

Highway and Energy Bill Summary Energy Policy Act of 2005

Under the Energy Policy Act of 2005 there are two Income Tax Credits available. Generally called the Energy Bill, the two income tax credits that fleets may be eligible to obtain are: Income Tax Credit for Alternative Fuel Vehicle and Income Tax Credit for Alternative Fuel Infrastructure. Each Income Tax Credit provides an incentive for fleet managers to convert their vehicles to an alternative fuel motor vehicle.

Income Tax Credit for Alternative Fuel Vehicles

Under The Energy Policy Act of 2005, a tax incentive is provided with the purchase of a Natural Gas Vehicle (NGV). The Income Tax Credit is equal to a portion of the incremental cost of an NGV vehicle. The applicable percentage available for a new alternative fuel vehicle is:

- A) 50 percent of the allowable incremental cost if the vehicle is a dedicated alternative fuel vehicle.
- B) An additional 30 percent (80 percent total) of the allowable incremental cost if the new alternative fuel vehicle:
 - a. Has received a certificate that meets the EPA's most stringent emission standard available as of August 2005*
 - b. Has received a certificate that meets California's most stringent emission standard available as of August 2005*

***All of the following information should be provided by the manufacturer's certification from the IRS or the distributor.**

Incremental cost

The incremental cost of any NGV is equal to the amount of the manufacturer's suggested retail price of the natural gas vehicle over the price of a comparable diesel or gasoline motor vehicle. As stated in the Energy Policy Act, there are limits to how much incremental cost will be allowed in each individual gross vehicle weight rating (GVW). They are:

| | |
|--|---|
| A) Light duty vehicle (up to 8,500lbs) | Incremental cost up to \$5000 (Eligible for up to 80% funding) |
| B) Medium duty vehicle (up to 14,000lbs) | Incremental cost up to \$10,000 (Eligible for up to 80% funding) |
| C) Medium heavy duty vehicle (up to 26,000lbs) | Incremental cost up to \$25,000 (Eligible for up to 80% funding) |
| D) Heavy duty vehicle (over 26,000lbs) | Incremental cost up to \$40,000 (Eligible for up to 80% funding) |

How to obtain the Tax Credit:

To obtain the Income Tax Credit for the Alternative fuel vehicle, the vehicle must be purchased after December 30, 2005. The forms that are required to be filled in are Form 8910 (Alternative Motor Vehicle Credit) and the Income Tax Refund Form (1040). Each form is available on the Internal Revenue Service website (www.irs.gov) with instructions. This tax credit is set to expire December 31, 2010.

Additional information

The following requirements must be met before qualifying for the credit:

- The original use of the vehicle began with the applicant
- The applicant acquired the vehicle for his/her use or to lease to others, and not for the purpose of resale; and
- The applicant primarily uses the vehicle in the United States.

Tax Exempt Entity

Tax Exempt Entities are not eligible to receive the Alternative Fuel Vehicle Tax Incentive. If the applicant is the seller of a new vehicle to a tax-exempt organization, the applicant can claim the credit, but only if he/she reports, in writing, to the purchaser, the amount of the tentative credit allowable for the vehicle.

For further instructions, refer to the NGVAmerica (www.ngvc.org) or the Internal Revenue Service (www.irs.gov) websites.

Income Tax Credit for Fuel Infrastructure

Under the Energy Policy Act of 2005, a tax incentive is provided to the fuel Infrastructure owner. The Income Tax Credit is equal to 30 percent of the cost of any qualified alternative fuel vehicle refueling property, placed in service by the taxpayer.

A qualified alternative refueling property is any property (not a building or any other structural component) used to do either of the following:

A) Store or dispense a clean burning fuel into an alternative motor vehicle, but only if the storage or dispensing is located at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

B) Recharge motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicle is recharged.

In addition, the following requirements must be met to qualify for the credit

This guide is provided as a service and is not intended to be a final resource. Please consult the IRS website for further information.

- A) The refueling property was put into service after 2005.
- B) The original use of the property began with you.
- C) The applicant acquired the property for his/her use or to lease to others, and not for the purpose of resale.

Tax Credit

With a tax credit equal to 30 percent, the credit allowed shall not exceed

- A) \$30,000 for a large fuel station
- B) \$1,000 for a small refueling station (personal use application)

The previous tax deduction of \$100,000 for refueling property was repealed.

How to obtain the Credit:

To apply for the Tax Credit for Fuel Infrastructure, the Form 8911 (Alternative Fuel Vehicle Refueling Property Credit) must be completed along with the Income Tax Refund Form (1040).

Each form is available online at the Internal Revenue Service (www.irs.gov).

Additional information

Tax Exempt Entity

If the applicant is a tax exempt organization it cannot receive the tax credit. The seller of the new refueling property can claim the credit, but only if the seller informs the organization in a letter of the amount of the tentative credit allowable for the property.

The Tax credit is effective on equipment placed in service after December 31, 2005 and expires December 31, 2009.

For further instruction refer to the NGVAmerica (www.ngvc.org) or the Internal Revenue Service (www.irs.gov) websites.

Highway Bill

Under the 2005 Transportation Law, The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) the incentive for using alternative fuels was expanded to include CNG, LNG, LPG and hydrogen, as well as several other lesser known alternative fuels. The expansion also increased the federal excise tax ifor CNG and LNG.

Excise Tax Credit to the Seller of CNG or LNG

The Excise Tax Credit available for CNG is \$.55 per DGE (Diesel Gallon Equivalent) or \$.50 per GGE (Gasoline Gallon Equivalent) and \$.85 per DGE (\$.50 per gallon) for LNG. The tax credit is partially offset by the increase in excise tax provided through SAFETEA-LU. However, tax exempt entities receive the full \$0.50 incentive as their use of CNG and LNG is not subject to the federal excise tax.

The table below is a basic display of the excise tax increase as of Oct 1, 2006 and the tax credit. With the increase in the excise tax, LNG and CNG will pay the same rates as other transportation fuels in the Highway Trust Fund, but with the Excise Tax Credit, the CNG and LNG user will receive payment back from the general funds.

| Federal Excise Tax and Income Tax Credit \$/GGE (\$DGE) | | | |
|---|--|-------------|------------------------|
| | | Previous | Current As of Oct 1/06 |
| Fuel Types | | Excise Tax | Excise Tax Credit |
| CNG | | .043 (.067) | .183 (.203) .50 (.55) |
| | | .043 (.067) | .183 (.203) .50 (.55) |
| LNG | | .119 (.202) | .243 (.413) .50 (.85) |
| | | .119 (.202) | .243 (.413) .50 (.85) |

The Provision went into effect Oct 1, 2006 and expires after Sept 30, 2009

How to Obtain the Credit:

Taxable Entity:

1. To obtain the fuel Excise Tax Credit, the applicant must first complete Form 637 to register with the IRS.
2. The taxable entity claiming a tax credit must first claim it as an Excise Tax Credit on Form 720 (Quarterly Federal Excise Tax Return). The full credit may be claimed on this form. If the amount due back is greater than the excise tax owed, the claimant can check the refund box located on the form. (Previously taxable entities had to claim the credit on Form 4136 at the end of the year.) Form 8849, Schedule 3 also can be used for periodic claims but you cannot claim a credit for the same fuel on Form 720 and also on Form 8849.

Who receives the tax credit?

IRS guidance states that the entity that receives the tax credit is the “alternative fueler”. In other words, the entity that is legally responsible for remitting the excise tax to the federal government gets the credit.

Scenario A.

An end user (fleet) buys natural gas and has it delivered to their site and then compressed by an Operation and Maintenance (O&M) company for an O&M operation fee per DGE or GGE. In this situation, the fleet is considered the seller or alternative fueler and is obligated to pay the excise tax. Therefore, the fleet will receive the tax credit. The fleet is obligated to fill in Forms 637 and 720. Form 8849, Schedule 3, as well as Form 4136 also can be used to claim any credit not already claimed on Form 720. Form 8849 is filed periodically during the year while 4136 is used to file an annual claim for any credit not claimed during the year.

Scenario B.

If an O&M company supplies the fuel delivered to the site, then compresses and sells it to the end user (Fleet) in an all inclusive price, then the O&M company is considered the seller or alternative fueler. The O&M company would be obligated to remit the excise tax to the federal government and it would receive the tax credit. The O&M Company is obligated to fill in Forms 637 and 720 to receive the tax credit. As noted above, Form 8849, Schedule 3, as well as Form 4136 also can be used to claim any credit not already claimed on Form 720.

Tax Exempt Entity:

Government fleets are exempt from the excise tax but will be able to collect the fuel tax credit. As a tax exempt entity, registration is still required via the completion of Form 637 (Application for registration), to be recognized and be eligible for the tax credit.

Scenario A

Government fleets that own their own fueling equipment and purchase the natural gas prior to its compression generally qualify as the alternative fueler and can claim the alternative fuel incentive. If a government fleet sells alternative fuel to another government fleet, then as the seller or alternative fueler it also is able to claim the alternative fuel incentive for that fuel as well as fuel it uses in its own fleet vehicles. In order to claim the credit, the fleet would file Form 8849, Schedule 3. Periodic claims made during the year must be made no later than the end of the first quarter following the quarter in which the fuel was used or sold. If the previous requirement is not satisfied, tax exempt entities must file an annual claim using Form 8849, Schedule 3.

Scenario B

If a government fleet sells its fuel to a taxable entity, it must fill out Form 720 (Quarterly Federal Excise Tax Form) and offset the excise tax liability by claiming the alternative fuel credit on Schedule C of this Form. It also appears that they can now claim an alternative fuel credit on Schedule C of this form for any alternative fuel that they used in their own motor vehicles, or they could instead claim such amounts using Form 8849, Schedule 3.

Who receives the credit?

IRS guidance explains if the delivery of the fuel into a motor vehicle is not part of a “sale”, the operator of the motor vehicle is responsible for paying the excise tax.

For further instruction refer to the NGVAmerica (www.ngvc.org) or the Internal Revenue Service (www.irs.gov).

IRS Forms

Energy Law

Alternative Vehicle Credit: Form 8910

<http://www.irs.gov/pub/irs-pdf/f8910.pdf>

Alternative Fuel Vehicle Refueling Property Credit: Form 8911

<http://www.irs.gov/pub/irs-pdf/f8911.pdf>

Transportation Law (SAFETEA-LU)

Application for Registration: Form 637

<http://www.irs.gov/pub/irs-pdf/f637.pdf>

Quarterly Federal Excise Tax Return: Form 720

<http://www.irs.gov/pub/irs-pdf/f720.pdf>

Form 720 Instructions:

<http://www.irs.gov/pub/irs-pdf/i720.pdf>

Credit for Federal Tax Paid on Fuel: Form 4136

<http://www.irs.gov/pub/irs-pdf/f4136.pdf>

Form 4136 Instructions:

<http://www.irs.gov/pub/irs-pdf/i4136.pdf>

Claim for Refund of Excise Taxes: Form 8849

<http://www.irs.gov/pub/irs-pdf/f8849.pdf>

This guide is provided as a service and is not intended to be a final resource. Please consult the IRS website for further information.

Form 8849 Schedule 3: Other Claims
<http://www.irs.gov/pub/irs-pdf/f8849s3.pdf>

For further assistances completing these forms, contact the IRS Help Line.

Telephone Assistance for individuals
Toll Free, 1-800-829-1040

Telephone Assistance for businesses
Toll free, 1-800-829 4933

Telephone Assistance for Exempt Organizations
Toll free, 1-877-829-5500

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