



Instructions for Form CT-40

Claim for Alternative Fuels Credit

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

New for 2004

Chapter 60 of the Laws of 2004 extends the alternative fuels credit to qualifying property placed in service in tax years beginning before January 1, 2005. See TSB-M-04(2.1)C, *Amendments to the Alternative Fuels Credits and Exemptions*, for further information.

General information

The Tax Law provides credits to taxpayers that purchase new electric or other alternative (clean-fuel) vehicles, including qualifying hybrid vehicles, or convert gasoline or diesel-powered vehicles to electric or clean-fuel vehicles. Investments in new clean-fuel vehicle refueling property also qualify for credit.

The credit applies to vehicles and refueling property that are eligible for the federal electric vehicles credit under Internal Revenue Code (IRC) section 30, or for the clean-fuel deduction under IRC section 179A. However, neither eligibility requirement applies to the credit for qualified hybrid vehicles.

Except for qualified hybrid vehicles, which must have been placed in service in a tax year beginning on or after January 1, 2000, the credits are available for vehicles and property placed in service during a tax year beginning on or after January 1, 1998, and before January 1, 2005.

Any unused credit may be carried forward indefinitely. Certain taxpayers may be eligible for a refund. See *Special provisions relating to property sold or first leased to governmental units (Article 9-A only)* below.

Do not complete this form if the vehicles and property are disposed of or cease to qualify in the same year they are placed in service. No credit is available because the entire credit allowed must be recaptured.

New York S corporations: Do not complete lines 1 through 12, the *Credit summary information* of Form CT-40. Complete Sections I, II, III, IV, and V, as applicable, and transfer the line 32 amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Also complete Section VI if applicable and transfer the line 36 amount to Form CT-34-SH; and 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 such amounts on the applicable line of your S corporation franchise tax return.

A 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.

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 these credits:

- 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.
- Certain utility corporations taxable under Article 9 section 186.

Exceptions: Gas or electric corporations subject to the supervision of the Department of Public Service are not eligible for the credit on electric vehicles.

Leased property

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

Special provisions relating to property sold or first leased to governmental units (Article 9-A only)

For tax years beginning in 2000 through 2004, a credit will be allowed to Article 9-A taxpayers for electric vehicles manufactured in New York State, or clean-fuel vehicle property installed in or manufactured as a part of a motor vehicle in New York State, if these vehicles are sold or first leased during the tax year to a governmental unit. A *governmental unit* means the United States; any state or political subdivision, or any possession of the United States; or any agency or instrumentality of any of the above.

To be eligible for the credit, the electric vehicles must be eligible for credit under IRC section 30, exclusive of the limitation in IRC section 30(d)(3) regarding property used by governmental units. The clean-fuel property must be eligible for credit under IRC section 179A, exclusive of the limitation in IRC section 179A(e)(5) regarding property used by a governmental unit.

The amount of the credit for electric vehicles is equal to 50% of the incremental cost of *producing* any such vehicle.

For tax years beginning in 2002 through 2004, the amount of the credits for electric vehicles and clean fuel vehicle property cannot exceed \$2.5 million in each year.

The credit may not reduce the tax to less than the higher of the tax on the minimum taxable income base or the fixed dollar minimum tax. Any excess credit may be carried over to the following year or years. In lieu of a carryover, any excess credit on electric vehicles or clean fuel vehicle property sold or first leased to a governmental unit may be refunded, or credited as an overpayment to the next tax period.

Credit amounts

Electric vehicles

You may claim 50% of the incremental cost of qualified new electric vehicles as a credit. The vehicle must be placed in service during the tax year and must be registered in New York State. The maximum credit is \$5,000 per electric vehicle.

Clean-fuel vehicle property

You may claim 60% of the cost of qualified new clean-fuel vehicle property as a credit. The property must be installed in or manufactured as a part of a vehicle placed in service during the tax year and registered in New York State.

The maximum credit is \$5,000 for a vehicle with a gross vehicle weight rating of 14,000 pounds or less, and \$10,000 for all other vehicles. In the case of a retrofit of an existing vehicle, the cost of the property includes the cost of installation.

Example: A corporation pays \$5,000 to purchase new clean-fuel components to retrofit a 3,000-pound gasoline-powered vehicle to operate on alternative fuels. The corporation pays an additional \$2,000 to have these components installed on the vehicle. The credit is computed on the entire \$7,000 ($\$7,000 \times .6 = \$4,200$ credit).

For New York State purposes, the cost is not limited by the federal expense limits of IRC section 179A(b)(1), and the credit may be allowed for the entire cost even if some or all of the cost is expensed under IRC section 179.

Example: A corporation incurs a total cost of \$15,000 (\$5,000 per vehicle) to convert three diesel-powered vehicles to operate on alternative fuels. Each vehicle weighs 20,000 pounds. For federal tax purposes, the corporation elects to treat this entire cost as an expense under section 179 of the IRC. However, for New York State purposes, the credit is computed on the entire \$15,000 ($\$5,000 \times 3 = \$15,000 \times .6 = \$9,000$ credit).

Clean-fuel vehicle refueling property

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

For New York State purposes, the cost is not limited by the federal expense limits of IRC section 179A(b)(2), and the credit may be allowed even if some or all of the cost is expensed under IRC section 179.

Qualified hybrid vehicle

You may claim \$2,000 for each qualified hybrid vehicle registered in New York State.

Definitions

Qualified electric vehicle is defined by reference to section 30(c) of the IRC. It is a motor vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electric current. Original use of the vehicle must commence with the taxpayer, and the vehicle must be acquired for use by the taxpayer and not for resale.

Incremental cost of an electric vehicle means the excess of the cost of an electric vehicle over the cost of a gasoline-powered vehicle that is similar in size and style.

Motor vehicle means any vehicle that is manufactured primarily for use on public streets, roads, and highways, and that has at least four wheels. It does not include a vehicle operated exclusively on a rail or rails.

Clean fuel means natural gas, liquefied petroleum gas, hydrogen, and electricity. It also means any other fuel that is at least 85% (singly or in combination) methanol, ethanol, any other alcohol, or ether.

Qualified clean-fuel vehicle property is defined by IRC section 179A(c). This property includes the engine, exhaust components, and fuel storage and delivery components that enable the vehicle to use clean fuel either in the retrofit of an existing vehicle or in a manufacturer's original equipment vehicle. However, *qualified clean-fuel vehicle property* does not include any qualified electric vehicle, or any qualified hybrid vehicle. The original use must commence with the taxpayer and the vehicle must be acquired for use by the taxpayer, and not for resale.

In the case of a vehicle originally manufactured to use clean fuel and any other fuel, only the cost of the clean fuel vehicle property (engine, exhaust components, and fuel storage and delivery components) that enables the vehicle to use clean fuel is included in the cost.

Qualified clean-fuel vehicle refueling property is defined by IRC section 179A(d). This includes property, other than buildings and structural components of buildings, used for storing or dispensing clean fuel into the tank of a motor vehicle powered by such fuel or for recharging electric vehicles. The property must be located at the point where the vehicles are refueled or recharged. It must be eligible for the depreciation deduction, and the original use must commence with the taxpayer. However, qualified clean-fuel vehicle refueling property does not include any qualified hybrid vehicle.

Qualified hybrid vehicle is defined in Tax Law section 606(p)(6)(E). It is a motor vehicle, as defined in Vehicle and Traffic Law section 125, other than an electric vehicle, as defined above, that meets both of the following requirements:

- Draws propulsion from both an internal combustion engine (or heat engine that uses combustible fuel), **and** an energy storage device.
- Employs a regenerative vehicle braking system that recovers waste energy to charge such energy storage device.

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 Sections I through V to compute the amount of credit allowed. Complete Section VI to recapture credit previously allowed, and Section VII 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 2a – Enter your alternative fuels credit from line 32. If you have an alternative fuels credit from a partnership, also include on line 2a your distributive share of that credit. Attach a statement showing the name and EIN of the partnership.

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

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

Worksheet for line 9

a	Enter your franchise tax before credits from the following forms:	
	Form CT-3 line 78	
	Form CT-3-A line 77	
	Form CT-183/184 CT-183, line 4 plus CT-184, line 3 or 4	
	Form CT-185 line 6	
	Form CT-186 line 5	a _____
b	Enter any other credits applied before this credit for this tax period. (Combined filers: include amounts of the alternative fuels credit being claimed by other combined group members that you wish to apply before the credit claimed on this form.) See Form CT-600, <i>Ordering of Corporation Tax Credits</i> , for tax credit ordering for Article 9-A.	b _____
c	Subtract line b from line a (if line b is greater than line a enter 0)	c _____
d	Enter the appropriate limitation for the form you are filing:	
	Form CT-3 amount from line 71 or line 74d, whichever is larger	
	Form CT-3-A amount from line 71 or line 74d, whichever is larger	
	Form CT-183/184 \$75	
	Form CT-185 \$10	
	Form CT-186 \$125	d _____
e	Credit limitation (subtract line d from line c; if the result is negative, enter 0.)	e _____

The amount of the credit used may not exceed the lesser of the amount on line e above, or the amount from Form CT-40, line 8. On line 9, enter the lesser of the amount from line e above, or the amount from Form CT-40, line 8. Transfer this amount to the applicable line of your franchise tax return.

Line 8 – Subtract line 7 from line 6. Enter the resulting value; show any negative amount with a minus (-) sign. If a negative amount, you have a net recaptured credit. Article 9-A filers: add this recaptured amount to the amount reported on Form CT-3, line 78, or Form CT-3-A, line 77. Article 9 filers: add this recaptured amount to the line of the applicable Article 9 return that represents the amount of tax due before credits. If the resulting value is positive, then continue with line 9.

Line 9 – Complete the worksheet on page 2. For corporations taxable under sections 183 and 184 of Article 9, 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.

Lines 11a and 11b – Qualified Article 9-A taxpayers only: See *Special provisions relating to property sold or first leased to governmental units* on the front page to determine if you are a qualified taxpayer.

Enter on line 11a the lesser of line 10 or the sum of lines 2b and 3b; or enter on line 11b the lesser of line 10 or the sum of lines 2b and 3b. The sum of lines 11a and 11b must not exceed the sum of lines 2b and 3b.

Transfer the amounts to the applicable lines of your Article 9-A franchise tax return.

Section I — Credit for electric vehicles

Line 13 – Enter the incremental cost of each qualified electric vehicle that is placed in service during the tax year and registered in New York State, and for which a federal credit is allowed under IRC section 30. If you are eligible for the federal credit and elect not to claim it, you may still claim the New York State credit.

Compute the credit on the entire incremental cost, even if some or all of the cost was expensed under IRC section 179. The maximum credit is \$5,000 per electric vehicle.

Section II — Credit for clean-fuel vehicle property

Compute the credit for clean-fuel vehicle property on the entire cost. The cost is not limited by the federal expense limits of IRC section 179A (b) (1), and the credit may be allowed even if some or all of the cost was expensed under IRC section 179. In the case of a retrofit of an existing vehicle, the cost of the property includes the cost of installation.

Part A — Vehicles with a gross vehicle weight of 14,000 pounds or less

Line 18 – Enter the cost of qualified new clean-fuel vehicle property installed in or manufactured as part of a motor vehicle placed in service during this tax year, and registered in New York State, for which a federal deduction is allowed under IRC section 179A.

Part B — Vehicles with a gross vehicle weight of more than 14,000 pounds

Line 23 – Enter the cost of qualified new clean-fuel vehicle property installed in or manufactured as part of a motor vehicle placed in service during this tax year, and registered in New York State, for which a federal deduction is allowed under IRC section 179A.

Section III — Credit for clean-fuel vehicle refueling property

Line 28 – Enter the cost of qualified clean-fuel vehicle refueling property placed in service in New York State during the tax year for which a deduction is allowed under IRC section 179A.

For New York State purposes, the cost is not limited by the federal expense limits of IRC section 179A(b)(2), and the credit may be allowed even if some or all of the cost is expensed under IRC section 179.

Section VI — 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%, 66⅔%, or 33⅓%) 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 **qualified 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 qualified 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)(6)(E); **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 qualified 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;
- 66⅔% if the vehicle ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33⅓% 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;
- 66⅔% if the property ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33⅓% 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 clean-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 **clean-fuel vehicle refueling property** ceases to qualify at any time before the end of its recovery period (depreciable life).

Clean-fuel vehicle refueling property ceases to qualify if:

- (1) The property no longer qualifies as property described in IRC section 179A(d); **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 35 – You must obtain this information from your partnership. Attach a statement showing the name and EIN of the partnership.

Section VII — 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 employer ID number 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 employer ID number of the transferee, and the total amount of credits you are transferring.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
To order forms and publications: 1 800 462-8100
Business Tax Information Center: 1 800 972-1233
From areas outside the U.S. and outside Canada: (518) 485-6800



Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.