

**Fact Sheet:  
Federal Incentive for Alternative  
Fuel Infrastructure**

**Overview**

The Energy Policy Act (EPA) of 2005 (Pub. L. No. 109-58, § 1342) provides an income tax credit equal to 30 percent of the cost of installing new natural gas refueling equipment. The credit is worth up to a maximum of \$30,000 in the case of business property and \$1,000 for home refueling appliances. This incentive is intended to expand the availability of natural gas refueling stations, increase use of natural gas as a motor vehicle fuel, and reduce demand for petroleum motor fuels. In order to qualify for the incentive, the fueling equipment generally must be new, and the original use of the equipment must begin with the person claiming the credit. The tax credit replaces a tax deduction that had been allowed under the Energy Policy Act of 1992 (*See* Pub. L. No. 102-486, § 1913, 26 USC 179A). In order to qualify for the credit, the fueling equipment also must be used to refuel motor vehicles, which are defined as vehicles that have been manufactured primarily for “use on public streets, roads, and highways.” Converted and/or retrofitted equipment will qualify for the tax credit if it was not previously used to refuel alternative fuel motor vehicles. If the fueling equipment is leased, the lessor (i.e., leasing company) and not the lessee receives the incentive. If the infrastructure is acquired by a tax-exempt entity, the company that sold the fueling equipment can claim the tax credit -- but only if they provide the customer with written notification of the credit value. The seller may -- but is not required to -- pass along any savings associated with the tax credit.

**Tax Credit Values**

- \$30,000 or 30 percent of cost (whichever is less) for property that is depreciable (i.e., business property)
- \$1,000 for fueling equipment that is not subject to depreciation and is installed at a personal residence

**Limitations**

The income tax credit is subject to alternative minimum tax provisions and anyone taking a tax credit for property placed in service must reduce their basis in the cost of the equipment. In addition, there is no carry over credit for *individuals*, so that, if AMT precludes an individual from realizing the full benefit of a tax credit in a particular year, they may not carry a portion of the credit forward or backward.

Businesses, however, are permitted to carry forward and backward unused portions of the credit.

### **Per Location Limitation**

The incentive for alternative refueling equipment previously included a per location limitation of \$100,000 when it was a tax deduction under section 179A. This limitation meant that the maximum amount of credit that could be taken at a single location was \$100,000 regardless of the number of dispensers installed or when they were put in place. This limitation apparently was inadvertently dropped when Congress enacted EPAct 2005 and moved the tax credits to section 30C of the tax code. Therefore, according to our review of the statutory change in EPAct 2005, a taxpayer could potentially have taken separate \$30,000 tax credits for each individual piece of qualified alternative refueling equipment installed at a single location. The Congress and the IRS indicated that this potential for multiple credits was not intended. In December 2007, the Congress passed the Tax Technical Corrections Act (H.R. 4839, Pub. L. No. 110-172) that retroactively modified the fueling infrastructure credit language found in 30C so that it is now clear that a taxpayer may only claim one credit in a given year for any one location. If equipment is installed at different locations then multiple credits potentially can be taken. The limitation enacted by Congress in 2007 is actually more generous than the previous limitation under EPAct 1992 because it allows additional credit to be taken in future years if qualified refueling equipment is added at a location.

### **Leased Equipment**

The IRS has indicated that the person that leases equipment (owns it for the purposes of leasing to others) is the one that takes the tax credit. This is not explicitly stated in the statute or the IRS' guidance. However, the tax forms issued by the IRS indicate in the instructions that this is the case. See Form 8911, "Alternative Fuel Vehicle Refueling Property Credit."

### **Effective Date**

The credit is effective on equipment placed in service after December 31, 2005 and expires December 31, 2009. (See below for guidance on "placed in service.")

### **IRS Regulations/Guidance/Forms**

The IRS has issued guidance concerning the tax credits for alternative fuel infrastructure. This guidance is included in Notice 2007-43, "Credit for Alternative

Fuel Vehicle Refueling Property.” The credits cover the cost of acquiring equipment that is used to store and dispense qualified alternative fuels such as CNG or LNG into a motor vehicle. The cost of buildings and their structural components generally is not allowed, however. The IRS guidance clarifies that acquiring retrofitted or rebuilt equipment *does not* qualify for the tax credit if the equipment was previously used to store or dispense alternative fuels. Retrofitted or rebuilt equipment that was previously used for purposes other than storing or dispensing alternative fuels would qualify for the credit. The IRS also has clarified what happens with so-called dual-use property. This issue arises, for example, with respect to natural gas in the context of LNG tanker facilities. The IRS has clarified that storage facility equipment generally does not qualify for the tax credit if the equipment is located away from where fuel is actually dispensed into motor vehicles. If the facility serves as a tanker facility and a retail fueling site, the additional cost of any equipment associated with the dispensing fuel into motor vehicles (not tankers) may be taken into account when claiming the tax credit. This guidance would appear to extend to situations in which fueling equipment is used to refuel on-road motor vehicles and non-road vehicles such as fork-lifts, meaning that only the cost associated with storing and dispensing fuel for the on-road motor vehicles could be claimed as a credit.

The guidance also clarifies when fueling infrastructure is considered placed in service. According to IRS regulations, the relevant date is the earlier of when the property first is depreciated or is in a state of readiness and availability for use even if it is not actually used.

### **Links to IRS and Other Resources**

IRS Notice 2007-43, “Credit for Alternative Fuel Vehicle Refueling Property” –

<http://www.irs.gov/pub/irs-drop/n-07-43.pdf>

IRS Tax Forms - <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html> (scroll down to obtain the latest version of Form 8911, “Alternative Fuel Vehicle Refueling Property Credit”)

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