

ACADEMIC INSTITUTION FAQs CONTINUED

Will participation in START-UP NY impact a college or university's non-profit, tax-exempt status?

No. Appropriate participation in START-UP NY will not impair this status. However, as not-for-profit educational institutions, all participating schools should be aware of certain prohibitions applicable to such institutions. For specific questions, we encourage you to reach out to your institution's legal counsel.

What if a college or university does not want an individual company to locate on its campus?

Only a college or university can give a company the right to locate on their space. Additionally, companies are required to support an institution's academic mission. A company might support this mission by allowing faculty to perform applied research, establishing internship and experiential learning opportunities for students, hiring directly from the campus population or by undertaking numerous other mutually beneficial partnerships.

OTHER FAQs

How can small business owners compete with START-UP NY program businesses which won't have to pay taxes and whose workers will take home more pay?

The law requires that no business be allowed to locate if they are found to be in competition with existing local businesses. Instead, START-UP NY businesses will mean new direct spending and resident taxes (sales and property) for local economies, while also boosting local home values through homeownership demand.

Why is New York giving out-of-state and START-UP NY companies tax breaks?

This program is intended to attract businesses and jobs to New York State that would not have located in-state otherwise. New York loses many firms to other states shortly after their formation, and this program will help retain and expand job opportunities that will benefit all residents, especially through new direct spending, resident taxes and homeownership demand in communities.

Additionally, the governor has created a number of programs designed to help existing New York individuals and businesses, and a list is available at <http://www.esd.ny.gov/BusinessPrograms.html>

Can a campus relocate its existing programs, students, faculty or staff in order to make room for START-UP NY businesses?

No. Relocating existing programs, students, faculty or staff is expressly prohibited. Colleges and universities will use vacant land or building space or identify other non-owned but eligible real estate that might be included in the program. Furthermore, institutions are prohibited from outsourcing functions that are performed currently by existing organizational employees in order to make available facility space for the program.

What is the Governor doing to prevent corporate fraud or the unanticipated exploitation of START-UP NY for undeserved tax benefits?

START-UP NY includes strong provisions to protect against fraud. Businesses will have to submit certification to ESD, and falsifying certifications will be a felony. The legislation also includes strict provisions to guard against abuses such as shifting jobs among related entities or "shirtchanging," when a company simply reincorporates under a new name and claims its existing employees are now new jobs. In addition, START-UP NY includes measures to prevent self-dealing and conflicts of interest. In cases of fraud, the state will be empowered to claw-back benefits granted to the business. Companies that do not meet the terms of the program — including meeting their job creation targets — may have their benefits reduced, suspended or terminated. ESD will have the authority to review company data to ensure that jobs have been created and maintained, and to end participation by companies that have not created net new jobs. ESD will be required to publish a comprehensive annual report to enable the public to evaluate the program's impact.



BUSINESS FAQs

What is START-UP NY?

START-UP NY is a groundbreaking new initiative from Governor Andrew M. Cuomo creating statewide tax-free zones. It will provide major incentives for businesses to relocate, start up or expand in New York State. Businesses will have the opportunity to operate state and local tax-free on or near academic campuses, and their employees will pay no state or local personal income taxes. In addition, businesses may qualify for additional incentives.

What businesses are eligible for START-UP NY?

Many different types of businesses are eligible to apply to the program. In New York City, Long Island and Westchester County, businesses must be one of a number of broadly defined "high technology" businesses. Eligible businesses must also:

- Be a new company in New York State;
- Be a company from out-of-state that is relocating to New York State; or
- Be an expansion of a company that already has employees in New York State. Expanding businesses applying for START-UP NY will have to demonstrate that they are creating new jobs and not moving existing jobs from elsewhere in the State.

If you have questions about your business' eligibility, please contact us at startupny@esd.ny.gov.

What types of businesses are NOT eligible for START-UP NY?

Per the law, there are a number of types of business that can't receive benefits under START-UP NY. We will not be able to consider applications from business operations that the state ultimately defines as:

- retail and wholesale businesses;
- restaurants;
- real estate brokers;
- law firms;
- medical or dental practices;
- real estate management companies;
- hospitality;

- finance and financial services;
- businesses providing personal services;
- businesses providing business administrative or support services (unless the business is creating at least 100 new jobs and has received permission to participate);
- accounting firms;
- businesses providing utilities; or
- energy production and distribution companies.

If you don't qualify for START-UP NY, it's likely that there are other incentives or resources that New York State may be able to offer you. A list is available at <http://www.esd.ny.gov/BusinessPrograms.html>.

What does the program's requirement that a START-UP NY business support a school's "academic mission" mean?

There are many ways in which a business might align with or support a school's academic mission. A school's academic mission will focus on the programs, research, applied learning opportunities (like internships), culture and curriculum of the college or university. Determining how your business would support the academic mission of a school is part of the business application process. Participating campuses will each have a START-UP NY point person who will be able to help you and answer questions about your business and how it may support their academic mission.

How many jobs must a business create to be eligible for START-UP NY?

There is no minimum requirement for the number of net new jobs that must be created, but all participating businesses must create jobs to receive the program's benefits.

Are retained jobs eligible for tax-free benefits under START-UP NY?

No. The benefits of START-UP NY can only be applied to jobs new to New York State—either through the relocation of an out-of-state or foreign company to New York State, the significant expansion of an existing business in New York State or the formation of a new business in New York State.

What land and property are eligible for a business to occupy under this program?

Participating START-UP NY businesses will occupy property or land affiliated with public and private colleges and universities. START-UP NY facility space will be on or near academic campuses and will be available in urban and rural areas across New York State. Note that if a piece of property is not currently part of an academic institution's campus, it may be possible under special circumstances for that property to become affiliated with a sponsoring academic institution.

What restrictions or limits will exist on real estate development by those companies with custom or specialized facility needs?

The answer will depend on the nature of the land and property.

I am considering a move to a location in New York that is not located near a college or university. Should I still consider this state and/or the START-UP NY program?

Yes. Participation in START-UP NY does not necessarily require that your business be on or next to a campus, but it must be located on property affiliated with a university. There are many options that could work for a company like yours and, with the number of great colleges in New York, there may be one closer to your location than you think. If you are considering New York or START-UP NY, please contact us.

What tax benefits will participating companies receive?

START-UP NY will provide new and expanding businesses that create net new jobs the opportunity to operate completely tax-free — including no income tax for employees and no sales, property or business tax — while partnering with higher education institutions. Business and employee tax benefits will be available for up to ten years. After five years, for extremely high-earners, there is a limit on the amount of employee earnings exempted from the Personal Income Tax (see next question, as well as “Tax Benefits FAQs”).

What is the Personal Income Tax exemption for employees?

Employees of businesses in START-UP NY will pay no income taxes on their wages for the first five years. For the second five years, employees will pay no taxes on income up to \$200,000 of wages for individuals, \$250,000 for a head of household and \$300,000 for taxpayers filing a joint return.

Is a business eligible for any other programs or tax benefits in addition to START-UP NY?

A business may be eligible for additional programs or grants, but START-UP NY tax benefits cannot be combined with any other tax credit as it relates to the company's operations within the tax-free area. Please contact us, so that we may help you identify programs for which your business may be eligible.

For large companies with only a small share of their operations in the tax-free areas, how will the share of statewide operations that are tax-free be determined?

The answer depends on the company's share of payroll and assets located in the tax-free area, among other factors, and differs based on the type of tax. See “Tax Benefits FAQs.”

Is there a cap on the number of employees that are eligible for the Personal Income Tax exemption?

Yes. Statewide, the total number of new jobs added to the list of those receiving personal income tax exemption under START-UP NY will not exceed 10,000 new jobs per year (i.e., there will be a maximum of 10,000 tax-free jobs after year one, 20,000 tax-free jobs after year two, etc.). Employees of companies accepted into the program after the annual cap is met each year will be first in line to begin receiving the Personal Income Tax exemption at the beginning of the next year.

When is the program scheduled to begin?

The program will formally begin on January 1, 2014, when tax exemptions are officially available for participating companies and their employees. Businesses will be able to apply directly to schools once the tax-free areas have been approved. The first business applications will be accepted beginning in late 2013.

When must a company apply to qualify?

Under the current legislation, the last date for a company to be accepted into the program is December 31, 2020. Regardless of the date of its acceptance into the program, a company participating in START-UP NY and in fulfillment of its job creation commitments will be eligible for ten years of tax benefits, with the aforementioned Personal Income Tax exemption cap beginning after five years.

What school and community is the best fit for my company?

START-UP NY schools can be public (State University of New York and City University of New York four-year and two-year campuses, for example), as well as private not-for-profit educational institutions. When you're ready to determine which campus is right for you, please contact us, and we'll help direct you to the right campuses and people.

How can a business apply to participate in START-UP NY?

Businesses will apply directly to the participating college or university. For more information on the application process, please visit www.StartUp-NY.com or contact us directly.

TAX BENEFITS FAQs

Business tax-free New York area elimination credit

This credit would be calculated by the business when filing its tax return. For businesses with 100% of their operations (assets and payroll) in a tax-free area(s), the credit would eliminate any tax liability. For businesses with operations in and out of a tax-free area, the credit would be pro-rated based on the percentage of assets and payroll within a tax-free area(s).

Organization tax and license and maintenance fees

This tax and these fees are levied on corporations based on the value of their stock. The organization tax and license fee are generally paid once and the maintenance fee is paid annually at certain times of the year according to payment schedules in tax law. Payment of the license and maintenance fees is made to the Tax Department by businesses incorporated out of state and the organization tax is paid to the Department of State for businesses incorporated in NY. If a business is 100% located in a tax-free area(s), the business would be exempt from paying the relevant taxes and fees once certified.

Metropolitan Commuter Transportation District (MCTD) mobility tax

This tax is levied on businesses based on their payroll expense within the MCTD and is paid quarterly. If a business is 100% located in a tax-free area, the business would be exempt from this tax once certified.

Sales and use tax

Once certified, a business would apply to the Tax Department to receive a credit or refund for sales and use taxes paid for goods and services used or consumed by the business' operation in a tax-free area(s).

Real estate/real property transfer tax

Leases of real property in a tax-free area to an approved business are exempt from the NYS real estate transfer tax. This exemption also applies to any local real estate or real property transfer tax imposed locally.

Personal income taxes (NY State, NY City, Yonkers)

Employees hired for and whose jobs are certified as net new jobs in a tax-free area will pay no state or local income taxes for the first five years. For the second five years, employees will pay no taxes on income up to \$200,000 for individuals, \$250,000 for a head of household and \$300,000 for taxpayers filing a joint return. There is an annual cap per business on the number of employees that qualify for this exemption and an annual cap statewide of 10,000 net new jobs (i.e., there will be a maximum of 10,000 tax-free jobs after year one, 20,000 tax-free jobs after year two, etc.).

For more information, go to www.StartUp-NY.com or contact us directly at startupny@esd.ny.gov.

ACADEMIC INSTITUTION FAQs

What colleges or universities can participate in START-UP NY?

START-UP NY is open to all two- and four-year, not-for-profit educational institutions chartered in the State of New York. Eligibility rules differ based on the type of institution (i.e., State University of New York campuses, City University of New York campuses, and private educational campuses), the location of the tax-free area (i.e., within New York City and its neighboring counties vs. upstate New York) and the type of eligibility granted (i.e., on-campus space, off-campus space, a designated state incubator or a designated state asset).

How does a college or university begin hosting companies under START-UP NY?

Eligible academic institutions are first required to develop a plan that will include, among other items: a description of the land or property to be designated as tax-free; a description of the institution's academic mission; and a description of the type of companies it will be seeking to attract. Once this plan is approved, schools will be eligible to begin accepting applications from companies. After a school approves an application for a company, Empire State

Development (ESD), the state's top economic development agency, will have sixty days to review the company's application. If ESD does not overrule the company's acceptance within sixty days, the company will be deemed accepted into the START-UP NY Program and immediately will be able to begin operating on the tax-free space.

When will a college or university be able to apply for a tax-free area under START-UP NY?

The first college and university tax-free area applications will be approved by Empire State Development, in late 2013.

In what circumstances will a college or university's plan for the designation of tax-free space be approved or rejected by the state's top economic development agency, Empire State Development (ESD), and in what circumstances will such plans be approved or rejected by the START-UP NY Board?

Generally, public colleges and universities apply directly to ESD for designation of tax-free space while applications related to State Strategic Assets and for private colleges or universities that are competing for tax-free space will go to the Board.

