



Instructions for Form CT-601

Claim for EZ Wage Tax Credit

CT-601-I

Expiration of Empire Zones Program

The New York State Empire Zones Program expired as of July 1, 2010. A business enterprise that was certified pursuant to General Municipal Law (GML) Article 18-B as of June 30, 2010, may continue to claim the empire zone (EZ) wage tax credit for up to five consecutive tax years so long as it meets the eligibility requirements. However, no credit will be allowed for any tax year beginning more than four years after the tax year in which designation as an EZ expired. Therefore, the EZ wage tax credit may not be claimed for tax years beginning on or after July 1, 2014.

You may continue to use any credit carryovers from previous years against your tax liability. However, any business that was required to obtain an EZ retention certificate but was denied one will not be eligible to claim the EZ wage tax credit or carryovers of the credit.

General information

An *empire zone* (EZ) is an area within New York State that has been designated as an EZ pursuant to General Municipal Law (GML) Article 18-B.

To be eligible to claim the EZ wage tax credit, a taxpayer must be certified under GML Article 18-B. A copy of the *Certificate of Eligibility* and the retention certificate issued by Empire State Development (ESD) must be attached to Form CT-601 each year the credit or carryforward of the credit is claimed. For information on certification, contact ESD at www.esd.ny.gov or 1-800-STATE-NY (1-800-782-8369).

Flow-through entities such as partnerships, S corporations, and limited liability companies should distribute copies of the retention certificate to their partners, shareholders, and members for use in filing their tax returns claiming the EZ credits.

The EZ wage tax credit is available to taxpayers subject to tax under Tax Law Article 9, section 185 (agricultural cooperatives); Article 9-A (general business corporations); Article 32 (banking corporations); and Article 33 (insurance corporations). The EZ 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 (see *Schedule A – Eligibility requirements*).

Owners of qualified investment projects or significant capital investment projects that qualify as new businesses under Tax Law, Article 1, section 14(j)(5): Your five year benefit period begins in the first tax year of your enterprise's business tax benefit period (determined under Tax Law section 14(a)(1-a)) that you paid EZ wages and the eligibility requirements are met.

Note: A taxpayer that is certified in more than one EZ must meet the requirements in Schedule A for each qualifying zone and compute the credit for each EZ on a separate Form CT-601.

General instructions

Attach Form(s) CT-601 to your franchise tax return.

Corporations (other than New York S corporations)

Complete *Schedule A – Eligibility requirements*. If you answer *No* to any of the three questions, you are not eligible for the EZ wage tax credit in this tax year. Do not continue unless you have carryforward EZ wage tax credits from previous tax years or an EZ wage tax credit passed through to you from a partnership. If you are claiming only carryforward credits, complete Schedules C, D, and if applicable, Schedule F.

If you are claiming only a credit passed through to you from a partnership, see *Corporate partners*.

If you answer *Yes* to all three questions, you are eligible to claim the EZ wage tax credit. Complete Schedules B, C, D, and, if applicable, Schedules E and F. Banking corporations taxable under Article 32 and insurance corporations taxable under Article 33 are not eligible to complete Schedule E. Enter the amount of your allowable credit in the credit section of your franchise tax return.

Corporate partners

If you are a corporate partner whose only EZ wage tax credit is from a partnership, do not complete Schedule A or Schedule B, Parts 1 through 4. Enter on line 19 of this form your pro rata share of the EZ wage tax credit passed through to you from the partnership. Complete Schedules C, D, and, if applicable, Schedules E and F. Banking corporations taxable under Article 32 and insurance corporations taxable under Article 33 are not eligible to complete Schedule E. Enter the amount of your allowable credit in the credit section of your franchise tax return.

If you are an S corporation whose only EZ wage tax credit is from a partnership, complete only Schedule B, Part 5 and transfer the amount from line 20a to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.

Enter the name, employer identification number of the partnership that passed the credit through to you, and the credit amount on Schedule B, Part 6.

New York S corporations

New York S corporations that are certified EZ businesses will calculate the amount of the EZ wage tax credit for their shareholders. The S corporation may not use the credit against its own tax liability; it is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns. New York S corporations complete Form CT-601 as follows:

1. Complete **Schedule A**. If you answer *No* to any of the three questions, the S corporation is not eligible to calculate the credit in this tax year. Do not continue unless you have a wage tax credit passed through to you from a partnership (see instructions for corporate partners).

If you answer *Yes* to all three questions, you are eligible to calculate the EZ wage tax credit.

2. Complete **Schedule B** to compute the amount of the EZ wage tax credit allowed. Transfer the amount from line 20a to Form CT-34-SH, which is filed with your New York S corporation return. Attach a copy of Form CT-601 to the New York S corporation tax return.
3. Provide all shareholders with the amount of their pro rata share of the EZ wage tax credit calculated. The shareholders will complete their own Form IT-601, *Claim for EZ Wage Tax Credit* (for personal income taxpayers), to claim the credit on their New York State tax returns.

Combined filers

A taxpayer filing a combined return as a member of a combined group is allowed to claim an EZ wage tax credit. The credit is computed for each eligible member of the combined group on a separate basis in Schedules A and B and is applied against the combined tax (see *Corporations (other than New York S corporations)*).

Line instructions

Date of EZ designation

The date of designation of the EZ is the date the zone was created. In the case of a business that was included as a result of a boundary amendment, the date of designation is the date the boundary was amended to include the business in the EZ. If you do not know your zone designation date, contact ESD.

Schedule A – Eligibility requirements

The EZ wage tax credit is allowed for up to five consecutive tax years beginning in the first tax year in which **all three** of the following eligibility requirements are met:

- 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 EZ wage tax credit is claimed (line 3); **and**
- the average number of full-time employees (including full-time equivalents) in the EZ for the current tax year (line 4) exceeds the average number of full-time employees (including full-time equivalents) in the EZ, or area comprising the EZ, during the four years immediately preceding the first tax year for which the EZ wage tax credit is claimed (line 5).

Note: All references to *current tax year* mean the tax year covered by this claim.

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

The average number of employees on line 3 and line 5, once computed, remains the same for each of the five tax years for which the credit is claimed.

If you are a clean energy enterprise (CEE) complete only Parts 1 and 2 to determine if you are eligible to compute the EZ wage tax credit for the current tax year.

Part 1 – Payment of EZ wages for the current tax year

Line 1 – Mark an **X** in the Yes box if EZ wages were paid by the taxpayer during the current tax year for full-time employment in a job created in the EZ since the zone was designated.

Mark an **X** in the No box if EZ wages were not paid during the current tax year. The taxpayer **will not** qualify to compute the EZ wage tax credit in Schedule B for the current tax year. However, the taxpayer may claim any EZ wage tax credit carryforward from prior years on Schedule C, and any credit passed through from a partnership on line 19.

EZ wages are wages paid by a certified taxpayer for full-time employment (excluding general executive officers) during the tax year in an area designated or previously designated as an EZ, if such employment is in a job created in the EZ during the period of its designation as an EZ or within four years of the expiration of such EZ designation. This provides a taxpayer who is located in the EZ in the last year of the EZ's designation the opportunity to compute the EZ wage tax credit for five consecutive tax years.

EZ wages for purposes of CEEs are wages paid by a certified taxpayer for full-time employment (excluding general executive officers) during the tax year in NYS, if such employment is in a job created in NYS during the period of designation for CEEs which is on or after June 23, 2006.

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

Wages paid to individuals employed before an EZ is designated do not qualify as EZ wages.

Part 2 – Computation of average number of full-time employees in New York State for the current tax year and four-year base period

Line 2 – Enter the total number of full-time employees (including full-time equivalents but excluding general executive officers) employed on March 31, June 30, September 30, and December 31 of your tax year. Add these amounts and enter in the total column. Divide the total by four (or by the number of these dates that occurred during your tax year).

General executive officers are the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and any other officer charged with the general affairs of the corporation. A general executive officer is, therefore, an appointed or elected officer of the corporation having company-wide authority with respect to assigned functions or responsibility for an entire division of the company.

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.

Example 1:

John works 25 hours per week, and Mary works 20 hours per week. Together, their jobs constitute the equivalent of one job of at least 35 hours per week.

Example 2:

A calendar-year taxpayer had no employees until April 15, 2013, when it hired 100 full-time employees. The business had 100 full-time employees on June 30, 2013, 125 full-time employees on September 30, 2013, and 175 full-time employees on December 31, 2013.

The taxpayer completes line 2 as follows:

| Current tax year | March 31 | June 30 | September 30 | December 31 | Total | |
|--|----------|---------|--------------|-------------|-------|-----|
| Number of full-time employees in New York State 2013 | 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 |

A taxpayer who is a fiscal-year filer uses the four dates (March 31, June 30, September 30, and December 31) that appear in its fiscal year.

Example 3:

A corporation filing a tax return for a fiscal period beginning September 1, 2013, and ending August 31, 2014, would use the following dates to compute the number of employees for that fiscal year: September 30, 2013, December 31, 2013, March 31, 2014, and June 30, 2014.

Line 3 – Enter for each date specified of the four-year base period (the four tax years immediately preceding the first tax year in which the EZ wage tax credit is claimed) the total number of full-time employees (including full-time equivalents but excluding general executive officers) in New York State. Add the total number of full-time employees, including full-time equivalents, for the four-year base period and divide by the number of such dates occurring during the four-year base period to obtain the average number of full-time employees, including full-time equivalents, for the four-year base period.

If the taxpayer provided full-time employment in New York State for only part of the four-year base period, then the four-year base period will be deemed to refer to that smaller set of years.

If the taxpayer did not provide full-time employment in New York State in any quarter of the four-year base period, enter **0** on line 3.

Example 4:

A calendar-year taxpayer began business in New York on July 1, 2007, and had full-time employees in New York State for the dates September 30, 2007, through December 31, 2009. The taxpayer would make no entries for the dates prior to July 1, 2007. Thus, the taxpayer would divide 790 by 10 to obtain 79.

| Number of full-time employees in New York State during four-year base period | March 31 | June 30 | September 30 | December 31 | Total |
|---|----------|---------|--------------|-------------|-------|
| First year 2009 | 100 | 100 | 100 | 100 | 400 |
| Second year 2008 | 50 | 75 | 75 | 100 | 300 |
| Third year 2007 | | | 40 | 50 | 90 |
| Fourth year 2006 | | | | | |
| Total number of full-time employees in New York State for four-year base period | | | | | 790 |
| 3 Average number of full-time employees in New York State for four-year base period | | | | 3. | 79 |

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 base period (line 3). If line 2 does not exceed line 3, the taxpayer **will not** qualify to compute the EZ wage tax credit in Schedule B for the current tax year. However, the taxpayer may claim as an EZ wage tax credit for the current tax year any EZ wage tax credit carryforward from a preceding tax year in Schedule C, and any amount of EZ wage tax credit passed through from a partnership on line 19.

If you are a CEE and answered *Yes* to the question after line 3, do not complete Part 3; go to Schedule B to calculate the credit for the current tax year. If you are a CEE and answered *No*, you cannot compute the credit in Schedule B for the current tax year. If you have any available EZ wage tax credit carryforward from a preceding tax year, go to Schedule C. If you have any EZ wage tax credit passed through to you from a partnership, go to line 19.

Part 3 – Computation of average number of full-time employees in the EZ for the current tax year and four-year base period

Line 4 – Enter for each date specified of the current tax year the total number of full-time employees (including full-time equivalents but excluding general executive officers) in the EZ. Compute the average number of full-time employees, including full-time equivalents, for the current tax year in the same manner as line 2.

Line 5 – Enter for each date specified of the four-year base period (the four tax years immediately preceding the first tax year in which the EZ wage tax credit is claimed) the total number of full-time employees (including full-time equivalents but excluding general executive officers) in the area that currently constitutes, or previously constituted, the EZ. Compute the average number of such employees for the four-year base period in the same manner as line 3.

The average number of full-time employees, including full-time equivalents, in the EZ for the current tax year (line 4) must exceed the average number of full-time employees, including full-time equivalents, in the area that currently constitutes, or previously constituted, the EZ for the four-year base period (line 5). If line 4 does not exceed line 5, you do **not** qualify to compute the EZ wage tax credit in Schedule B for the current tax year. However, you may claim as an EZ wage tax credit for the current tax year any EZ wage tax credit carryforward from a preceding tax year in Schedule C, and any amount of EZ wage credit passed through from a partnership on line 19.

Schedule B – Computation of EZ wage tax credit for the current tax year

If you meet the eligibility requirements set forth in the Schedule A instructions, compute the EZ wage tax credit in Schedule B, Parts 1 and 2 for qualified targeted employees and Parts 3 and 4 for all other qualified employees.

Do not include in Schedule B any individual employed within the immediately preceding 60 months by a related person, unless the related person never received an EZ or ZEA wage tax credit for that employee. The term *related person* means a related person as defined in Internal Revenue Code (IRC) section 465(b)(3)(C) or an entity which would have qualified as a related person if it had not been dissolved, liquidated, or merged with another entity or otherwise cease to exist or operate. See *Addendum* for the Internal Revenue Service (IRS) interpretation of the definition of a related person in IRC section 465(b)(3)(C) as contained in IRS Publication 925, *Passive Activity and At-Risk Rules*.

For taxpayers certified in an investment zone (IZ), including CEEs, the EZ wage tax credit is increased by \$500 for both qualified and targeted employees who earn wages in excess of \$40,000 for the tax year. An *investment zone* is a zone designated by census tract statistics or located in a municipality.

Parts 1 and 2

Line 6 – Enter for each date specified of the current tax year the number of qualified targeted employees (excluding general executive officers). Taxpayers who are certified in an IZ (including CEEs), do not include employees who received wages in excess of \$40,000. See line 9 instructions.

Add the number of qualified targeted employees for the current tax year and divide by the number of such dates (include **0** dates) occurring during the current tax year to compute the average number of qualified targeted employees for the current tax year (see the example at line 2 instructions).

Who do I include as qualified targeted employees?

A *qualified targeted employee* for purposes of Parts 1 and 2 is an employee who:

- is employed full time (see definition of full-time employment in line 2 instructions); and
- is working in a job created in the EZ during its period of designation or within four years of the expiration of the EZ's designation (CEE's period of designation began on June 23, 2006); and
- received EZ wages for more than half of the current tax year (see definition and exception to rule 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
- meets the definition of a targeted employee below.

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);
- an individual eligible for benefits under the provisions of the Workforce Investment Act as a dislocated worker or low-income individual (Public Law 105-220, as amended);
- a recipient of public assistance benefits at any time during the previous two years;
- an individual whose income is below the most recently established poverty rate promulgated by the U.S. Department of Commerce, Bureau of Census;

- 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; **or**
- an honorably discharged member of any branch of the armed forces of the United States.

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.

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 EZ program. The Tax Department will only recognize Form ES-450B, *Empire Zone Targeted Status Certification*, issued by the DOL; it must be signed by a DOL representative as proof of targeted status under the wage tax credit program. For more information, contact the DOL by accessing their Web site at www.labor.ny.gov or calling 1 800 HIRE-992.

You must attach a copy of Form ES-450B for each employee claimed in Schedule B, Parts 1 and 2.

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 GML Article 18-B; **and**
- for more than half of the current tax year:
 - the employee was employed by the EZ business; and
 - the employee worked at the EZ location; and
 - the business was located in an area designated or previously designated as an EZ (CEE's period of designation began on June 23, 2006).

Exception: For purposes of calculating the EZ wage tax credit amount, the requirement that an employee must receive EZ wages for more than half of the current tax year does not apply in the first tax year of a taxpayer that:

- has acquired real or tangible personal property during its first tax year from an entity which is not a related person;
- has a first tax year that is a short year of not more than seven months in duration;
- has at least 190 full-time employees on the last day of the tax year, substantially all of them previously employed by the entity from which the taxpayer purchased its assets.

Line 9 – Taxpayers certified in an IZ (including CEEs): Enter for each date specified of the current tax year the number of qualified targeted employees (excluding general executive officers) who received wages in excess of \$40,000 for the tax year.

Add the number of qualified targeted employees for the current tax year, and divide by the number of such dates (include 0 dates) occurring during the current tax year to compute the average number of qualified targeted employees for the current tax year (see examples in the line 2 instructions). Enter the name and social security number of each employee used to compute the credit in the schedule. Attach additional sheets if necessary.

Parts 3 and 4

Line 12 – Enter for each date specified of the current tax year the number of qualified employees (excluding general executive officers). Taxpayers who are certified in an IZ (including CEEs), do not include employees who received wages in excess of \$40,000. See line 15 instructions.

Add the number of qualified employees for the current tax year, and divide by the number of such dates (include 0 dates) occurring during the current tax year to compute the average number of qualified employees for the current tax year (see *Example 2*).

Line 15 – Taxpayers certified in an IZ (including CEEs): Enter for each date specified of the current tax year the number of qualified employees (excluding general executive officers) who received wages in excess of \$40,000 for the tax year.

Add the number of qualified employees for the current tax year, and divide by the number of such dates (include 0 dates) occurring during the current tax year to compute the average number of qualified employees for the current tax year (see examples in the line 2 instructions). Enter the name and social security number of each employee used to compute the credit in the schedule. Attach additional sheets if necessary.

A *qualified employee* for purposes of Parts 3 and 4 is an employee who:

- is employed full-time (see definition of full-time employment in line 2 instructions); and
- received EZ wages for more than half of the current tax year (see definition and exception to rule in Schedule B, Parts 1 and 2 instructions); and
- is working in a job created in the EZ during its period of designation or within four years of the expiration of the EZ's designation (CEE's period of designation began on June 23, 2006).

Note: Do not include a qualifying employee in Part 3 or 4 that is listed in Part 1 or 2.

Part 5 – Computation of EZ wage tax credit for the current tax year

Line 19 – Enter the amount of the pro rata share of EZ wage tax credit passed through to you from a partnership or other flow-through entity and provide the information requested in Schedule B, Part 6.

Line 20a – New York C corporations: Enter the amount from line 20a on line 22.

New York S corporations: Transfer the line 20a amount to Form CT-34-SH. A New York S corporation is not required to complete Form CT-601, lines 21 through 40. Shareholders of the New York S corporation compute their pro rata share of the EZ wage tax credit, carryforward, and refund of the EZ wage tax credit on Form IT-601.

Schedule C – Amount of EZ wage tax credit available for the current tax year

A taxpayer may claim any available EZ wage tax credit carryforward from a preceding tax year in Schedule C even if the taxpayer was not allowed to compute the credit in Schedule B in this tax year. An EZ wage tax credit carryforward in Schedule C is available until used.

Line 21 – Enter the amount of the EZ wage tax credit carryforward from the tax year immediately preceding the current tax year.

Businesses that received a refund of EZ wage tax credit in the previous year should use the amount of carryforward after the refund, as computed on your prior year's EZ wage tax credit form.

Line 22 – Enter the EZ wage tax credit computed for the current tax year as shown on line 20a. Enter 0 if you did not compute an EZ wage tax credit on Schedule B for the current tax year.

Schedule D – Application of EZ wage tax credit for the current tax year

The EZ wage tax credit allowed in Schedule D (including any EZ wage tax credit carryforward) is limited to the following:

- for **agricultural cooperatives**, 50% of the tax imposed under Article 9, section 185, before the deduction of any tax credit; **or**
- for **general business** corporations, 50% of the tax imposed under Article 9-A, section 209, before addition of the metropolitan transportation business tax (MTA surcharge) or the deduction of any tax credit; **or**
- for **banking** corporations, 50% of the tax imposed under Article 32, section 1455, before the addition of the metropolitan transportation business tax (MTA surcharge) or the deduction of any tax credit; **or**
- for **life insurance** corporations, 50% of the lesser of:
 - the tax computed under Article 33, section 1505(a), **or**
 - the **greater** of the sum of taxes imposed under Article 33 sections 1501 and 1510, **or** the tax computed under Article 33 section 1505(b), before the addition of the MTA surcharge or the deduction of any tax credit; **or**
- for **non-life insurance** corporations, 50% of the taxes imposed under Article 33 section 1502-a, before the addition of the MTA surcharge or the deduction of any tax credit.

In addition, the EZ wage tax credit allowed in Schedule D (including any EZ wage tax credit carryforward) **may not** reduce the tax below:

- the minimum tax of \$10 as computed under Article 9, section 185; **or**
- the larger of the tax on minimum taxable income base or fixed dollar minimum tax as computed under Article 9-A; **or**
- the fixed minimum tax of \$250 computed under Article 32; **or**
- the minimum tax of \$250 under Article 33.

Any portion of the EZ wage tax credit disallowed in Schedule D as a result of the above limitations may be carried forward on subsequent tax returns.

Note: The EZ wage tax credit may not be applied against the MTA surcharge.

Part 1 – Computation of 50% limitation

Line 24 – Article 9, section 185 taxpayers: enter the tax shown on Form CT-185, *Cooperative Agricultural Corporation Franchise Tax Return*.

Article 9-A taxpayers: enter the tax shown on Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*.

Article 32 taxpayers: enter the tax shown on Form CT-32, *Banking Corporation Franchise Tax Return*, or Form CT-32-A, *Banking Corporation Combined Franchise Tax Return*.

Article 33 taxpayers: enter the tax shown on Form CT-33, *Life Insurance Corporation Franchise Tax Return*, line 9a or 10, whichever is less; or Form CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return*, line 10 or 14, whichever is less; or Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return*.

Line 25 – For taxpayers claiming the EZ wage tax credit in only one EZ, multiply line 24 by 50% (.5).

For taxpayers who earned wage tax credits in multiple ZEAs or EZs, or are claiming ZEA and EZ wage tax credits from more than one entity, the aggregate amount of **all** of the wage tax credits used in the current year cannot exceed 50% of the current year's tax. To compute your limitation, complete **Schedule F** and enter the line 40 result on line 25.

Example 5:

Corporation A operates in two locations in New York State, one in Buffalo and one in Elmira. Both locations are in EZs, and Corporation A is certified in both EZs. Corporation A has calculated its current year tax as \$3,100 and calculates a 50% limitation of \$1,550 (50% of \$3,100). Corporation A claims an EZ wage tax credit of \$1,500 from its Buffalo location. Corporation A is limited to \$50 of wage tax credits earned in the Elmira location (\$1,550 less \$1,500 of limitation already used) that may be applied against the current year's tax.

Part 2 – Computation of tax limitation

Line 26 – Enter the amount from line 24 **plus** any net recaptured tax credits.

Form CT-33 filers: enter the tax shown on Form CT-33, line 9a **plus** any net recaptured tax credits.

Form CT-33-A filers: enter the tax shown on Form CT-33-A, line 10 **plus** any net recaptured tax credits.

Line 27 – If you are claiming more than one tax credit for this tax year, enter the amount of the tax credit(s) claimed before the EZ wage tax credit. Include in this amount any EZ or ZEA wage tax credit applied to the tax prior to the credit claimed on this form. Refer to the instructions for your corporation franchise tax return for the order of credit that applies. Article 9-A taxpayers: refer to Form CT-600-I, *Instructions for Form CT-600*. Otherwise, enter **0** on line 27.

If you are included in a combined return, include any amount of tax credit(s) being claimed by other members of the combined group, including the EZ wage tax credit, that you wish to apply before the credit claimed on this form.

Part 3 – Computation of EZ wage tax credit used for the current tax year

Line 32 – Enter the lesser of line 23 or line 31. Transfer this amount to your franchise tax return.

Part 4 – Computation of EZ wage tax credit carryforward

Line 33 – To determine the unused EZ wage tax credit, which can be carried forward to future years, subtract line 32 from line 23. Any portion of the EZ wage tax credit (including any EZ wage tax credit carryforward from a preceding tax year) that is disallowed in the current tax year as a result of the limitations may be carried forward, except for the EZ wage tax credit that is refunded in Schedule E. If line 32 is equal to line 23, enter **0**.

Schedule E – Computation of refundable EZ wage tax credit

A qualified business may elect to treat 50% of the unused EZ wage tax credit earned in the current tax year that is attributable to the credit allowed for individuals employed at the project as an overpayment to be refunded or applied as an overpayment to the following year's tax.

A *qualified business* is a corporation that is an owner of a *qualified investment project* or a *significant capital investment project* (as those terms are defined in GML sections 957(s) and 957(t)).

A new business may elect to treat 50% of the unused EZ wage tax credit earned in the current tax year as an overpayment to be refunded or applied as an overpayment to the following year's tax.

Under Article 9, section 187-k.4(ii) or Article 9-A, section 210.12(j), a *new business* is any corporation **except**:

- a corporation in which over 50% of the number of shares of stock or amount of membership capital 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 Tax Law Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; or Article 33; or
- a corporation that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; Article 33; or former Article 23 (or that would have been subject to tax under Article 23, as such article was in effect on January 1, 1980); or the income or losses of which are or were includable under Tax Law Article 22, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded; or
- a corporation that has been subject to tax under Tax Law Article 9, section 185 or Article 9-A for more than five tax years (excluding short periods).

A shareholder of an S corporation will be treated as the owner of a new business if the S corporation qualifies as a new business under Tax Law section 187-k.4(ii) or 210.12(j) as defined above.

Line 34 – If you are a new business and elect to receive a refund, enter the lesser of line 22 or line 33. If you are a qualified business you may only include the amount attributable to the credit allowed for individuals employed at the project. Once made, the election may not be revoked. Interest will not be paid on any refund.

Line 36a – Multiply line 34 by 50% (.5). Enter the result on this line. This amount must equal the sum of lines 36b and 36c.

Lines 36b and 36c – Transfer these amounts to your franchise tax return.

Schedule F – Computation of 50% limitation for multiple wage tax credit claims

Part 2 – Unused EZ wage tax credit 50% limitation

Column A: Enter amount from line 39.

Column B: List only the ZEA and EZ wage tax credits claimed for this tax year that you wish to apply **prior** to the credit claimed on this form. List the name of the zone and amounts of wage tax credits applied. Add amounts in column B.

Column C: Subtract column B total from the amount in column A. Enter the result on lines 25 and 40.

Addendum

The information below represents the Internal Revenue Service (IRS) interpretation of the definition of *related persons* in the IRC, section 465(b)(3)(C) as contained in IRS Publication 925, *Passive Activity and At-Risk Rules*. When preparing your tax return, you should check section 465(b)(3)(C) to see if the definition of *related persons* has been amended.

Related persons include:

- members of a family, but only an individual's brothers and sisters, half-brothers and half-sisters, a spouse, ancestors (parents, grandparents, etc.), and lineal 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 whose family 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 persons 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 persons own more than 10% in value of the outstanding stock of each corporation;
- an S corporation and a regular corporation if the same persons own more than 10% in value of the outstanding stock of each corporation;
- a partnership and a person who owns directly or indirectly more than 10% of the capital or profits of the partnership;
- two partnerships if the same persons own more than 10% of the capital or profits of each;
- two persons who are engaged in business under common control;
- an executor of an estate and a beneficiary of that estate.

To determine the direct or indirect ownership of the outstanding stock of a corporation, apply the following rules:

- 1) Stock owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered owned proportionately by or for its shareholders, partners, or beneficiaries.
- 2) Stock owned directly or indirectly by or for an individual's family is considered owned by the individual. The family of an individual includes only brothers and sisters, half-brothers and half-sisters, a spouse, ancestors, and lineal descendants.
- 3) Any stock in a corporation owned by an individual (other than by applying rule 2) is considered owned directly or indirectly by the individual's partner.

When applying rule 1, 2, or 3, stock considered owned by a person under rule 1 is treated as actually owned by that person. However, if a person constructively owns stock because of rule 2 or 3, he or she does not own the stock for purposes of applying either rule 2 or 3 to make another person the constructive owner of the same stock.

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See Form CT-1, *Supplement to Corporation Tax Instructions*.