

**Fact Sheet:
Federal Incentive for Alternative
Fuel Use/Sale**

Overview

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Act) (Pub. L. No. 109-59, § 11113) provides an incentive for CNG and LNG when used as “motor vehicle” fuel (including use in some non-road vehicles). The \$0.50 incentive is provided to businesses, individuals, and tax-exempt entities that sell or, in some cases, use the fuel. The general rule is that the credit goes to the seller in the case of retail transactions. If the CNG or LNG, however, is dispensed using a private fueling station, the credit may go to the user of the fuel. This is explained below in greater detail. For businesses and tax-exempt entities (e.g., state and local governments), the credit must first be taken as an excise tax offset against taxes otherwise owed on alternative fuel they use or sell, and then may be taken as a refundable credit. Many tax-exempt entities will not owe any excise taxes and can immediately apply for a payment that essentially amounts to a rebate. In the case of individuals using the fuel for personal vehicles, the incentive is limited to an excise tax offset. NGV America has prepared a detailed Regulatory Summary explaining the incentive and guidance issued by the Internal Revenue Service (See link below). This fact sheet provides some details on the IRS guidance. However, persons interested in learning more about this issue should review the entire regulatory summary and the IRS guidance.

Tax Credit Values

LNG¹ - \$0.50 per gallon

CNG² - \$0.50 per gasoline gallon equivalent³ (See IRS Guidance below for additional information).

Tax Exempt Entities

The tax incentive for selling or using CNG and LNG is usually referred to as an excise tax credit. However, in reality the incentive is three things -- an excise tax credit, a refundable income tax credit and a rebate. Tax exempt entities that own their own fueling stations or take title to the natural gas prior to compression and/or

¹ The federal excise tax rate on LNG is currently \$0.243 per gallon. For tax rates on motor fuels, see IRS Form 720.

² The federal excise tax rate on CNG is currently \$0.183 cents per gasoline gallon equivalent. According to IRS guidance this means \$0.183 per 126.67 cubic feet. See IRS Form 720 for excise tax rates.

³ SAFETEA-LU defines a gasoline gallon equivalent (GGE) to be an amount of CNG that equals 124,800 British Thermal Units (higher heating value).

delivery into the tank of a motor vehicle can claim the \$0.50 credit. This is true whether they are using the fuel in their own vehicles or selling the fuel to other customers. If they are selling to other fleets that are not tax-exempt, however, they are liable for paying the excise taxes associated with taxable fuel (\$0.183 cents per GGE for CNG and \$0.243 cents per gallon of LNG).

Individual Consumers

For the most part, individual consumers cannot claim the credit for using CNG or LNG because the person selling the fuel to them will be the claimant. However, an individual that owns a home refueling unit can partially benefit from the tax incentive for CNG. The incentive in this case acts as an excise tax offset, zeroing out the persons liability for federal excise taxes. In the case of CNG, the federal excise tax due is \$0.183 per gasoline gallon equivalent. Individual consumers, however, cannot claim a refundable income tax credit for the remainder of the credit (\$0.50 - \$0.183) because the refundable credit is limited to persons that sell or use natural gas for business purposes. Under this reasoning, a person that owns a home refueling unit and uses the fuel for business purposes would be able to claim the full \$0.50 credit.

Effective Date

The credit for CNG and LNG took effect on October 1, 2006 and expires after December 31, 2009 unless extended by Congress.

IRS Regulations/Guidance/Forms

IRS Notice 2006-92 provides guidance on implementation of the incentive for selling or using CNG and LNG as motor vehicle fuels. NGVAmerica has prepared a detailed summary of this notice (see below for link). The guidance provides information on who receives the tax credit, how to take the credit, the units of measurement to use for calculating the tax provisions, and which tax forms to use. The \$0.50 credit can be taken as an excise tax credit, an income tax credit, or a direct payment, depending on the particular circumstances. In order to claim the credit, claimants must first register as an alternative fueler with the IRS and receive a registration number.

In retail sale situations, the person selling the fuel is the one that will claim the incentive. However, in certain other cases the user or person that owns the fuel prior to placement into a motor vehicle is the one that can claim the credit. This is often the case with privately owned stations where a business or governmental entity refuels its own fleets. It also may be the case where an entity purchases natural gas on its own but pays someone else a fee to own and operate a fueling station on its premises.

The claimant in both cases would be the person or entity that owns the fuel just prior to its placement into the motor vehicle.

The IRS guidance indicates that a gasoline gallon equivalent (GGE) of CNG is 121 cubic feet. NGVAmerica has requested that the IRS permit taxpayers to use other units of measurement (e.g., Therms, pounds) when converting CNG to gasoline gallon equivalents. We expect the IRS to act on this request when it issues proposed regulations for the alternative fuel credits. In the meantime, we recommend that claimants work with their local utility or fuel supplier if they need to convert other units of measurement back to cubic feet.

Motor Vehicles

The tax incentive for using CNG and LNG as motor vehicle fuel extends to some non-road or off-road vehicles. This is because the IRS definition of “motor vehicle” used for the alternative fuel incentive is broader than the definitions used for other purposes (e.g., implementation of the AFV and alternative fuel infrastructure credits). Those other incentives are limited to motor vehicles that are manufactured primarily for highway use. The definition of motor vehicle that is used for implementing the alternative fuel credit is found in section 48.4041-8(c) of the IRS’s regulations and it 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. Included are fork lift trucks used to carry loads at railroad stations, industrial plants, warehouses, etc. The term does not include farm tractors, trench diggers, power shovels, bulldozers, road graders or rollers, and similar equipment which does not carry or tow a load; nor does it include any vehicle which moves exclusively on rails.

Timing of Claims

For tax exempt entities with no requirement to pay excise taxes, the alternative fuel credit must be claimed by the end of the quarter following use or sale by using Form 8849 with the Schedule 3 attachment. Claims by tax exempt entities not made in this manner must be made at the end of the year by filing an annual claim using the same forms. Entities responsible for paying excise taxes on fuel will use Form 720 (Quarterly Federal Excise Tax Return) to offset excises owed and claim any excise credit by requesting a refund. Previously these claimants had to wait until the end of the year to file Form 4136 to receive excess credits. If for some reason a proper claim is not made in this manner, the taxable entity can file Form 8849 with Schedule 3 by

the end of the quarter following quarter in which the use or sale occurred, or they must wait until the end of the year to file an annual claim using Form 4136.

Links to IRS and Other Resources

Notice 2006-92, “Alternative Fuel and Alternative Fuel Mixtures” -

<http://www.irs.gov/pub/irs-drop/n-06-92.pdf>

NGV America Regulatory Summary - <http://www.ngvc.org/pdfs/Notice2006-92RegSum2.pdf>

IRS Tax Forms - <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html> (scroll down to obtain the latest forms)

Tax Forms Needed to Claim Credit

- Form 637, “Application for Registration” – must file in order to be able to claim credit
- Form 720, “Quarterly Federal Excise Tax Return” – pay excise taxes owed, offset taxes with portion of credit, claim excess credit and check refund
- Form 720X, “Amended Quarterly Excise Tax Form” – if you need to file an amended form to take credit for CNG or LNG used in the past but not claimed
- Form 8849, “Claim for Refund of Excise Taxes” - use this to claim alternative fuel credit if you are tax exempt and do not owe any excise taxes on alternative fuel; if you sell taxable fuel, use this form to claim excess credit not otherwise claimed on Form 720
- Form 8849, Schedule 3, “Certain Fuel Mixtures and the Alternative Fuel Credit” – this attachment goes with Form 8849 and is used to figure out how much credit to claim for alternative fuels used or sold
- Form 4136, “Credit for Federal Tax Paid on Fuels” - use at the end of year to claim excise tax credit if not otherwise claimed during year – mostly only used by taxable entities

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