New York State Department of Taxation and Finance

Instructions for Form IT-243

Claim for Biofuel Production Credit

IT-243-I

2010

Changes for 2010

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.

Credit limitation has changed

For tax years beginning on or after January 1, 2010, if the taxpayer is a partner in a partnership or shareholder of a New York S corporation, the credit limitation is applied at the partnership or S corporation level.

General information

What is the biofuel production credit?

The biofuel production credit is available to taxpayers for biofuel produced at a biofuel plant located in New York State. The credit is available for tax years beginning on or after January 1, 2006 and before January 1, 2013.

The allowable credit is fifteen cents ($.15) per gallon of biofuel produced at a biofuel plant located in New York State, after the production of the first 40,000 gallons per year presented to market. The biofuel must be produced on or after January 1, 2006, to qualify for the credit. The credit can be claimed for four consecutive tax years per biofuel plant.

The credit is limited to $2.5 million per taxpayer per tax year. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation, then the limit is applied at the partnership or New York S corporation level. If the amount of the credit exceeds the taxpayer's tax for the year, the excess is treated as an overpayment of tax to be credited or refunded without interest.

Definitions

Biofuel — means a fuel which includes biodiesel and ethanol. Biofuel may also include any other fuel that meets the standard approved by the New York State Energy and Research Development Authority.

Biodiesel — means 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 the American Society of Testing and Materials designation D 6751-02.

Ethanol — means ethyl alcohol manufactured in the United States and its territories and sold:

- for fuel use and which has been rendered unfit for beverage use in a manner and which is produced at a facility approved by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives for the production of ethanol for fuel, **or**
- as denatured ethanol used by blenders and refiners which has been rendered unfit for beverage use.

Biofuel Plant — means a commercial facility located in New York State at which one or more biofuels are produced.

Who may file Form IT-243

- Individuals (including sole proprietors);
- Fiduciaries of estates and trusts;
- Partners in a partnership (including members of an LLC if the LLC is treated as a partnership for federal tax purposes);
- Shareholders of a New York S corporation; and
- Beneficiaries of an estate or trust.

How to claim the biofuel production credit

File Form IT-243 with your personal income tax return, Form IT-201 or Form IT-203 if you are an individual, 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.

A partnership must file Form IT-243 with Form IT-204, *Partnership Return*, showing the total amount of biofuel production credit. Partnerships must provide each partner with information about their share of the biofuel production credit from the partnership.

An estate or trust that divides the credit among itself and its beneficiaries must attach Form IT-243 to Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

An S corporation cannot file Form IT-243. It must file Form CT-243, *Claim for Biofuel Production Credit*. If you are a shareholder of a New York S corporation, obtain information about your share of the credit from the S corporation.

Specific 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) and partnerships: Complete Part 1 and Part 5.

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 Part 1 and Part 5.

Partners in a partnership, and shareholders of a New York S corporation: Complete Parts 2, 3, and 5.

Fiduciaries: Complete Parts 1, 4 and 5.

Beneficiaries of an estate or trust: Complete Parts 1, 2, and 5.

Note: If more than one of the above applies to you, complete all appropriate schedules on one Form IT-243.

Part 1 — Individual (including sole proprietor), partnership, and estate or trust

You must complete a separate line for each biofuel plant.

Column A — Biofuel plant's physical address

For each biofuel plant, enter the street number and name, and the city in New York State where the plant is physically located. Do not enter a PO box, or the mailing address of the company if it differs from the physical location of the plant.

Column B — Tax year credit is being claimed

The biofuel production credit can be claimed for four consecutive tax years per biofuel plant. Mark an ***X*** in the appropriate box to indicate the tax year for which the biofuel production credit is being claimed for each plant.

Column C — Gallons of biofuel produced for the year

Enter the total number of gallons of biofuel produced at a biofuel plant located in New York State for the tax year in which the biofuel was presented to the market.

Column D — Excess eligible gallons of biofuel produced

Subtract 40,000 from the amount in column C to compute the gallons of biofuel eligible for the biofuel production credit. The first 40,000 gallons of biofuel per year presented to market by each biofuel plant are not eligible for the credit.

Column E — Biofuel production credit before limitation

Multiply column D by .15. The credit amount is equal to fifteen cents per gallon of biofuel produced at a biofuel plant located in New York State after the production of the first 40,000 gallons per year presented to market.

If you are claiming a credit for more than three biofuel plants, complete as many Forms IT-243 as necessary. On the first Form IT-243, complete Parts 1-5 (as applicable). On all other Forms IT-243, complete only the name, identifying number, and Part 1, columns A through E. Include on line 1 of the first Form IT-243 the total of all column E amounts from all additional Forms IT-243. Attach any additional Forms IT-243 to the back of the first Form IT-243 that has the entry on line 1. Enter on line 2 the total credit computed.

Line 3 — Fiduciary: Include on line 3 only your share of the credit from another estate or trust.

Part 2 — Partnership, New York S corporation, estate, and trust information

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

Part 3 — Partner's or shareholder's share of credit

Enter your share of the credit received from the partnership or New York S corporation. This information should be provided to you by the partnership or S corporation. If you belong to more than one partnership or New York S corporation, enter the total of all your shares on the appropriate line.

Fiduciary: Only include your share of the credit from partnerships and S corporations that was not allocated to beneficiaries.

Part 4 — Beneficiary's and fiduciary's share of biofuel production credit

An estate or trust must complete Part 4. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust.

Part 5 — Computation of biofuel production credit

Line 13

Partnerships: Enter the line 13 amount and code ***303*** on Form IT-204, line 147.

All others: If your total credits from all sources are **$2 million or less**, enter the amount from line 13 and code ***303*** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or include it on Form IT-205, line 33.

If your total credits from all sources are **more than $2 million**, you may be subject to a credit deferral. Complete line 13, but do not enter the amount from line 13 on your tax return. See Form IT-500, *Income Tax Credit Deferral,* to determine the proper amount to enter on your 2010 tax return.