

Automotive Tax Insights

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Forklifts, golden eggs? - an easy and quick refundable credit may be available for those taxpayers that use a forklift in warehouse

In 2005, Congress enacted the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2005 to encourage the use of alternative fuels. The legislation created the Alternative Fuel credit (AFC), a 50 cents-per-gallon credit for alternative fuels. The credit is scheduled to expire on December 31, 2011. However, this credit has been extended several times by Congress since its original enactment in 2006. As recently as December 2010, the credit was extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853).

The credit may provide significant tax benefit to automotive companies that use forklifts, loaders, and other strictly off-highway machinery in their manufacturing and assembly plants. The credit is easy to claim and is refundable. Some taxpayers may be able to accelerate the benefits of the credit by claiming the credit on a weekly basis.

Eligible fuel

The AFC is available for users or sellers of alternative fuels used in off-road, business vehicles. Alternative fuels are defined in Internal Revenue Code section 6426(d)(2)



and specifically include liquefied petroleum gas, otherwise known as propane. Under section 6426(d)(2), propane qualifies as a special motor fuel (now alternative fuel).

It also defines "motor vehicle" using the definition in Reg. sec. 48.4041-8(c), which specifically includes forklifts as motor vehicles. Therefore, the sale of propane for use in a forklift qualifies for the AFC, if all other conditions are met, as discussed below.

How to claim the credit

The credit amount is the product of 50 cents and the number of gallons of alternative fuel used to power the motor vehicle. If the alternative fuel is not in liquid form, the credit is computed using the gasoline gallon equivalent in terms of energy value.

The credit is claimed as either an excise tax credit or an income tax credit. Amounts that exceed tax liability are fully refundable. The general procedure for claiming the credit is as follows:

1. Taxpayer must register with the IRS by filing Form 637, *Application for Registration (For Certain Excise Tax Activities)*, as an "Alternative Fueler."
2. If the taxpayer has an excise tax liability, the AFC is claimed on Form 720, *Quarterly Federal Excise Tax Return*.
3. After offsetting any excise tax liability, the excess of the AFC may be taken as a yearly income tax credit on Form 4136, *Credit for Federal Tax Paid on Fuels*, attached to the annual federal income tax return.

Acceleration

Taxpayers with no excise tax liability may be able to accelerate their AFC refund claim from an annual basis with Form 4136 to a quarterly basis using Form 8849, *Claim for Refund of Excise Taxes*. Form 8849 is due on the last day of the first quarter following the quarter in which the claimant used or sold the alternative fuel included in the claim. This is especially beneficial to qualifying taxpayers that extend their federal income tax returns, which are often filed eight and a half months after year-end.

If a taxpayer's AFC claim is greater than \$200, and the claim spans at least one week, the taxpayer can file Form 8849 to claim credits on a weekly basis, further accelerating the timing of refunds.

Even if a taxpayer chooses not to accelerate the credit claim, any amount claimed on the annual federal income tax return may be used to reduce the amount of required estimated tax payments resulting in the current period cash savings.



Claiming the credit in past years

Taxpayers with pre-2010 tax years for which the statute of limitations for refunds has not expired that qualify for the AFC still may be able to claim the credit. The taxpayer will first need to register with the IRS, and either file Form 720X, or file Form 4136 with an amended federal income tax for that tax year. The registration need not have been in place at the time of the original fuel use; registration is required only by the time the claim is filed.

Of particular note are claims made for the 2010 tax year. Originally, the AFC was available only through tax years ending in 2009; however, Congress extended the credit through December 31, 2011, with retroactive applicability to alternative fuel used or sold during 2010. IRS Notice 2011-10, 2011-6 I.R.B. 463, provides a special procedure to file a one-time claim for credit for the alternative fuel used or sold during 2010. If a taxpayer meets certain requirements included in this notice, the taxpayer is eligible to file all of its 2010 claims for the credit on one Form 8849, on or before August 1, 2011. Taxpayers that filed "protective" or anticipatory claims in 2010 must re-file their claims as specified in Notice 2011-10.

A key to a possible tax examination: record retention

All AFC claimants should maintain proper documentation to substantiate the claims made. In the event of an IRS examination, the primary inquiry from the IRS will relate to the acquisition of the alternative fuel. In the case of propane, supplies are most often obtained through an outside vendor, so the invoices from the vendor should be retained for all claim periods and should state clearly the volume of propane purchased. The IRS also may request documentation of actual use or sale of the alternative fuel. For propane, if there are no direct records of the fuel used, secondary records may be useful, such as types of forklifts used, average propane consumption per type of forklift, and average hours of use for forklifts.

Observations

Automotive OEM's and suppliers should review their excise or income tax filings to be certain they are taking advantage of the alternative fuel credit fully. The key is to put the right processes in place to gather the alternative fuel data so the credit may be claimed fully and timely.

How PwC can help

PwC may be able to assist taxpayers in claiming the AFC by determining eligibility for the credit and assisting with registration and credit acceleration. PwC personnel also may help taxpayers analyze the best way to claim a refund or credit for the sale or use of alternative fuels, as well as by preparing or reviewing the necessary forms. For clients that have never claimed the AFC, PwC can review records to identify if there is an opportunity to obtain a refund by filing amended returns.

For more information regarding automotive tax services, please visit us at www.pwc.com/auto

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