

September 2022

FACT SHEET: Alternative Fuel Tax Credit

General Information

In August 2022, President Biden signed into law the *Inflation Reduction Act of 2022*. The law retroactively extends the Alternative Fuel Tax Credit until December 2024.

Consult Your Tax Professional

This document was prepared to describe the tax credits and is for informational purposes only. It is not intended to be, nor should it be, relied upon as tax advice. Claimants should consult their tax advisors to determine eligibility for these tax credits and obtain guidance on filing claims with the Internal Revenue Service (IRS).

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Alternative Fuel Tax Credit

The Alternative Fuel Tax Credit is generally available to any individual or entity that:

- (1) sells “alternative fuel” for use in a motor vehicle or motorboat within the United States, or
- (2) uses the “alternative fuel” for such a purpose in the United States.

For these purposes, the term “alternative fuel” includes liquefied petroleum gas, and therefore propane.

The amount of the credit is 50 cents per gasoline gallon equivalent of propane, which equates to approximately 37 cents per gallon of propane.

Under IRS guidance, whether the seller or the user of propane is eligible for the Alternative Fuel Tax Credit depends on the circumstances. If a seller sells the propane for specific use as fuel in a motor vehicle or motorboat, the seller (and not the user) is the person eligible to claim the credit. Businesses, tax-exempt entities and individuals that purchase propane in bulk to fuel their own motor vehicles (often by means of a privately-owned fueling station) may also claim the credit, provided that the propane was not previously sold for the specific use as fuel in a motor vehicle or motorboat. In either case, only one claim for the credit may be made per gallon of fuel.

The reason for this is that the Alternative Fuel Tax Credit is only available when the sale or use of the alternative fuel is subject to the quarterly fuel excise tax (Internal Revenue Code Title 26, Section 4041) or would be so subject, absent an exemption. Under Section 4041(a)(2) and subject to certain exceptions not relevant here, a person is liable

for an excise tax on (1) the sale of any liquid (including liquified propane) sold for use as fuel in a motor vehicle or motor boat in the United States, or (2) the use of any liquid (including liquified propane) for such a purpose in the United States.

The rate of tax varies depending on the liquid; in the case of propane the tax rate is 18.3 cents per energy equivalent of a gallon of gasoline, or approximately 13.5 cents per gallon. Significantly, the tax on use does not apply in situations where the alternative fuel was previously subject to tax on sale: if propane is sold to a user in a sale subject to the Section 4041 fuel excise tax, the seller (and not the user) is the person that can claim the Alternative Fuel Tax Credit. Thus, where the Section 4041 fuel excise tax applies, qualifying individuals and entities are generally able to use the Alternative Fuel Tax Credit to fully offset their liability.

In some cases, a person eligible for the Alternative Fuel Tax Credit may claim the credit as either a direct cash payment from the U.S. Treasury Department or as a refundable income tax credit to the extent its allowable Alternative Fuel Tax Credit exceeds its Section 4041 fuel excise tax liability in a given quarter. Under the relevant statutes and IRS guidance, the following requirements apply:

- A person can only claim the Alternative Fuel Tax Credit as a cash payment or a refundable income tax credit if the qualifying sale or use occurred as part of the person's trade or business. Individuals with qualifying nonbusiness uses of their propane are limited to using the credit to offset their Section 4041(a) fuel excise tax liability.
- A person can only claim the Alternative Fuel Tax Credit as a cash payment or a refundable income tax credit to the extent the credit exceeds its Section 4041 fuel excise tax liability for a given quarter. Any Alternative Fuel Tax Credit to which a person is entitled that does not exceed a person's quarterly Section 4041 fuel excise tax liability must first be used as a credit against that tax.
- Only tax-exempt entities and governmental entities can claim the "excess credit" as a cash payment, others are limited to claiming the "excess credit" as a refundable income tax credit.

Qualifying vehicles

The IRS regulations provide guidance on what constitutes a "motor vehicle" for purposes of the Alternative Fuel Tax Credit. Under these rules, the term includes "all types of vehicles propelled by motor that are designed for carrying or towing loads from one place to another, regardless of the type of load or material carried or towed and whether or not the vehicle is registered or required to be registered for highway use." The regulation explicitly includes "forklift trucks" as an example, and excludes "farm

tractors, trench diggers, power shovels, bulldozers, road graders or rollers, and similar equipment which does not carry or tow a load.”

Registration requirement

Under IRS guidance, an individual or entity must be registered as an “alternative fueler” in order to claim the Alternative Fuel Tax Credit. Claimants can register using IRS Form 637, *Application for Registration (For Certain Excise Tax Activities)* (registration code “AL”). Persons who are registered under another category should consult their tax advisor with respect to their registration requirements to ensure that they receive the credit.

Taxpayer-specific situations

Businesses

Where a taxable business produces and sells propane for use as fuel in a motor vehicle or motorboat, that sale will generally both be subject to the Section 4041 fuel excise tax and eligible for the Alternative Fuel Tax Credit. To the extent the amount of the Alternative Fuel Tax Credit exceeds the applicable tax in a given quarter, the business will be eligible to claim a refundable income tax credit. The business generally will not be eligible for the Alternative Fuel Tax Credit if it purchased (rather than produced) the propane in a transaction that was previously subject to the Section 4041 fuel excise tax.

Tax-exempt entities

Entities that are exempt from income tax that own their own fueling stations or take title to propane prior to delivery into the tank of a motor vehicle or motorboat (thus potentially subjecting them to the Section 4041 fuel excise tax, unless they are exempt) can claim the Alternative Fuel Tax Credit regardless of whether they use the propane in their own motor vehicles and motorboats or sell the propane to other customers. These entities can claim any Alternative Fuel Tax Credit that exceeds their Section 4041 fuel excise tax liability in a given quarter as a direct cash payment from the U.S. Treasury Department.

Individuals

Individuals who are subject to the Section 4041 fuel excise tax on their use of propane as fuel in a motor vehicle or motorboat are eligible to claim the Alternative Fuel Tax Credit to “zero out” that tax liability, but generally will not be able to claim any benefit for the portion of the credit that exceeds their tax liability (either in cash or in a refundable income tax credit) unless they use the propane in their trade or business, in which case they can claim the full credit (with the excess amount claimed as a refundable income tax credit). Note that if an individual acquired the propane in a sale that was previously subject to the Section 4041 fuel excise tax, the individual generally will neither be subject to the tax on his or her subsequent use of the propane as fuel in a motor vehicle or motorboat nor be eligible to claim the Alternative Fuel Tax Credit.

Forms and Procedure

Generally, and on a prospective basis for 2024, qualifying individuals and entities claim the Alternative Fuel Tax Credit on Schedule C of a timely-filed IRS Form 720, *Quarterly Federal Excise Return*, to the extent of their Section 4041 fuel excise tax liability for the quarter at issue. The IRS is expected to update Schedule C of Form 720 soon to reflect the reinstatement of the credit. To the extent that a qualifying individual or entity's Alternative Fuel Tax Credit exceeds its Section 4041 fuel excise tax liability, Form 8849, *Claim for Refund of Excise Tax*, Schedule 3, is used to claim a cash payment or Form 4136, *Credit for Federal Tax Paid on Fuels*, is used to claim a refundable income tax credit, as appropriate. Forms 720 and 8849 are standalone filings, while taxpayers attach Form 4136 to their federal income tax return.

Notwithstanding the generally applicable rules of the previous paragraph, the IRS has issued "special" guidance relating to the retroactive extension of the Alternative Fuel Tax Credit for the first three quarters of 2022. Under Notice 2022-39, there is a 180-day window to submit all retroactive claims. This one-time opportunity begins on October 13, 2022 and runs through April 11, 2023. Qualifying individuals and entities should submit their claims on Form 8849 and Schedule 3 (Form 8849) only (regardless of whether the amount of the Alternative Fuel Tax Credit earned in a given quarter exceeds the claimant's Section 4041 fuel excise tax liability for that quarter).

IRS Forms:

- [Form 8849, Claim for Refund of Excise Taxes](#)
 - [Schedule 3 \(Form 8849\)](#)
- [Form 637, Application for Registration \(For Certain Excise Tax Activities\)](#)
- [Form 720, Quarterly Federal Excise Tax Return](#)
- [Form 4136, Credit for Federal Tax Paid on Fuels](#)

IRS Guidance Documents:

- [Notice 2006-92, Alternative Fuel and Alternative Fuel Mixtures](#)
- [Notice 2022-39, Alternative Fuel Mixture Claims for First, Second, and Third Calendar Quarters of 2022](#)

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