

APPLICATION FOR ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT INSTRUCTIONS

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ABOUT THIS CREDIT: A new tax credit is created for up to 5% of qualified expenditures for manufacturing equipment used in a manufacturing operation that produces alternative energy products. To be eligible to claim a credit, the taxpayer must employ personnel to perform production tasks in conjunction with manufacturing equipment not previously existing at the site. Additionally, the manufacturer must employ at least one new full-time employee in addition to the number of full-time employees employed one year prior to the day on which the taxpayer applies for the credit for every:

- \$500,000, or a portion of that amount, of qualified expenditures claimed by the taxpayer in a tax year in the same application, up to a value of \$30 million, and
- \$1 million, or a portion of that amount, of qualified expenditures claimed by the taxpayer in a tax year in the same application, over \$30 million.

The manufacturer must be approved prior to claiming any tax credit. Use Form RPD-41330, *Application for Alternative Energy Product Manufacturers Tax Credit*, and Form RPD-41330, *Schedule A*, to apply for the credit. **You must apply for the alternative energy product manufacturers tax credit on or before the last day of the year following the end of the calendar year in which the qualified expenditure is made.** Mail Form RPD-41330, *Application for Alternative Energy Product Manufacturers Tax Credit*, Form RPD-41330, *Schedule A*, and all required attachments to: Taxation and Revenue Department, Audit Technical Support Services, P.O. Box 8485, Albuquerque, New Mexico 87198. For assistance, call (505) 795-1735.

CLAIMING APPROVED ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT: After the alternative energy product manufacturers tax credit application has been approved, use Form RPD-41331, *Alternative Energy Product Manufacturers Tax Credit Claim Form*, to claim the credit against modified combined tax liability. Any portion of the alternative energy product manufacturers tax credit that remains unused at the end of the taxpayer's reporting period may be carried forward for 5 years from the end of the calendar year in which the credit was approved. Modified combined tax liability includes gross receipts tax, compensating tax, withholding tax, E911 and TRS liabilities and any other tax collected at the same time and in the same manner as the gross receipts tax, less any local option gross receipts tax due (5.125% of taxable gross receipts), less any credit other than the alternative energy product manufacturers tax credit.

A pass-through entity (PTE) who has been approved for the credit may pass the credit to its owners, members or partners, by submitting Form RPD-41364, *Notice of Distribution of Alternative Energy Product Manufacturers Tax Credit*, to the Department reporting the transfer. The owner, member or partner can then apply the credit against its modified combined liability.

When claiming an alternative energy product manufacturers tax credit against a tax liability, Form RPD-41331, *Alternative Energy Product Manufacturers Tax Credit Claim Form*, must be attached to the return. Form RPD-41331 shall accompany any return to which the taxpayer wishes to apply an approved credit, and the claim shall specify the amount of credit intended to apply to the return.

Important: See "Recapture" on page 2 of these instructions.

HOW TO COMPLETE THIS FORM:

PART I. QUALIFYING INFORMATION

Line 1: Enter the calendar year in which the qualified equipment included in this claim was purchased. Purchases made prior to July 1, 2006 do not qualify for the credit.

Line 2: Attach a schedule of the qualified equipment included in this claim that contains a detailed description of the qualified equipment. Provide a depreciation schedule that can be reconciled to the schedule of qualified equipment. Include copies of invoices to support your purchases. You may be asked to provide the Department with a copy of your federal Form 4562 at the time it is filed with the IRS.

Line 3: Describe the alternative energy product that your manufacturing operation is producing. Include an attachment if additional space is needed.

Line 4: Enter (a) the number of new full-time employees hired; and (b) the number of full-time employees employed one

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year prior to the date of this application.

PART II. CALCULATION OF CREDIT CLAIMED

Line A: Enter the total value of the qualified equipment included in this claim. The value of the qualified equipment is the adjusted basis established for the equipment under the applicable provisions of the Internal Revenue Code of 1986.

Line B: Multiply Line A by 5% to determine the alternative energy product manufacturers tax credit applied for.

PART III. CERTIFICATIONS

You must certify that the statements set out under Part III are true and correct by placing a checkmark in the box next to each statement. Both boxes must be checked in order to qualify for the credit.

RECAPTURE: If the taxpayer or successor in the business of the taxpayer ceases operations at a facility in New Mexico for at least 180 consecutive days within a two-year period after the taxpayer has claimed an alternative energy product manufacturers tax credit, the Department may not grant additional credit with respect to that facility. Amounts of credit approved, but not yet claimed will be extinguished, and within 30 days after the one hundred eightieth (180) day of cessation of operations, the taxpayer must pay the modified income tax liability against which approved credit was taken. For purposes of a recapture of this credit, having ceased operations does not include reasonable periods for maintenance or retooling, for the repair or replacement of facilities damaged or destroyed, or during labor disputes.

IMPORTANT DEFINITIONS:

"Alternative energy product" means an alternative energy vehicle, fuel cell system, renewable energy system or any component of an alternative energy vehicle, fuel cell system or renewable energy system or components for integrated gasification combined cycle coal facilities and equipment related to the sequestration of carbon from integrated gasification combined cycle plants, or beginning in tax year 2011 and ending in tax year 2019, a product extracted from or secreted by a single cell photosynthetic organism.

"Alternative energy vehicle" means a motor vehicle manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets the federal motor vehicle safety standards and is designed to be propelled in whole or in part by electricity; includes a gasoline-electric hybrid motor vehicle exempt from the motor vehicle excise tax.

"Component" means a part, assembly of parts, material, ingredient or supply that is incorporated directly into an end product;

"Fuel cell system" means a system that converts hydrogen, natural gas or waste gas to electricity without combustion, including:

1. a fuel cell or a system used to generate or reform hydrogen for use in a fuel cell; or
2. a system used to generate or reform hydrogen for use in a fuel cell; including:
 - a. electrolyzers that use renewable energy; and
 - b. reformers that use natural gas as the feedstock;

"Manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction, farming, power generation or processing natural resources.

"Manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's manufacturing operation and that is subject to depreciation pursuant to the Internal Revenue Code of 1986 by the taxpayer carrying on the manufacturing; provided that "manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which the taxpayer claims a credit.

"Subject to Depreciation" means the taxpayer's federal income tax return must include a depreciation expense with respect to the qualified expenditure for manufacturing equipment for which an alternative energy product manufacturers tax credit is sought or claimed. Equipment depreciated under the accelerated cost recovery system, IRC Section 168, and property for which the taxpayer makes an election under IRC Section 179 is "subject to depreciation".

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Expenditures made on manufacturing equipment that is owned by a municipality or county in connection with an industrial revenue bond project is not "qualified equipment" for purpose of the Alternative Energy Product Manufacturers Tax Credit Act.

ITEMS NOT QUALIFIED AS "MANUFACTURING EQUIPMENT": Tangible personal property which is not a machine, mechanism or tool, or a component or fitting thereof, is not "manufacturing equipment" for the purpose of the Alternative Energy Product Manufacturers Tax Credit Act. Accordingly such items as furniture, shelving and supplies are not "manufacturing equipment". Equipment that is neither essential to nor used in conjunction with the manufacturing plant will not qualify for the alternative energy product manufacturers tax credit, even if that equipment is physically located in the plant. Non-qualifying equipment may include, but is not limited to: coffee makers, kitchen equipment used in an employee cafeteria and televisions or radios used in an employee lounge or in a reception area.

ITEMS WHICH MAY BE INCLUDED AS "MANUFACTURING EQUIPMENT": The term "manufacturing operation" is defined as a plant where personnel perform production tasks "in conjunction with equipment not previously existing at the site" to produce alternative energy products. "Manufacturing equipment" must be exclusively and directly employed in the manufacturing process and must be physically located in the plant and used in conjunction with the production of alternative energy products. Therefore, equipment used in conjunction with the production of alternative energy products may include, but is not limited to, such items as manufacturing process equipment, lights, boilers, air conditioners, smoke detectors and other equipment essential to maintaining the proper climate for the manufacturing process, packaging equipment used to put the manufactured product in marketable form, warehousing equipment and computers used to control the manufacturing process or to inventory and schedule the shipping of manufactured products.

"Manufacturing operation" means a plant employing personnel to perform production tasks, in conjunction with manufacturing equipment not previously existing at the site, to produce alternative energy products.

"Modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as that gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharge imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the alternative energy product manufacturers tax credit applied against any or all of those taxes or surcharges; provided that "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

"Pass-through entity" means a business association other than: a sole proprietorship; an estate or trust; a corporation, limited liability company, partnership or other entity that is not a sole proprietorship taxed as a corporation for federal income tax purposes for the tax year.

"Qualified expenditure" means an expenditure for the purchase of manufacturing equipment made after July 1, 2006 by a taxpayer approved by the Department.

"Renewable energy" means energy from solar heat, solar light, wind, geothermal energy, landfill gas or biomass either singly or in combination that produces low or zero emissions and has substantial long-term production potential;

"Renewable energy system" means a system using only renewable energy to produce hydrogen or to generate electricity, including related cogeneration systems that create mechanical energy or that produce heat or steam for space or water heating and agricultural or small industrial processes and includes a: photovoltaic energy system; solar-thermal energy system; biomass energy system; wind energy system; hydrogen production system; or battery cell energy system.

"Taxpayer" means a person, including a shareholder, member, partner or other owner of a pass-through entity, who is liable for payment of a tax or to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid.

ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT Schedule A

To qualify for the alternative energy product manufacturers tax credit, you must meet the applicable employment requirements. Complete Schedule A by providing the name, social security number, date of hire, and number of hours worked per week for each employee used to meet the employment requirement. Attach this form to Form RPD-41330, *Application for Alternative Energy Product Manufacturers Tax Credit*, to support the application for this credit.

If additional space is needed, attach additional pages or a schedule in the same format.

Employee Name	Social Security Number	Date Hired	Hours / Week
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
Total Hours Per Week (If multiple pages are attached, enter the total hours per week for all pages.)			
Divide the total hours per week by 40. Enter the result here.			

ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT

Schedule A

INSTRUCTIONS

To qualify for the alternative energy product manufacturers tax credit, you must meet the applicable employment requirements. Complete Schedule A by providing the name, social security number, date of hire, and number of hours worked per week for each employee used to meet the employment requirement. Attach this form to Form RPD-41330, *Application for Alternative Energy Product Manufacturers Tax Credit*, to support the application for this credit.

To qualify for the credit:

1. You must have employed one additional full-time employee for every \$500,000 (or portion of that amount) of qualified expenditures claimed by the taxpayer in a tax year on the application, up to a value of \$30 million; **and**
2. You must have employed one additional full-time employee for every \$1 million (or portion of that amount) in value of qualified expenditures over \$30 million claimed by the taxpayer in a tax year on the application.

Example: If you apply for the alternative energy product manufacturers tax credit on qualified equipment with a value of \$31,725,000, you must show that you have hired 62 additional full-time employees: 60 employees for the first \$30,000,000; 1 employee for the next \$1,000,000; and 1 employee for the remaining \$725,000.

To calculate the number of full-time-equivalent employees, add the average weekly hours worked, or expected to be worked, by all employees whose regular weekly work hours are, or are expected to be, less than 40 hours. Divide the total by 40 and round down to the nearest whole number. The rounded number plus the number of employees who work, or are expected to work, an average of 40 or more hours per week is the number of full-time-equivalent employees.

The alternative energy product manufacturers tax credit is available only to manufacturers who increase employment in the relevant periods. Manufacturers who do not meet the employment requirement do not qualify for the alternative energy product manufacturers tax credit, regardless of the amount of qualified expenditures made. The employees used to meet the employment requirements for this claim cannot have been counted toward the employment requirement for any prior claim and must be in addition to the number of full-time employees employed on the date one year prior to the day on which the taxpayer applied for the credit.

Example:

(1) X is a manufacturer who establishes a new manufacturing operation in New Mexico on August 1 of year 1. Prior to establishing this plant, X had no operations or employees in New Mexico. Beginning with June 15 of year 1 through August 1, X hires 20 full-time equivalent employees to work in that plant. On January 15 of year 2, X submits an application for an alternative energy product manufacturers tax credit with respect to equipment placed in the new plant as of August 1. Since on January 15 of year 1 X had no employees in New Mexico, X may count all 20 employees in meeting the employment requirement for this application.

(2) X acquires and installs additional new equipment during the period September 1 through December 15 of year 1, during which time X hires two more full-time equivalent employees. Unfortunately sales are below X's expectations and so in April of year 2 X lays off 3 full-time employees. In August of year 2, X files a second application for an alternative energy product manufacturers tax credit with respect to the additional equipment. None of the 20 employees counted in the first application may be counted for purposes of meeting the employment requirement in the second application. Since X has in fact decreased employment over the relevant time period, X does not meet the employment requirement and X's application for a second credit will be denied.

REPORTING NUMBER OF EMPLOYEES – ESTIMATES

To meet the employment requirement, the credit claimant must report the number of full-time-equivalent employees employed on the day the credit is applied for. This number is to be compared with the number of full-time-equivalent employees on the same day in the prior year. Because complete employee data may not be available for the day on which the credit is applied for, a credit claimant may estimate the number of full-time-equivalent employees employed on the day the credit is applied for, provided the claimant reports the actual number of full-time-equivalent employees within 45 days from the end of the calendar quarter in which the claim is applied for. The fact that an estimate is used in the claim must be clearly indicated. The Department may withhold approval of the claim until the correct number is provided and will deny the claim if the correct number is not provided.