

Instructions

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 CT-500, *Corporation 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 CT-500 to determine the amounts to be entered on your tax return.

General information

Tax Law section 210.39 provides for a tax credit for the purchase of bioheat used for space heating or hot water production for residential purposes within New York State. The credit is equal to one cent for each percent of biodiesel per gallon of bioheat purchased on or after July 1, 2006, and before July 1, 2007; and on or after January 1, 2008, and before January 1, 2017. The amount of the credit may not exceed 20 cents per gallon. The credit may not reduce the tax liability to less than either the tax on the minimum taxable income base or the fixed dollar minimum tax, whichever is greater. Any amount not used in the current tax year may be refunded or credited as an overpayment to the next year's tax. No interest will be paid on the refund.

Attach documentation showing the date of the purchase, the amount, and the percent of biodiesel in the bioheat purchased by you and claimed on this form. The credit must be claimed for the tax year in which the bioheat is purchased, regardless of when the bioheat is used.

Definitions

Bioheat is a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D 396 or D 975.

Biodiesel is a fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designation D 6751.

Residential purposes means any use of a structure, or part of a structure, as a place of abode maintained by or for a person, whether or not owned by such person, on other than a temporary or transient basis. This includes multi-family dwelling units such as multi-family homes, apartment buildings, condominiums, and cooperative apartments. For purposes of the clean heating fuel credit, the structure must be located in New York State.

Corporate partners

If you are a corporate partner, enter on line 2 any pro rata share of the clean heating fuel credits passed through to you from the partnership. Also enter the name, employer identification number, and the share of the credit for each partnership in Part 3.

New York S corporations

New York S corporations will calculate a clean heating fuel credit, however the S corporation may not use the credit against its own tax liability. Instead the credit is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns. New York S corporations complete only Part 1. Include the line 3 amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, which is filed with your New York State corporation tax return. Attach a copy of Form CT-241 to your Form CT-3-S. Provide all shareholders with the amount of their pro rata share of the clean heating fuel credit calculated. The shareholders will file Form IT-241, *Claim for Clean Heating Fuel Credit*, to claim the credit on their New York State personal income tax returns.

Combined filers

A taxpayer filing as a member of a combined group is allowed to claim the clean heating fuel credit. The clean heating fuel credit is computed on a separate basis, but is applied against the combined tax.

Line instructions

Part 1 — Use a separate line for each purchase of bioheat. Attach additional sheets if necessary.

Column A — Enter the date the bioheat was purchased. If you purchased the bioheat under a plan that requires prepayment for a stipulated number of gallons of bioheat at a fixed price, enter the date of the prepayment as the date of purchase. If you purchased the bioheat through a payment (budget) plan where you make monthly payments to the supplier and the supplier deducts the amount of the sale from your account at the time of delivery, enter the date of delivery as the date of purchase.

Column B — Enter the gallons of bioheat purchased on the date entered in column A. Attach documentation showing the number of gallons purchased and the percentage of biodiesel for each gallon purchased.

If bioheat is purchased for a location that has both business and residential space, but has only one tank for the storage and use of bioheat fuel, the taxpayer must use the following formula to determine the percentage of space used for residential purposes.

$$\frac{\text{Square footage of residential areas (excluding common areas)}}{\text{Total square footage of location (excluding common areas)}} = \text{\% used for residential purposes (rounded to four decimal places)}$$

For purposes of the formula:

- Hotels, motels, and similar locations may claim as residential square footage only those units used by the same occupant for more than 90 consecutive days.
- Common area** means any area at the premises used without distinction for both residential and business purposes.

To determine the number of gallons eligible for the credit, multiply the percentage by the number of gallons of bioheat purchased.

Column C — Enter the percentage of biodiesel per gallon of bioheat purchased. This percentage will be listed on your receipt preceded by the letter B.

Example: If B5 is shown in the description of the bioheat on your receipt, the bioheat contains 5% biodiesel. In that case, you would enter .05 in column C for that purchase. If the receipt showed B20, the bioheat is 20% biodiesel and you would enter .2 in column C. The amount entered cannot exceed 20% (.2).

Column D — Add the column D amounts and enter the result on line 1.

Line 2 — Obtain this amount from the partnership(s) allocating this credit to you. Also complete Part 3.

Line 4 — Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recaptured tax credits.

Line 5 — You must apply certain credits before the clean heating fuel credit. Refer to Form CT-600-I, *Instructions for Form CT-600*, for the proper ordering of your credits. If you are claiming more than one credit, enter the total amount of credits applied against the current year's corporation franchise tax before the clean heating fuel credit. If the clean heating fuel credit is the only credit you are applying against the current year's tax, enter **0**. If you are included in a combined return, include any amount of tax credit(s), including the clean heating fuel credit that you wish to apply before your clean heating fuel credit.

Lines 9, 11, and 12 — On line 9, enter the lesser of line 3 or line 8.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 9, 11, and 12 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 lines 9, 11, and 12 but do not enter the amounts from lines 9, 11, and 12 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

Need help? and Privacy notification

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