

117TH CONGRESS  
1ST SESSION

# S. 2262

To amend the Internal Revenue Code of 1986 to establish an income tax credit for the sale or blending of certain fuels containing ethanol.

---

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Ms. KLOBUCHAR (for herself and Mr. THUNE) introduced the following bill;  
which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to establish an income tax credit for the sale or blending of certain fuels containing ethanol.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Low Carbon Biofuel  
5       Credit Act”.

6       **SEC. 2. CREDIT FOR SALE OR BLENDING OF ETHANOL**  
7       **FUELS.**

8       (a) IN GENERAL.—Subpart D of part IV of sub-  
9       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new  
 2 section:

3 **“SEC. 45U. CREDIT FOR SALE OR BLENDING OF ETHANOL**  
 4 **FUELS.**

5 “(a) IN GENERAL.—For purposes of section 38, the  
 6 ethanol fuel credit determined under this section for any  
 7 taxable year is an amount equal to—

8 “(1) in the case of an applicable taxpayer which  
 9 is described in subsection (b)(1)(A)—

10 “(A) for each gallon of E15 blended by  
 11 such taxpayer, 5 cents, and

12 “(B) for each gallon of fuel blended by  
 13 such taxpayer which contains more than 15 vol-  
 14 ume percent ethanol, 10 cents, and

15 “(2) subject to subsection (c), in the case of an  
 16 applicable taxpayer which is described in subsection  
 17 (b)(1)(B)—

18 “(A) for each gallon of E15 sold by such  
 19 taxpayer, 5 cents, and

20 “(B) for each gallon of fuel sold by such  
 21 taxpayer which contains more than 15 volume  
 22 percent ethanol, 10 cents.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) APPLICABLE TAXPAYER.—The term ‘appli-  
 25 cable taxpayer’ means—

1 “(A) an oxygenate blender (as defined in  
 2 section 1090.80 of title 40, Code of Federal  
 3 Regulations), and

4 “(B) a retailer (as defined in paragraph  
 5 (7) of section 101 of the Petroleum Marketing  
 6 Practices Act (15 U.S.C. 2801)).

7 “(2) E15.—The term ‘E15’ means gasoline  
 8 that contains more than 13 and no more than 15  
 9 volume percent ethanol.

10 “(c) ELECTION.—

11 “(1) IN GENERAL.—

12 “(A) ELECTION BY OXYGENATE BLEND-  
 13 ER.—Subsection (a)(1) shall apply with respect  
 14 to any gallon of fuel described in such sub-  
 15 section only if the applicable taxpayer described  
 16 in subsection (b)(1)(A) elects to have such sub-  
 17 section apply with respect to such gallon of fuel.

18 “(B) NOTIFICATION.—The applicable tax-  
 19 payer described in subparagraph (A) shall pro-  
 20 vide notice of their election with respect to any  
 21 gallon of fuel described in such subparagraph to  
 22 any applicable taxpayer described in subsection  
 23 (b)(1)(B) to which such fuel is sold, with such  
 24 notice to be provided on or before the date of  
 25 such sale.

1           “(2) CREDIT FOR RETAILER AVAILABLE ONLY  
 2           IF NOT CLAIMED BY OXYGENATE BLENDER.—Sub-  
 3           section (a)(2) shall apply with respect to any gallon  
 4           of fuel described in such subsection only if the appli-  
 5           cable taxpayer described in subsection (b)(1)(A) has  
 6           not elected (pursuant to paragraph (1)) to apply  
 7           subsection (a)(1) with respect to such gallon of fuel.

8           “(d) REFUNDABLE CREDIT FOR SMALL RETAIL-  
 9           ERS.—For purposes of this title, in the case of a retailer  
 10          with not greater than 5 retail locations at the close of the  
 11          taxable year, the credit allowed under subsection (a)(2)  
 12          for such taxable year shall be treated as a credit allowable  
 13          under subpart C (and not allowable under this subpart)  
 14          for such taxable year.

15          “(e) TRANSFER OF CREDIT.—

16               “(1) IN GENERAL.—Subject to such regulations  
 17          or other guidance as the Secretary determines nec-  
 18          essary or appropriate, if, with respect to the credit  
 19          allowed under subsection (a) for any taxable year,  
 20          the applicable taxpayer elects the application of this  
 21          subsection for such taxable year with respect to all  
 22          (or any portion specified in such election) of such  
 23          credit, the eligible entity specified in such election,  
 24          and not the applicable taxpayer, shall be treated as

1 the taxpayer for purposes of this title with respect  
 2 to such credit (or such portion thereof).

3 “(2) ELIGIBLE ENTITY.—For purposes of this  
 4 subsection, the term ‘eligible entity’ means any per-  
 5 son within the supply chain for fuel described in  
 6 such section (a).”.

7 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 8 CREDIT.—Subsection (b) of section 38 of the Internal  
 9 Revenue Code of 1986 is amended by striking “plus” at  
 10 the end of paragraph (32), by striking the period at the  
 11 end of paragraph (33) and inserting “, plus”, and by add-  
 12 ing at the end the following new paragraph:

13 “(34) the credit for sale or blending of ethanol  
 14 fuels under section 45U to which subsection (d) of  
 15 such section does not apply.”.

16 (c) CONFORMING AMENDMENT.—The table of sec-  
 17 tions for subpart D of part IV of subchapter A of chapter  
 18 1 of the Internal Revenue Code of 1986 is amended by  
 19 adding at the end the following new item:

“Sec. 45U. Credit for sale or blending of ethanol fuels.”.

20 (d) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to fuel blended or sold after De-  
 22 cember 31, 2021.

○