



## Minimum Wage Reimbursement Credit

Chapter 59 of the Laws of 2013 (Part EE) created the minimum wage reimbursement credit for certain Article 9, 9-A, 22, 32, and 33 taxpayers. For tax years beginning on or after January 1, 2014, and before January 1, 2019, taxpayers who are eligible employers or owners of eligible employers are allowed a credit based upon the number of hours worked by certain employees who are paid the New York minimum wage.

Chapter 59 of the Laws of 2013 (Part EE) added sections 38, 187-s, 210.46, 606(aaa), 1456(z), and 1511(cc) of the Tax Law to provide for the minimum wage reimbursement credit. Taxpayers who are eligible employers or owners of eligible employers are allowed a refundable credit equal to the number of hours worked by eligible employees for which they are paid the New York minimum wage multiplied by the applicable tax credit rate. The credit is available for tax years beginning on or after January 1, 2014, and before January 1, 2019.

An eligible employer who discharges an ineligible employee and replaces that employee with an eligible employee solely for the purpose of qualifying for the credit does not qualify to claim the credit for any eligible employee. In addition, an eligible employee who is used as the basis for this credit may not be used as the basis for any other credit allowed under the Tax Law.

### Eligible employer

An *eligible employer* is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company, or a partnership.

The credit may be claimed by an eligible employer or an owner of an eligible employer (e.g., partner in a partnership or shareholder of an S corporation) who is subject to tax under any of the following articles of the Tax Law:

- Article 9, section 185 (franchise tax on farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis);
- Article 9-A (franchise tax on business corporations);
- Article 22 (personal income tax);
- Article 32 (franchise tax on banking corporations); or
- Article 33 (franchise taxes on insurance corporations).

### **Eligible employee**

An *eligible employee* is an employee who is:

- employed by an eligible employer in New York State;
- paid at the minimum wage rate, as defined in Article 19 of the Labor Law, during some part of the taxable year by the eligible employer;
- at least 16 but not yet 20 years of age; and
- a student during the period he or she is paid at the New York minimum wage rate by the eligible employer.

For purposes of this credit, a student is an individual who is currently enrolled full-time or part-time in an eligible educational institution located inside or outside New York State. An eligible educational institution is one that maintains a regular faculty and curriculum, and has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on. Examples of eligible educational institutions include secondary schools, colleges and universities, and any institution that offers a program of training to prepare students for gainful employment in a recognized occupation such as trade, technical, and vocational schools. Eligible educational institutions do not include correspondence schools, schools offering courses only through the Internet, or on-the-job training courses.

Hours worked by a student during scheduled school breaks will qualify for the credit, provided the student is enrolled at an eligible educational institution and has not completed or discontinued his or her education.

An employer must obtain documentation to verify that the individual is currently enrolled as a student at an eligible educational institution. The employer must retain a copy of the student's documentation for their records and make it available to the Tax Department upon request. See [Minimum wage reimbursement credit](#) on our Web site for examples of acceptable documentation.

### **Amount of the credit**

The amount of the credit is equal to the total number of hours worked by eligible employees during the taxable year, for which they are paid the New York minimum wage, multiplied by the applicable tax credit rate for that year, as follows:

<b>Tax years</b>	<b>Tax credit rate</b>
Tax years beginning on or after January 1, 2014, and before January 1, 2015	\$0.75
Tax years beginning on or after January 1, 2015, and before January 1, 2016	\$1.31
Tax years beginning on or after January 1, 2016, and before January 1, 2019	\$1.35

If the federal minimum wage is increased to more than 85% of New York's minimum wage, the above tax credit rates will be reduced to an amount equal to the difference between New York's minimum wage and the federal minimum wage.<sup>1</sup> The reduction will be effective on the first day that the eligible employer is required to pay the increased federal minimum wage.

**Note:** If an employee is paid the New York minimum wage for part of a year and paid a higher wage for the remainder of the year, the taxpayer can only receive the credit for the number of hours worked by the eligible employee for which he or she was paid at the New York minimum wage rate.

### **Credit limitation**

This credit is refundable. Any excess credit may be treated as an overpayment of tax to be credited or refunded. However, no interest will be paid on the refund.

In addition, the following limitations apply:

- For Article 9 section 185 taxpayers, the credit cannot reduce the tax below the minimum tax under section 185.2.
- For Article 9-A taxpayers, the credit cannot reduce the tax below the fixed dollar minimum tax under section 210.1(d).
- For Article 22 taxpayers, the amount of credit may reduce the tax to zero.
- For Article 32 taxpayers, the credit cannot reduce the tax due below the fixed minimum tax under section 1455(b).
- For Article 33 taxpayers, the credit cannot reduce the tax due below the minimum tax under section 1502(a)(4) (life insurance corporations) or the minimum tax under section 1502-a (non-life insurance corporations).

**NOTE:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.

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<sup>1</sup> In 2014, the tax credit rate would be reduced if the federal minimum wage was increased to a rate above \$7.25. In 2015, the credit rate is reduced if the federal minimum wage is increased to a rate above \$7.44. In 2016 through 2018, the rate is reduced if the federal minimum wage is above \$7.65.