



State of New York
Empire Zones Program
Instructions for completing and transmitting the
APPLICATION FOR CERTIFICATION OF AN EMPIRE ZONE BUSINESS ENTERPRISE

The information requested in sections A-H of this application should be provided by **the responsible officer of the business seeking certification** as an Empire Zone enterprise, or an authorized representative of that business. It is strongly recommended that this application be completed in consultation with the local zone administrator. Instructions are provided below for select questions in the application where the answer is not evident and further explanation is needed.

The completed application must be signed by the applicant or an authorized representative. Please note that if a third party will be signing the application on behalf of the applicant, a completed power of attorney must be submitted along with this application. After signing the acknowledgements where indicated in Section H, the completed application must be forwarded to the local zone (See list of Empire Zone Contacts). **Do not submit this application directly to the Department of Economic Development. You must first obtain the recommendation of the local zone. Failure to follow this procedure will result in the delay of approving your application.**

NOTE TO ALL APPLICANTS OR THEIR AUTHORIZED REPRESENTATIVES: Submission of an incomplete application or an application with incorrect or fraudulent information will result in a delay of approval for, or a denial of, certification.

FOR LOCAL ZONE USE: The local zone shall mail the completed application plus one copy to: NYS Department of Economic Development, 30 South Pearl Street, 7th Floor, Albany, New York 12245.

SECTION A: DESCRIPTION OF APPLICANT BUSINESS AND CONTACT INFORMATION

1. Please use the legal name of the business organization. You can include the name under which the business operates (i.e., dba), provided it accompanies the legal name. NOTE: Legal name should correspond with the federal employment identification number (FEIN) provided in question 5.
2. A certified business must submit a Business Annual Report in order to maintain its certification. This report (and other official correspondence) should be directed to the address of the representative that will be responsible for ensuring compliance with program administrative requirements. This should be a general executive officer or employee of the company and not an accountant, consultant, or other third party representative.
3. The designated contact is the person with whom the local zone administrator/coordinator, and officials from the Departments of Economic Development, will communicate regarding all questions and matters relating to the application for certification. If the designated contact of the applicant is a consultant, accountant, or other third party representative of the applicant, then the responsible officer of the applicant must provide a letter authorizing the representative to release information necessary for completion of the application to ESD. A completed power of attorney form may be attached in lieu of a letter. A completed power of attorney must be submitted if the third party representative is signing the application on behalf of the applicant.
4. A manufacturer is a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, or a business engaged in emerging technologies (pursuant to section 3102-e of the Public Authorities Law).

The North American Industrial Classification System (NAICS) is a new business classification scheme

introduced by the Office of Management and Budget (OMB) in 1997 to replace the SIC and make it more compatible with systems used in Canada and Mexico. These codes are assigned to all business establishments. Therefore, a business with multiple establishments can have multiple classification codes assigned to it. **For purposes of Empire Zone certification, please provide the NAICS code for the establishment for which the applicant is seeking certification.** If you are not certain what your NAICS code is, you can call 1-800-HIRE-992 or go to www.census.gov.

5. The Federal Employer Identification Number (FEIN) is the business' taxpayer identification number. If the business is a sole-proprietorship and has no employees or does not project hiring employees within 90 days from the date the applicant signs the application, please provide the social security number of the principal owner. If applicant is a sole-proprietorship and has employees at time of application or projects hiring employees in the near future, then a FEIN is required. Apply for a FEIN online at www.irs.com (Form SS-4).
6. The Unemployment Insurance Registration Number (UI) is the number assigned when the business registered with the Department of Labor, Unemployment Division. The UI number may be obtained from the Department of Labor, Unemployment Division at (518) 457-2233 or 1-888-899-8810.
7. The Worker's Compensation Policy Number (WCI) is the Workers' Compensation insurance policy number. If hiring has already occurred, the policy must be in effect. For further information contact the Worker's Compensation Board at (877) 632-4996 or go to <http://www.wcb.state.ny.us>. If there is no WCI policy number, indicate if the applicant is self-insured. If not, insurance may be purchased from a private carrier, or from the State Insurance Fund 1-888-875-5790, or from the Worker's Compensation Board, Self Insurance Office (518) 402-0247.
8. The Disability Insurance Policy Number (DI) is the Disability benefits insurance policy number. If hiring has already occurred, the policy must be in effect. For further information, call 1- 800-353-3092. If there is no DI policy number, indicate if the applicant is self-insured. If not, insurance may be purchased from a private carrier, or from the State Insurance Fund 1-888-875-5790, or from the Worker's Compensation Board, Self Insurance Office (518) 402-0247.
9. A professional employment organization (PEO) or common paymaster's* federal taxpayer identification number, unemployment insurance registration number, or workers' compensation or disability insurance policy may cover the applicant. If unemployment insurance coverage is being provided by a third party, complete and attach Form EZ-3. This form is necessary for the PEO or common paymaster to authorize the Department of Labor to disclose unemployment insurance information and records for purposes related to certifying the applicant. A third party may also provide site specific workers compensation or disability insurance for the applicant.

*A common paymaster situation exists when two or more financially related corporations concurrently employ the same individual and one of the corporations compensates the individual for the concurrent employment. Corporations are deemed to be financially related if the same principal or principals own 50% or more of each of the alleged financially related businesses.

10. If any of the retained jobs or new jobs, created or projected, will be for leased employees through a PEO or common paymaster, complete and attach form EZ-3. This form is necessary for the leasing company to authorize the Department of Labor to disclose unemployment insurance information and records for purposes related to certifying the applicant.
11. Predecessor Company. Any entity that was engaged in work substantially similar to the applicant prior to the establishment of the applicant as a business entity where there is a substantial continuity of operation between that entity and the applicant. Substantial continuity of operation includes, but is not limited to, such considerations as some of the same officers or shareholders, or access and use of the same equipment and facilities.

12. For purposes of this question, a corporation is defined as an Article 9-A taxpayer. This distinction is important for calculating the potential value of the empire zones investment tax credit (ITC) the applicant may be eligible to receive. The ITC is 10 percent of a qualifying investment for Article 9-A taxpayers. If the applicant is an Article 22 taxpayer, which includes: individuals, sole proprietors, partners in a partnership including members of an LLC if that LLC is treated as a partnership for Federal tax purposes, and shareholders of a S Corporation, then the potential ITC is 8 percent of a qualifying investment. If the applicant is organized as an LLC but files as a C Corporation on their Federal Tax Return, then the applicant should check “corporation” to answer this question

14. Please check all that apply. For example, if a business is minority **and** women owned, check both.

A new business is new to New York State if, within the five years preceding the date the applicant signs the application for certification:

- It is a start-up business (i.e. new business venture, not an existing entity that has changed its status);
- It is an existing business entity with no previous operations in NYS that is moving some or all of its operations into the State;
- It is an existing business entity with no previous operations in NYS that merged with a business entity with previous operations in NYS to form a new entity;
- It is an existing business entity that acquired a business entity with previous operations in NYS.

15. Please specify whether the business is a calendar year or fiscal year taxpayer. If fiscal year, indicate the fiscal period (i.e. 7/1 – 6/30).

SECTION B: CERTIFICATION HISTORY

16. If the applicant has previously been denied certification in any zone, the Commissioner of Economic Development would have notified, in writing, the local zone, specifying the grounds for disapproval. The local zone would have notified the applicant.
17. Has this business previously received certification in any zone and been decertified? If yes to either questions 16 or 17, briefly summarize the reasons for denial /decertification. Provide an explanation of how the problem or issue that led to business’s denial or decertification has been either remedied or resolved. If no remedy or resolution to the issue has been made, indicate “NO REMEDY/RESOLUTION.” If the company has voluntarily decertified, just indicate so.

SECTION C: NYS EMPLOYMENT AND ASSET INFORMATION

18. Using the table provided on the following page, calculate the average number of FTE jobs that the company has in all NYS locations (including all locations in Empire Zones) for the four years preceding the year of certification, the year of certification and the current year. Exclude general executive officers* and related persons.

*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 applicant company. 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. If there is less than one FTE currently employed, please indicate PT

(part-time) in the answer to this question.

Owners (and related persons), in sole-proprietorships and partners (and related persons) within companies organized as partnerships, are also excluded from the employee counts calculated for this question.

Example One: The applicant was first certified in another Empire Zone in 2003. Provide the average number of jobs for 2000 (Prior Year 3), 2001 (Prior Year 2), 2002 (Prior Year 1), 2003 (Year of certification), and the current year (year in which the application is being submitted).

Example Two: The applicant is not an Empire Zone certified enterprise and is applying for certification prior to November 1st of the current year, i.e. the year of certification and the current year are likely to be the same. If the current year is 2009, provide the average number of jobs for 2006 (Prior Year 3), 2007 (Prior Year 2), 2008 (Prior Year 1), and 2009 (Year of certification and current year).

These employment figures should include full-time (FT) and full-time equivalent positions (FTE). General executive officers of the company are excluded from the employment count.

A full-time job equals a position where an employee works at least 35 hours per week.

A full-time equivalent job equals:

- Any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 35 hours per week.

Example 1: two part-time workers each work 20 hours per week. Combined, they work a total of 40 hours per week. Since 40 hours per week is greater than 35 hours, these two workers equate to one FTE.

Example 2: three part-time workers each work 10, 10, and 15 hours per week respectively. Combined, they work a total of 35 hours per week. These three workers equate to one FTE.

Example 3: three part-time workers each work 10 hours per week. Combined they work a total of 30 hours per week. Since 30 is less than 35 hours per week, these jobs do not equal one FTE and therefore would not be counted.

The table below illustrates how to calculate the average employment for full-time jobs and full-time equivalent jobs for each year.

Year	March 31st	June 30th	Sept. 30th	Dec. 31st	Average
Full-time					
FTEs					
Total					

Determine the number of full-time and FTE positions for each quarter ending on March 31st, June 30th, September 30th, and December 31st, add together, and divide by 4, giving an average for the year.

NOTE: If the applicant does not have employment in all 4 quarters: determine the number of positions for each quarter (per above), add together, and divide by the number of quarters of actual employment. For example, the applicant may only have been operational for 3 quarters of a particular year, beginning April 1st, at which time hiring began. Determine the number of positions for the quarters ending June 30th, September 30th, and December 30th, add together and divide by 3 to determine the average

employment for that year. This calculation also applies to positions for seasonal businesses as defined by the Department of Tax and Finance.

When the average is calculated, a fractional number may result, e.g. the average of $(4 + 5 + 4 + 5) = 4.5$. Please report the average result as it is calculated.

19. Provide an estimate of the value of all real property, plant and equipment and other tangible personal property* subject to depreciation for all facilities owned by the applicant that are located within New York State, (INCLUDING FACILITIES WITHIN EMPIRE ZONE LOCATIONS). This value should be the average of the value of any capital investments or investments in tangible personal property subject to depreciation that the applicant is projecting to make in all NYS locations over the next three year period, including those investments to be made during the year of certification. Typical years are those in which no unusual financial events occur (e.g. merger; acquisition of property, etc.) Do not include operating expenses such as office supplies, utilities, rent, and other recurring expenses.

*The value of real and tangible property means the adjusted basis of the property(ies) for federal income tax purposes with the exception of any rental property(ies) the applicant owns. The value of rental property shall be 8 times the gross yearly rent collected by the owner.

20. Include the expected average remuneration (i.e. wages including supplemental pay; benefits such as health insurance, retirement benefits, and other non-mandated benefits; or where insurance costs are above the minimum required) paid to employees at all facilities owned or operated by the applicant that are located within New York State, (INCLUDING EMPLOYEES AT FACILITIES WITHIN EMPIRE ZONE LOCATIONS- excluding general executive officers). Use the average, over a three year period beginning with the current year, of the expected value of the wages and benefits that will be paid out during the applicant's projected average typical year. To calculate, add the expected gross totals of payroll and benefit amounts for all NYS employees for the next three years, beginning with the current year and divide by three. Typical years are those in which no unusual financial events occur (e.g. merger; acquisition of property, etc.).

SECTION D: EMPIRE ZONE LOCATION INFORMATION

21. Indicate what percentage of the average annual sales from this zone facility are within the municipality of the zone facility (e.g. city, town, village), the county, New York State, and outside New York State. For example, a furniture retailer may estimate that of the average annual sales from the retail store within the zone facility seeking certification: 20% is sold to customers within the city, 40% to customers within the county, 80% to customers within NYS, and 20% to customers outside of NYS. The percentages of sales within NYS and outside of NYS should add up to 100 percent.

If the business is a retailer/service provider such as a restaurant, gift shop, professional service firm, etc. and does not track customer data in a manner that allows estimates of sales by customer location to be made, assume that 100% of the sales are within the municipality, county and New York State.

If the operations of the zone facility seeking certification is part of a larger corporation and only provides sales or services internally to other entities within the corporation, provide an estimate based on how the corporation tracks such internal transactions.

22. Provide the average number of FTE jobs that the company has in all Empire Zone locations – that is, EXCLUDING NON-ZONE LOCATIONS, INCLUDE JOBS AT ALL ZONE FACILITIES REGARDLESS OF WHETHER THE APPLICANT IS CERTIFIED AT ANY OF THESE LOCATIONS - for the four years preceding the year of certification, the year of certification and the

current year. Exclude general executive officers and related persons. This calculation should be done in the same manner as it is for question 18, except that the calculation is done for employees at Empire Zone locations only.

Note: If there is a change in zone boundaries or if the business is in a newly designated zone, enter the employment numbers as if the boundaries of the revised or newly designated zone existed during the years indicated in this question. If the applicant is shifting employment from a New York State non-zone location to the zone location, enter those jobs in the current year.

23. Count all employees in all locations in this zone for which you are applying for certification. Exclude general executive officers. If there is less than one FTE currently employed, please indicate PT (part-time) in the answer to this question.
24. Provide an estimate of the value of all real property, plant and equipment and other tangible personal property* in all facilities owned by the applicant that are located within all Empire Zones, (EXCLUDING NON-ZONE LOCATIONS). This value should be the average of the value of any capital investments or investments in tangible personal property subject to depreciation that the applicant is projecting to make at its Empire Zone locations over the next three year period, including those investments to be made during the year of certification. Typical years are those in which no unusual financial events occur (e.g. merger; acquisition of property, etc.) Do not include operating expenses such as office supplies, utilities, rent, and other recurring expenses.

*The value of real and tangible property means the adjusted basis of the property(ies) for federal income tax purposes with the exception of any rental property(ies) the applicant owns. The value of rental property shall be 8 times the gross yearly rent collected by the owner.

SPECIAL NOTE FOR CURRENT YEAR: If the business applicant is moving into the zone (via a shift in operation from elsewhere in New York State, or a relocation in the State), but is not physically located in the zone at the time this application is being completed, the business should indicate the value of real and tangible property as if the move has already occurred.

25. Include the expected average remuneration (i.e. wages including supplemental pay; benefits such as health insurance, retirement benefits, and other non-mandated benefits; or where insurance costs are above the minimum required) paid to employees excluding general officers at all facilities owned or operated by the applicant that are located within Empire Zones (EXCLUDING NON-ZONE LOCATIONS, INCLUDE THE WAGES AND BENEFITS FOR JOBS AT ALL ZONE FACILITIES REGARDLESS OF WHETHER THE APPLICANT IS CERTIFIED AT ANY OF THESE LOCATIONS).

Use the average, over a three-year period beginning with the current year, of the expected value of the wages and benefits that will be paid out during the applicant's projected average typical year. To calculate this, add all three years of the gross totals of the payroll and benefit amounts indicated in question 30 and divide by three. Typical years are those in which no unusual financial events occur (e.g. merger; acquisition of property, etc.).

SPECIAL NOTE FOR CURRENT YEAR: If the business applicant is moving into the zone (via a shift in operation from elsewhere in New York State, or a relocation in the State), but is not physically located in the zone at the time this application is being completed, the business should indicate the total remuneration as if the move has already occurred.

SECTION E: PROJECTED INVESTMENTS IN THIS ZONE LOCATION ONLY

26. For a three year period beginning with the current year, provide an estimate of the projected capital investments, or investments in other tangible personal property, subject to depreciation, that the applicant will be making in the Empire Zone for which it is applying for certification. If the applicant is applying for certification for multiple locations in the zone, this estimate should reflect the total investment in all locations. Include capital investments that the applicant expects to make during the 3 year period, including the current year, e.g. if current year is 2009, include projected investment amounts for 2009 through 2011. If investments are made in the “Other” category, explain what the investment is for. Do not include operating expenses such as office supplies, utilities, rent, inventory which are not subject to IRS depreciation rules, and other recurring expenses.

Projections should only include investments that will be made after the date the application is signed.

*The value of real and tangible property means the cost or other adjusted basis of the properties for federal income tax purposes (except rental property(ies), the value of which shall be 8 times the gross yearly rent).

SECTION F: PROJECTED CUMULATIVE EMPLOYMENT AND ASSET INFORMATION IN THIS ZONE LOCATION ONLY

27. Provide an estimate of the applicant’s projected number of new or shifted* jobs for this Empire Zone location only for the three year period beginning with the current year, e.g. if the current year is 2009, provide the projected average number of jobs for 2009 through 2011. If the applicant is applying for certification for multiple locations in the zone, this estimate should reflect the total new or shifted* jobs in all locations.

The projected average number of jobs for each year should include full-time employees and full-time equivalent employees as defined in the instructions for question 18.

*If the applicant is shifting jobs from a New York State non-zone location to the zone location, those shifted jobs should be included in the current year. Additionally, a shift resolution is necessary for jobs shifted from a non-zone location to the zone location.

NOTE: For each year, the **cumulative** number of net new jobs should be indicated, not just the net new from the previous year. For example, if an applicant expects to create 10 new jobs in 2009, 20 additional jobs in 2010 and another five jobs in 2011, then the net new jobs should be indicated as follows:

2009	10
2010	30
2011	35

28. Determine how many of the new employees indicated in question 27 would be employees whose total expected annual remuneration (i.e. wages and benefits such as health insurance, retirement, etc.) equals \$40,000 or less.
29. Provide the total annual remuneration (i.e. wages and benefits such as health insurance, retirement, etc.) for the new jobs calculated in question 28 for each year.
30. Provide the total annual remuneration (i.e. wages and benefits such as health insurance, retirement, etc.) for **ALL** (i.e. existing and new) FTE jobs employed by the applicant at this Empire Zone location only for each year. Exclude general executive officers.

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 applicant company. 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.

31. Enter the date the applicant will hire the new positions expected to be created after the applicant has signed this application. This is not necessarily a reflection of the jobs reported in question number 27.
32. If the company is moving operations and/or employees from another location in NYS that is not currently within the boundaries of an Empire Zone, then a “shift” resolution pursuant to § 959(a)(iii) of the General Municipal Law must be approved by the municipality in which the company is currently located. **Be sure to check with the local zone administrator to ensure all requirements of the “shift” resolution have been fulfilled and all necessary attachments accompany this application.**

SPECIAL NOTE: The resolution indicated above [§ 959(a)(iii) of the General Municipal Law] is not required if the applicant is moving from an incubator facility, which provides business support services to newly established firms, operated by a municipality or by a public or private not-for-profit entity; or, the applicant is moving from a non-zone location in either New York City or the City of Rochester to another zone location within each respective city.

33. Preventing a loss of jobs in the zone can include retention of all, or some of the existing jobs. For example, a business may need to make some operational changes that will increase productivity and efficiency to stay competitive. These changes may enable the company to prevent the loss of all jobs even though some workers will have to be laid off.
34. Provide the expected percentage of new jobs indicated in question 27 that will be targeted workers. A targeted worker includes dislocated workers, those receiving public assistance, and honorably discharge veterans (see definition § 957(a)(iii) of the General Municipal Law, Article 18). If the percentage is unknown, enter 0.
35. Corporations subject to tax under Tax Law Article 9-A generally must compute their tax liability under four distinct bases and use the base that results in the largest amount owed. The four bases are Entire Net Income (ENI), capital base, minimum taxable income (MTI), and a fixed dollar minimum

Provide an estimate of the applicant’s projected average typical year New York State tax liability for this location over the next three year period beginning with the current year for each of the four distinct bases. This should be an average of the applicant’s typical year tax liability that it is likely to incur before tax credits are taken against such liability. Typical years are those in which no unusual financial events occur (e.g. merger; acquisition of property, etc.)

If the applicant is an entity that is structured as a Limited Liability Company, Partnership, or S. Corporation, the tax credits are passed through to members, partners, or shareholders to be applied against their personal income tax liabilities. Please estimate the combined amount of the tax liabilities of the individual partners, members, or shareholders.

Please do not leave entry spaces blank. Place a zero in spaces where the liability is zero or that specific tax is not applicable to the applicant business.

Additional information for computing NYS tax liability can be found at http://www.tax.state.ny.us/statistics/policy-special/tax_handbook/handbook_of_new_york_state_and_local_taxes_august_2008.htm

36. Indicate yes if the applicant owns the property(ies) within the Empire Zone location for which it is applying for certification, or, if the applicant leases such property(ies) with a lease agreement that specifies that the applicant will pay the property taxes to the local taxing jurisdiction(s).
37. If the answer to question 36 is yes, provide an estimate of the average year real property taxes that the applicant will pay on the property(ies). Include in the estimate all relevant taxes, i.e. local government and school district taxes. If the applicant has, or expects to have, a PILOT (payment in lieu of taxes) agreement, enter the actual or expected annual amount of the PILOT payment.
38. If the applicant is acquiring or making investments in real property(ies) situated in the Empire Zone for which certification is being sought, indicate the cost or other basis of any real property(ies) owned by the applicant as it would appear for federal income tax purposes.

There are three different circumstances that impact the cost or basis of real property:

Example 1: **Existing real property** that is situated in the Empire Zone for which certification is being sought **where no new investments in such property are projected to be made by the applicant during the next three years.**

In this example, the original cost, (i.e. acquisition cost), should be used, increased by subsequent investments/improvements, (if any), less accumulated depreciation. Or, any other basis, as determined for the most recent tax return should be used.

Example 2: **Existing real property** that is situated in the Empire Zone for which certification is being sought **where new investments in such property are projected to be made by the applicant during the next three years as indicated on the certification application.**

In this example, the original cost, (i.e. acquisition cost), should be used, increased by subsequent investments/improvements, (if any), less accumulated depreciation PLUS the additional projected investment in real property acquisition, and/or construction, expansion or rehabilitation of the property expected to be made during the next three years as indicated on the application for certification. Or, any other basis, as determined for the most recent tax return should be used, adjusted to account for the additional projected investments as indicated on the application for certification.

Example 3: **New real property** that is situated in the Empire Zone for which certification is being sought.

In this example, the value of investments in real property acquisition, and/or construction, expansion, or rehabilitation of such real property to be made during the next three years as indicated on the application for certification, should be used.

39. Provide the purchase price (i.e. acquisition cost) for the real property(ies) indicated in question 38.
- For existing property(ies) (no new projected investment) – this should be the original cost (acquisition cost) of the existing property(ies) at the zone location, i.e. what did the applicant pay for the property(ies)?
 - For existing property(ies) (new projected investment over the next three years) – this should be the original cost (acquisition cost) of the existing property(ies) at the zone location, PLUS the acquisition cost of any new property(ies) at such location as indicated on the application for certification.

- For new property(ies) – this should be the actual or estimated acquisition cost of the new property(ies) that will be purchased over the next three years at the zone location as indicated on the application for certification.
40. Provide the percentage of the building (s) indicated in question 38 that will be occupied by the applicant. Percentage of occupation is determined by a square footage calculation.
 41. Provide the percentage of the cost or other basis of any real property(ies) indicated in question 38 that can be attributed to new construction, expansion, or rehabilitation of the building (s).
 42. Provide the projected annual amount of purchases that will be made by the applicant that would be subject to state and local sales taxes for this zone location only (include purchases of supplies and services, such as gas, electric or telecommunication services).