



Instructions for Form CT-40
Claim for Alternative Fuels Credit

Tax Law — Article 9, Sections 183, 184, 185, 186, and Article 9-A

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced.

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 Internal Revenue Code (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, Article 22, 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 15, the Credit summary information of Form CT-40.

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 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 page 1.

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. Complete Section 4 if you have received credit from a partnership(s).

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 2a - Enter your alternative fuels credit from line 17.

Line 2b - If you have an alternative fuels credit from a partnership(s), complete Section 4 and enter the amount from line 29.

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 24. 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 28. 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

Table with 3 columns: If you filed, Enter on line 9 any net recapture of other tax credits plus the amount from, Enter on line 12 the limitation tax below. Rows include Forms CT-183 and CT-184, Form CT-185, Form CT-186, Form CT-3, and Form CT-3-A.

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

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.

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.

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.

If your total credits from all sources are **\$2 million or less**, enter the amount from line 14 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete line 14 but do not enter the amount from line 14 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on 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 – 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).

Line 19 – 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.

Section 4 – Partnership information

If you were a partner in a partnership and received a pro rata share of the alternative fuels credit from that entity, complete this section. Enter the name, EIN, and the credit amount passed through to you from the partnership. If you need more space, attach additional sheets using the same format. Enter the total from additional sheets (if applicable) on the appropriate line. Write the name and EIN of your corporation on each sheet.

Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.
