



## Instructions for Form IT-253 Claim for Alternative Fuels Credit

### 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. For more information about the credit deferral, see Form IT-500, *Income Tax Credit Deferral*.

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. Follow the instructions for Form IT-500 to determine the amounts to enter on your tax return.

### Important information

Legislation reinstated the alternative fuels credit for alternative-fuel vehicle refueling property (previously referred to as clean-fuel vehicle refueling property) for tax years beginning after 2005 and before 2011. This legislation does not allow a credit for electric vehicles, clean-fuel vehicle property, and qualified hybrid vehicles. Under prior law, the alternative fuels credit expired for tax years beginning after 2004.

Taxpayers may use Form IT-253 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, qualified hybrid vehicles, clean-fuel vehicle property, and clean-fuel vehicle refueling property.

### General information

New York State Tax Law section 606(p) allows a credit to certain taxpayers who invest in new alternative-fuel vehicle refueling property. The credit is available for property placed in service in tax years beginning after 2005 and before 2011.

The credit for alternative-fuel vehicle refueling property is available only when the property is used in a trade or business located in New York State. This credit is not refundable, but any unused credit may be carried forward indefinitely.

### Who is eligible

- individuals, estates, and trusts
- partners in a partnership (including members of a limited liability company (LLC) treated as a partnership for federal tax purposes)
- shareholders of a New York S corporation
- beneficiaries of an estate or trust

### Who must file

File Form IT-253 if you are an individual, a partnership, or an estate or trust, and you qualify for the credit (or are claiming a carryover of the credit from a preceding period). In addition, if you are a partner in a partnership (including members of an LLC treated as a partnership for federal tax purposes), a shareholder of a New York S corporation, or a beneficiary of an estate or trust, file Form IT-253 to claim your share of the credit from your entity.

A partnership must file Form IT-253 with Form IT-204, *Partnership Return*, showing the partnership's total credit for alternative-fuel vehicle refueling property.

An S corporation cannot file Form IT-253. It must file Form CT-40, *Claim for Alternative Fuels Credit*. If you are a shareholder of an S corporation that has made the election under Tax Law section 660, obtain your share of the S corporation's credit from the S corporation.

### Amount of credit

#### Alternative-fuel vehicle refueling property

The credit for alternative-fuel vehicle refueling property is equal to **50%** of the cost of the property that

- is located in this state, **and**
- is used 50% or more during the tax year in a trade or business carried on in New York State, **and**
- qualifies for a credit under IRC section 30C but does not include alternative-fuel vehicle refueling property related to a qualified hybrid vehicle as this vehicle is defined in Tax Law section 606(p)(3)(B).

**Example:** An individual purchased a building for \$100,000 and refueling property for \$40,000 to be used in the individual's business of operating a compressed natural gas station in New York. The building and refueling property qualify for a depreciation deduction, and the individual is the original user of the property.

The credit is computed as follows:

	Credit allowed
Building .....	-0-
Refueling property..... \$40,000 x 50% = .....	\$20,000
<b>Total credit</b> .....	<b>\$20,000</b>

### Definitions

*Alternative-fuel vehicle refueling property* (IRC section 30C) includes any property, other than buildings and structural components of buildings, used to store and dispense a clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel. The storage or dispensing of the fuel must be located at the point where the fuel is delivered into the fuel tank of the motor vehicle. For the recharging of motor vehicles propelled by electricity, the property must be located at the point where the motor vehicles are recharged. The property must be eligible for the depreciation deduction, and the original use must commence with the taxpayer.

*Qualified hybrid vehicle* means a motor vehicle, as defined in the Vehicle and Traffic Law section 125, that

1. draws propulsion energy from both
  - a) an internal combustion engine (or heat engine that uses combustible fuel), and
  - b) an energy storage device; **and**
2. employs a regenerative vehicle braking system that recovers waste energy to charge the energy storage device.

### Leased property

Taxpayers who acquire property for use in their leasing business, and not for resale, may qualify for the New York credit if the property qualifies for a federal credit. However, leases to public (governmental) or tax-exempt (charitable) organizations generally do not qualify for a federal credit, and, therefore, would not qualify for the New York credit.

## Credit recapture

If you have claimed the alternative fuels credit on alternative-fuel vehicle refueling property, and that property ceased to qualify at any time before the end of the recovery period, you may be required to recapture all or part of the credit you claimed. For more information, see the instructions for Schedule F, *Recapture of alternative-fuel vehicle refueling property credit*.

## Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

**Individuals (including sole proprietors):** Complete Schedule A, Schedule E, and Schedule G. If applicable, also complete Schedule F.

**Fiduciaries:** Complete Schedule A, Schedule D, Schedule E, and Schedule G. If applicable, also complete Schedule F.

**Partnerships:** Complete Schedule A and Schedule E. If applicable, also complete Schedule F.

**Husband and wife business that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return:** If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Schedule A, Schedule E, and Schedule G. If applicable, also complete Schedule F.

**Partners in a partnership, shareholders of an S corporation, and beneficiaries of an estate or trust:** Complete Schedule B, Schedule C, Schedule E, and Schedule G. If applicable, also complete Schedule F.

**Note:** If more than one of the above applies to you, complete all appropriate schedules on one Form IT-253.

## Schedule A — Individuals, including sole proprietorships, partnerships, estates, and trusts

**Note:** If you are claiming a credit for more than two alternative-fuel vehicle refueling properties, complete as many Form(s) IT-253 (name, identification number, and Schedule A only) as necessary. On the first Form IT-253, complete Schedules A through G as applicable. Include on line 1 of the first Form IT-253 the total of column D from all additional Form(s) IT-253. Attach the additional Form(s) IT-253 to the back of the first Form IT-253 that has an entry on line 1. Enter on line 6 the total credit computed.

Complete this schedule for alternative-fuel vehicle refueling property placed in service during the tax year.

Do not complete this schedule for any property that, by the end of your tax year, met at least one of the following conditions:

- The property ceased to qualify as property described in IRC section 30C.
- Fifty percent or more of the property's use during the tax year was other than in a trade or business carried on in New York.
- You sold or disposed of the property, and you know or have reason to know that the property will meet one of the two conditions previously stated above.

**Column B** — Enter in column B the cost of the alternative-fuel vehicle refueling property.

## Schedule B — Partnership, S corporation, estate, and trust information

Enter the appropriate information for each partnership, S corporation, or an estate or trust from which you received a share of the alternative fuels credit. If you need more space, attach a separate schedule.

## Schedule C — Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the total credit received from a partnership, a New York S corporation, or an estate or trust. If you belong to more than one partnership, New York S corporation, or estate or trust, enter the total of all your shares on the appropriate line.

### Partner

**Line 2** — Enter your share of the total credit from your partnership. This information should be provided to you by your partnership.

### S corporation shareholder

**Line 3** — Enter your share of the total credit from your S corporation. This information should be provided to you by your S corporation.

### Beneficiary

**Line 4** — Enter your share of the total credit from estates and trusts. This information should be provided to you by your fiduciary.

## Schedule D — Beneficiary's and fiduciary's share of credit and recapture of credit

An estate or trust must complete Schedule D. If an estate or trust allocates or assigns the credit and recapture of credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust. If you need more space, attach a separate schedule.

## Schedule F — Recapture of alternative-fuel vehicle refueling property credit

**Note:** If you are claiming a recapture for more than three alternative-fuel vehicle refueling properties, complete as many Forms IT-253 (name, identification number, and Schedule F only) as necessary. On the first Form IT-253, complete Schedules A through G as applicable. Include on line 11 of the first Form IT-253 the total of column G from all additional Forms IT-253. Attach the additional Forms IT-253 to the back of the first Form IT-253 that has an entry on line 11. Enter on line 13 the total recaptured credit computed.

**If alternative-fuel vehicle refueling property** ceases to be qualified at any time before the end of its recovery period (depreciable life), a portion of the credit that was previously allowed must be recaptured.

Alternative-fuel vehicle refueling property ceases to be qualified if **one or more** of the following applies:

1. The property no longer qualifies as property described in IRC section 30C; **or**
2. fifty percent or more of the use of the property in a tax year is other than in a trade or business in New York; **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.

If a recapture is required, enter in column A the tax year the credit was originally allowed. Column B is the total recovery period (depreciable life) of the property for federal tax purposes. In column C, enter 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 recapture in column G, enter the original credit allowed in column F, and multiply it by the column E recapture percentage.

The amount to be recaptured is equal to the credit allowed multiplied by a fraction. The numerator of the fraction is the total recovery years of the property minus the years the property was in service (not including the recapture year), and the denominator is the total recovery years.

**Example:** *In year one, a taxpayer claims a credit of \$10,000 on refueling property that had a recovery period of ten years. The taxpayer uses the property for three years and disposes of it in year four. The recapture is computed as follows:*

<i>Total recovery period less number of years prior to recapture year (10-3) .....</i>	<i>seven years</i>
<i>Total recovery period .....</i>	<i>ten years</i>
<i>Recapture % (7/10) .....</i>	<i>70%</i>
<i>Credit originally allowed .....</i>	<i>\$10,000</i>
<i>Recaptured credit .....</i>	<i>\$7,000</i>

**Line 12** — Partner in a partnership, shareholder of an S corporation, or beneficiary of an estate or trust: Enter your share of the credit recapture. You can get this information from your partnership, S corporation, estate, or trust.

**Line 13** — Add lines 11 and 12, and enter the total on line 13. Transfer the line 13 amount to the schedule and line of the form that you are filing, as noted at line 13.

## Schedule G — Application of credit and computation of carryover

### Line 14

**Form IT-201 filers:** Enter the tax from Form IT-201, line 39, plus any amount from Form IT-201-ATT, line 21.

**Form IT-203 filers:** Enter the tax from Form IT-203, line 46, plus any amount from Form IT-203-ATT, line 20.

**Form IT-205 filers:** Enter the tax from Form IT-205, line 8 (for residents), or line 9 (for nonresidents), **plus** any credits shown on line 1 of the *Addbacks worksheet*, in the instructions for Form IT-205, line 12.

**Line 15** — If you are applying any credits against the tax before this credit, enter those amounts here.

When applying credits, follow the order of credits under Tax Law section 606(yy):

- First apply any credits that cannot be carried over or refunded.
- Next apply any credits that can be carried over for a limited duration.
- Then apply any credits that can be carried over for an unlimited duration.
- Apply refundable credits last.

**Line 17** — If your total credits from all sources are **\$2 million or less**, enter the amount from line 17 and code **253** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7, or include it on Form IT-205, line 10.

If your total credits from all sources are **more than \$2 million**, you may be subject to a credit deferral. Complete line 17, but do not enter the amount from line 17 on your tax return. See Form IT-500, *Income Tax Credit Deferral*, to determine the proper amount to enter on your 2010 tax return.