

**Instructions for Form CT-40**  
**Claim for Alternative Fuels Credit****Tax Law — Article 9, Sections 183, 184, 185, 186, and Article 9-A**

**Important reminder to file a complete return:** You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

**General information**

The Tax Law provides a credit to taxpayers that purchase new alternative fuel vehicle refueling property and place it in service in New York State during the tax year.

The credit applies to refueling property that is eligible for the federal alternative fuel vehicle refueling property credit under IRC section 30C, but does not include alternative fuel refueling property related to a qualified hybrid vehicle as such vehicle is defined in Tax Law section 606(p)(3)(B).

Any unused credit may be carried forward indefinitely.

Taxpayers may use Form CT-40 to claim amounts of alternative fuels credit for alternative fuel vehicle refueling property, and to claim remaining carryforwards of unused amounts of credit for electric vehicles, clean-fuel vehicle property, clean-fuel vehicle refueling property, and qualified hybrid vehicles.

**Do not complete this form** if the property is disposed of or ceases to qualify in the same year it is placed in service. No credit is available because the entire credit allowed must be recaptured.

**New York S corporations:** Any amount of alternative fuels credit that originates in a New York S year flows through to the individual shareholders of the New York S corporation under Article 22, and cannot be applied against the New York State corporation franchise tax in a New York S year. Therefore, do **not** complete lines 1 through 17, the *Credit summary information* of Form CT-40. Complete Section 1 and transfer the line 17 amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Provide shareholders with their share of the credit. Also, complete Section 2 if applicable and transfer the line 21 amount to Form CT-34-SH. Provide shareholders with their share of the recaptured credit. However, if you are recapturing a credit amount originated in a New York C year, include any of these amounts on the applicable line of your S corporation franchise tax return.

No credit or carryover of credit allowed in a New York C year may be carried over to a New York S year, and no credit or carryover of credit allowed in a New York S year may be carried over to a New York C year.

**Eligibility**

The following taxpayers are eligible to claim the newly extended credit for alternative fuel vehicle refueling property:

- General business corporations taxable under Article 9-A.
- Transportation and transmission corporations taxable under Article 9 sections 183 and 184.
- Cooperative agricultural corporations taxable under Article 9 section 185.

**Leased property**

Taxpayers that acquire property for use in their leasing business, and not for resale, may qualify for the New York State credit if the property qualifies for a federal credit.

**Credit amount**

You may claim 50% of the cost of qualified new alternative fuel vehicle refueling property as a credit. There is no credit limit on qualified alternative fuel vehicle refueling property.

To qualify for the credit, the property must be placed in service during the tax year and used more than 50% of the time in a trade or business located in New York State.

**Specific instructions**

Complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

**Credit summary information (S corporations do not complete)**

Before completing this section, complete Section 1 to compute the amount of credit allowed. Complete Section 2 to recapture credit previously allowed, and Section 3 if you are transferring any credit between affiliates.

**Line 1** – Enter your alternative fuels credit from preceding tax years. Utility and pipeline corporations enter any portion of the alternative fuels credit that was not applied against the tax due under Tax Law sections 183, 184, or 186 in tax years ending on or before December 31, 1999.

**Line 2** – Enter your alternative fuels credit from line 17. If you have an alternative fuels credit from a partnership, also include on line 2 your distributive share of that credit. Attach a statement showing the name and employer identification number (EIN) of the partnership.

**Line 3** – (Article 9-A filers **only**) Enter the amount of alternative fuels credit that you elected to receive from an affiliated corporation from line 25. The affiliate you receive the credit from must also be an Article 9-A taxpayer and must consent to transferring the credit (see Section 3).

**Line 5** – Enter the amount of alternative fuels credit that you elect to transfer to an affiliated corporation from line 29. The affiliate you are transferring the credit to must be an Article 9-A taxpayer and must consent to receiving the credit (see Section 3).

**Line 8** – Subtract line 7 from line 6. Enter the result; show any negative amount with a minus (-) sign. If the result is a negative amount, you have a net-recaptured credit. Enter this amount as a negative, using a minus sign, in the appropriate box of the tax credits section of your franchise tax return.

**Lines 9 and 12 entries table**

If you filed	Enter on line 9 the amount from	Enter on line 12 the limitation tax below
Forms CT-183 and CT-184	Line 4 of Form CT-183 <b>plus</b> the amount from line 3 or 4 of Form CT-184	<b>75</b>
Form CT-185	Line 6	<b>10</b>
Form CT-186	Line 5	<b>125</b>
Form CT-3	Line 78	Amount from line 71 or line 74d, whichever is greater
Form CT-3-A	Line 77	Amount from line 71 or line 74d, whichever is greater

**Line 9** – Enter your franchise tax due before credits using the *Lines 9 and 12 entries table* above.

**Line 10** – If you are claiming more than one tax credit for this year, enter the amount of credits claimed before applying this credit. Otherwise, enter **0**. Tax credits must be applied in a certain order. Refer to the instructions of your franchise tax return to determine the order of credits that applies. Article 9-A filers: refer to Form CT-600-I, *Instructions for Form CT-600*, for the order of credits.

If filing as a member of a combined group, include any amount of tax credit(s), including alternative fuels credit(s) being claimed by other members of the combined group, that you wish to apply before your alternative fuels credit.

**Line 12** – Enter the appropriate limitation for the form you are filing using the *Lines 9 and 12 entries table* above.

**Line 14** – Enter the lesser of line 13 or line 8. For corporations taxable under Article 9 sections 183 and 184, the credit used is first applied against the tax imposed under section 183. The credit may not reduce the tax under section 183 below the minimum tax of \$75. Any excess is then applied against the tax imposed by section 184. For section 185 and 186 filers, the credit used may not reduce the tax below the minimum tax of \$10 or \$125 respectively. For corporations taxable under Article 9-A, the credit used may not reduce the tax below the tax on minimum taxable income or the fixed dollar minimum tax, whichever is higher.

Enter the amount from line 14 in the appropriate box of the tax credits section of your franchise tax return.

## Section 1 — Credit for alternative fuel vehicle refueling property

**Line 16** – Enter the cost of qualified alternative fuel vehicle refueling property placed in service in New York State during the tax year for which a credit is allowed under IRC section 30C.

### Section 2 — Recapture of credit

#### Part A — Computation of credit recapture on electric vehicles, clean-fuel vehicle property, and qualified hybrid vehicles

If recapture is required, enter the year the credit was originally allowed in column A and the amount of credit allowed in column B. In column C, enter the appropriate recapture percentage (100%, 66 $\frac{2}{3}$ %, or 33 $\frac{1}{3}$ %) from those listed below. To compute the recapture, multiply column B by column C and enter the product in column D.

Recapture is required if an **electric vehicle** is disposed of or modified within three years of the date it is placed in service, so that it is no longer a qualified vehicle.

An electric vehicle ceases to qualify if:

- It is modified by the taxpayer so that it is no longer powered primarily by electricity; **or**
- The taxpayer receiving the credit sells or disposes of the vehicle and knows or has reason to know that the vehicle will be converted to nonqualified use.

Recapture is required if a **hybrid vehicle** is disposed of or modified within three years of the date it is placed in service, so that it is no longer a qualified vehicle.

A hybrid vehicle ceases to qualify if:

- It is modified by the taxpayer so that it no longer meets the requirements of a qualified hybrid vehicle as defined in Tax Law section 606(p)(3)(B); **or**
- The taxpayer receiving the credit sells or disposes of the vehicle and knows or has reason to know that the vehicle will be so modified.

The portion of credit to be recaptured on electric vehicles, or hybrid vehicles, is as follows:

- 100% if the vehicle ceases to qualify within the first full year after the date the vehicle is placed in service;
- 66 $\frac{2}{3}$ % if the vehicle ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33 $\frac{1}{3}$ % if the vehicle ceases to qualify within the third full year after the date the vehicle is placed in service.

Recapture is required if **clean-fuel vehicle property** ceases to qualify.

Clean-fuel vehicle property ceases to qualify if:

- (1) The vehicle of which it is a part is modified so that it may no longer be propelled by a clean burning fuel; **or**
- (2) The vehicle ceases to qualify as property defined in IRC section 179A(c); **or**
- (3) The taxpayer receiving the credit sells or disposes of the vehicle and knows or has reason to know that the vehicle will be used in a manner described in (1) or (2) above.

The portion of the credit to be recaptured on clean-fuel vehicle property is as follows:

- 100% if the property ceases to qualify within the first full year after the date the vehicle is placed in service;
- 66 $\frac{2}{3}$ % if the property ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33 $\frac{1}{3}$ % if the property ceases to qualify within the third full year after the date the vehicle is placed in service.

#### Part B — Computation of credit recapture on alternative fuel vehicle refueling property

If recapture is required, enter in column A the tax year the credit was originally allowed. Enter in column B the total recovery period (depreciable life) of the property. Enter in column C the number of years the property was in service prior to the recapture year.

To compute the recapture percentage in column E, divide column D by column B. To compute the credit recapture amount in column G, enter the original credit allowed in column F and multiply it by the column E recapture percentage.

Recapture is required if **alternative fuel vehicle refueling property** ceases to qualify at any time before the end of its recovery period (depreciable life).

Alternative fuel vehicle refueling property ceases to qualify if:

- (1) The property no longer qualifies as property described in IRC section 30C; **or**
- (2) 50% or more of the use of the property in a tax year is other than in a trade or business in New York State; **or**
- (3) The taxpayer receiving the credit sells or disposes of the property and knows or has reason to know that the property will be used in a manner described in (1) or (2) above.

**Line 20** – You must obtain this information from your partnership. Attach a statement showing the name and employer ID number (EIN) of the partnership.

### Section 3 — Election to transfer credits (Article 9-A taxpayers only)

Article 9-A taxpayers may elect to transfer their alternative fuels credit to an Article 9-A affiliate. For purposes of this credit, an affiliate means:

- A parent corporation, where the parent owns or controls, directly or indirectly, 80% or more of the taxpayer's capital stock;
- A subsidiary corporation, where the taxpayer owns or controls, directly or indirectly, 80% or more of the subsidiary's capital stock; **or**
- A brother-sister corporation, where the same interests own or control, directly or indirectly, 80% or more of both the corporation's and the taxpayer's capital stock.

Both the transferor (affiliate transferring the credit) and the transferee (affiliate receiving the credit) must consent to the election. Once the election is made, the credit becomes a credit of the transferee. The transferee is responsible for any credit recapture if the transferor disposes of the property, or if the transferor's property on which the credit was allowed ceases to qualify.

All credit transfers must be made on a vehicle-by-vehicle (or refueling property) basis. Taxpayers must keep adequate records of all vehicles and property that are the basis for any transferred credit(s).

#### Part A — Alternative fuels credits received from affiliates

Enter the amount of alternative fuels credits **received from** affiliated Article 9-A taxpayers. Include the transferor affiliate's tax year in which the credit arose, the name and EIN of the transferor, and the total amount of credits you are receiving.

#### Part B — Alternative fuels credits transferred to affiliates

Enter the amount of alternative fuels credits **transferred** to affiliated Article 9-A taxpayers. Include your tax year in which the credit arose, the name and EIN of the transferee, and the total amount of credits you are transferring.

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