refund (see *Refundable unused investment credit* in Form IT-212-I).

Part 1 — Eligibility for employment incentive credit

Complete Part 1 to determine if you are eligible for the credit. If you are eligible, complete Part 2.

Column A — Enter in column A the credit year and the base year. The *credit year* is the tax year you are claiming the employment incentive credit. If you qualify, the credit is allowed for each of the two tax years immediately following the tax year in which the original investment tax credit was allowed. The *base year* is the year preceding the year you claimed the original investment credit. However, if your business was not in operation in New York State during that year, the *base year* is the year in which you claimed the investment credit.

Columns B, C, D, and E — Enter the total number of employees employed within New York State on each of the dates listed that occur during your credit and base tax years.

Example: *A taxpayer filing for a fiscal year beginning September 1, 2009, and ending August 31, 2010, would enter on line 14 for the first succeeding year, or on line 16 if claiming the credit for the second succeeding year, the number of employees employed in New York State on the following dates: September 30, 2009, December 31, 2009, March 31, 2010, and June 30, 2010.*

Column G — Unless you have a short tax year, divide the amount in Column F by four. If you have a short tax year (a tax year of less than 12 months), divide the amount in Column F by the number of dates shown in Columns B through E that occur during the short tax year.

Column H — If you are claiming the credit for the first succeeding tax year, divide the amount on line 14, column G, by the amount on line 13, column G, and round the result two decimal places. If the percentage in line 14, column H, is at least 101% (1.01), complete Part 2, line 17. If the percentage in line 14, column H, is less than 101%, **stop;** you do not qualify for the employment incentive credit for this year.

If you are claiming the credit for the second succeeding year, divide the amount on line 16, column G, by the amount on line 15, column G, and round the result two decimal places. If the percentage in line 16, column H is at least 101% (1.01), complete Part 2, line 18. If the percentage in line 16, column H is less than 101%, **stop;** you do not qualify for the employment incentive credit for this year.

Part 2 — Computation of employment incentive credit

Column A — Enter in column A the tax year in which the original investment credit was allowed.

Column B — Enter in column B the amount of the investment credit base (not the amount of the investment credit) that was used to compute the original investment credit. Do not include in column B the investment credit base for any property on which you computed the investment credit at the optional rate applicable to research and development property. In addition, do not include in column B the investment credit base for any property for which you are claiming the empire zone employment incentive credit.

Column C — Multiply the column B amount by the appropriate rate from the *Tax rate schedule* below Part 2.