



# Instructions for Form IT-213

## Claim for Empire State Child Credit

# IT-213-I

**Caution:** For personal income tax purposes, NYS has decoupled from federal changes made to the Internal Revenue Code (IRC) after March 1, 2020. The federal age limit for qualifying children has been raised to less than 18 years old for 2021. However, for the purpose of the NYS credit, it will remain at less than 17 years old. Thresholds and amounts used in the calculation of this credit will be based on a NY recomputed federal adjusted gross income (FAGI). Line 19a on Forms IT-201 and IT-203 will be used, instead of line 19. If the amounts on your Form IT-201 or Form IT-203 lines 19 and 19a do not match, your New York credit must be calculated using the NY recomputed FAGI.

### General information

The Empire State child credit is available to full-year New York State residents (see *Spouses required to file separate New York State returns*) who have at least one qualifying child (defined below) and meet certain income limitations. If the credit exceeds your tax for the tax year, the excess credit will be refunded without interest.

The credit amount allowed is 33% of the portion of the federal child tax credit and additional child tax credit (calculated using the NY recomputed FAGI as well as the federal credit amounts and income thresholds that were in effect for tax year 2017, prior to the enactment of Public Law 115-97) attributable to qualifying children, or \$100 times the number of qualifying children, whichever is greater.

**Caution:** To be eligible to claim the Empire State child credit, you must provide a correct and valid Social Security number (SSN) or IRS individual taxpayer identification number (ITIN), for you and for each child listed on your Form IT-213. In addition, if you or your child's SSN or ITIN was issued after the due date of the return (including extensions), you may claim only \$100 per qualifying child. For more information, see Important Notice N-16-2, *Changes to Federal and New York State Filing Requirements for New York Earned Income Credits and Empire State Child Credit*.

### Qualifying child

A qualifying child for purposes of the New York State Empire State child credit is a child who:

- 1 Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, half-brother, half-sister, or a descendant of any of them (for example, your grandchild, niece, or nephew),
- 2 Was at least four but less than 17 years old on December 31, 2021,
- 3 Did not provide over half of his or her own support for 2021,
- 4 Lived with you for more than half of 2021,
- 5 Is claimed as a dependent on your federal income tax return,
- 6 Does not file a joint federal income tax return for 2021 (or files it only to claim a refund of withholding or estimated tax paid), and
- 7 Was a citizen, national, or resident alien of the United States.

If your child has an ITIN, that child must be considered a resident of the United States for federal income tax purposes, see IRS Publication 519, *U.S. Tax Guide for Aliens*, for more information.

If you are a U.S. citizen or U.S. National and your adopted child lived with you all year as a member of your household in 2021,

that child meets condition (7) to be a qualifying child for the Empire State child credit.

### How do I claim the Empire State child credit?

You must file Form IT-213 with your New York State income tax return.

### Specific instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

#### Step 2 – Determine eligibility

Complete lines 1 through 5.

**Line 3 –** For purposes of this credit, *federal adjusted gross income* means the NY recomputed FAGI entered on Form IT-201, line 19a, less any interest included on Form 1040 or Form 1040NR, line 2b, for *Build America Bonds* as defined in IRC section 54AA.

**Line 4 –** Enter the number of children who qualify for the federal child tax credit or additional child tax credit, and any child who was **less than 18** years old on December 31, 2021, that qualifies for the federal credit for other dependents, whether or not you claimed the credit on your federal return (see the instructions for federal Form 1040 or Form 1040NR).

**Note:** If for federal income tax purposes your child is claimed as a dependent by your child's noncustodial parent, you **cannot** claim that child for purposes of the Empire State child credit. Do not include that child on line 4.

**Line 5 – Caution:** While line 4 includes all children less than 18 years old, line 5 must **only** include children at least four but less than 17 years old.

#### Step 3 – Enter child information

Enter the name, including suffix (for example, Jr., Sr., III), SSN or ITIN, and date of birth for each child included on line 4. If you have more than six children, complete the required information for the additional children on Form IT-213-ATT, *Child Information for Empire State Child Credit*. Enter your name and SSN on Form IT-213-ATT, and submit it with Form IT-213.

#### Step 4 – Compute credit

**Line 6 –** Use Worksheet A to compute the amount to enter on line 6. However, you cannot use Worksheet A and must instead use Worksheet B if you excluded income from Puerto Rico on your federal income tax return; or you filed any of the following federal forms with your federal income tax return:

- Form 8839, *Qualified Adoption Expenses*;
- Form 8396, *Mortgage Interest Credit*;
- Form 8859, *Carryforward of the District of Columbia First-Time Homebuyer Credit*;
- Form 5695, *Residential Energy Credits*;
- Form 4563, *Exclusion of Income for Bona Fide Residents of American Samoa*; or
- Form 2555, *Foreign Earned Income*

**Worksheet A for Form IT-213, Line 6**

Do not use Worksheet A, but use Worksheet B instead, if on your 2021 **federal** income tax return you:

- claimed any of the following **federal** tax credits: adoption credit, mortgage interest credit, carryforward of District of Columbia first-time homebuyer credit, or residential energy efficient property credit; or
- excluded income from Puerto Rico; or
- were required to attach federal Form 2555 or Form 4563.

**Part 1**

- 1 Multiply the number of children from Form IT-213, line 4 by \$1,000 and enter the result here ..... 1 4000
- 2 Enter your NY recomputed FAGI from Form IT-201, line 19a ..... 2 36030
- 3 Enter the amount shown below for your filing status ..... 3 110000
- Married filing jointly - \$110,000
  - Single, head of household, or qualifying widow(er) - \$75,000
  - Married filing separately - \$55,000
- 4 Is the amount on line 2 more than the amount on line 3?  
 **No.** Leave line 4 blank. Enter **0** on line 5 and go to line 6.  
 Yes. Subtract line 3 from line 2.  
 If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000.  
 For example, increase \$425 to \$1,000, increase \$1,025 to \$2,000. .... 4 \_\_\_\_\_
- 5 Multiply the amount on line 4 by 5% (.05). Enter the result ..... 5 0
- 6 Is the amount on line 1 more than the amount on line 5?  
 No. **Stop** here and enter **0** on Form IT-213, line 6 and **0** on Form IT-213, line 7.  
 Yes. Subtract line 5 from line 1. Enter the result and complete Part 2 ..... 6 4000

**Part 2**

- 7 Enter your 2021 federal tax (Form 1040 or Form 1040NR, line 18) ..... 7 823
- 8 Are the amounts on Form IT-201 lines 19 and 19a the same?  
 Yes. Enter the following amounts from your 2021 **federal** income tax return, if applicable:  
 No. Recalculate the following credits claimed on your 2021 **federal** income tax return using your NY recomputed FAGI from Form IT-201, line 19a, instead of your federal adjusted gross income and enter the recalculated amounts, if applicable:
- a Form 1040, Schedule 3, line 1 ..... a \_\_\_\_\_
  - b Form 1040, Schedule 3, line 2 ..... b \_\_\_\_\_
  - c Form 1040, Schedule 3, line 3 ..... c \_\_\_\_\_
  - d Form 1040, Schedule 3, line 4 ..... d \_\_\_\_\_
  - e Form 1040, Schedule 3, line 6l ..... e \_\_\_\_\_
  - f Form 8910, *Alternative Motor Vehicle Credit*, line 15 ..... f \_\_\_\_\_
  - g Form 8936, *Qualified Plug-in Electric Drive Motor Vehicle Credit*, line 23 ..... g \_\_\_\_\_
  - h Schedule R, *Credit for the Elderly or the Disabled*, line 22 ..... h \_\_\_\_\_
- Add lines a through h ..... 8 823
- 9 Are the amounts on lines 7 and 8 the same?  
 Yes. **Stop** here. Enter **0** on Form IT-213, line 6.  
 No. Subtract line 8 from line 7. Enter the result here ..... 9 \_\_\_\_\_
- 10 Is the amount on line 6 more than the amount on line 9?  
 Yes. Enter the amount from line 9 here and on Form IT-213, line 6. .... 10 \_\_\_\_\_  
 No. Enter the amount from line 6 here and on Form IT-213, line 6. .... 10 \_\_\_\_\_

If you answered **Yes** on line 9 or 10 above, complete *Worksheet C – Additional child tax credit amount*.

**Worksheet B for Form IT-213, Line 6**

Use this worksheet, instead of Worksheet A, if you:

- claimed any of the following **federal** tax credits: adoption credit, mortgage interest credit, carryforward of District of Columbia first-time homebuyer credit, or residential energy efficient property credit; or
- excluded income from Puerto Rico; or
- filed federal Form 2555 or Form 4563.

**Part 1**

- 1** Multiply the number of children from Form IT-213, line 4 by \$1,000 and enter the result here ..... **1** \_\_\_\_\_
- 2** Enter your NY recomputed FAGI from Form IT-201, line 19a ..... **2** \_\_\_\_\_
- 3** If you filed federal Form 1040, enter the total of any:
- Exclusion of income from Puerto Rico, plus
  - Amounts from federal Forms 2555, lines 45 and 50; and 4563, line 15 ..... **3** \_\_\_\_\_
- If you filed federal Form 1040NR, enter **0**.
- 4** Add lines 2 and 3. Enter the total ..... **4** \_\_\_\_\_
- 5** Enter the amount shown below for your filing status ..... **5** \_\_\_\_\_
- Married filing jointly - \$110,000
  - Single, head of household, or qualifying widow(er) - \$75,000
  - Married filing separately - \$55,000
- 6** Is the amount on line 4 more than the amount on line 5?
- No. Leave line 6 blank. Enter **0** on line 7 and go to line 8.
- Yes. Subtract line 5 from line 4.
- If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000.  
For example, increase \$425 to \$1,000, increase \$1,025 to \$2,000 ..... **6** \_\_\_\_\_
- 7** Multiply the amount on line 6 by 5% (.05). Enter the result ..... **7** \_\_\_\_\_
- 8** Is the amount on line 1 more than the amount on line 7?
- No. **Stop** here. Enter **0** on Form IT-213, line 6 and **0** on Form IT-213, line 7.
- Yes. Subtract line 7 from line 1. Enter the result and complete Part 2 ..... **8** \_\_\_\_\_

**Part 2**

- 9** Enter your 2021 federal tax (Form 1040 or Form 1040NR, line 18) ..... **9** \_\_\_\_\_
- 10** Are the amounts on Form IT-201 lines 19 and 19a the same?
- Yes. Enter the following amounts from your 2021 **federal** income tax return, if applicable:
- No. Recalculate the following credits claimed on your 2021 **federal** income tax return using your NY recomputed FAGI from Form IT-201, line 19a, instead of your federal adjusted gross income and enter the recalculated amounts, if applicable:
- a** Form 1040, Schedule 3, line 1 ..... **a** \_\_\_\_\_
  - b** Form 1040, Schedule 3, line 2 ..... **b** \_\_\_\_\_
  - c** Form 1040, Schedule 3, line 3 ..... **c** \_\_\_\_\_
  - d** Form 1040, Schedule 3, line 4 ..... **d** \_\_\_\_\_
  - e** Form 1040, Schedule 3, line 6l ..... **e** \_\_\_\_\_
  - f** Form 8910, *Alternative Motor Vehicle Credit*, line 15 ..... **f** \_\_\_\_\_
  - g** Form 8936, *Qualified Plug-in Electric Drive Motor Vehicle Credit*, line 23 ..... **g** \_\_\_\_\_
  - h** Schedule R, *Credit for the Elderly or the Disabled*, line 22 ..... **h** \_\_\_\_\_
- Add lines a through h ..... **10** \_\_\_\_\_
- 11** Did you claim any of the following federal credits on your 2021 federal income tax return?
- Mortgage interest credit (federal Form 8396)
  - Adoption credit (federal Form 8839)
  - Residential energy efficient property credit (federal Form 5695, Part 1)
  - District of Columbia first-time homebuyer credit (federal Form 8859)
- No. Enter the amount from line 10.
- Yes. If you filed federal Form 2555, enter the amount from line 10. Otherwise, complete the Line 11 Worksheet below, to compute the amount to enter here
- 11** \_\_\_\_\_

**Worksheet B for Form IT-213, Line 6** (continued)

- 12** Subtract line 11 from line 9. Enter the result ..... **12** \_\_\_\_\_
- 13** Is the amount on line 8 of this worksheet more than the amount on line 12?  
 No. **Stop** here. Enter the amount from line 8 here and on Form IT-213, line 6; and enter **0** on Form IT-213, line 7.  
 Yes. Enter the amount from line 12 here and on Form IT-213, line 6; and complete Worksheet C. .... **13** \_\_\_\_\_

**Line 11 for Worksheet B**

**Note:** You will need your completed federal worksheets contained in the federal instructions for Schedule 8812, to complete lines 2, 6, and 9 of this worksheet.

- 1** Enter the amount from line 8 of Worksheet B ..... **1** \_\_\_\_\_
- 2** Enter your earned income from the federal instructions for Schedule 8812, *Earned Income Worksheet*, line 7:  
 • **plus** amount(s), if any, claimed on NYS Form IT-558, line 4:  
 – code A-004, *Exclusion for certain employer payments of student loans*;  
 – code A-008, *Depreciation of qualified improvement property (QIP)*;  
 – code A-012, *Energy efficient commercial buildings deduction*;  
 – code A-013, *Benefits provided to volunteer firefighters and emergency medical responders* (only include qualified payments [IRC § 139-B-(c)(2)] not any tax benefits);  
 – code A-016, *7-year recovery period for motorsports entertainment complexes*;  
 – code A-017, *Expensing rules for certain productions*;  
 – code A-018, *Accelerated depreciation for business property on Indian reservations*;  
 – code A-019, *Temporary allowance of full deduction for business meals*;  
 – code A-021, *Continuation coverage premium assistance exclusion*; and  
 – code A-022, *Increase in exclusion for employer provided dependent care assistance*.  
 • **less** amount(s), if any, claimed on NYS Form IT-558, line 13:  
 – code S-003, *Depreciation of qualified improvement property (QIP)*;  
 – code S-005, *Modifications of limitations on business interest*;  
 – code S-007, *7-year recovery period for motorsports entertainment complexes*;  
 – code S-008, *Accelerated depreciation for business property on Indian reservations*;  
 – code S-009, *Continuation coverage premium assistance credit*;  
 – code S-010, *Credit for paid sick leave*;  
 – code S-011, *Payroll credit for paid family leave*; and  
 – code S-012, *Special rule related to tax on employers*. ..... **2** \_\_\_\_\_
- 3** Is the amount on line 2 more than \$3,000?  
 No. Leave line 3 blank. Enter **0** on line 4 and go to line 5.  
 Yes. Subtract \$3,000 from the amount on line 2 and enter the result ..... **3** \_\_\_\_\_
- 4** Multiply the amount on line 3 by 15% (.15) and enter the result ..... **4** \_\_\_\_\_
- 5** Is the amount on line 1 of Worksheet B \$3,000 or more?  
 No.  
 • If line 4 is zero, do not complete the rest of the worksheet. Instead, **go back to Worksheet B** and do the following: Enter the amount from line 10 on line 11 and complete lines 12 and 13.  
 • If line 4 is more than zero, enter **0** on line 6 and go to line 7.  
 Yes. If line 4 is equal to or more than line 1, enter **0** on line 6 and go to line 7. Otherwise, continue with line 6.
- 6** Enter the amount from your federal instructions for Schedule 8812, *Credit Limit Worksheet B*, line 11, if applicable **6** \_\_\_\_\_
- 7** Enter the larger of line 4 or line 6 ..... **7** \_\_\_\_\_
- 8** Is the amount on line 7 more than the amount on line 1?  
 No. Subtract line 7 from line 1 and enter the result here. **8** \_\_\_\_\_  
 Yes. Enter **0**.
- 9** If your Form IT-201, lines 19 and 19a match, enter the amount from your federal instructions for Schedule 8812, *Credit Limit Worksheet B*, line 15. If not, recalculate the applicable credits using your NY recomputed FAGI. .... **9** \_\_\_\_\_
- 10** Enter the amount from line 10 of *Worksheet B for Form IT-213, Line 6* ..... **10** \_\_\_\_\_
- 11** Add lines 9 and 10, enter the result here and on line 11 of *Worksheet B for Form IT-213, Line 6* ..... **11** \_\_\_\_\_

**Line 7** – If you answered Yes on Worksheet A, line 9 or line 10; or Worksheet B, line 13; complete *Worksheet C – Additional child tax credit amount*, to compute the amount to enter on line 7.

**Worksheet C – Additional child tax credit amount**

- You must complete Worksheet A or B, whichever is applicable, before completing Worksheet C.
- If the amount from Worksheet A, line 6, or Worksheet B, line 8, is zero, do not complete Worksheet C. Go to Form IT-213, skip lines 8 through 13 and continue with line 14.
- If you filed federal Form 2555, **stop** here; do not complete Worksheet C. Enter **0** on Form IT-213, line 7.
- You will need your completed 2021 federal Schedule 8812, *Credits for Qualifying Children and Other Dependents*, to complete this worksheet.

**1** Enter the amount from Worksheet A, line 6, or Worksheet B, line 8, whichever is applicable ..... **1** 4000

**2** Enter the amount from Form IT-213, line 6 ..... **2** 0

- If the amount on line 2 is greater than or equal to the amount on line 1, **stop** here; you do not qualify for the additional child credit. Enter **0** on Form IT-213, line 7.
- If the amount on line 2 is less than the amount on line 1, go to line 3.

**3** Subtract line 2 from line 1. Enter the result here ..... **3** 4000

**4a** Enter your earned income from your federal instructions for Schedule 8812, *Earned Income Worksheet, line 7* (if the amount is your 2019 earned income, you must enter **special condition code P3** on your Form IT-201, *Resident Income Tax Return*, item G, or your Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, item F).

If not, (and the amount is your 2021 earned income) use the earned income amount from your federal instructions for Schedule 8812, *Earned Income Worksheet, line 7*:

- **plus** amount(s), if any, claimed on NYS Form IT-558, line 4:
  - code A-004, *Exclusion for certain employer payments of student loans*;
  - code A-008, *Depreciation of qualified improvement property (QIP)*;
  - code A-012, *Energy efficient commercial buildings deduction*;
  - code A-013, *Benefits provided to volunteer firefighters and emergency medical responders* (only include qualified payments [IRC § 139-B-(c)(2)] not any tax benefits);
  - code A-016, *7-year recovery period for motorsports entertainment complexes*;
  - code A-017, *Expensing rules for certain productions*;
  - code A-018, *Accelerated depreciation for business property on Indian reservations*;
  - code A-019, *Temporary allowance of full deduction for business meals*;
  - code A-021, *Continuation coverage premium assistance exclusion*; and
  - code A-022, *Increase in exclusion for employer provided dependent care assistance*.
- **less** amount(s), if any, claimed on NYS Form IT-558, line 13:
  - code S-003, *Depreciation of qualified improvement property (QIP)*;
  - code S-005, *Modifications of limitations on business interest*;
  - code S-007, *7-year recovery period for motorsports entertainment complexes*;
  - code S-008, *Accelerated depreciation for business property on Indian reservations*;
  - code S-009, *Continuation coverage premium assistance credit*;
  - code S-010, *Credit for paid sick leave*;
  - code S-011, *Payroll credit for paid family leave*; and
  - code S-012, *Special rule related to tax on employers*.

**4a** 25020

**b** Nontaxable combat pay (from federal Form(s) W-2, box 12, with code Q) ..... **4b** \_\_\_\_\_

**5** Is the amount on 4a more than \$3,000?

No. Leave line 5 blank and enter **0** on line 6.

Yes. Subtract \$3,000 from the amount on line 4a. Enter the result on line 5 ..... **5** 22020

**6** Multiply the amount on line 5 by 15% (.15). Enter the result ..... **6** 3303

**7** Do you have three or more children (from Form IT-213, line 4)?

No. **Stop** here and enter the smaller of line 3 or 6 on Form IT-213, line 7.

Yes.

- If line 6 is equal to or more than line 3, **stop** here and enter the amount from line 3 on Form IT-213, line 7.
- If line 6 is less than line 3, enter the amount from your federal Schedule 8812, line 25 here and continue with line 8

**7** 0

**8** Enter the larger of line 6 or line 7 ..... **8** 3303

**9** Enter the smaller of line 3 or line 8 here and on Form IT-213, line 7 ..... **9** 3303

### **Step 5 – Spouses required to file separate New York State returns**

If you filed a joint federal return but are required to file separate New York State returns because you were a full-year New York State resident for 2021 and your spouse was a part-year resident or nonresident for 2021, the credit may be claimed by either spouse or may be divided in any manner you wish. Form IT-213 must be completed by the spouse who is the New York State resident and must include both spouses' names and SSNs. The resident spouse's name and SSN must be listed first on Form IT-213. You must enter **0** on line 17 if the part-year resident or nonresident spouse is claiming the entire line 16 amount. You must enter **0** on line 18 if the resident spouse is claiming the entire line 16 amount. Submit a copy of Form IT-213, and, if applicable, a copy of Form IT-213-ATT with each spouse's New York State income tax return. However, you do not need to submit a copy of Form IT-213 with the part-year resident or nonresident spouse's Form IT-203 if you entered **0** on line 18.

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