



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.

New for 2005

Chapter 310 of the Laws of 2005 extended the alternative fuels credit only for clean-fuel vehicle refueling property that is placed in service during the tax year. See TSB-M-05(3)C, *Summary of Corporation Tax Legislative Changes Enacted in 2005*, for further information.

As a result, taxpayers may use Form CT-40 to claim amounts of this credit, 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.

General information

The Tax Law provides a credit to taxpayers that purchase new clean-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 clean-fuel deduction under Internal Revenue Code (IRC) section 179A, without regard to the limitations of IRC section 179A(b)(2), or the election in IRC section 179A(e).

Any unused credit may be carried forward indefinitely.

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: No new credit amounts for clean-fuel vehicle refueling property are allowed to shareholders. Only remaining carryforwards of unused amounts of credit for electric vehicles, clean-fuel vehicle property, clean-fuel vehicle refueling property, and qualified hybrids may be claimed by shareholders. Therefore, complete only section II if applicable, and transfer the line 21 amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. 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 clean-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 deduction.

Credit amount

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 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.

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.

Definitions

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 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.

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 I to compute the amount of credit allowed. Complete Section II to recapture credit previously allowed, and Section III 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. The affiliate you receive the credit from must also be an Article 9-A taxpayer and must consent to transferring the credit (see Section III).

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 III).

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.

Line 9 – Enter your franchise tax due before credits from the following forms:

Form CT-3	line 78
Form CT-3-A	line 77
Form CT-183/184	Form CT-183, line 4 plus Form CT-184, line 3 or 4
Form CT-185	line 6
Form CT-186	line 5

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:

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

Line 14 – 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.

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

Section I — Credit for clean-fuel vehicle refueling property

Line 16 – 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 II — 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%, 66²/₃%, or 33¹/₃%) 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)(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 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;
- 66²/₃% if the vehicle ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33¹/₃% 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;
- 66²/₃% if the property ceases to qualify within the second full year after the date the vehicle is placed in service; **or**
- 33¹/₃% 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 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 20 – You must obtain this information from your partnership. Attach a statement showing the name and EIN of the partnership.

Section III — 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.

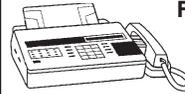
Part B — Alternative fuels credits transferred to affiliates

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.

— Notes —