

**New York State Office of Homeland Security
Security Officer Training Tax Credit
Chapter 537 of the Laws of 2005
DRAFT Regulations**

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1. Purpose and general description.

These rules and regulations set forth the application process for the New York State Office of Homeland Security 'Security Officer Training Tax Credit Program' as set forth in Chapter 537 of the Laws of 2005. The Director of the Office of Homeland Security has the authority to promulgate regulations to establish procedures for the application and allocation of such credits and any other provisions necessary and appropriate to implement this program per Tax Law section 26(e).

2. Definitions.

As used in this regulation, the following terms shall have the following meanings:

(a) **“Qualified Building Owner”** means a building owner whose building entrances, exits and common areas are protected by security officers, licensed under article 7-A of the General Business Law, whether or not such security officers are employed directly by the building owner or indirectly through a contractor.

(b) **“Building”** means any commercial building under ownership of a qualified building owner that contains at least 500,000 square feet whose entrances, exits and common areas are protected by security officers licensed under article 7-A of the General Business Law.

(c) **“Security Officer”** means a security guard registered and subject to Article 7-A of the General Business Law.

(d) **“Qualified Security Officers”** means security officers who: (i) are employed in positions which are under a legally binding written agreement, including a service contract between qualified building owners and security contractors, enforceable by employees, that provides for a minimum hourly wage rate of at least nine dollars fifty cents for the calendar year two thousand five; nine dollars eighty-five cents for the calendar year two thousand six; and ten dollars eighty-five cents for the calendar year two thousand seven and thereafter; and (ii) have completed the Office of Homeland Security certified security training program as set forth in this section.

(e) **“Qualified Security Training Program”** means a program certified by the New York State Office of Homeland Security for residential and commercial building security officers, which is designed to: improve observation, detection and reporting skills, improve coordination with local police, fire and emergency services; provide and improve skills and working knowledge of advanced security technology including surveillance systems and access control procedures; require at least 40 hours of training, including 3 hour of training devoted to terrorism awareness.

(f) **“Application”** means a document issued by the Office of Homeland Security and submitted by a qualified building owner that contains information concerning the

Homeland Security Security Officer Training Tax Credit. Such application shall include, but is not limited to, the following information: the New York State Department of State issued unique identification number of each qualified security officer applied for which the tax credit is being sought and the employment status; the specific work locations; the address and square footage of each eligible building secured by the same qualified security officers; a certification that the employment records remain on file and readily available upon request by the Office of Homeland Security; and any other information the Office of Homeland Security determines is necessary to properly evaluate the application.

(g) **“Complete Application”** means a properly completed and executed application where all questions on the application itself were fully answered by the qualified building owner and that all supporting documents or information required in the application were fully furnished to the Office of Homeland Security to review and approve the application.

(h) **“Method of Transmittal”** means that all applications containing original forms and supporting documentation must be mailed to the New York State Office of Homeland Security located at 1220 Washington Avenue, Building 7A, 7th Floor, Albany New York 12242, via a mail carrier service that provides proof of date of mailing, such as United State Postal Mail, FedEx, DHL and UPS. No other method of transmittal will be accepted.

(i) **“Filing Period”** means January 2nd through January 30th following the calendar year for which the tax credit is being sought.

(j) **“Application Filing Date”** means date which the application was postmarked by the United States Postal Service regardless of the date the application is received by the Office of Homeland Security, provided that the date is within the filing period specified above.

(k) **“Untimely Application”** means an application that has been postmarked either before or after the filing period specified.

(l) **“Certificate of Tax Credit”** means a certificate issued by the Office of Homeland Security that states the amount of the Security Officer Tax Credit that the building owner has qualified for, based on the office’s receipt of the complete application and subject to the process set forth in these rules and regulations. The certificate shall include, but not be limited to the following information: name and address of qualified building owner; certificate serial number; amount of tax credit approved; and the calendar year in which such credit was awarded; and any other information as deemed necessary by the Office of Homeland Security.

3. Application Process

In the event that subtraction of the credit allocations of all the eligible applications received on a given day would result in a zero or negative balance of the legislative cap, the tax credits shall be allocated among such qualified building owners for that day. Any

complete applications on subsequent days. Each qualified building owner's request shall be allowed at a reduced rate equivalent to the percentage created by dividing the unallocated tax credits by the aggregate tax credits requested on such date.

Untimely applications will not be considered for the tax credit.

(a) Application. A qualified building owner shall file a complete application according to the specified method of transmittal to the Office of Homeland Security within the filing period. The qualified building owners shall file with application such information as requested by the Director of the Office of Homeland Security, which includes, but is not limited to, affirmation by the Qualified building owner that the training has been provided to each security officer; dates and places of training, and that all information has been provided to the best of the qualified building owner's knowledge. The Office of Homeland Security may request additional supporting documentation, as necessary.

All applications postmarked on the first day of the filing period by the required method of transmittal shall be treated as having been filed on the first day of the application period and shall be given priority with all other applications filed on the same day in the awarding of tax credits over all applications postmarked on subsequent days. Applications postmarked on subsequent days shall be given priority based on the date of the postmark.

(b) Criteria for Review of Application. A committee appointed by the Director shall evaluate all applications received by the Office of Homeland Security in accordance with paragraph (a) above. The Office of Homeland Security shall use the following criteria to determine the eligibility of a qualified building owner to receive a certificate of tax credit, and any other criteria deemed appropriate:

- (1) the application is a complete application;
- (2) the application is submitted within the filing period and is not untimely;
- (3) the applicant is a qualified building owner; and
- (4) the qualified building owner certifies and offers proof that the qualified security officers have, in fact, been trained according to the OHS Qualified Security Officer Training Program.

The Office of Homeland Security shall approve or disapprove the applications based upon criteria set forth by the Office of Homeland Security in order of priority based upon the application filing date of a complete application for allocation of Security Officer Training Tax Credit.

(c) Notification of Determination. If the Office of Homeland Security determines that a qualified building owner is eligible for the Security Officer Training Tax Credit, the Director of the Office of Homeland Security shall issue a certificate of tax of credit to the qualified building owner after verification of the information submitted by the qualified building owner, including, but not limited to, the Qualified Security Officer Training. If the application is disapproved, the Office of Homeland Security shall provide the

qualified building owner with a notice of disapproval that shall state the reasons therefore. Such disapproval shall be a rejection of the qualified building owner's application. Any security officer determined not to be a qualified security officer, shall be rejected for the purpose of calculating the qualified building owner's tax credits and any such reduction in tax credit shall be reallocated in conformity with the process specified in these regulations.

Upon a successful verification of eligible and timely applications, the Office of Homeland Security shall, within no more than 45 days after the end of the filing period, issue certificates of tax credit and/or letters of disapproval, as appropriate. The certificates of tax credit issued by the Office of Homeland Security shall state that the name and address of the qualified building owner and the amount of tax credit allocated.

(e) Eligibility in Subsequent Years

Any qualified building owner who is allocated a credit in the first calendar year and who applies for credit in the second calendar year shall have priority the amount of credit awarded in the previous year over all other taxpayers who file a complete application in the succeeding calendar year.

(f) Unallocated Tax Credits

If at the end of the calendar year, the aggregate amount of Security Officer Training Tax Credits applied for totals less than the calendar year's allocation, then the amount permitted with the respect to subsequent taxable years shall be augmented by the amount of such shortfall.

(g) Audit of Information.

The qualified building owners who receive Security Officer Training Tax Credits in any given year shall upon request by the Director of the Office of Homeland Security immediately provide or make available any information necessary including copies of supporting documentation to verify the information submitted in applications for such credit.

Please provide any comments and questions addressing the content of the DRAFT Security Officer Training Tax Credit Regulations on the [response form](#) provided from March 6, 2006 through March 17, 2006.”