



States' Biofuels Statutes

STATE OF NEW YORK

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the New York General Assembly.

§ 28. Biofuel production credit

(a) General. A taxpayer subject to tax under article nine, nine-A or twenty-two of this chapter shall be allowed a credit against such tax pursuant to the provisions referenced in subdivision (d) of this section. The credit (or pro rata share of earned credit in the case of a partnership) for each gallon of biofuel produced at a biofuel plant on or after January first, two thousand six shall equal fifteen cents per gallon after the production of the first forty thousand gallons per year presented to market. The credit under this section shall be capped at two and one-half million dollars per taxpayer per taxable year for up to no more than four consecutive taxable years per biofuel plant. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation, then the cap imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed two and one-half million dollars. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand twenty.

(b) Definitions. For the purpose of this section, the following terms shall have the following meanings:

(1) "Biofuel" means a fuel which includes biodiesel and ethanol. The term "biodiesel" shall mean 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 6751-02. The term "ethanol" shall mean ethyl alcohol manufactured in the United States and its territories and sold (i) 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 and firearms for the production of ethanol for fuel, or (ii) as denatured ethanol used by blenders and refiners which has been rendered unfit for beverage use. The term "biofuel" may also include any other standard approved by the New York state energy and research development authority.

(2) "Biofuel plant" means a commercial facility located in New York state at which one or more biofuels are produced.

(c) Reporting requirements. A taxpayer wishing to claim a credit under this section shall annually certify

to the commissioner (i) that biofuel produced at the eligible biofuel plant meets all existing standards for biofuel and (ii) the amount of biofuel produced at the eligible biofuel plant during a taxable year.

(d) [Eff. until Jan. 1, 2015. See, also, subd. (d) below.] Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-c.

(2) Article 9-A: Section 210, subdivision 38.

(3) Article 22: Section 606, subsections (i) and (jj).

(d) [Eff. Jan. 1, 2015. See, also, subd. (d) above.] Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-c.

(2) Article 9-A: Section 210-B, subdivision 24.

(3) Article 22: Section 606, subsections (i) and (jj).

Credits: (Added L.2006, c. 62, pt. X, § 1, eff. April 28, 2006. Amended L.2010, c. 57, pt. A, § 1, eff. Aug. 11, 2010; L.2012, c. 59, pt. K, § 1, eff. March 30, 2012; L.2014, c. 59, pt. A, § 46, eff. Jan. 1, 2015.)