



Instructions for Form IT-213

Claim for Empire State Child Credit

General information

What is the Empire State child credit?

The Empire State child credit is available to full-year New York State residents (see *Spouses required to file separate New York State returns*) who (1) have a federal child tax credit or a federal additional child tax credit and a qualifying child **or** (2) who have a qualifying child and meet certain income limitations. For purposes of this credit, a *qualifying child* is a child who qualifies for the federal child tax credit and is at least four years of age. If the credit exceeds your tax for the tax year, the excess credit will be refunded without interest.

How do I claim the Empire State child credit?

You must file Form IT-213 with your 2010 New York State income tax return.

Specific instructions

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

Step 2 — Determine eligibility

Complete lines 1 through 5.

Line 3 — For purposes of this credit, *federal adjusted gross income* means the amount entered on Form 1040A, line 22, or on Form 1040, line 38, less any interest included on Form 1040A or Form 1040, line 8a, for *Build America Bonds* as defined in IRC section 54AA.

Line 4 — Enter the number of children who qualify for the federal child tax credit or additional child tax credit, whether or not you claimed the credit on your federal return (see the instructions for federal Form 1040A, line 33, or Form 1040, line 51).

Note: If for federal income tax purposes your child is claimed as a dependent by your child's noncustodial parent, you **cannot** claim that child as a qualifying child for purposes of the Empire State child credit. Do not include that child on line 4.

Step 3 — Enter child information

Enter the required information for each child included on line 4. If you have more than six children, complete the required information for the additional children on Form IT-213-ATT, *Child Information for Empire State Child Credit*. Enter your name and social security number on Form IT-213-ATT, and attach it to Form IT-213.

⚠ Caution: To be eligible to claim the Empire State child credit, you must provide a correct and valid social security number (SSN) for each child listed on your claim. If the Internal Revenue Service (IRS) has issued you an individual taxpayer identification number (ITIN) because your child listed on Form IT-213 or Form IT-213-ATT is a resident alien, enter this ITIN in place of the SSN.

If you have applied for an SSN 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 the SSN or ITIN by the due date of your return, you can do one of the following:

1. File Form IT-370 requesting an automatic extension of time to file until October 17, 2011.
2. File your return on time without claiming the Empire State child credit, and **do not attach** Form IT-213 to your return. After receiving the SSN or ITIN, file an amended NYS return and claim the credit.

Step 5 — Spouses required to file separate New York State returns

If you filed a joint federal return but are required to file separate New York State returns because you were a full-year New York State resident for 2010 and your spouse was a part-year resident or nonresident for 2010, the credit may be claimed by either spouse or may be divided in any manner you wish. Form IT-213 must be completed by the spouse who is the New York State resident and must include both spouses' names and social security numbers. The resident spouse's name and social security number must be listed first on Form IT-213. You must enter **0** on line 17 if the part-year resident or nonresident spouse is claiming the entire line 16 amount. You must enter **0** on line 18 if the resident spouse is claiming the entire line 16 amount. Attach a copy of Form IT-213, and, if applicable, a copy of Form IT-213-ATT to each spouse's New York State income tax return. However, you do not need to attach a copy of Form IT-213 to the part-year resident or nonresident spouse's Form IT-203 if you entered **0** on line 18.