(d) Consolidated returns

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.


AMENDMENTS


Amendment by Pub. L. 90–364 applicable to taxable years beginning after Dec. 31, 1967, except as provided by section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 755 of this title.

Effective Date of 1987 Amendment

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

Effective Date of 1986 Amendments

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 55 of this title.


§ 6426. Credit for alcohol fuel, biodiesel, and alternative fuel mixtures

(a) Allowance of credits

There shall be allowed as a credit—

(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and

(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).

No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.

(b) Alcohol fuel mixture credit

(1) In general

For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection—

(A) In general

Except as provided in subparagraph (B), the applicable amount is 51 cents.

(B) Mixtures not containing ethanol

In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(3) Alcohol fuel mixture

For purposes of this subsection, the term “alcohol fuel mixture” means a mixture of alcohol and a taxable fuel which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

(4) Other definitions

For purposes of this subsection—

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include—

(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) Taxable fuel

The term “taxable fuel” has the meaning given such term by section 4083(a)(1).

(5) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

(c) Biodiesel mixture credit

(1) In general

For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.
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(2) Applicable amount
   For purposes of this subsection—
   (A) In general
      Except as provided in subparagraph (B), the applicable amount is 50 cents.
   (B) Amount for agri-biodiesel
      In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

(3) Biodiesel mixture
   For purposes of this section, the term “biodiesel mixture” means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—
   (A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
   (B) is used as a fuel by the taxpayer producing such mixture.

(4) Certification for biodiesel
   No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

(5) Other definitions
   Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(6) Termination
   This subsection shall not apply to any sale, use, or removal for any period after December 31, 2008.

(d) Alternative fuel credit

(1) In general
   For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, or so used by the taxpayer.

(2) Alternative fuel
   For purposes of this section, the term “alternative fuel” means—
   (A) liquefied petroleum gas,
   (B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),
   (C) compressed or liquefied natural gas,
   (D) liquefied hydrogen,
   (E) any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and
   (F) liquid hydrocarbons derived from biomass (as defined in section 45K(c)(3)).
   Such term does not include ethanol, methanol, or biodiesel.

(3) Gasoline gallon equivalent
   For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Termination
   This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).

(e) Alternative fuel mixture credit

(1) In general
   For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture
   For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—
   (A) is sold by the taxpayer producing such mixture to any person for use as fuel, or
   (B) is used as a fuel by the taxpayer producing such mixture.

(3) Termination
   This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).

(f) Mixture not used as a fuel, etc.

(1) Imposition of tax
   If—
   (A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and
   (B) any person—
      (i) separates the alcohol or biodiesel from the mixture, or
      (ii) without separation, uses the mixture other than as a fuel,
   then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) Applicable laws
   All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 40A and not by this section.

(g) Coordination with exemption from excise tax
   Rules similar to the rules under section 40(c) shall apply for purposes of this section.


PRIOR PROVISIONS
generally. Prior to amendment, text read as follows:

There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

(1) the alcohol fuel mixture credit,

plus

(2) the biodiesel mixture credit.

Section applicable to fuel sold or used after Dec. 31, 2006, see section 11113(b)(1) of Pub. L. 109–59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109–59, set out as an Effective Date of 2004 Amendment note under section 4041 of this title.

Effective Date of 2005 Amendment

Amendment by section 11113(b)(1)–(3)(A) of Pub. L. 109–59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109–59, set out as an Effective Date of 2004 Amendment note under section 4041 of this title.

Effective Date

Section applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108–337, set out as an Effective Date of 2004 Amendment note under section 40 of this title.

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

(i) which is available to the general public, and

(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term “qualified local bus” means any local bus—

(i) which has a seating capacity of at least 20 adults (not including the driver), and

(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paraphraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(4) Refunds for use of diesel fuel in certain intercity buses

With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(A) is registered under section 4101, and

(B) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under