Department of Taxation and Finance

# Instructions for Form DTF-622
## Claim for QETC Capital Tax Credit

NEW YORK STATE 2024

**DTF-622-I**

## General information

The qualified emerging technology company (QETC) capital tax credit under Tax Law §§ 210-B.8 and 606(r) encourages investment in a QETC. The credit is available to Article 9-A taxpayers or Article 22 taxpayers.

For more information, see the following Tax Bulletins, available on our website at *www.tax.ny.gov* (search: *qetc):*

- TSB-M-99(2.1)C, *Qualified Emerging Technology Company Tax Credits (Article 9-A Taxpayers Only)*
- TSB-M-00(2)I, *Qualified Emerging Technology Company Tax Credits (Personal Income Tax)*
- TSB-M-12(9)C, (8)I, *Clarification of Qualifications for Qualified Emerging Technology Company (QETC) Tax Credits*

### Who is eligible

You may claim this credit if you:

- are a corporation subject to tax under Article 9-A or an individual subject to tax under Article 22, and
- made a qualified investment in a certified QETC.

An individual subject to tax under Article 22 includes:

- a sole proprietor (including estates and trusts that are sole proprietors);
- a partner in a partnership (including a member of a limited liability company [LLC] that is treated as a partnership for federal income tax);
- a shareholder of a New York S corporation; **or**
- a beneficiary of an estate or trust where the estate or trust is a sole proprietor, partner in a partnership, or shareholder of a New York S corporation.

**Combined filers:** If you are filing as a member of a combined group, you may claim the credit. You will calculate the credit on a separate basis in Schedule A, Parts 1 and 2**,** and apply it against the combined tax.

### Credit amount

The QETC capital tax credit is calculated on each qualified investment you made in a certified QETC during the tax year.

The amount of the credit is equal to the sum of:

- **10%** of qualified investments in certified QETCs, if you certify to the Commissioner of Taxation and Finance when you claim the credit that the qualified investment will **not** be sold, transferred, traded, or disposed of within **four years** from the close of the tax year in which you first claimed the QETC capital tax credit; **and**
- **20%** of qualified investments in certified QETCs, if you certify to the Commissioner of Taxation and Finance when you claim the credit that the qualified investment will **not** be sold, transferred, traded, or disposed of within **nine years** from the close of the tax year in which you first claimed the QETC capital tax credit.

### Definitions

*Qualified investment* means:

- the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest; **or**
- the contribution of property to a partnership in exchange for an interest in the partnership; **or**
- similar contributions to a business entity not in corporate or partnership form in exchange for an ownership interest in the entity.

Qualified investments **do not include** investments made by or on behalf of an owner of the QETC, including, but not limited to, a stockholder, partner, sole proprietor, or any related person [as defined in § 465(b)(3)(C) of the Internal Revenue Code (IRC)].

An *owner of the qualified emerging technology company* means an entity that owns more than a 10% (0.1) interest in a QETC. The percentage of ownership in a certified QETC is based upon:

- the number of shares of stock issued and outstanding; **or**
- the contribution of property to a partnership; **or**
- similar contributions in the case of a business entity not in corporate or partnership form.

A *qualified emerging technology company* is defined under Public Authorities Law (PAL) § 3102-e 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:

- its primary products or services are classified as emerging technologies under PAL § 3102-e(1)(b); or
- it has research and development (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 National Science Foundation [NSF] in the most recently published results from its survey of industrial research and development or a comparable successor survey as determined by the Tax Department).

For more information, visit our website at *wwww.tax.ny.gov* (search: *qetc)*.

A *certified QETC* means a qualified emerging technology company that:

- has filed Form DTF-620*, Application for Certification of a Qualified Emerging Technology Company*; and
- has been certified as a QETC by the Commissioner of Taxation and Finance.

### Credit limitations

You **cannot**:

- use this credit to reduce the tax due under:
  - Article 9-A to less than the fixed dollar minimum tax, or
  - Article 22 to less than zero.
- apply this credit against the metropolitan transportation business tax (MTA surcharge), or
- request a refund for any unused portion of this credit; however, you may carry it forward to future tax years indefinitely.

The credit claimed **cannot** exceed:

- 50% (0.5) of the tax imposed by Article 9-A § 209 and Article 22 § 601 for any year you claim the credit without regard to any credit,
- $150,000 for the total amount of credit for all years **if** calculated at the rate of 10% (0.1) of qualified investments, and
- $300,000 for the total amount of credit for all years **if** calculated at the rate of 20% (0.2) of qualified investments.

## Recapture of credit

If the following apply, you **must** add back to the tax in the tax year of the disposition or recovery a portion of the original credit:

- you sell, transfer, or otherwise dispose of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, **or**
- you recover an investment that was the basis, in whole or in part, for the allowance of the QETC capital tax credit; **and**
- the disposal or recovery occurs:
  - during the tax year, or
  - within 48 months of the close of the tax year when the credit was allowed and the credit was calculated at the rate of 10% (0.1) of qualified investments, or
  - within 108 months of the close of the tax year when the credit was allowed and the credit was calculated at the rate of 20% (0.2) of qualified investments.

For more information, including the portion of the credit you must add back, see Schedule C instructions.

# Line instructions

**Individuals (including sole proprietors) and fiduciaries:** Complete Schedules A, B, and D. If applicable, also complete Schedule C.

**New York S corporations and partnerships:** Complete Schedule A. Transfer the total of lines 3 and 6 (and if applicable, line A) as follows:

- **New York S corporations:** Enter the total on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide your shareholders with their proportional share of this amount.
- **Partnerships:** Enter the total and code ***622*** on Form IT-204, *Partnership Return*, line 147, and provide the partners with their proportional share of this amount.
- **Tiered partnerships:** Complete line A **only**. If you are also claiming a credit on line 3 or line 6, see the *New York S corporations and partnerships* instructions. If you are **not** claiming a credit on line 3 or line 6, enter the line A amount and code ***622*** on Form IT-204, line 147.

If you have a recapture of the QETC capital tax credit, complete Schedule C and transfer the amount on line 22 as follows:

- **New York S corporations:** Enter the line 22 amount on Form CT-34-SH and provide your shareholders with their proportional share of the recapture.
- **Partnerships:** Enter the line 22 amount and code ***622*** on Form IT-204, line 148, and provide the partners with their proportional share of the recapture.

A **married couple** in a business enterprise that made an IRC 761(f) election to file **two federal Schedule C forms** instead of a partnership return: If you file jointly, calculate your credit amount as if you were filing one federal Schedule C for the business. Complete Schedules A, B, and D. If applicable, also complete Schedule C.

**Partners (including corporate partners), shareholders of New York S corporations, and beneficiaries of estates and trusts:** Complete line A, and Schedules B and D.

**Corporations:** Complete Schedules A, B, and D. If applicable, also complete Schedule C.

**Note:** If more than one of the above applies to you, complete all appropriate schedules on one Form DTF-622.

**Additional forms:** If you have more entries than will fit on the lines provided in Schedule A or C, submit additional Forms DTF-622, completing only the necessary schedules. Include your name and taxpayer identification number on each form. On the indicated lines of the first Form DTF-622, include the totals from all additional Forms DTF-622. Place the extra forms behind the first Form DTF-622 and submit them with your return.

#### Line A

If you are claiming a credit from more than one partnership, New York S corporation, estate or trust, combine all amounts and submit a list showing a breakdown of the amounts and the name and identification number of each entity.

## Schedule A: Calculation of credit

### Part 1: Calculation of credit for qualified investments to be held four years

If needed, see Additional forms.

#### Line 3

**Fiduciaries:** Provide the beneficiaries with their proportionate share of the credit. The proportionate share of the credit should be based on the division of each beneficiary's share of the income from the estate or trust.

### Part 2: Calculation of credit for qualified investments to be held nine years

If needed, see Additional forms.

#### Line 6

**Fiduciaries:** Provide the beneficiaries with their proportionate share of the credit. The proportionate share of the credit should be based on the division of each beneficiary's share of the income from the estate or trust.

## Schedule B: Limitations of QETC capital tax credit

### Part 1: Fifty percent limitation

#### Line 7

**Article 9-A filers:** Enter the tax due before credits from Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*.

**Article 22 filers:** If you file Form IT-201, *Resident Income Tax Return*, enter the total of your tax from line 39 **and** Form IT-230-I, Worksheet A, line 1, reduced by any resident credit and accumulation distribution credit.

If you file Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, enter the total of your tax from line 46 **and** Form IT-203-ATT, line 18, reduced by any resident credit and accumulation distribution credit.

If you file Form IT-205, *Fiduciary Income Tax Return*, and are a resident, enter the tax from line 8, reduced by any resident credit or accumulation distribution credit.

If you file Form IT-205 and are a nonresident or part-year resident, enter the tax from line 9, reduced by any resident credit or accumulation distribution credit.

### Part 2: $150,000 and $300,000 limitation

**Line 10**

**Article 22 filers:** Your total amount of credit for all years may **not** exceed:

- $150,000 for a credit calculated at the rate of 10% of qualified investments, and
- $300,000 for a credit calculated at the rate of 20% of qualified investments.

**Exceptions:**

If you and your spouse are required to file separate New York State returns, the $150,000 limitation is reduced to $75,000 and the $300,000 limitation is reduced to $150,000, unless your spouse has no credit allowable for the tax year which ends with or within your tax year.

For an estate or trust, the $150,000 limitation and $300,000 limitation of the credit is reduced to an amount which bears the same ratio to $150,000 and an amount which bears the same ratio to $300,000 as the portion of the income of the estate or trust that is not allocated to beneficiaries bears to the total income of the estate or trust.

**Line 12**

Subtract line 11 from line 9, or, if it applies, from line 10. The result represents the amount of credit you may still claim in each category.

**Line 13**

**Column A:**

1. Add the amount on line A attributable to qualified investments to be held 4 years, if any, to the amount on line 3.
2. Enter the lesser of this total **or** the amount on line 12, column A.

**Column B:**

1. Add the amount on line A attributable to qualified investments to be held 9 years, if any, to the amount on line 6.
2. Enter the lesser of this total **or** the amount on line 12, column B.

### Part 3: Credit limitation

**Line 15**

**Article 9-A filers:** Enter the tax from Form CT-3 or CT-3-A, Part 2, line 2 **plus** any net recaptured credits.

**Article 22 filers:**

- Form IT-201: Enter the tax from Form IT-201, line 39, **plus** any amount from Form IT-201-ATT, line 21.
- Form IT-203: Enter the tax from Form IT-203, line 46, **plus** any amount from Form IT-203-ATT, line 20.
- Form IT-205: Enter the tax from Form IT-205, line 8 (for residents) or line 9 (for nonresidents), **plus** any credits shown on line 1 of the *Addbacks worksheet*, in the instructions for Form IT-205, line 12.

**Line 16**

If you are claiming more than one tax credit for this year, enter the total amount of credits you claimed before applying this credit; otherwise enter ***0***. You **must** apply tax credits in a specific order.

**Article 9-A filers:** For the correct order of credits, see Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits.*

**Combined filers:** Include the total amount of all tax credits you **and** other members of the combined group are claiming—including the QETC capital tax credit—that you want to apply before you apply this credit.

**Article 22 filers:**

Apply credits in the following order:

1. household credit
2. any credits that cannot be carried over or refunded
3. any credits that can be carried over for a limited duration
4. any credits that can be carried over for an unlimited duration
5. refundable credits

For more information, visit our website at *www.tax.ny.gov* (search: *ordering)*.

**Line 18**

**Article 9-A filers:** Enter your fixed dollar minimum tax from Form CT-3, or the designated agent's fixed dollar minimum tax from Form CT-3-A.

**Article 22 filers:** Enter ***0***.

## Schedule C: Recapture of credit

### Part 1: Recapture of credit for qualified investments to be held four years

You must add back to the tax in the tax year of the disposition or recovery a portion of the original credit if:

- you sell, transfer, or otherwise dispose of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, **or**
- you recover an investment that was the basis, in whole or in part, for the allowance of the QETC capital tax credit; **and**
- the disposal or recovery occurs during the tax year or within 48 months from the close of the tax year when the credit was allowed.

**Column C:** For recapture, add back the portion of the credit attributable to the qualified investment disposed of, or the investment recovered, multiplied by the following percentage:

- 100% if the disposition or recovery occurs within the tax year in which the credit is allowed or within 12 months of the end of that tax year;
- 75% if the disposition or recovery occurs more than 12 months, but not more than 24 months, after the end of the tax year in which the credit was allowed;
- 50% if the disposition or recovery occurs more than 24 months, but not more than 36 months, after the end of the tax year in which the credit was allowed; or
- 25% if the disposition or recovery occurs more than 36 months, but not more than 48 months, after the end of the tax year in which the credit was allowed.

If needed, see *Additional forms*.

## Part 2: Recapture of credit for qualified investments to be held nine years

You must add back to the tax in the tax year of the disposition or recovery a portion of the original credit if:

- you sell, transfer, or otherwise dispose of corporate stock, a partnership interest, or other ownership interest arising from the making of a qualified investment, **or**
- you recover an investment that was the basis, in whole or in part, for the allowance of the QETC capital tax credit; **and**
- the disposal or recovery occurs during the tax year or within 108 months from the close of the tax year when the credit was allowed.

**Column C:** For recapture, add back the portion of the credit attributable to the qualified investment disposed of, or the investment recovered, multiplied by the following percentage:

- 100% if the disposition or recovery occurs within the tax year in which the credit is allowed or within 12 months of the end of that tax year;
- 80% if the disposition or recovery occurs more than 12 months, but not more than 48 months, after the end of the tax year in which the credit was allowed;
- 60% if the disposition or recovery occurs more than 48 months, but not more than 72 months, after the end of the tax year in which the credit was allowed;
- 40% if the disposition or recovery occurs more than 72 months, but not more than 96 months, after the end of the tax year in which the credit was allowed; or
- 20% if the disposition or recovery occurs more than 96 months, but not more than 108 months, after the end of the tax year in which the credit was allowed.

If needed, see *Additional forms*.

**Line 22**

Add line 20, column D and line 21, column D. Enter the amount on line 22. This is your total recaptured credit.

**Corporations and individuals:** Enter the line 22 amount on line 26.

**New York S corporations, partnerships, and fiduciaries:** Provide shareholders, partners, and beneficiaries with their share of the recaptured credit amount.

**New York S corporations:** Enter the line 22 amount on Form CT-34-SH.

**Partnerships:** Enter the line 22 amount and code ***622*** on Form IT-204, line 148.

**Fiduciaries:** Enter the amount from line 22 not allocated to beneficiaries on line 26.

## Schedule D: Calculation of QETC capital tax credit and carryover

**Line 26**

**New York C corporations:** Enter the amount from line 22. If you are a corporate partner, also include your share of any recapture from the partnership.

**New York S corporation shareholders, partners in a partnership, and beneficiaries of an estate or trust:** Enter your share of the New York S corporation's, partnership's, or estate's or trust's recaptured credit. The New York S corporation, partnership, or estate or trust should provide you with this information. Provide the name and identification number of the entity.

**Fiduciaries:** Enter your share of the estate's or trust's recaptured credit that was not distributed to the beneficiaries (if any) on line 26.

**Self-employed individuals:** Enter your share of the recaptured credit on line 26.

**Line 27**

If line 25 is more than line 26, enter the difference and skip to line 29.

If line 25 is less than line 26, leave this line blank and go to line 28.

**Line 28**

If line 26 is more than line 25, enter the difference. This is your QETC capital tax credit recapture. **Do not** complete lines 29 and 30.

- **Corporations** (except New York S corporations)**:** Show the net recapture amount on line 28 as a loss by placing a minus (-) sign in the box immediately to the left of the amount. Enter the line 28 amount as a negative number with a minus (-) sign in the appropriate box of the tax credits section of your franchise tax return.
- **New York S corporations:** Show the net recapture amount as a positive amount on line 28. Enter the line 28 amount on Form CT-34-SH.
- **Fiduciaries:** Show the net recapture amount as a positive amount on line 28. Include the line 28 amount on Form IT-205, line 12.
- **Individuals:** Show the net recapture amount as a positive amount on line 28. Enter the line 28 amount and code ***622*** on:
  - Form IT-201-ATT, line 20, or
  - Form IT-203-ATT line 19.

**Line 29**

Enter the amount from line 8, line 19, or line 27, whichever is less.

**Article 22 filers:** Enter the amount from line 29 and code ***622*** on:

- Form IT-201-ATT, line 6; or
- Form IT-203-ATT, line 7.

For Form IT-205, include the amount in the total reported on line 10.

**Article 9-A filers:** Transfer the amount from line 29 to your franchise tax return.

**Line 30**

Subtract line 29 from line 27 to calculate your QETC capital tax credit to be carried forward to future years. You will need to refer to this amount when calculating next year's credit.