

## **COMPARING THE TAX BENEFITS**

### **NYS INNOVATION HOT SPOT AND START-UP NY PROGRAMS**

The NYS Innovation Hot Spot and START-UP NY Programs provide tax benefits to participants that are similar but not identical. Businesses can participate in one but not both Programs at the same time. To help businesses choose the Program that best fits their needs, the attached guide has been prepared comparing the tax benefits of both programs.

For more detailed information about the tax benefits under the START-UP NY and NYS Innovation Hot Spot Programs, link to:

[http://www.tax.ny.gov/pdf/memos/multitax/m13\\_7c\\_6i\\_11m\\_1mctmt\\_7s.pdf](http://www.tax.ny.gov/pdf/memos/multitax/m13_7c_6i_11m_1mctmt_7s.pdf)

[http://www.tax.ny.gov/pdf/memos/multitax/m14\\_1c\\_1i\\_2s.pdf](http://www.tax.ny.gov/pdf/memos/multitax/m14_1c_1i_2s.pdf)

## SUMMARY COMPARISON OF TAX BENEFITS UNDER STARTUP-NY AND NYS INNOVATION HOT SPOT PROGRAMS

PROGRAM	Corporation and Income Taxes - Tax Benefits						Employees	
	Sales Tax Credit/Refund	Corporate Franchise Tax	Personal Income Tax	Telecommunication Services Excise Tax	Real Estate or Real Property Transfer Tax	MCTMT for employers	MCTMT for Self Employed	Personal Income Tax - Wage Exclusion
START-UP NY	x	x Tax Elimination Credit	x Tax Elimination Credit	x	x	x	x	x
NYS Innovation Hot Spot	x	x Tax Elimination or Tax Deduction	x Tax Deduction					

The START-UP NY PROGRAM is available to new and expanding businesses that are approved to locate to a college/university sponsored tax-free area (TFA). Businesses admitted to the Program may have their business income tax eliminated for 10 years. Individuals hired by these businesses to fill new positions in the TFA may have their wages excluded from NYS income taxes for 10 years.

A tax elimination credit eliminates corporate entity-level franchise taxes (Article 9-A) and personal income taxes (Article 22) related to income earned in the TFA by an approved business.

The sales tax benefit includes a credit or refund of NYS and local sales and use taxes, including the 3/8% state tax in the Metropolitan Commuter Transportation District (MCTD), imposed on the sale of tangible personal property, utility services, and other taxable services. Sales tax benefits are available for a period of 120 consecutive months. The Metropolitan Commuter Transportation Mobility Tax (MCTMT) benefit for employers is available for 40 consecutive calendar quarters beginning with the calendar quarter during which the business locates in the TFA.

The NYS INNOVATION HOT SPOT PROGRAM is available to businesses in the formative stages of development at Innovation Hot Spots and NYS Business Incubators operated by universities, colleges or not for profit organizations. An *Innovation Hot Spot* is a designation granted to a New York State incubator and must be affiliated with and have the support of at least one college, university, or independent research institution.

A *qualified entity* means a business enterprise that is in the formative stages of development and is located in NYS. It must be certified by a NYS Innovation Hot Spot as being approved to locate in, or be a part of a virtual incubation program operated by, that Innovation Hot Spot.

A corporation franchise tax benefit and, under certain circumstances, a personal income tax benefit is allowed for five tax years. Depending on the business's tax filing status, a corporation franchise or a personal income tax benefit is allowed.

A qualified entity is eligible for a credit or refund of the 4% state sales and use tax and the 3.8% tax imposed by the state in the Metropolitan Commuter Transportation District on the purchase of tangible personal property, certain utility services, and other taxable services. The credit or refund will be allowed for 60 months beginning with the first full month after the qualified entity becomes a tenant in, or part of a virtual incubation program operated by, an innovation hot spot.

For more detailed information about the tax benefits under the START-UP NY and NYS Innovation Hot Spot Programs, link to:

[http://www.tax.ny.gov/pdf/memos/multitax/m13\\_7c\\_6i\\_11m\\_1mctmt\\_7s.pdf](http://www.tax.ny.gov/pdf/memos/multitax/m13_7c_6i_11m_1mctmt_7s.pdf)

[http://www.tax.ny.gov/pdf/memos/multitax/m14\\_1c\\_1i\\_2s.pdf](http://www.tax.ny.gov/pdf/memos/multitax/m14_1c_1i_2s.pdf)

**DETAIL COMPARISON OF TAX BENEFITS UNDER START-UP NY AND INNOVATION HOT SPOT PROGRAMS**

BENEFIT TYPE	Benefit		Benefit Period		Starting Date		How To Claim	
	STARTUP-NY	Hot Spot	STARTUP-NY	Hot Spot	STARTUP-NY	Hot Spot	STARTUP-NY	Hot Spot
Sales Tax	4% credit or refund, incl. 3/8% sales tax in the MCTD	4% credit or refund, incl. 3/8% sales tax in the MCTD	120 consecutive months	60 consecutive months	Date entered on Form STR-1 by sponsor	1st full mo. after qualified entity enters program	Form AU-11	Form AU-11
Corporate Franchise Tax	Credit from tax on business income	Only subject to the fixed dollar minimum tax or allowed a subtraction modification	10 years	5 years	Tax year locates in tax-free area	1st tax year business enters program	Form CT-638, attach DTF-74	Form CT-223
Personal Income Tax	Credit from tax on business income	Allowed a subtraction modification	10 years	5 years	Tax year locates in tax-free area	1st tax year business enters program	Form IT-638 attach DTF-74	Form IT-223
Telecommunication Excise Tax	Credit		10 years		Tax year locates in tax-free area		Form CT-640; attach DTF-74	
Real estate or real property transfer tax	Exemption		n/a		Date entered on Form STR-1 by sponsor		Form TP-584-SNY; attach STR-1	
MCTMT for employers	Exemption		40 calendar quarters		Calendar quarter locates in tax-free area		Web file quarterly returns	
MCTMT for self employed	Exemption		10 years		Tax year locates in tax-free area		report MCTMT info on individual tax return	
Personal income tax - wage tax exclusion	Exemption		10 years		Tax year locates in tax-free area		Exemption from withholding. Claim subtraction modification on personal income tax returns	

**LIST OF FORMS NECESSARY FOR CLAIMING BENEFITS UNDER THE START-UP NY AND NYS  
INNOVATION HOT SPOT PROGRAM**

**START-UP NY Certificates**

**STR-1 - START-UP NY Sales Tax and Real Property Transfer Taxes Benefits Certificate** - This START-UP NY Program certificate is provided to an approved business by the sponsoring college/university and indicates the effective date of eligibility for the sales and use tax benefit and real property transfer tax benefit. The eligibility date on Form STR-1 can be no sooner than the date a business was accepted into the program, (approved by the Commissioner of Economic Development), but no later than the date a business locates in (moves into) a tax-free area. The business must tell the sponsor what date it wants entered on Form STR-1. Once an eligibility date is chosen, it cannot be changed. A copy of Form STR-1 must be included with any claims for:

- Credit or refund of State and local sales and use taxes
- Real estate transfer tax exemption

No other START-UP NY tax benefits may be claimed using Form STR 1.

**DTF-74 - Certificate of Eligibility** - This START-UP NY Program certificate is provided to an approved business by the sponsoring college/university after the approved business locates in (moves into) a tax-free area. The certificate number from the DTF-74 must be entered in the space provided on tax claim forms and Web File applications when claiming the following START-UP NY benefits:

- Tax elimination credit (corporation and income tax)
- Telecommunication services excise tax credit
- Metropolitan Commuter Transportation Mobility Tax (MCTMT) Exemption

Form DTF-74 must be used to claim these benefits. Business must attach a copy of Form DTF 74 when submitting claims for benefits.

**FORMS FOR START-UP NY & NYS INNOVATION HOT SPOT PROGRAMS**

**AU-11 - Application for Credit or Refund of Sales or Use Tax** - This application form can be found on the NYS Tax Department website and is available for approved businesses in START-UP NY and qualified entities in the NYS Innovation Hot Spot Program eligible for the sales and use tax benefit.

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**FORMS FOR NYS INNOVATION HOT SPOT PROGRAM**

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**CT-223 - Innovation Hot Spot Deduction** - This NYS Tax Department form must be filed by a corporation who is a qualified entity located both inside and outside a Hot Spot or if you are a corporate partner of a qualified entity. If the qualified entity is located entirely within the Hot Spot, it does not need to file this form. However, the qualified entity must indicate on its franchise tax return that it is located entirely within the Hot Spot.

**IT-223 - Innovation Hot Spot Deduction** - This NYS Tax Department form must be filed if you are an individual, partnership or fiduciary who is a qualified entity. In addition, this form is filed by individual partners, members, or shareholders of qualified entities.

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**FORMS FOR START-UP NY PROGRAM**

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**CT-638 - START-UP NY Tax Elimination Credit** - This NYS Tax Department form must be used by approved businesses in the START-UP NY Program eligible for the tax elimination credit and subject to tax under Article 9-A. This credit may eliminate the corporate entity-level franchise tax related to income earned in the tax-free NY area by the approved business. Corporate taxpayers use Form CT-638 and attached a copy of Form DTF-74.

**IT-638 - START-UP NY Tax Elimination Credit** - This NYS Tax Department form must be used by individuals seeking to eliminate the personal income tax related to income earned in the tax-free NY area as a sole proprietor of an approved business, or a partner in a partnership or a shareholder in an S corporation that is an approved business by an approved business. Personal income tax taxpayers use Form IT-638; Partnerships must submit a copy of Form DTF-74 with Form IT-204, Partnership Return.

**CT-640 - STARTUP-UP NY Telecommunication Services Excise Tax Credits** - This NYS Tax Department form must be used if an approved business in the START-UP NY Program is a corporate Article 9-A taxpayer and is seeking credit for excise tax paid and must also attach a copy of Form DTF-74.

**IT-640 - STARTUP-UP NY Telecommunication Services Excise Tax Credits** - This NYS Tax Department form must be used by personal income taxpayers who are sole proprietors, partners, or shareholders of an approved business in the START-UP NY Program seeking credit from the excise tax paid and must also submit a copy of Form DTF-74 .

**TP-584-SNY, Real Estate Transfer Tax Return for START-UP NY Leases** -- This NYS Tax Department form must be completed by an approved business in the START-UP NY Program if seeking exemption from the real estate transfer tax. A copy of Form STR-1 must also be attached.