

Part III – Administrative, Procedural, and Miscellaneous

Alternative Fuel and Alternative Fuel Mixtures; Blood Collector Organizations

Notice 2006-92

Section 1. PURPOSE

This notice provides guidance on: (1) the credit and payment provisions for alternative fuel and alternative fuel mixtures under § 34, 6426(d), 6426(e), and 6427(e) of the Internal Revenue Code; and (2) the imposition of tax on alternative fuel and alternative fuel mixtures under § 4041(a)(2), 4041(a)(3), and 4081(b).

These provisions were added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59) and are effective October 1, 2006. This notice also provides guidance on the excise tax exemption for blood collector organizations added by the Pension Protection Act of 2006 (Pub. L. 109-280). References to regulations in this notice are to the Manufacturers and Retailers Excise Tax Regulations.

Section 2. DEFINITIONS

(a) Alternative fuel has the meaning given to the term by § 6426(d)(2).

Section 6426(d)(2) provides that alternative fuel means liquefied petroleum gas, P Series Fuels (as defined by the Secretary of Energy under 42 U.S.C. 13211(2)), compressed or liquefied natural gas, liquefied hydrogen, any liquid

fuel derived from coal (including peat) through the Fischer-Tropsch process, and liquid hydrocarbons derived from biomass (as defined in §45K(c)(3)). The term does not include ethanol, methanol, biodiesel, or renewable diesel. (For the definition of biodiesel, see §40A(d)(1). For the definition of renewable diesel and treatment of renewable diesel in the same manner as biodiesel, see §40A(f).)

(b) Alternative fuel mixture means a mixture of alternative fuel and taxable fuel that contains at least 0.1 percent (by volume) of taxable fuel (as defined in §4083(a)(1)).

(c) Alternative fueler means a person that--

(1) Is an alternative fueler (unmixed fuel); or

(2) Produces alternative fuel mixtures for sale or use in its trade or business.

(d) The alternative fueler (unmixed fuel) with respect to any alternative fuel is the person that--

(1) Is liable for tax on the alternative fuel imposed by §4041(a)(2) or (3) (determined in the case of compressed natural gas after the application of §48.4041-21 and in the case of any other alternative fuel after the application of rules similar to the rules of §48.4041-3 and 48.4041-5); or

(2) Would be so liable for such tax but for the application of an exemption provided by §4041(a)(3)(B), (b), (f), (g), or (h).

(e) Motor vehicle has the meaning given to the term by §48.4041-8(c).

(f) Use as a fuel. The following definitions apply for purposes of section 4 of this notice (relating to alternative fuel mixtures):

(1) A mixture is used as a fuel when it is consumed in the production of energy. Thus, for example, a mixture is used as a fuel when it is consumed in an internal combustion engine to power a vehicle or in a furnace to produce heat. A mixture that is destroyed in a fire or other casualty loss is not used as a fuel.

(2) A mixture producer sells a mixture for use as a fuel if the producer has reason to believe that the mixture will be used as a fuel either by the person buying the mixture from the producer or by any later buyer of the mixture.

Section 3. ALTERNATIVE FUEL

(a) Overview. This section provides rules under which a credit or payment may be obtained under §6426 (the alternative fuel excise tax credit), §34 and 6427 (the alternative fuel income tax credit), or §6427 (the alternative fuel payment) for alternative fuel that is sold for use or used as a fuel in a motor vehicle or motorboat. The amount of the credit or payment allowed with respect to alternative fuel is based on the amount of alternative fuel sold or used.

(b) Conditions to allowance--(1) Excise tax credit. A claim for the alternative fuel excise tax credit with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under §6426 only if the claimant--

- (i) Is the alternative fueler (unmixed fuel) with respect to the fuel;
- (ii)(A) Is registered under §4101 as an alternative fueler; or
(B) In the case of a claim made before July 1, 2007, is registered under §4101 for any purpose;
- (iii) Has made no other claim with respect to the alternative fuel;

(iv) Has filed a timely claim on Form 720, Quarterly Federal Excise Tax Return, and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(v) Has §4041 liability for the period of the claim and the total amount of the alternative fuel excise tax credit claimed under §6426 for the period of the claim does not exceed such liability.

(2) Refundable income tax credit--(i) In general. A claim for the alternative fuel income tax credit with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under §34 and 6427(e)(2) only if--

(A) The conditions of paragraphs (b)(1)(i) and (ii) of this section are met;

(B) The sale or use of the alternative fuel is in the claimant's trade or business;

(C) The claimant has filed a timely claim for credit on Form 4136, Credit for Federal Tax Paid on Fuels, and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(D) The amount claimed under §34 and 6427(e)(2) as an alternative fuel income tax credit is the amount that exceeds the claimant's §4041 liability for the period of the claim.

(ii) Estimated tax reduction. For purposes of determining the amount of required estimated tax payments, the alternative fuel income tax credit claimed on Form 4136 is subtracted from total tax and reduces estimated tax payments. Thus, a taxpayer may benefit from the credit before filing an income tax return. See, for example, Form 1120-W, Estimated Tax for Corporations.

(3) Payments. A claim for the alternative fuel payment with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under § 6427(e)(2) only if--

(i) The claimant is--

(A) The United States;

(B) A State (as defined in § 48.4081-1(b)); or

(C) A § 501(a) exempt organization (other than an organization required to file a Form 990-T, Exempt Organization Business Income Tax Return);

(ii) The conditions of paragraphs (b)(1)(i) and (ii) of this section are met;

(iii) The sale or use of the alternative fuel is in the claimant's trade or business;

(iv) The claimant has filed a timely claim for payment on Form 8849, Claim for Refund of Excise Tax, and the claim contains all of the information required by the claim form described in paragraph (c) of this section; and

(v) The amount claimed under § 6427(e)(2) as an alternative fuel payment is the amount that exceeds the claimant's § 4041 liability for the period of the claim.

(c) Content of claim. The claim form will provide that each claim for an alternative fuel credit or payment must contain the following information with respect to the alternative fuel covered by the claim:

(1) The amount of alternative fuel sold or used.

(2) A statement that the conditions to allowance described in paragraph (b) of this section have been met.

(3) A statement that the claimant either--

(i) Produced the alternative fuel it sold or used; or

(ii) Has in its possession the name, address, and employer identification number of the person(s) that sold the alternative fuel to the claimant, the date of purchase, and an invoice or other documentation identifying the alternative fuel.

(d) Amount of the credit. The amount of credit for any alternative fuel other than compressed natural gas is the product of \$0.50 and the number of gallons of alternative fuel. The amount of the credit for compressed natural gas is \$0.50 per 121 cubic feet.

Section 4. ALTERNATIVE FUEL MIXTURES

(a) Overview. This section provides rules under which a credit or payment may be obtained under §6426 (the alternative fuel mixture excise tax credit), §34 and 6427 (the alternative fuel mixture income tax credit), or §6427 (the alternative fuel mixture payment) for an alternative fuel mixture that is sold for use or used as a fuel by the person producing the mixture. The amount of the credit or payment allowed with respect to an alternative fuel mixture is based on the amount of alternative fuel used to produce the mixture.

(b) Conditions to allowance--(1) Excise tax credit. A claim for the alternative fuel mixture excise tax credit with respect to an alternative fuel mixture is allowed under §6426 only if the claimant--

(i) Produced the alternative fuel mixture for sale or use in the trade or business of the claimant;

(ii)(A) Sold the alternative fuel mixture for use as a fuel; or

(B) Used the alternative fuel mixture as a fuel;

(iii)(A) Is registered under §4101 as an alternative fueler; or

(B) In the case of claims made before July 1, 2007, is registered under §4101 for any purpose;

(iv) Has made no other claim with respect to the amount of alternative fuel in the mixture or, if a payment with respect to the amount of alternative fuel was erroneously claimed under §6427 and received, claimant has repaid the government with interest;

(v) Has filed a timely claim on Form 720 and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(vi) Has §4081 liability for the period of the claim and the total amount of the alternative fuel mixture excise tax credit claimed under §6426 for the period of the claim does not exceed such liability.

(2) Payment or income tax credit. A claim for an alternative fuel mixture payment under §6427 or an alternative fuel mixture income tax credit under §34 and 6427 is allowed only if--

(i) The conditions of paragraphs (b)(1)(i), (ii), and (iii) of this section are met;

(ii) The claimant has filed a timely claim for payment on Form 8849 or Form 720 or for credit on Form 4136 and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(iii) The amount claimed under § 6427 as an alternative fuel mixture payment or under § 34 and 6427 as an alternative fuel mixture income tax credit is the amount that exceeds the claimant's § 4081 liability for the period of the claim.

(c) Content of claim. The claim form will provide that each claim for an alternative fuel mixture credit or payment must contain the following information with respect to the mixture covered by the claim:

(1) The amount of alternative fuel in the alternative fuel mixture.

(2) A statement that the conditions to allowance described in paragraph (b) of this section have been met.

(3) A statement that the claimant either--

(i) Produced the alternative fuel it used in the mixture; or

(ii) Has in its possession the name, address, and employer identification number of the person(s) that sold the alternative fuel to the claimant, the date of purchase, and an invoice or other documentation identifying the alternative fuel.

(d) Amount of the credit or payment. The amount of credit or payment for any alternative fuel mixture is the product of \$0.50 and the number of gallons of alternative fuel used to produce the mixture.

Section 5. REGISTRATION

(a) Application for registration. Application for registration as an alternative fueller is made on Form 637, Application for Registration (For Certain Excise Tax Activities), in accordance with the instructions for that form. As provided in § 48.4101-1(a)(2), a person is registered under § 4101 only if the Service has issued a registration letter to the person.

(b) Requirements. The Service will register an applicant as an alternative fueler only if the Service--

(1) Determines that the applicant is an alternative fueler or is likely to become an alternative fueler within a reasonable time after being registered under §4101; and

(2) Is satisfied with the filing, deposit, payment, reporting, and claim history for federal taxes of the applicant and any related person (as defined in §48.4101-1(b)(5)).

Section 6. TAXATION OF ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES

(a) Alternative fuels--(1) Liquids. A liquid alternative fuel (that is, any alternative fuel other than compressed natural gas) is a liquid other than gas oil, fuel oil, or taxable fuel and is subject to the tax imposed by §4041(a)(2) when it is sold for use or used as a fuel in a motor vehicle or motorboat. Rules similar to the rules of §48.4041-3 and 48.4041-5 (relating to the application of the tax on sales of special motor fuels) apply. For exemptions from tax, see §4041(b), (f), (g), and (h).

(2) Compressed natural gas. Compressed natural gas is subject to the tax imposed by §4041(a)(3) when it is sold for use or used as a fuel in a motor vehicle or motorboat. The rules of §48.4041-21 apply. For exemptions from tax, see §4041(a)(3)(B), (b), (f), (g), and (h).

(b) Alternative fuel mixtures--(1) If an alternative fuel mixture is taxable fuel, the mixture is subject to tax imposed by §4081 when it is removed, entered, or sold and the rules of §48.4081-1 through 48.4081-8 apply.

(2) If an alternative fuel mixture is not a taxable fuel and is sold for use or used as a fuel in a diesel-powered highway vehicle or diesel-powered train, the mixture is subject to the tax imposed by §4041(a)(1) at the time of such sale or use and the rules of §48.4082-4 apply.

(3) If an alternative fuel mixture is not a taxable fuel and is sold for use or used as a fuel in a motor vehicle (other than a diesel-powered highway vehicle) or motorboat, the mixture is subject to the tax imposed by §4041(a)(2) at the time of such sale or use and rules similar to the rules of §48.4041-3 and 48.4041-5 (relating to the application of the tax on sales of special motor fuels) apply. For exemptions from tax, see §4041(b), (f), (g), and (h).

(c) Rate of tax. For the rate of tax generally, see §4041 and 4081. The rate of tax for compressed natural gas is \$0.183 per 126.67 cubic feet.

Section 7. QUALIFIED BLOOD COLLECTOR ORGANIZATIONS

(a) Overview. Under the Pension Protection Act of 2006 (Pub. L. 109-280), qualified blood collector organizations are exempt from many federal excise taxes (or a credit or payment relating to the tax is available). These taxes include the taxes on fuel, tires, communications services, and heavy vehicles. This provision is effective after December 31, 2006, except that the exemption from the highway use tax applies after June 30, 2007.

(b) Definition. Qualified blood collector organization has the meaning given to the term by § 7701(a)(49). Section 7701(a)(49) provides that a qualified blood collector organization means an organization that is described in § 501(c)(3) and is exempt from tax under § 501(a), primarily engaged in the activity of the collection of human blood, registered with the Service for purposes of excise tax exemptions, and registered by the Food and Drug Administration to collect blood.

(c) Registration--(1) In general. Each blood collector organization must be registered by the Service as a condition for applying for the exemptions (or credit or payments) under the Code as a blood collector organization. Application for registration is made on Form 637, Application for Registration (For Certain Excise Tax Activities), in accordance with the instructions for that form. As provided in § 48.4101-1(a)(2), a person is registered under § 4101 only if the Service has issued a registration letter to the person.

(2) Requirements. The Service will register an applicant as a blood collector organization only if the Service—

(i) Determines that the applicant is a person described in § 7701(a)(49)(A), (B), and (D); and

(ii) Is satisfied with the filing, deposit, payment, reporting, and claim history for all federal taxes of the applicant and any related person (as defined in § 48.4101-1(b)(5)).

Section 8. EFFECTIVE DATE

This notice is effective after September 30, 2006, except that section 7 of this notice is effective after December 31, 2006.

Section 9. DRAFTING INFORMATION

The principal authors of this notice are Susan Athy and Deborah Karet of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Athy (concerning alternative fuel and alternative fuel mixtures) and Ms. Karet (concerning qualified blood collector organizations) at (202) 622-3130 (not a toll-free call).