

STATE OF HAWAII - DEPARTMENT OF TAXATION
**INSTRUCTIONS FOR FORM N-360
RENEWABLE FUELS PRODUCTION
TAX CREDIT (FOR TAX YEARS BEGINNING AFTER 12/31/21)**

GENERAL INSTRUCTIONS

PURPOSE OF FORM

Use Form N-360 to figure and claim the renewable fuels production tax credit allowed under Chapter 235, Hawaii Revised Statutes (Act 216, SLH 2022).

WHO MAY CLAIM THIS CREDIT

For taxable years beginning AFTER December 31, 2021, each taxpayer producing renewable fuels that obtains a credit certificate issued by the Hawaii State Energy Office (HSEO) may claim a renewable fuels production tax credit.

Each taxpayer, together with all of its related entities as determined under section 267(b) of the Internal Revenue Code (IRC) and all business entities under common control, as determined under sections 414(b), 414(c), and 1563(a) of the IRC, is not eligible for more than a single ten-year credit period.

FLOW-THROUGH ENTITIES

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable shall be determined at the entity level. Distribution and share of the credit shall be determined pursuant to section 704(b) (with respect to partner's distributive share) of the Internal Revenue Code. For a fiscal year taxpayer, the taxpayer should report the credit in the taxable year in which the calendar year end is included.

CREDIT REQUIREMENTS

Before the production of any renewable fuels for the calendar year, the taxpayer shall provide written notice of the taxpayer's intention to begin production of renewable fuels to the Department of Taxation and the HSEO.

The taxpayer shall provide written notice to the Director of Taxation and to the Chief Energy Officer of the HSEO within 30 days following the start of production to include the production start date and expected renewable fuels production for the next 12 months.

The tax credit is the lesser of 20 cents per 76,000 British thermal units of renewable fuels using the lower heating value sold for distribution in Hawaii or \$3,500,000 per taxable year. The taxpayer's production of renewable fuels cannot be less than 2.5 billion British thermal units of renewable fuels per year. The tax credit can only be claimed for fuels with lifecycle emissions below that of fossil fuels.

No other tax credit may be claimed under this chapter for the costs related to renewable fuels production that are used to properly claim a tax credit under this section for the taxable year.

To claim this credit, you must attach to your Hawaii income tax return:

- (1) Form N-360 (Complete Part II and attach.)
- (2) A completed Schedule CR (For tax returns for which Schedule CR is required.)
- (3) A completed Schedule K-1 (Required only if you are a member of a flow-through entity claiming a credit for the entity's renewable fuels production.)
- (4) The credit certificate issued to you by the HSEO.

DEADLINE FOR CLAIMING THE CREDIT

The deadline to claim the credit, including amended claims, is 12 months after the close of your taxable year. You cannot claim or amend the credit after the deadline.

HOW TO TREAT THE CREDIT

NONREFUNDABLE: A nonrefundable credit means your credit will be applied towards the amount of income tax you owe. If your

nonrefundable credit is greater than the amount of income tax that you owe, then you may carryover the remaining credit and apply it towards next year's income tax. You may continue to carryover the credit until it is used up.

REFUNDABLE (IRREVOCABLE): You may make an irrevocable election to claim the credit as refundable. A refundable credit means you will receive a tax refund if your credit amount is greater than the amount of income tax you owe. You may elect to claim the credit as a refundable credit under the following circumstances:

Reduced Credit

You must reduce the credit amount by 30%, unless you meet the conditions described in the "Full Credit" paragraph below.

Full Credit

You may claim the full credit as a refundable credit if you are an individual taxpayer and any of the following apply:

(1) All of your (and your spouse's) income is retirement income such as pension distributions, social security, or distributions from a public retirement system that is exempt from Hawaii income tax; or

(2) Your Hawaii adjusted gross income (AGI) is \$20,000 or less (\$40,000 or less if you are married filing a joint return).

Irrevocable Election

Once an election is made to treat the tax credit as refundable, the election cannot be revoked. An amended return cannot be filed to change the tax credit from refundable to nonrefundable. A taxpayer and spouse who do not file a joint tax return shall only be entitled to make this election to the extent that they would have been entitled to make the election had they filed a joint return.

DEFINITIONS FOR PURPOSES OF THE CREDIT

"Credit period" means a maximum period of ten consecutive years, beginning from the first taxable year in which a taxpayer begins renewable fuels production at a level of at least 2.5 billion British thermal units of renewable fuels per calendar year.

"Renewable feedstocks" means:

- (1) Biomass crops and other renewable organic material, including but not limited to logs, wood chips, wood pellets, and wood bark;
- (2) Agricultural residues;
- (3) Oil crops, including but not limited to algae, canola, jatropha, palm, soybean, and sunflower;
- (4) Sugar and starch crops, including but not limited to sugar cane and cassava;
- (5) Other agricultural crops;
- (6) Grease and waste cooking oil;
- (7) Food wastes;
- (8) Municipal solid wastes and industrial wastes;
- (9) Water, including wastewater; and
- (10) Animal residues and wastes, that can be used to generate energy.

"Renewable fuels" means fuels produced from renewable feedstocks; provided that the fuel:

- (1) Is sold as a fuel in the State; and
- (2) Meets the relevant ASTM International specifications or other industry specifications for the particular fuel, including but not limited to:
 - (A) Methanol, ethanol, or other alcohols;
 - (B) Hydrogen;

- (C) Biodiesel or renewable diesel;
- (D) Biogas;
- (E) Other biofuels;
- (F) Renewable jet fuel or renewable gasoline; or
- (G) Logs, wood chips, wood pellets, or wood bark.

CERTIFICATION OF CREDITS

Not later than 30 days following the end of the calendar year, the taxpayer must complete and file an independent third-party certified statement with HSEO. The certified statement is to be obtained at the taxpayer's own expense. HSEO will issue a credit certificate to the taxpayer verifying the amount of renewable fuels produced and sold, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the credit certificate with the taxpayer's tax return with the Department of Taxation. The Director of Taxation may audit and adjust the certification to conform to the facts.

If in any taxable year the annual amount of certified credits reaches \$20,000,000 in the aggregate, HSEO will immediately discontinue issuing certificates for that taxable year and notify the Department of Taxation. If the credit claims exceed \$20,000,000 for all eligible taxpayers in any given calendar year, the \$20,000,000 shall be divided between all eligible taxpayers for that year in proportion to the total amount of renewable fuels produced by all eligible taxpayers.

To request a credit certificate to claim the Renewable Fuels Production Tax Credit, contact HSEO at:

HSEO
Hawaii State Energy Office
235 S. Beretania Street, 5th Floor
Honolulu, Hawaii 96813
Telephone: (808) 587-3807
Email: dbedt.energyoffice@hawaii.gov

SPECIFIC INSTRUCTIONS

Part II. Computation of Tax Credit

Line 2. If you are claiming your share of the renewable fuels production tax credit from a partnership, S corporation, estate or trust, then enter the amount here. Also, enter the name and federal employer

identification number of any flow-through entity that has passed the tax credit through to you and check the appropriate box.

Line 3. Total New Credit - If you are electing a nonrefundable credit, enter this amount on line 9 and on Schedule CR in **Column (a)** of the appropriate line.

- Form N-20 filers, enter the amount on line 3 on Form N-20, Schedule K; skip lines 4 through 14 and continue to Part III.
- Form N-35 filers, enter the amount on line 3 on Form N-35, Schedule K; skip lines 4 through 14; and continue to Part III.
- Form N-40 filers, enter the distributive share amount on Form N-40, Schedule K-1, for each beneficiary, otherwise, continue to line 4.
- All others continue to line 4.

Lines 4 - 8. If you are electing a refundable credit, complete lines 4-8.

Line 9. If you are electing a nonrefundable credit, enter the amount from line 3 and on Schedule CR in **Column (a)** of the appropriate line.

Line 10. Enter your adjusted tax liability.

- Form N-11 filers, enter the amount from Form N-11, line 34.
- N-15 filers, enter the amount from Form N-15, line 51.
- Form N-30 filers, enter the amount from Form N-30, line 13.
- Form N-40 filers, enter the amount from Form N-40, Schedule G, line 3
- Form N-70NP filers, enter the amount from Form N-70NP, line 18.

Line 11. Certain other tax credits must be used to offset a taxpayer's tax liability before the renewable fuels production tax credit may be used. If you are claiming other nonrefundable tax credits, complete the **Credit Worksheet** below and enter the result on line 11. If you are not claiming any of the nonrefundable tax credits listed on the worksheet, enter zero on line 11.

Line 13. Total Credit Applied - Compare the amounts on lines 3 and 12. Enter the smaller of line 3 or 12, rounded to the nearest dollar, here and on Schedule CR in **Column (b)** of the appropriate line. This is your maximum credit allowed for this taxable year.

Line 14. Unused Credit to Carryover - This represents your carry-over of renewable fuels production tax credit which exceed your net income tax liability and may be used as a credit against your net income tax liability in subsequent years until exhausted. If this amount is more than zero, also enter it on Schedule CR in **Column (c)** of the appropriate line.

RENEWABLE FUELS PRODUCTION TAX CREDIT WORKSHEET	
Tax Credit	Amount
a. Income Taxes Paid to Another State or Foreign Country	_____
b. Enterprise Zone Tax Credit....	_____
c. Carryover of the Energy Conservation Tax Credit	_____
d. Credit for Employment of Vocational Rehabilitation Referrals	_____
e. Credit for School Repair and Maintenance	_____
f. Carryover of the Renewable Energy Technologies Income Tax Credit (For Systems Installed and Placed In Service Before July 1, 2009)..	_____
g. Renewable Energy Technologies Income Tax Credit (Nonrefundable)	_____
h. Carryover of the Cesspool Upgrade, Conversion, or Connection Income Tax Credit.....	_____
i. Earned Income Tax Credit	_____
j. Healthcare Preceptor Tax Credit	_____

RENEWABLE FUELS PRODUCTION TAX CREDIT WORKSHEET (CONTINUED)	
Tax Credit	Amount
k. Historic Preservation Income Tax Credit	_____
l. Low Income Housing Tax Credit	_____
m. Carryover of the High Technology Business Investment Tax Credit	_____
n. Carryover of the Technology Infrastructure Renovation Tax Credit	_____
o. Carryover of the Residential Construction and Remodeling Tax Credit	_____
p. Carryover of the Hotel Construction and Remodeling Tax Credit	_____
q. Capital Infrastructure Tax Credit	_____
r. Carryover of the Renewable Fuels Production Tax Credit (For Years Before 12/31/21)	_____
s. Carryover of the Organic Foods Production Tax Credit	_____
t. Add lines a through s. Enter the amount here and on Part II, line 11	_____