



Instructions for Form CT-604

Claim for QEZE Tax Reduction Credit

CT-604-I

Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Important information

File Form CT-604 only if you are claiming the qualified empire zone enterprise (QEZE) tax reduction credit. If you are claiming the QEZE credit for real property taxes, file Form CT-606, *Claim for QEZE Credit for Real Property Taxes*.

Form CT-604 is divided into two sections. It is very important that you complete the appropriate section.

You must **attach all pages** (1 through 8) to your return, even though you only completed one section.

All taxpayers must complete the information above Section 1 on page 1.

- QEZE's **first certified** prior to April 1, 2005: complete Section 1, Schedules A through G.
- QEZE's **first certified** between August 1, 2002, and March 31, 2005, that conduct operations on real property they own or lease that is located in an empire zone (EZ) and that is subject to a brownfield site cleanup agreement (BCA) executed prior to January 1, 2006: complete Section 2, Schedules H through M.
- QEZE's **first certified** on or after April 1, 2005: complete Section 2, Schedules H through M.

Note: If you are certified in multiple zones, you must complete **only** Section 1 (pages 1 through 3) **or** Section 2 (pages 5 through 7) based on the effective date of the first *Certificate of Eligibility* issued by Empire State Development (ESD). **Do not complete both sections.**

Example: Corporation A was certified in the Albany County Empire Zone on February 1, 2001. On October 15, 2005, the corporation was also certified in the Buffalo Empire Zone. Because Corporation A was first certified on February 1, 2001, it must complete **only** Section 1 to compute its QEZE tax reduction credit.

General information for all QEZE's

The Empire Zones Program Act provides for the QEZE tax reduction credit for businesses certified as eligible to receive benefits under General Municipal Law (GML) Article 18-B and that qualify as a QEZE. The credit is available to taxpayers subject to tax under Tax Law Article 9-A (general business corporations); Article 22 (personal income tax, see Form IT-604, *Claim for QEZE Tax Reduction Credit*); Article 32 (banking corporations); and Article 33 (insurance corporations). Taxpayers who are not subject to tax under these articles are not eligible to claim the QEZE tax reduction credit. The credit may not be applied against the metropolitan transportation business tax (MTA surcharge) or Article 13 (unrelated business income tax).

The QEZE tax reduction credit is the product of

- the benefit period factor,
- the employment increase factor,
- the zone allocation factor, and
- the tax factor.

The QEZE tax reduction credit may not reduce the tax to less than

- the fixed dollar minimum tax under Article 9-A (however, a QEZE that has a zone allocation factor of 100% is not subject to this limitation and may reduce the tax to zero); **or**
- \$250 for Article 32 or 33 filers.

The QEZE tax reduction credit is not refundable. Any amount not deductible in the current tax year may not be refunded, carried forward, or applied as an overpayment against the tax liability for the next tax year.

If your business wants to make purchases **exempt from sales tax** under the QEZE program, you must file an *Application for Qualified Empire Zone Enterprise (QEZE) Sales Tax Certification* (either Form DTF-82, DTF-83, or DTF-84). These applications are available on our Web site (see *Need help?*).

Definitions for all QEZE's

A *qualified empire zone enterprise (QEZE)* is a business enterprise that is certified as eligible to receive benefits under GML Article 18-B prior to July 1, 2011, and that annually meets the employment test. A QEZE also includes a clean energy enterprise (CEE) certified under GML Article 18-B that annually meets the employment test.

Tax year means the tax year of the business enterprise under Tax Law, Article 9, section 183, 184, 185, or former section 186; or Article 9-A, 22, 32, or 33.

Employment number means the average number of individuals, excluding general executive officers, employed full-time by the business enterprise for at least one-half of the tax year. For tax years beginning on or after January 1, 2005, all QEZE's will exclude from the employment number any individual employed within New York State in the immediately preceding 60 months by a related person to the QEZE. See definition of related person below.

The employment number will be computed for a QEZE's first tax year using only those employees employed full-time on the last day of the short tax year if the QEZE meets the following criteria:

- The QEZE acquires real or tangible property during its first tax year from an entity that is not a related person; and
- The QEZE has at least 190 full-time employees on the last day of the tax year, substantially all of whom were previously employed by the entity from which the taxpayer purchased its assets; and
- The QEZE has a first tax year of not more than seven months.

The term *related person* means a related person as defined in Internal Revenue Code (IRC) section 465(b)(3)(C) or an entity that would have qualified as a related person if it had not been dissolved, liquidated, merged with another entity or otherwise ceased to exist or operate.

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 refer to section 465(b)(3)(C) to see if the definition of related persons has been amended.

Related persons include the following:

- 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 directly or indirectly 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.

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. A seasonal business (a business that regularly operates for less than an entire tax year, such as a ski resort) that employs individuals full-time for at least three months of continuous duration may include these individuals in the employment number if they are working in a job consisting of at least 35 hours per week.

Test date is the later of July 1, 2000, or the date prior to July 1, 2011, on which the business enterprise was **first** certified under GML Article 18-B. Subsequent certifications will not change the test date.

Test year is the last tax year **ending before the test date**. If a business enterprise does not have a tax year that ends before the test date, the enterprise will be deemed to have a test year that will be either the last calendar year ending before its test date, or, if the enterprise is a fiscal filer, the test year will be the fiscal year ending before its test date.

Employment increase factor is an amount that cannot exceed 1.0, but that is the greater of the excess of the QEZE's employment number in EZs in which the QEZE is certified for the current tax year over the QEZE's test year employment number in those zones divided by

- the QEZE's test year employment number in those zones, **or**
- 100.

Zone allocation factor is a percentage that represents your economic presence in the EZs in which you are certified. For a CEE, the zone allocation factor equals 100%.

Value of real and tangible personal property is the federal adjusted basis of your property (except rental property, which is eight times your gross

yearly rent). However, Article 9-A taxpayers may use fair market value when computing your QEZE property factor if you made a one-time revocable election to use fair market value as the value of all your real and tangible personal property for purposes of the property factor of the business allocation percentage, and that election has not been revoked.

For periods beginning on or after January 1, 2007, if you are no longer required to make the election for purposes of the property factor, and you have not already made the election in previous tax years, you may still elect to use fair market value for purposes of the zone allocation factor. The election is made by using fair market values when completing Form CT-604.

Tax factor is the tax calculated under each applicable article of the Tax Law that is based on income. If an article provides for two tax measures based on income, the greater of the two is the tax factor. For more information, see TSB-M-06(1)C, *Qualified Empire Zone Enterprise (QEZE) Tax Credits*.

Instructions for corporations (other than New York S corporations)

If you are a corporation (other than a New York S corporation) that is eligible for the QEZE tax reduction credit, and you are not claiming any other QEZE tax credits from pass-through entities (such as partnerships), complete either Section 1 or Section 2 and transfer the amount of credit to your corporation franchise tax return.

If you are a corporation that is a QEZE and eligible for the credit, and you also have QEZE credits from a partnership that is a QEZE, file Form CT-604 as instructed above, and file Form CT-604-CP, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit for Corporate Partners*, to compute the credits from the partnership. Add the totals from both forms, and enter the result in the appropriate credit box on your franchise tax return.

Instructions for corporate partners

Use Form CT-604-CP if you are receiving pass-through credits from a partnership. Your partnership will provide you with the information you need to calculate these credits.

Instructions for New York S corporations

If you are a New York S corporation, compute three of the four factors used to compute the QEZE tax reduction credit:

- the benefit period factor,
- the employment increase factor, and
- the zone allocation factor.

Provide your shareholder(s) with each of these three factors. The shareholder(s) will use these three factors to calculate the tax reduction credit on Form IT-604, *Claim for QEZE Tax Reduction Credit*, for personal income tax. The fourth factor, the tax factor, is computed by the shareholder(s) on Form IT-604, which is filed with personal income tax returns.

Complete Form CT-604 as follows:

1. Complete **either** Section 1 (Schedules A, B, C, and D) **or** Section 2 (Schedules H, I, J, and K).
2. Transfer the employment increase factor, the zone allocation factor, and the benefit period factor calculated on this form to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.
Provide the shareholders with these three factors so they may calculate their credit on Form IT-604. Do not prorate these factors.
3. Complete Section 1 (Schedules F and G) **or** Section 2 (Schedule M).

Instructions for shareholders of New York S corporations

Shareholders of New York S corporations: **Do not file** this form. Use Form IT-604 to claim your credit if you are an individual, estate, or trust. Your S corporation will provide you with your pro rata share of the three factors you need to compute your tax reduction credit on Form IT-604. Compute the fourth factor (tax factor) on Form IT-604.

Section 1 — For QEZE's first certified prior to April 1, 2005

Complete Section 1 **only** if the QEZE was first certified **prior to** April 1, 2005. Do not complete Section 2.

QEZE's first certified between August 1, 2002, and March 31, 2005, that conduct operations on real property they own or lease that is located in an EZ and is subject to a BCA executed prior to January 1, 2006: **do not** complete this section. Instead, complete Section 2, Schedules H through M.

Eligibility for QEZE's first certified prior to April 1, 2005

A business enterprise that is first certified as eligible to receive benefits under GML Article 18-B **prior to** April 1, 2005, is a QEZE for each of the 15 tax years during its business tax benefit period if in those tax years the business enterprise meets the annual employment test. Owners of qualified investment projects and significant capital investment projects may qualify for an extended business tax benefit period. See business tax benefit period below.

Schedule A — Employment test for QEZE's first certified prior to April 1, 2005

Complete Schedule A to determine if you meet the annual employment test. If you marked *No* on either line 3 or line 6, **stop**; you **do not** qualify for the QEZE tax reduction credit for the current tax year.

Refer to *Definitions for all QEZE's* when computing the employment test.

The *employment test* will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, equals or exceeds its employment number in all EZs in the base period; and the business enterprise's employment number in New York State outside all EZs for the tax year equals or exceeds its employment number in New York State outside all EZs in the base period. For information as to whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD.

There are additional employment test requirements for businesses with a base period of zero years or zero employment in the base period. See additional instructions below.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business was located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A *business incubator facility* provides business support services or space, or both, to newly established enterprises.

Base period is the five tax years immediately preceding the test year. If the business enterprise has fewer than five years preceding the test year, then the base period is the smaller set of years. If you are a business enterprise in your first tax year of doing business in New York State, your base period is zero years.

Business tax benefit period means either the first 15 tax years beginning on or after January 1, 2001 (if your test date occurred on or before December 31, 2001), or the 15 tax years after your test year (if your test date occurred on or after January 1, 2002, but prior to April 1, 2005). See new business definition below for exception.

However, owners of qualified investment projects (as defined under GML section 957(s)) that have been approved by the Commissioner

of Economic Development, will be allowed an additional business tax benefit period of ten years for purposes of the QEZE tax reduction credit. For these owners, the business tax benefit period is extended to include an additional ten tax years starting with the tax year in which the business enterprise's benefit period commencement date occurs (but only for those years in which the employment test is met).

The benefit period commencement date is determined by an election made by the business enterprise on its report for the tax year which includes the date of certification of the business enterprise at the location of the qualified investment project. The business enterprise can elect either (A) the business enterprise's date of certification under GML Article 18-B at the location of the qualified investment project or (B) the date when property constituting a qualified investment project is first placed in service. If you choose to make the election under B, attach a statement. If no election is made, the benefit period commencement date will be A as described above.

If a QEZE that is an owner of a qualified investment project is also approved by the Commissioner of Economic Development as the owner of a significant capital investment project (as defined under GML section 957(t)), the business tax benefit period may be increased to include an additional ten tax years beginning with the tax year in which the significant capital investment project is placed in service. The property must be placed in service during the business enterprise's business tax benefit period as described above.

If a QEZE is an owner of a qualified investment project, a significant capital investment project, or both, the business tax benefit period may extend beyond ten years.

Benefit period factor is a number from zero to one, based on the tax year of the business tax benefit period, that is designed to phase out the benefit in the last five years of the business tax benefit period. (See Form CT-604, page 3, *Benefit period factor table*.) For an owner of a qualified investment project or a significant capital investment project, the benefit period factor will be 1.0 during the entire business tax benefit period.

Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first **certified prior to August 1, 2002**, if the base period is zero years or the base period employment is zero, and the enterprise is similar in ownership and operation to an existing or previously existing taxpayer, it can continue to access QEZE benefits only if the enterprise was formed for a valid business purpose and not solely to gain EZ benefits.

Valid business purpose means one or more business purposes, other than the avoidance or reduction of taxation, which alone or combined are the primary motivation for some business activity or transaction that changes the economic position of the taxpayer in a meaningful way (apart from tax effects). The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

For a business enterprise first **certified on or after August 1, 2002, and before April 1, 2005**, if the base period is zero years and the employment number in the zone is greater than zero in a tax year, then the enterprise meets the employment test **only** if it qualifies as a new business.

New business means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A, 32, or 33; Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); or the income (or losses) of which is (or was) included under Article 22.

A business enterprise that is approved by the Commissioner of Economic Development as the owner of a qualified investment project

or a significant capital investment project will be considered a new business for purposes of the QEZE tax reduction credit if it:

- has a base period of zero years;
- has placed property (or a project that includes such property) in service which comprises the qualified investment project or significant investment project; and
- is certified by December 31, 2007.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are operating in different counties in the state. The new business **must use the remaining business tax benefit period** of the existing identical taxpayer.

Part 1 — EZ employment — Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the five-year base period. When computing this number, exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

Line 1 — For each date specified of the current tax year, enter the number of full-time employees, excluding general executive officers, located within any EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the current tax year employment number. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

Line 2 — For each date specified in the base period, enter the number of full-time employees, excluding general executive officers, located within any EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified of the five-year base period by the number of dates occurring during the five-year base period (even if you had no employees on those dates) to obtain the base period employment number. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

Example: A QEZE that is a calendar-year filer begins business in New York on May 1, 2001, and is first certified on January 1, 2003. The QEZE's test date is January 1, 2003. The test year is the tax year ending December 31, 2002. The base period is May 1, 2001 - December 31, 2001, a short tax year. Since March 31, 2001, does not occur during this enterprise's base period, no entry is made for this date. The QEZE has no employees on June 30, 2001. It hires three employees on July 1, 2001. The QEZE will compute its total number of full-time employees within all EZs in the base period as follows:

Base period employment number	Tax year ending (mm-yy)	Mar 31	June 30	Sept 30	Dec 31	Total
a	Number in base year 1	12-01	0	3	3	6
b	Number in base year 2					
c	Number in base year 3					
d	Number in base year 4					
e	Number in base year 5					
f	Total number of full-time employees within all EZs in the base period					6

In this example, the employment number within all EZs in the base period is 2 (six divided by three) because the QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was one short tax year.

Line 3 — The EZ current tax year employment number (line 1) must equal or exceed the EZ base period employment number (line 2) to qualify for the QEZE tax reduction credit. If you marked *No, stop*; you **do not** qualify for this credit.

Part 2 — New York State employment outside all EZs

Complete Part 2 in the same manner as you completed Part 1; however, include only those employees who are located outside all EZs but within New York State. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Line 6 — The current tax year employment number in New York State outside all EZs (line 4) must equal or exceed the base period employment number in New York State outside all EZs in the base period (line 5) to qualify for the QEZE tax reduction credit. If you marked *No, stop*; you **do not** qualify for this credit.

Schedule B — Computation of test year employment number within the EZs in which you are certified

Line 7 — Divide the total number of full-time employees within the EZs for your test year by the number of the dates occurring during the year (even if you had no employees on those dates) to obtain your test year employment number. Make no entries for any dates that did not occur during your test year. Do not include those dates in the calculation. Include only the employees working within EZs in which you are certified that were employed by the QEZE for at least one-half of the tax year.

Schedule C — Employment increase factor

The employment increase factor (see *Definitions for all QEZEs*) cannot exceed 1.0. If your test year employment number is zero, and your current tax year employment number is greater than zero, your employment increase factor is 1.0.

Line 8 — Include on this line the current tax year employment number in the EZs in which you are certified.

Note: If you have employment in an EZ in which you are not certified, your current tax year employment number will not be the same as the number computed on line 1. For purposes of this calculation, you will include only those employees working in EZs in which you are certified that were employed by the QEZE for at least one-half of the tax year.

Schedule D — Zone allocation factor

This factor represents the economic presence of the QEZE in an EZ. The *zone allocation factor* is a percentage computed using two factors: a property factor and a payroll factor. The percentage is calculated by adding the two percentages determined on lines 15 and 17 and then dividing the result by two.

Line 14, column A — Enter the QEZE's average value of real and tangible personal property (see *Definitions for all QEZEs*), whether owned or rented, that is located within the EZs in which you are certified under GML Article 18-B in your current tax year.

Line 14, column B — Enter the QEZE's average value of real and tangible personal property (see *Definitions for all QEZEs*) located within New York State in your current tax year.

Line 16, column A — Enter the wages paid or accrued by the QEZE to its employees in EZs in which you are certified under GML Article 18-B in the current tax year. Exclude wages paid to general executive officers.

Line 16, column B — Enter the wages paid or accrued by the QEZE to its employees located within New York State for the current tax year. Exclude wages paid to general executive officers.

Schedule E — QEZE tax reduction credit

New York S corporations: **Do not** calculate the QEZE tax reduction credit on this form. Transfer the employment increase factor, zone allocation factor, and benefit period factor to Form CT-34-SH and

provide your shareholders with these factors. The shareholders will calculate the QEZE tax reduction credit on Form IT-604.

Part 1 — Computation of QEZE tax reduction credit

Line 23 — Tax factor

Article 9-A filers — Enter the greater of the tax on the entire net income (ENI) base or the tax on the minimum taxable income (MTI) base from Form CT-3, *General Business Corporation Franchise Tax Return*. **Do not** enter your tax on capital or your fixed dollar minimum tax.

Article 32 filers — Enter the greater of the ENI base tax or the alternative ENI base tax from Form CT-32, *Banking Corporation Franchise Tax Return*.

Article 33 Life insurance corporation filers — Enter the greater of the tax on the ENI base or the tax on the ENI plus compensation base from Form CT-33, *Life Insurance Corporation Franchise Tax Return*.

Article 33 Nonlife insurance corporation filers — To claim the QEZE tax reduction credit you must calculate a tax factor for the tax year by preparing a pro-forma tax return calculating a tax on income for the year the credit is claimed.

Prepare Form CT-33 to calculate the tax on ENI and the tax on ENI plus compensation. Attach the pro-forma tax return to this form. Enter the greater of these tax amounts on line 23.

Article 9-A Combined filers — Multiply your combined tax (the greater of tax on ENI or MTI base) by the ratio of the QEZE's income allocated to New York State divided by the combined group's income allocated to New York State. Do not include in the numerator or the denominator any member's losses included in the combined group's income. Enter the result on line 23. This ratio may not exceed 1.0.

Part 2 — Application of QEZE tax reduction credit

Note: This credit **cannot** be refunded or carried forward. Any amount not deductible in the current tax year is lost.

Line 26 — If you are applying multiple credits, see your franchise tax return instructions to determine the order in which the credits should be applied. Article 9-A taxpayers may also refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, to determine the proper order of application for the tax credits claimed. If you are included in a combined return, include any amount of tax credit(s), including the QEZE tax reduction credit, being claimed by other members of the combined group that you wish to apply before your QEZE tax reduction credit.

Life insurance corporations: do not enter on this line any amount of EZ wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Schedule G — Valid business purpose for QEZE's first certified prior to August 1, 2002

If the QEZE was first certified prior to August 1, 2002, and the base period is zero years or the employment for your base period is zero, and the QEZE is similar in operation and ownership to a business entity (or entities) taxable or previously taxable, then the enterprise must have been formed for a valid business purpose and not solely to gain EZ benefits in order to continue to claim the QEZE tax reduction credit. See additional employment test requirements on page 3. Mark an **X** in the box if you meet the valid business purpose test as defined on page 3, and attach a notarized statement describing in detail how the QEZE meets this test. For more information, see page 5 of TSB-M-06(1)C, *Qualified Empire Zone Enterprise (QEZE) Tax Credits*.

Section 2 - For QEZE's first certified on or after April 1, 2005

Complete Section 2 **only** if (1) the QEZE was first certified **on or after** April 1, 2005, or (2) the QEZE was first certified between August 1, 2002, and March 31, 2005 and its operations are conducted on real property subject to a BCA executed prior to January 1, 2006. Do not complete Section 1.

Eligibility for QEZE's first certified on or after April 1, 2005

A business enterprise that is first certified as eligible to receive benefits under GML Article 18-B **on or after** April 1, 2005, and prior to July 1, 2011, is a QEZE for each of the 10 tax years during its business tax benefit period if in those tax years the business enterprise meets the annual employment test. Owners of qualified investment projects and significant capital investment projects may qualify for an extended business tax benefit period. See *Business tax benefit period* below.

Schedule H — Employment test for QEZE's first certified on or after April 1, 2005

Complete Schedule H to determine if you meet the annual employment test. If you marked *No* on either line 33 or line 36, **stop**; you **do not** qualify for the QEZE tax reduction credit for the current tax year.

Refer to *Definitions for all QEZE's* when computing the employment test.

The *employment test* will be met for a tax year if the business enterprise's employment number in all EZs, whether the business enterprise is certified there or not, exceeds its employment number in all EZs in the base period; and the business enterprise's employment number in New York State, including employment in any EZs, for the tax year exceeds its employment number in New York State, including employment in any EZs, in the base period. For information whether your business enterprise has employees in an EZ in which your business enterprise is not certified, you may contact ESD.

CEEs (as defined in GML section 959-b) will determine whether the employment test is met by comparing their employment number in New York State for the current tax year to their employment number in New York State in their base period.

There are additional employment test requirements for businesses with a base period of zero years or zero employment in the base period. See additional instructions on page 6.

If there is a change in zone boundaries or if the QEZE is in a newly designated zone, the QEZE will compute its employment test as if the boundaries of the revised or newly designated zone existed during its base period and test year. If a business moves to a location that later becomes part of an EZ, the employment number is computed as if the business was located in the zone during its base period and test year.

If a business relocates to an EZ from a business incubator facility operated by a municipality or by a public or private not-for-profit entity, the QEZE will compute its employment test as if it were located in the EZ during the base period. A *business incubator facility* provides business support services or space, or both, to newly established enterprises.

Base period is the four tax years immediately preceding the tax year in which the QEZE was first certified under GML Article 18-B for QEZE's first certified on or after April 1, 2005. If the business enterprise has fewer than four such years, then the base period is the smaller set of years. If the business enterprise is in its first tax year of doing business in New York State, its base period is zero years.

Business tax benefit period is the 10 tax years beginning with the tax year the QEZE is first certified (see new business definition on page 6 for exception for QEZE's that are identical in ownership and operation).

However, owners of qualified investment projects (as defined under GML section 957(s)) that have been approved by the Commissioner of Economic Development, will be allowed an additional business tax benefit period of ten years for purposes of the QEZE tax reduction credit. For these owners, the business tax benefit period is extended to include an additional ten tax years starting with the tax year in which the business enterprise's benefit period commencement date occurs (but only for those years in which the employment test is met).

The benefit period commencement date is determined by an election made by the business enterprise on its report for the tax year which includes the date of certification of the business enterprise at the location of the qualified investment project. The business enterprise can elect either (A) the business enterprise's date of certification under GML Article 18-B at the location of the qualified investment project or (B) the date when property constituting a qualified investment project is first placed in service. If you choose to make the election under B, attach a statement. If no election is made, the benefit period commencement date will be A as described above.

If a QEZE that is an owner of a qualified investment project is also approved by the Commissioner of Economic Development as the owner of a significant capital investment project (as defined under GML section 957(t)), the business tax benefit period may be increased to include an additional ten tax years beginning with the tax year in which the significant capital investment project is placed in service. The property must be placed in service during the business enterprise's business tax benefit period as described above.

If a QEZE is an owner of a qualified investment project, a significant capital investment project, or both, the business tax benefit period may extend beyond ten years.

Benefit period factor is 1.0.

Additional employment test requirements for businesses with a base period of zero years or zero employment in the base period

For a business enterprise first certified on or after April 1, 2005, if the base period is zero years or the base period employment is zero and the employment number in the zone is greater than zero in a tax year, the enterprise meets the employment test **only** if the enterprise qualifies as a new business.

New business means any business entity, except one that is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under Tax Law, Article 9, section 183, 184, 185, or 186; Article 9-A, 32, or 33; Article 23 (or that would have been subject to Article 23 as this article was in effect January 1, 1980); or the income (or losses) of which is (or was) included under Article 22.

A business enterprise that is approved by the Commissioner of Economic Development as the owner of a qualified investment project or a significant capital investment project will be considered a new business for purposes of the QEZE tax reduction credit if it:

- has a base period of zero years;
- has placed property (or a project that includes such property) in service which comprises the qualified investment project or significant investment project; and
- is certified by December 31, 2007.

For tax years beginning on or after January 1, 2005, a business that is identical in ownership and operation to an existing taxpayer will meet the new business test if the businesses are operating in different counties in the state. The new business **must use the remaining business tax benefit period** of the existing identical taxpayer.

Part 1 — EZ employment — Compute your employment number within all EZs, whether certified in all zones or not, for the current tax year and the four-year base period. When computing this number, exclude all employees who were not employed by the QEZE for at least

one-half of the tax year. CEEs do not complete Part 1. Complete Part 2 only.

For purposes of these instructions, all references to *current tax year* mean the tax year covered by this claim.

Line 31 — For each date specified of the current tax year, enter the number of full-time employees, excluding general executive officers, located within any EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for the current tax year by the number of the dates occurring during the current tax year (even if you had no employees on those dates) to obtain the current tax year employment number. Make no entries for any dates that did not occur during your tax year. Do not include those dates in the calculation.

Line 32 — For each date specified of the base period, enter the number of full-time employees, excluding general executive officers, located within any EZ whether the QEZE is certified in the EZ or not. Divide the total number of full-time EZ employees for each date specified in the four-year base period by the number of dates occurring during the four-year base period (even if you had no employees on those dates) to obtain the base period employment number. Make no entries for any dates prior to the date you began business in New York, and do not include those dates in the calculation.

Example: *A QEZE that is a calendar-year filer begins business in New York on April 1, 2004, and is first certified on April 1, 2005. The base period is April 1, 2004 - December 31, 2004, a short tax year. Since March 31, 2004, does not occur during this enterprise's base period, no entry is made for this date. The QEZE has no employees on June 30, 2004. It hires three employees on July 1, 2004. The QEZE will compute its total number of full-time employees within all EZs in the base period as follows:*

Base period employment number	Tax year ending (mm-yy)	Mar 31	June 30	Sept 30	Dec 31	Total
a	Number in base year 1	12-04	0	3	3	6
b	Number in base year 2					
c	Number in base year 3					
d	Number in base year 4					
e	Total number of full-time employees within all EZs in the base period					6

In this example, the employment number within all EZs in the base period is 2 (six divided by three) because the QEZE divides the total number of full-time EZ employees by the number of dates that occurred in the QEZE's base period. The base period in this instance was one short tax year.

Note: For QEZE's that are first certified on or after April 1, 2005, if the base period is zero years (there are no dates occurring during your base period) or the base period employment is zero and your employment number in EZs is greater than zero during the current tax year, the employment test will be met only if the enterprise qualifies as a new business, as defined above.

Line 33 — The EZ current tax year employment number (line 31) must exceed the EZ base period employment number (line 32) to qualify for the QEZE tax reduction credit. If you marked **No, stop**; you **do not** qualify for this credit.

Part 2 — New York State employment

Complete Part 2 in the same manner as Part 1; however, include all employees who are located within New York State. When computing this number, first exclude all employees who were not employed by the QEZE for at least one-half of the tax year.

Line 36 — The current tax year employment number in New York State (line 34) must exceed the base period employment number in New York State (line 35) to qualify for the QEZE tax reduction credit. If you marked **No, stop**; you **do not** qualify for this credit.

Schedule I — Computation of test year employment number within the EZs in which you are certified

Line 37 — Divide the total number of full-time employees within the EZs in your test year by the number of the dates occurring during the year (even if you had no employees on those dates) to obtain your test year employment number. Make no entries for any dates that did not occur during your test year. Do not include those dates in the calculation. Include only the employees working within EZs in which you are certified.

Note: CEEs enter the New York State employment number for the test year.

Schedule J — Employment increase factor

The employment increase factor (see *Definitions for all QEZE*s) cannot exceed 1.0. If your test year employment number is zero, and your current tax year employment number is greater than zero, your employment increase factor is 1.0.

Line 38 — Include on this line the current tax year employment number in the EZs in which you are certified.

Note: If you have employment in an EZ in which you are not certified, your current tax year employment number will not be the same as the number computed on line 31. For purposes of this calculation, you will include only those employees working in EZs in which you are certified that were employed by the QEZE for at least half of the tax year.

Note: CEEs enter the New York State employment number for the current tax year (line 34) on line 38.

Schedule K — Zone allocation factor

This factor represents the economic presence of the QEZE in an EZ. The *zone allocation factor* is a percentage computed using two factors: a property factor and a payroll factor. The percentage is calculated by adding the two percentages determined on lines 45 and 47 and then dividing the result by two. CEEs skip lines 44 through 48 and enter **1.0** on line 49.

Line 44, column A — Enter the QEZE's average value of real and tangible personal property (see *Definitions for all QEZE*s), whether owned or rented, that is located within the EZs in which you are certified under GML Article 18-B in your current tax year.

Line 44, column B — Enter the QEZE's average value of real and tangible personal property (see *Definitions for all QEZE*s) located within New York State in your current tax year.

Line 46, column A — Enter the wages paid or accrued by the QEZE to its employees in EZs in which you are certified under GML Article 18-B in the current tax year. Exclude wages paid to general executive officers.

Line 46, column B — Enter the wages paid or accrued by the QEZE to its employees located within New York State for the current tax year. Exclude wages paid to general executive officers.

Schedule L — QEZE tax reduction credit

New York S corporations: **Do not** calculate the QEZE tax reduction credit on this form. Transfer the employment increase factor, zone allocation factor, and benefit period factor to Form CT-34-SH and provide your shareholders with these factors. The shareholders will calculate the QEZE tax reduction credit on Form IT-604.

Part 1 — Computation of QEZE tax reduction credit

Line 53 — Tax factor

Article 9-A filers — Enter the greater of the tax on the entire net income (ENI) base or the tax on the minimum taxable income (MTI) base from Form CT-3, *General Business Corporation Franchise Tax Return*. **Do not** enter your tax on capital or your fixed dollar minimum tax.

Article 32 filers — Enter the greater of the ENI base tax or the alternative ENI base tax from Form CT-32, *Banking Corporation Franchise Tax Return*.

Article 33 Life insurance corporation filers — Enter the greater of the tax on the ENI base or the tax on the ENI plus compensation base from Form CT-33, *Life Insurance Corporation Franchise Tax Return*.

Article 33 Nonlife insurance corporation filers — To claim the QEZE tax reduction credit you must calculate a tax factor for the tax year by preparing a pro-forma tax return calculating a tax on income for the year the credit is claimed.

Prepare Form CT-33 to calculate the tax on ENI and the tax on ENI plus compensation. Attach the pro-forma tax return to this form. Enter the greater of these tax amounts on line 53.

Article 9-A Combined filers — Multiply your combined tax (the greater of tax on ENI or MTI base) by the ratio of the QEZE's income allocated to New York State divided by the combined group's income allocated to New York State. Do not include in the numerator or the denominator any member's losses included in the combined group's income. Enter the result on line 53. This ratio may not exceed 1.0.


Part 2 — Application of QEZE tax reduction credit

This credit **cannot** be refunded or carried forward. Any amount not deductible in the current tax year is lost.


Line 56 — If you are applying multiple credits, see your franchise tax return instructions to determine the order in which the credits should be applied. Article 9-A taxpayers may also refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, to determine the proper order of application for the tax credits claimed. If you are included in a combined return, include any amount of tax credit(s), including the QEZE tax reduction credit, being claimed by other members of the combined group that you wish to apply before your QEZE tax reduction credit.

Life insurance corporations: do not enter on this line any amount of EZ wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Need help?

 **Internet access:** www.nystax.gov
(for information, forms, and publications)

 **Fax-on-demand forms:** 1 800 748-3676


 **Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Corporation Tax Information Center: 1 888 698-2908

From areas outside the U.S. and outside Canada: (518) 485-6800

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): 1 800 634-2110

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

— Notes —