



# Instructions for Form CT-40

## Claim for Alternative Fuels Credit

### General Information

Chapter 389 of the Laws of 1997 amended the Tax Law to provide credits to taxpayers that purchase new electric or other alternative (clean-fuel) vehicles or convert gasoline or diesel-powered vehicles to use electric or clean fuel. Investments in new clean-fuel refueling property also qualify for credit.

The credit applies to vehicles and refueling property which are eligible for the federal electric vehicles credit under section 30 of the Internal Revenue Code (IRC) or the clean-fuel deduction under section 179-A of the Code.

The credits are available for vehicles and property placed in service during tax years beginning after 1997 and before 2003. Any unused credit may be carried forward indefinitely.

**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.

### 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; and,
- Certain utility corporations taxable under Article 9, section 186.

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

### Credit Amounts

#### Electric Vehicles

Fifty percent of the incremental cost of qualified new electric vehicles can be claimed as a credit. The vehicle must be placed in service during the taxable year and must be registered in New York State. The maximum credit is \$5,000 per electric vehicle.

#### Clean-Fuel Vehicle Property

Sixty percent of the cost of qualified new clean-fuel vehicle property can be claimed as a credit. The property must be installed in or manufactured as a part of a vehicle placed in service during the taxable 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*  
 $(\$7,000 \times .60 = \$4,200 \text{ credit}).$

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 alternative fuels use. 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*  
 $(\$5,000 \times 3 = \$15,000 \times .60 = \$9,000 \text{ credit}).$

### Clean-Fuel Vehicle Refueling Property

Fifty percent of the cost of qualified new clean-fuel vehicle refueling property can be claimed 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 taxable 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

*Qualified electric vehicle* is defined by reference to section 30(c) of the IRC. It is a motor vehicle that is 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



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 15** - Enter the cost of qualified new clean-fuel vehicle property which is 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 section 179A of the IRC.

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

**Line 20** - Enter the cost of qualified new clean-fuel vehicle property which is installed in or manufactured as part of a vehicle placed in service during this tax year, and registered in New York State, for which a federal deduction is allowed under section 179A of the IRC.

## Section III - Credit for Clean-Fuel Vehicle Refueling Property

**Line 25** - 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 section 179A of the IRC.

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 V - Recapture of Credit

### Part A - Computation of Credit Recapture on Electric Vehicles and Clean-Fuel Vehicle Property

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%, 66 $\frac{2}{3}$ %, or 33 $\frac{1}{3}$ %) 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:

- (1) it is modified by the taxpayer so that it is no longer powered primarily by electricity; or
- (2) 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.

The portion of credit to be recaptured on electric 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.
- 66 $\frac{2}{3}$ % if the vehicle ceases to qualify within the second full year after the date the vehicle is placed in service.
- 33 $\frac{1}{3}$ % 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 section 179A(c) of the IRC; 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.
- 66 $\frac{2}{3}$ % if the property ceases to qualify within the second full year after the date the vehicle is placed in service.
- 33 $\frac{1}{3}$ % 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. 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 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 section 179A(d) of the IRC;
- (2) 50% or more of the use of the property in a taxable 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.

## Section VI - Election to Transfer Credits (Article 9-A Taxpayers Only)

Article 9-A taxpayers may elect to transfer their unused 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, or
- 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 which are the basis for any transferred credit(s).

### Part A - Alternative Fuels Credits Received from Affiliates

Enter the amount of alternative fuels credits that were **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 amount of credits you are receiving.

### Part B - Alternative Fuels Credits Transferred to Affiliates

Enter the amount of alternative fuels credits that were **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 amount of credits you are transferring.

#### Need Help?

**Telephone Assistance** is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. **For business tax information and forms**, call the Business Tax Information Center at 1 800 972-1233. **For general information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and outside Canada**, call (518) 485-6800.

**Fax-on-Demand Forms Ordering System** - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

**Internet Access** - <http://www.tax.state.ny.us>

Access our website for forms, publications, and information.

**Hotline for the Hearing and Speech Impaired** - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m. (eastern time), Monday through Friday. 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 the information numbers listed above.

**Mailing Address** - If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.

#### Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 9, 9-A, 13, 19, 27, 32, 33, and 33-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer corporate tax liabilities under the Tax Law, for certain tax refund offsets, and for any other purpose authorized by law.

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

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.