



## ANSWERS TO THE MOST FREQUENTLY ASKED QUESTIONS ABOUT BIOTECHNOLOGY CREDIT AGAINST THE GENERAL CORPORATION TAX AND THE UNINCORPORATED BUSINESS TAX

### 1. What is Biotechnology?

Biotechnologies involve the scientific manipulation of living organisms to produce products conducive to improving the lives and health of plants, animals, and humans, such as DNA diagnosis, fingerprinting, and genetic mapping. [Read more about Biotechnology.](#)

### 2. What is the Biotechnology Credit?

The Biotechnology Credit is a tax credit for investors/owners of qualified companies. The tax credit is applied against the General Corporation Tax and Unincorporated Business Tax for certain expenses incurred for businesses working in the biotechnology field in the City of New York.

### 3. Who is eligible for the Credit?

To be eligible, a company must engage in biotechnologies and:

- a. Be an emerging technology company or a company whose ratio of research and development funds to net sales equals or exceeds the average ratio for all companies surveyed by the National Science Foundation. [Read more.](#)
- b. Have no more than one hundred full-time employees, of which at least 75 percent are employed in the City of New York.
- c. Have a ratio of research and development funds to net sales that equals or exceeds six percent during the calendar year ending in the tax year for which the credit is claimed.
- d. Have annual product sales of \$10 million or less.
- e. Have gross revenues, including the gross revenues of its "affiliates" and "related members," not exceeding \$20 million for the calendar year immediately preceding the tax year for which the credit is claimed.

### 4. What is the tax period?

The tax period begins on January 1, 2010 and ends on December 31, 2012.

### 5. When can the taxpayer claim the credit?

The credit can be claimed for taxable years beginning on or after January 1, 2010, and on or before December 31, 2012. Last day to file for 2012 is January 15, 2013.

### 6. How do I apply?

You must submit an application no later than January 15th immediately following the calendar year of the credit. Example: If the year of credit is 2010, the application is due on January 18th (because January 15th is a Saturday and January 17th is a legal holiday). If the application is approved, Finance will issue a Certificate of Tax Credit. The credit would be claimed on either the calendar year 2010 return or any fiscal year return beginning in 2010.

## 7. What types of expenses qualify for the credit calculation?

There are credits for several types of expenses that include the following:

- a. Purchase of Property: An eligible taxpayer is allowed a tax credit of 18% of the cost of research and development property that is purchased by the taxpayer and placed in service in the calendar year that ends with or within the taxable year for which the credit is claimed. Example: If property costing \$1 million is purchased,  $\$1 \text{ million} \times 18\% = \$180,000$  in qualifying tax credits.
- b. Research: An eligible taxpayer shall be allowed a credit of 9% for qualified research expenses paid or incurred by the taxpayer in the calendar year that ends with or within the taxable year for which the credit is claimed.
- c. Employee Training: An eligible taxpayer shall be allowed a credit for up to 100% of high-technology training expenditures incurred by the taxpayer during the calendar year that ends with or within the taxable year, for which the credit is claimed. There is a limit of \$4,000 per employee per calendar year. These expenses qualify for the credit only if they are full-time employees of the company during the time of the training and who remain employed for at least 180 days following the training's completion.

## 8. Are there any additional qualifying training expenses allowed for relocation of an academic business incubator facility:\*

- a. Relocation Tax Credit:
  - Credit is allowed for a taxpayer who relocates from an academic business incubator facility, partnered with an accredited post-secondary education institution located in the City, to another City site.
  - The credit for training expenses described in *Employee Training (noted in Question 5c)* must have been incurred in the two preceding years in which the taxpayer was located in the incubator facility.
- b. Employment for Relocation Tax Credit:
  - In such cases, the requirement that the person remain employed during training and then for at least 180 days following completion of the training, doesn't need to be met if they were employed at the incubator facility for at least 750 hours during any 24-month period during which the taxpayer was located at the incubator facility.

***\*An academic incubator facility must act in partnership with an accredited post-secondary education institution located within New York City which provides low-cost space, technical assistance, support services and educational opportunities.***

## 9. How much credit is allowed?

Under the calculations described in the purchase of property, research, and employee training in question 5, the company's average number of full-time employees, located in the City for the calendar year that ends with or within the taxable year, must be at least 105% of the number of such employees with the company in the immediate preceding calendar year. The business is then allowed 100% of the credit calculated for all of the eligible expenses, up to a maximum total credit of \$250,000 for the taxable year (subject to the limit described below).\* If the company does not meet this increased employment requirement, then it is allowed only 50% of the amount of the credit calculated for all of the eligible expenses, and the maximum total credit allowed for a taxable year is \$125,000.

***\*Special rule for businesses receiving space and support from an academic incubator facility:***

*No credit is allowed if the average number of full-time employees located in the City during the calendar year that ends with or within the taxable year is less than 105% of the number of such employees in the immediately preceding calendar year.*

**10. Are there limits to the amount of the credit allowed for a single year?**

Yes. The credit allowed per taxpayer per year cannot exceed \$250,000, and the credit cannot reduce the annual tax below the minimum tax required by law. Any credit for which a taxpayer is otherwise eligible that is not taken because it would reduce the tax below the minimum tax, is refundable.

In addition, the maximum aggregate amount of credits allowed for all taxpayers cannot exceed \$3 million in any calendar year. If the aggregate amount of credits for a calendar year would exceed \$3 million, Finance will allocate the credits to eligible taxpayers on a pro rata basis no later than February 28th of the succeeding calendar year. Finance will then notify taxpayers of the amount of the allocated credit for which they qualify.