



START-UP NY Employer Fact Sheet

Allocated net new jobs

When your business is accepted into the START-UP NY program, Empire State Development (ESD) allocates a maximum number of net new jobs to your business that qualify for the New York State personal income tax wage exclusion benefit.

- Only the net new jobs included in your allocation from ESD will qualify for this benefit.
- A net new job created in excess of your allocation from ESD will not qualify for this benefit.
- The benefit **must** be provided to your eligible employees based on their hiring dates.

An employee who is hired to work in a net new job that is not included in your allocation from ESD does not qualify for the wage exclusion benefit.¹

Wage exclusion benefit period

The wage exclusion benefit is allowed during **your** approved business's benefit period (ten consecutive years after the business locates in the tax-free NY area).

Eligible employees hired after the business's first year in the tax-free NY area will not receive ten years of the wage exclusion benefit.

Wage exclusion benefit

All or part of the wages paid to an **eligible employee** by an approved business (START-UP NY wages) may be exempt from New York personal income taxes. The exemption applies to:

- New York State personal income tax,
- New York City resident income tax,
- Yonkers resident income tax surcharge, and
- Yonkers nonresident earnings tax.

Eligible employees must claim this tax benefit on their New York State personal income tax returns.

The New York State personal income tax wage exclusion benefit is for **New York** personal income tax only. It does **not** apply to federal income tax.

¹ **Amendments to job creation schedule.** If your business anticipates creating jobs in excess of its five-year total of net new jobs, it must amend its job creation schedule. Amending the schedule will increase the business's allocation for eligibility for personal income tax benefits. To increase the allocation, your business must submit an amended START-UP NY business application to the sponsor and it will be reviewed in the same manner as the original application. For more information, contact your sponsor.

Eligible employees

To be an **eligible employee**, your employee must:

- be employed in a net new job that has been allocated benefits by ESD,
- be engaged in work performed exclusively² at your approved business location within the tax-free NY area during the calendar year, and
- work at your approved business location within the tax-free NY area for at least one-half of the calendar year (183 days). Generally, a newly hired employee who begins work after July 1st will **not** qualify for the wage exclusion for that year.

For each employee who meets all these requirements, you must report **all** of their START-UP NY wages earned during the calendar year (see *START-UP NY employer reporting* on page 3).

Employees who do not meet all of the above requirements are **not eligible employees** and all of their wages are subject to New York income tax. Do not report any of their wages as START-UP NY wages.

Employer responsibilities

As an employer, you have registration and reporting requirements under the New York State Tax Law and Labor Law. This is true whether or not wages are subject to withholding of tax or payment of tax under the personal income tax law. For information on these requirements, see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*, which is available on the Tax Department website.

As a START-UP NY employer, you have certain obligations to your employees.

1. Employee notifications

You should provide each newly hired employee in a net new job with information about the New York State personal income tax wage exclusion benefit. For example:

- Eligible employees need to know the benefit period of the business.
- You should give your eligible employees a copy of the *START-UP NY Employee Fact Sheet* (included in this packet).
- You should notify your employees who are not eligible for the wage exclusion benefit (or who no longer meet the eligibility requirements) that they do not qualify for the benefit and all of their wages are subject to New York personal income tax.

2. Withholding

Eligible employees are not automatically exempt from New York income tax withholding. You are required to withhold New York income taxes from the wages paid to eligible employees **unless** they provide you with a completed Form IT-2104-SNY, *Certificate of Exemption from Withholding for START-UP NY Program*.

- Eligible employees must complete a new form each year to continue an exemption from withholding.
- Keep these forms for your records. **Do not** send them to the Tax Department.

² Any work performed outside the tax-free NY area must be minimal and merely incidental to the main purpose of the approved business. Eligible employees may perform some work in academic facilities owned by the tax-free NY area sponsor that are outside of the employer's area, but only if the work is integral to the purpose of the approved business.

3. Wage reporting

You must report wage information to the Tax Department quarterly, **even for eligible employees**. Do this by electronically filing Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, or Form NYS-45-ATT, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return - Attachment*, if applicable.

4. START-UP NY employer reporting

START-UP NY employer reporting requires you to Web File an annual summary of information about your eligible employees to the Tax Department. This reporting must be done through the Tax Department's *Online Services*. If you do not have an *Online Services* account, visit our website to create one. To Web File, you will need your START-UP NY certificate number and EIN.³

You must:

- **Use the EIN** you provided to the department for withholding, wage reporting, and START-UP NY employer reporting purposes. If you use a payroll service or reporting agent, be sure they use the correct EIN.
- **Identify eligible employees** by name and social security number; and provide their employment period, employment status (full-time or part-time), and START-UP NY wages.
- **Complete** your START-UP NY employer reporting (covering the previous calendar year) by January 31.⁴ Failure to do this will result in your eligible employees' wage exclusion tax benefit being denied. Your employees will be taxed on all their wages.
- **Include** all START-UP NY wages in box 1 and box 16 of the eligible employee's federal Form W-2, *Wage and Tax Statement*.
- **Identify** the amount of START-UP NY (SNY) wages of eligible employees in box 14 on federal Form W-2, *Wage and Tax Statement*. Use code **SNY**.

Ineligible employees

Do not include information on ineligible employees in your annual START-UP NY employer reporting.

Employees who were hired to fill a net new job, but who do not meet **all** of the requirements for an eligible employee, are **not** eligible employees. Accordingly, they should not be included in your annual reporting and their wages should not be shown in box 14 of federal Form W-2.

5. ESD reporting

All businesses participating in the START-UP NY Program must file an annual business report with the Empire State Development. See the START-UP NY statute and regulations for more information. (New York Economic Development Law, section 438(b); 5 NYCRR section 220.16)

Visit the START-UP NY webpage on the Tax Department website for more information on employer reporting.

³ This is the EIN you entered at item 3 on Form DTF-73.2, *START-UP NY Questionnaire*.

⁴ A PEO must Web File a separate report for each START-UP NY business if the PEO is the employer of record for more than one START-UP NY business.