



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 alternative fuels tax credit expired on December 31, 2010. For tax years beginning after December 31, 2010, you may only claim an alternative fuels carryover from previous years.

S Corporations: Fill out this form only if you are reporting a recapture of the alternative fuels credit.

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 recapture credit previously allowed and Section 2 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 — (Article 9-A filers only) Enter the amount of alternative fuels credit that you elected to receive from an affiliated corporation from line 21. The affiliate you receive the credit from must also be an Article 9-A taxpayer and must consent to transferring the credit (see Section 2).

Line 4 — Enter the amount of alternative fuels credit that you elect to transfer to an affiliated corporation from line 25. The affiliate you are transferring the credit to must be an Article 9-A taxpayer and must consent to receiving the credit (see Section 2).

Line 7 — Subtract line 6 from line 5. 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 8 and 11 entries table

Table with 3 columns: If you filed, Enter on line 8 any net recapture of other tax credits plus the amount from, Enter on line 11 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 8 — Enter your franchise tax due before credits using the Lines 8 and 11 entries table.

Line 9 — 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 11 — Enter the appropriate limitation for the form you are filing using the Lines 8 and 11 entries table.

Line 13 — Enter the lesser of line 12 or line 7. 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.

If your total credits from all sources are \$2 million or less, enter the amount from line 13 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 13 but do not enter the amount from line 13 on your franchise tax return.

Section 1 — 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 16 — You must obtain this information from your partnership. Attach a statement showing the name and employer ID number (EIN) of the partnership.

Line 17 — S corporations: Transfer the line 17 amount to Form CT-34-SH and provide your shareholders with their prorata share of the recapture.

Section 2 — 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.

Need help? and Privacy notification

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