(b) Alcohol fuel mixture credit

(1) In general

For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable amount is—

(i) in the case of calendar years beginning before 2009, 51 cents, and

(ii) in the case of calendar years beginning after 2008, 45 cents.

(B) Mixtures not containing ethanol

In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(C) Reduction delayed until annual production or importation of 7,500,000,000 gallons

In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting “51 cents” for “45 cents”.

(3) Alcohol fuel mixture

For purposes of this subsection, the term “alcohol fuel mixture” means a mixture of alcohol and a taxable fuel which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

(4) Other definitions

For purposes of this subsection—

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include—

(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) Taxable fuel

The term “taxable fuel” has the meaning given such term by section 4083(a)(1).

(5) Volume of alcohol

For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2011.
(c) Biodiesel mixture credit

(1) In general
For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount
For purposes of this subsection, the applicable amount is $1.00.

(3) Biodiesel mixture
For purposes of this section, the term “biodiesel mixture” means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—
(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
(B) is used as a fuel by the taxpayer producing such mixture.

(4) Certification for biodiesel
No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

(5) Other definitions
Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(6) Termination
This subsection shall not apply to any sale, use, or removal for any period after December 31, 2022.

(d) Alternative fuel credit

(1) In general
For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, sold by the taxpayer for use as a fuel in aviation, or so used by the taxpayer.

(2) Alternative fuel
For purposes of this section, the term “alternative fuel” means—
(A) liquefied petroleum gas,
(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),
(C) compressed or liquefied natural gas,
(D) liquefied hydrogen,
(E) any liquid fuel which meets the requirements of paragraph (4) and which is derived from coal (including peat) through the Fischer-Tropsch process,
(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and
(G) liquid fuel derived from biomass (as defined in section 45K(c)(3)).

Such term does not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

(3) Gasoline gallon equivalent
For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Carbon capture requirement
(A) In general
The requirements of this paragraph are—
(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and
(ii) 75 percent in the case of fuel produced after December 30, 2009.

(5) Termination
This subsection shall not apply to any sale or use for any period after December 31, 2021.

(e) Alternative fuel mixture credit

(1) In general
For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture
For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel (other than a fuel described in subparagraph (A), (C), or (P) of subsection (d)(2)) and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—
(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or
(B) is used as a fuel by the taxpayer producing such mixture.

(3) Termination
This subsection shall not apply to any sale or use for any period after December 31, 2021.

(f) Mixture not used as a fuel, etc.

(1) Imposition of tax
If—
(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and
(B) any person—
(i) separates the alcohol or biodiesel from the mixture, or

such term does not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

(3) Gasoline gallon equivalent
For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Carbon capture requirement
(A) In general
The requirements of this paragraph are—
(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and
(ii) 75 percent in the case of fuel produced after December 30, 2009.

(5) Termination
This subsection shall not apply to any sale or use for any period after December 31, 2021.

(e) Alternative fuel mixture credit

(1) In general
For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture
For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel (other than a fuel described in subparagraph (A), (C), or (P) of subsection (d)(2)) and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—
(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or
(B) is used as a fuel by the taxpayer producing such mixture.
(ii) without separation, uses the mixture other than as a fuel,
then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) Applicable laws
All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

(g) Coordination with exemption from excise tax
Rules similar to the rules under section 40(c) shall apply for purposes of this section.

(h) Denial of double benefit
No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40 or 40A.

(i) Limitation to fuels with connection to the United States

(1) Alcohol
No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

(2) Biodiesel and alternative fuels
No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term “United States” includes any possession of the United States.

(j) Energy equivalency determinations for liquefied petroleum gas and liquefied natural gas
For purposes of determining any credit under this section, any reference to the number of gallons of an alternative fuel or the gasoline gallon equivalent of such a fuel shall be treated as a reference to—

(1) in the case of liquefied petroleum gas, the energy equivalent of a gallon of gasoline, as defined in section 4041(a)(2)(C), and

(2) in the case of liquefied natural gas, the energy equivalent of a gallon of diesel, as defined in section 4041(a)(2)(D).


Editorial Notes
Conforming

PRIORITY PROVISIONS

AMENDMENTS


Subsec. (e)(2). Pub. L. 116–94, §133(b)(1), in introductory provisions, substituted “mixture of alternative fuel (other than a fuel described in subparagraph (A), (C), or (F) of subsection (d)(2))” for “mixture of alternative fuel”.


Subsec. (d)(2). Pub. L. 111–312, §704(b), substituted “biodiesel, or any fuel (including lignin, wood residues,” for “...
or spent pulping liquors) derived from the production of paper or pulp for "or biodiesel," in concluding provisions.


Subsec. (d)(2)(E). Pub. L. 110–343, § 204(c)(2), inserted "which meets the requirements of paragraph (4) and (which is) after "any liquid fuel." 

Subsec. (d)(2)(F). Pub. L. 110–343, § 204(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).


Subsec. (d)(5). Pub. L. 110–343, § 204(c)(1), redesignated par. (4) as (5).


Subsec. (a). Pub. L. 109–189, § 11113(b)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—" (1) the alcohol fuel mixture credit, plus "(2) the biodiesel mixture credit.


Subsec. (d)(2)(F). Pub. L. 109–58, § 11151(e)(2), substituted "section 45K(c)(3)" for "section 29(c)(3)).

Subsecs. (e) to (g). Pub. L. 109–58, § 11113(b)(2), added subsec. (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

Statutory Notes and Related Subsidiaries 

Effective Date of 2020 Amendment

Pub. L. 116–260, div. E, title I, § 147(c), Dec. 27, 2020, 134 Stat. 3065, provided that: "The amendments made by this subsection (probably means "this section", amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2020.

Effective Date of 2019 Amendment

this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2008.

Amendment by section 1131(b)(2) of Pub. L. 110–234 applicable to credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2008, and ending on December 31, 2009.

Amendment by section 11113(b)(3) of Pub. L. 110–234 applicable to fuel sold or used after December 31, 2008, as set out as a note under section 640A of this title.

Amendment by section 11113(b)(4) of Pub. L. 110–234 applicable to fuel sold or used after December 31, 2008, as set out as a note under section 640B of this title.

Amendment by section 40407(b)(4) of Pub. L. 115–123, div. D, title I, set out as a note under section 40415(b) of this title, provided that: “Nothing contained in this subsection [amending this section and enacting provisions set out as a note under this section] or the amendments made by this subsection shall be construed to create any inference as to a change in law or guidance in effect prior to enactment of this subsection.”

SPECIAL RULES FOR 2018 AND 2019

Amendment by section 40415(b) of Pub. L. 115–123, div. D, title I, set out as a note under section 40415(b) of this title, provided that: “Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 4627(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Feb. 9, 2018] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”
ning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6621 of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act (Feb. 9, 2016) providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULES FOR 2015

Pub. L. 114–113, div. Q, title I, §185(b)(4), Dec. 18, 2015, 129 Stat. 3073, provided that: "Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2015, and ending on December 31, 2015, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6621 of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act (Dec. 18, 2015) providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULES FOR 2010

Pub. L. 111–312, title VII, §701(c), Dec. 17, 2010, 124 Stat. 3310, provided that: "Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6621 of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act (Dec. 17, 2010) providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULE FOR CERTAIN PERIODS DURING 2014


(1) any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act (Dec. 19, 2014), and

(2) any alternative fuel credit properly determined under section 6426(d) of such Code for such periods, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6621 of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act (Dec. 19, 2014) providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of sec-