New York State Department of Taxation and Finance
**Office of Tax Policy Analysis**
**Technical Services Division**

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Income Tax
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# Qualified Emerging Technology Company Tax Credits
## (Personal Income Tax)

On August 9, 1999, Governor George E. Pataki signed new legislation into law. This new legislation, in part, amended Article 22 (Personal Income Tax) of the Tax Law to provide new tax credits to enhance emerging technology industries in New York State. For tax years beginning on or after January 1, 2000, two tax credits have been created: the Qualified Emerging Technology Company (QETC) Employment Credit and the Qualified Emerging Technology Company Capital Tax Credit. The credits are available to Article 22 taxpayers (that is, individuals, including sole proprietors, partners of partnerships, shareholders of New York S corporations, members of a limited liability company (LLC), beneficiaries of estates and trusts, and estates and trusts). Previously, these two credits were allowed only to Article 9-A (Franchise Tax on Business Corporations) taxpayers.

This memorandum explains the application of the QETC credits to Article 22 taxpayers. For an explanation of the application of the credits to Article 9-A taxpayers, see TSB-M-99(2)C.

## General definitions

A *qualified emerging technology company* is, as defined in section 3102-e of the Public Authorities Law (PAL), 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 section 3102-e(1)(b) of the PAL; or

- it has research and development activities in New York State and its ratio of research and development 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, *Research and Development in Industry*: *1998*, 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 research and development funded by the federal government, and the other average ratio is for companies doing research and development without funding by the federal government. The average ratio for all surveyed companies classified is deemed to be the lesser of these ratios.

Currently, the average ratio is 3.6% (see Table A-21 of the advanced release of the NSF's survey, *Research and Development in Industry*:*1998*) for companies doing research and development funded by the federal government, and 3.1% (see Table A-22 of the advanced release of the NSF's survey, *Research and Development in Industry*:*1998*) for companies doing research and development without funding by the federal government. Single copies of the survey are available free of charge from the Division of Science Resources Studies, National Science Foundation, 4201 Wilson Boulevard, Suite 965, Arlington, VA 22230. It is also available through their website (http://www.nsf.gov/sbe/srs/stats.htm).

Accordingly, the most recently published average ratio for all surveyed companies classified is determined to be 3.1%. Therefore, at the time this memorandum was printed, to qualify under item (2) above, a company must have a ratio of research and development funds to net sales of at least 3.1%.

**Note**: Taxpayers should consult the most current version of Form DTF-620-I, *Application for Certification of a Qualified Emerging Technology Company*, to obtain the current ratios in effect.

A *company located in New York State* means a sole proprietorship, corporation, partnership or limited liability company, or any other entity that, during the tax year that the credit is claimed, owns or rents real property used in its emerging technology primary products or services business, or in its research and development activities in New York State.

For tax years beginning in 2000, *emerging technologies under section 3102-e(1)(b) of the PAL* means:

- 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;

- 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;

- electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment and products of electronic distribution with interactive media content. Such technologies shall include, but not be 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;

- information and communication technologies, equipment and systems that involve advanced computer software and hardware, visualization technologies, and human interface technologies. Such technologies shall include, but not be 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.

For tax years beginning after 2000, *emerging technologies under section 3102-e(1)(b) of the PAL* also means:

- remanufacturing technologies, which shall be defined as 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* shall mean 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* shall 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 tax year that the credit is claimed.

*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 tax year that the credit is claimed.

*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 tax year that the credit is claimed.

*Research and development funds* are the same as those used by the NSF in its most recent survey, *Research and Development in Industry*:*1998* (see *Definitions from the survey* below). These funds represent expenditures paid or incurred in the conduct of research and development activities during the tax year that the credit is claimed.

## Definitions from the survey

The following definitions are from the NSF's survey, *Research and Development in Industry*:*1998*.

*Research and development activities* include basic and applied research in the sciences and engineering, and the design and development of prototypes and processes, excluding quality control, routine product testing, market research, sales promotion, sales service, other nontechnological activities or routine technical services, and research in the social sciences or psychology. Activities to be **excluded** from research and development:

- Routine product testing
- Research in social sciences or psychology
- Geological and geophysical exploration activities
- Technical services such as:
  - Quality and quantity control
  - Technical plant sanitation control
  - Trouble-shooting 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 research and development.
- Social science research and development is **excluded**. Social science research and development is defined to encompass those activities devoted to further understanding the behavior of groups of human beings or of individuals as members of groups. Some of the topics include the following:
  - Personal research and development
  - Economic research and development
  - Artificial intelligence and expert systems research and development
  - Consumer, market, and opinion research and development
  - Engineering psychology research and development
  - Management and organizational research and development
  - Actuarial and demographic research and development
  - Educational processes and applications research and development
  - Research and development in law.

*Basic research* means original investigations for the advancement of scientific knowledge not having specific immediate commercial objectives.

*Applied research* means investigations for the discovery of new scientific knowledge having specific commercial objectives with respect to products or processes.

*Development* means technical activities not routine in nature concerned with translating research findings or other scientific knowledge into products or processes.
**Include** as development:

- The design and operation of pilot plants and semiwork 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
- Design for special manufacturing equipment and tools
- Preparation of reports, drawings, formulas, specifications, standard practice instructions, or operating manuals
- Software development.

**Exclude** as development:

- Routing technical services to customers
- Toolmaking and tool tryout
- Production of detailed construction drawings and manufacturing blueprints
- Pre-production planning.

# QETC Employment Credit (Tax Law §606(q))

The QETC employment credit is designed to encourage the creation of jobs in emerging technology companies. This credit is effective for tax years beginning on or after January 1, 2000. The credit can be claimed for three consecutive years.

## Who is eligible

You may claim the credit if you are:

- a sole proprietor (including estates and trusts that are sole proprietors);
- a partner of a partnership (including a member of a limited liability company (LLC) that is treated as a partnership for federal income tax purposes);
- 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 a shareholder of a New York S corporation;

and the sole proprietorship, partnership or S corporation is a qualifying emerging technology company as defined in section 3102-e of the public authorities law. In addition, the average number of individuals employed full-time by the company in New York State during the tax year must be at least 101% of the taxpayer's base year employment.

## Definitions

*Base year employment* means the average number of individuals employed full-time by the company in New York State during the three tax years immediately preceding the first tax year in which the credit is claimed. The base year employment, once computed, remains the same for each of the two subsequent tax years for which the credit is claimed. If the company provided full-time employment in the state for only part of the three tax years immediately preceding the first tax year in which the credit is claimed, then the base year employment will be computed using that part.

The average number of individuals employed full-time is computed by adding the number of such individuals employed by the company at the end of each quarter during each tax year and dividing the sum by the number of such quarters occurring within such tax year. However, in computing base year employment only, the company must exclude any employee for whom an empire zone (EZ) or zone equivalent area (ZEA) wage credit is claimed for the tax year.

*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. A seasonal job that meets these requirements constitutes full-time employment if the job is continuous for at least three months.

## Amount of credit

The amount of the credit is equal to:

(a) the average number of individuals employed full-time by the company in New York State for the current taxable year, minus

(b) the company's base year employment, multiplied by

(c) $1,000.

## Application, carryover, and refund of credit

**Application**

The credit is available for three consecutive tax years selected by the taxpayer and can be claimed for each of the three years that the credit eligibility requirements are met. However, if the company has provided full-time employment in the state for only part of the three-year base period, the credit cannot first be claimed until the tax year following the first full tax year (a period of at least 12 calendar months) the company had some full-time employment in the state. If the credit and carryovers of the credit allowable for any tax year exceed the taxpayer's tax for the tax year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for that year or years.

**Carryover**

Any amount of the credit not deductible in the current tax year may be carried over for an unlimited number of tax years.

**Refund of credit**

In lieu of a carryover, a taxpayer that qualifies as the owner of a new QETC business may elect to have the carryover refunded. The Tax Law does not allow for the payment of interest on the refund.

An *owner of a new QETC business* includes an individual who is a sole proprietor of a QETC, or a partner in a partnership that is a QETC, unless:

- the individual previously received a refund of an investment tax credit;

- the business entity of which the individual is an owner is substantially similar in operation and in ownership to:

    - a business entity taxable or previously taxable under Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; or Article 33 of the Tax Law; or

    - a business entity that would have been subject to tax under Article 23 (the New York State unincorporated business tax as it was in effect on January 1,1980); or

    - a business entity whose income or losses are or were includable in income under Article 22 whereby the intent and purpose of section 606(q) concerning the refunding of this credit to a new business would be evaded.

- the sole proprietorship or partnership has been in operation for more than six tax years (excluding short tax years) prior to the tax year in which the sole proprietor or a partner in a partnership first becomes eligible for the credit; or

- the sole proprietor or partnership has been in operation for more than eight tax years (excluding short tax years) prior to the tax year in which the sole proprietor or a partner in a partnership first becomes eligible for the credit, if the business entity's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the U.S. Food and Drug Administration's required approval process for the use of such substances by humans.

An *owner of a new QETC business* also includes a shareholder of a New York S corporation that is a QETC, unless:

- the shareholder previously received a refund of any new business tax credits as a New York S corporation shareholder,

- the S corporation is a corporation:

  – in which over 50% of the number of shares of stock 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 Article 9-A; Article 9. section 183, 184, 185 or 186; Article 32; or Article 33 of the Tax Law; or

  – that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Article 9-A; Article 9, section 183, 184, 185 or 186; Article 32; Article 33; or Article 23 (the New York State unincorporated business tax as it was in effect on January 1, 1980); or

  – the income or losses of which are or were includable under Article 22 of the Tax Law, whereby the intent and purposes of section 210.19(e) with respect to refunding of credit to new businesses would be evaded; or

- the S corporation has been in operation for more than six tax years (excluding short tax years) prior to the tax year in which the S corporation shareholder first became eligible for the credit; or

- the S corporation has been in operation for more than eight tax years (excluding short tax years) prior to the tax year in which the S corporation shareholder first became eligible for the credit, if the business entity's primary business or product requires federal regulatory approval or involves the discovery and sale of substances requiring clinical trials as part of the US Food and Drug Administration's required approval process for the use of such substances by humans.

(See:Tax Law, sections 606(a)(10), 606 (r)(5), 606(i), and 210.12(j); Public Authorities Law, section 3102-e.)

## Example

Taxpayer A, a calendar year taxpayer subject to tax under Article 22 of the Tax Law, started a sole proprietorship in New York State on September 1, 1998. Taxpayer A is claiming the QETC employment credit for the calendar year 2000. During calendar year 2000, the sole proprietorship conducted research and development activities in New York State, paid or incurred expenditures of $10,000 for those activities, and had net sales of $300,000. Its total annual product sales were $305,000. The most recently published average ratio of research and development funds to net sales published in the NSF's most recent survey for all surveyed companies classified is 3.1%. This ratio is the lesser of the average ratio for all surveyed companies classified both with and without federal funding.

For calendar year 2000, Taxpayer A's records show the following number of individuals employed full-time by the sole proprietorship in New York State at the end of each quarter:

| **Employment in current tax year 2000** | | | | | |
|---|---|---|---|---|---|
| Calendar year 2000 | Quarter 3/31 | Quarter 6/30 | Quarter 9/30 | Quarter 12/31 | Total |
| Number of full-time employees in New York State | 2 | 5 | 5 | 4 | 16 |

The average number of individuals employed full-time in New York State for the calendar year 2000 is 4 (the total number of employees divided by the total number of quarters occurring within the tax year (16÷4)).

Taxpayer A's records show the following number of individuals employed full-time by the sole proprietorship in New York State at the end of each quarter for the base year employment period (the three tax years immediately preceding calendar year 2000):

| **Number of employees in New York State for three-year base period** | | | | | |
|---|---|---|---|---|---|
| Base period years | Quarter 3/31 | Quarter 6/30 | Quarter 9/30 | Quarter 12/31 | Total |
| Number in 1st preceding year (1999) | 1 | 1 | 1 | 2 | 5 |
| Number in 2nd preceding year (1998) | | | 0 | 1 | 1 |
| Number in 3rd preceding year (1997) | | | | | |

The average number of individuals employed full-time in New York State for the base year employment period is 1 (the total number of employees for the employment period divided by the total number of quarters occurring within that part of the employment period for which the taxpayer provided full-time employment rounded to the nearest whole number(5+1=6÷5=1.2, rounded to 1)).

Taxpayer A does not have products or services classified as emerging technologies. However, the taxpayer meets all of the eligibility requirements as explained in the following questions and answers and may claim the QETC employment credit:

*Question 1:* Is the sole proprietorship a company located in New York State that has research and development activities in New York State?

*Answer:* Yes.

*Question 2:* Is the amount of total product sales for the current tax year $10,000,000 or less?

*Answer:* Yes, product sales for calendar year 2000 totaled $305,000.

*Question 3:* Does the ratio of research and development funds to net sales for the current tax year equal or exceed the NSF's average ratio?

*Answer:* Yes. The sole proprietor’s ratio of research and development funds to net sales is 3.3% ($10,000÷$300,000), which exceeds the NSF's average ratio of 3.1%.

*Question 4:* Is there a full tax year in which the sole proprietorship had some full-time employment, preceding the current tax year?

*Answer:* Yes, the sole proprietorship was subject to tax for the full calendar year 1999 and had some full-time employment during that year.

*Question 5:* Is the average number of full-time employees in New York State for the current tax year at least 101% of the taxpayer's base year employment?

*Answer:* Yes, it is 400% (the average for the calendar year 2000 (4) divided by the average for the base year employment period (1)).

The QETC employment credit for Taxpayer A is computed as follows:

| | |
|---|---|
| Average number of individuals employed full-time in New York State for the calendar year 2000 | 4 |
| Minus: average number of individuals employed full-time in New York State for the base year employment period | - 1 |
| Equals: the number of individuals employed full-time in New York State eligible for the credit | 3 |
| Multiply: tax credit per full-time employee | x $1,000 |
| QETC employment credit allowable for calendar year 2000 | $3,000 |

**Note:** If, in the above example, the qualified emerging technology company was operated in the form of a partnership or New York S corporation instead of a sole proprietorship, the partners or shareholders would be entitled to claim their distributive or pro-rata share of the total allowable credit of $3,000. If the sole proprietorship was operated by an estate or trust, the total allowable credit of $3,000 would be allocated between the estate or trust and its beneficiaries on the same basis as the income of the estate or trust is allocated.

# QETC Capital tax credit (Tax Law §606(r))

The QETC capital tax credit is designed to encourage investment in emerging technology companies. This credit is effective for tax years beginning on or after January 1, 2000.

## Who is eligible

A taxpayer (that is, individuals, including partners of partnerships, shareholders of New York S corporations, beneficiaries of estates and trusts, and estates and trusts,) subject to tax under Article 22 of the Tax Law that makes a qualified investment in a certified qualified emerging technology company.

## Definitions

*Qualified investment* means:

- the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest;

- the contribution of property to a partnership in exchange for an interest in the partnership; and

- 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 qualified emerging technology company, including, but not limited to, a stockholder, partner, sole proprietor or any related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code).

An *owner of the qualified emerging technology company* means an individual or entity that owns more than a 10% interest in a qualified emerging technology company.

A *certified qualified emerging technology company* means a qualified emerging technology company (see page 1) that 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.

## Amount of credit

The QETC capital tax credit is computed on each qualified investment made during the tax year in a certified qualified emerging technology company and is equal to the sum of:

- 10% of qualified investments in certified qualified emerging technology companies, if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed 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 the QETC capital tax credit is first claimed; and

- 20% of qualified investments in certified qualified emerging technology companies, if the taxpayer certifies to the Commissioner of Taxation and Finance at the time the credit is claimed 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 the QETC capital tax credit is first claimed.

The total amount of credit allowable to a taxpayer for all years may not exceed $150,000 for a credit computed at the rate of 10% of qualified investments, and $300,000 for a credit computed at the rate of 20% of qualified investments.

If a husband or wife is required to file a separate return, the $150,000 limitation is reduced to $75,000 and the $300,000 limitation is reduced to $150,000, unless the taxpayer's spouse has no credit allowable for the tax year which ends with or within the taxpayer's tax year.

In the case of 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 which is not allocated to beneficiaries bears to the total income of the estate or trust.

**Note:** If the investments are made by a partnership or New York S corporation, the partners or shareholders would compute their credit based upon their distributive or pro-rata shares of the investments made by the partnership or corporation. If the investments are made by an estate or trust, the estate or trust and its beneficiaries would compute their credits based upon their shares of the estates or trust's investment, allocated between them on the same basis as the income of the estate or trust is allocated. In all cases, the credit limitations (such as the overall dollar limitation on the credits described above and the 50 % section 601 tax limitation described below) would be applied separately on each personal income tax return.

## Application, carryover, and refund of credit

**Application**
Section 606(r) imposes the following limitations on the QETC capital tax credit:

- the credit and carryover of the credit deducted for the tax year cannot exceed 50% of the tax imposed under section 601 of Article 22 of the Tax Law, before the deduction of any tax credit; and

- the credit and carryover of the credit deducted for the tax year cannot be applied against the minimum tax or the separate tax on lump-sum distributions.

**Carryover**
Any amount of the credit not deductible in the current tax year may be carried over for an unlimited number of tax years.

**Refund of credit**
The QETC capital tax credit is not refundable.

## Recapture of credit

If a taxpayer sells, transfers or otherwise disposes of corporate stock, a partnership interest or other ownership interest arising from the making of a qualified investment, or if an investment is recovered by the taxpayer that was the basis for the allowance of the QETC capital tax credit, and the disposal or recovery occurs during the tax year or within 48 months (for a credit at the rate of 10% of qualified investments) or 108 months (for a credit at the rate of 20% of qualified investments) from the close of the tax year when the credit was allowed, the taxpayer must add back to the tax in the tax year of the disposition or recovery, the required portion of the credit originally allowed.

The portion of the credit originally allowed that is required to be added back is the portion of the credit attributable to the property disposed of or the payment recovered, multiplied by the following percentages:

If a credit at the rate of 10% of qualified investments was originally allowed:

- 100%, if the disposition or recovery occurs within the tax year in which the credit was 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 a credit at the rate of 20% of qualified investments was originally allowed:

- 100%, if the disposition or recovery occurs within the tax year in which the credit was 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.

(See: Tax Law, section 606(r); Public Authorities Law, section 3102-e.)

## Example 1:

On January 1, 2000, Taxpayer B, a calendar year taxpayer, purchased 20,000 shares of common stock for $10 a share and 50,000 shares of preferred stock for $32 a share from the Oz Corporation, a corporation certified as a qualified emerging technology company. At the time this investment is made, Taxpayer B does not own more than 10% of Oz Corporation; accordingly, the investment in Oz is a qualified investment. The taxpayer certifies that the common stock will be held for four years and the preferred stock for nine years. For calendar year 2000, Taxpayer B's tax under section 601 of Article 22 is $90,000 before the deduction of any credits.

The computation of the QETC capital tax credit and the recapture of the credit is computed as follows:

| | | |
|---|---|---|
| **Computation of credit for qualified investments to be held four years-** | | |
| Amount of qualified investments in certified QETC's (20,000 shares x $10) | $200,000 | |
| Credit rate | 10% | |
| Credit amount ($200,000 x 10%) | | $ 20,000 |
| **Computation of credit for qualified investments to be held nine years-** | | |
| Amount of qualified investments in certified QETC's (50,000 shares x $32) | $1,600,000 | |
| Credit rate | 20% | |
| Credit amount ($1,600,000 x 20%, limited to $300,000*) | | $300,000 |
| Total credit computed for calendar year 2000 ($20,000 + $300,000) | | $320,000 |
| Credit limitation- 50% of section 601 tax limitation ($90,000 x 50% = $45,000) | | |
| Credit allowed after limitation | | $45,000 |
| Credit available as carry forward ($320,000 - $45,000) | | $275,000 |

*The credit amount for qualified investments to be held nine years was limited, as the total amount of credit allowable for those investments for all years may not exceed $300,000.

## Example 2:

Assume the same facts as in *Example 1*, and that for calendar year 2001, Taxpayer B claimed no additional tax credits and did not utilize any of the carryover credit from year 2000. Therefore, Taxpayer B has a $275,000 QETC capital tax credit carryover from calendar year 2001. On June 30, 2002, the taxpayer sold 10,000 shares of the Oz Corporation preferred stock. The recapture of the credit is computed as follows:

| | |
|---|---|
| Credit available as carry forward ($320,000 - $45,000) | $275,000 |
| Recapture of credit ($60,000** x 80%***) | $ 48,000 |
| Credit available as carry forward after recapture | $227,000 |

**The amount of the year 2000 credit attributable to the property disposed of was computed as follows:

| | | |
|---|---|---|
| Original credit | | $300,000 |
| Property disposed of | 10,000 shares | |
| Property for which the credit was originally allowed | 50,000 shares | |
| Disposal rate (10,000 shares/50,000 shares) | | 20% |
| Portion of the credit attributable to the property disposed of | | $ 60,000 |

***Taxpayer B is required to recapture 80% of the portion of the credit attributable to the property disposed of, since the disposition occurred more than 12 months, but not more than 48 months, after the end of the tax year (12/31/00) in which the credit was allowed.

**Note:** If the sale of the stock in this example had been made by a partnership, New York S corporation or estate or trust, the partners, shareholders, estate or trust and beneficiaries of the estate or trust must compute the recapture on their personal income tax returns. To compute the recapture, the amount of investment that was disposed of or recovered must be allocated between them in the same manner as the original investment was allocated.