

## **START-UP NY TAX FAQs**

**Q: The tax factor of the START-UP NY tax elimination credit excludes income from a line of business or intangible property, like a royalty, that was previously conducted, created or developed by the approved business or a related person before being accepted into the START-UP NY program. How does an approved START-UP NY business determine the amount of this income?**

**A:** The approved business must recompute its tax factor so that it reflects the tax on income from solely new activity. (Tax Law §40(d) (4)) The approved business may use any reasonable method to segregate its income between new and previously existing activity, provided, however, it maintains sufficient books and records to demonstrate how the income was categorized.

**Q: Change of Structure or Ownership– if a certified business is changing its structure, for example, from an LLC to a C-Corp, or a sole-proprietorship to an LLC, or reorganizing and changing its form of organization or ownership through a merger, acquisition or sale, can the certificate be transferred?**

**A:** The business *may* request that the certificate of eligibility be transferred from the previous entity to the newly reorganized entity or from the previous owners to the new owners. When making a request to ESD to transfer a certificate of eligibility, the business must be prepared to describe the reasons for the reorganization and the circumstances leading up to the change in ownership. When reviewing a request to transfer a certification based on a business' reorganization or restructuring, or change in ownership, ESD will look to determine if the change is simply a matter of form and not a substantive change that would impact the newly organized entity's eligibility to participate in the START-UP NY Program. Considerations such as the type of business, consistency with the sponsor's plan and campus mission and the type of jobs to be created will all be considered as part of the final determination. If the request to transfer certification is granted, the newly organized entity would continue the initial 10-year benefit-period of the previous certified business. ***The transfer of certification would not re-start the benefit period.***