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UPDATED! SPECIAL CLAIM PROCEDURES FOR 2015 RETROACTIVE BIODIESEL BLENDER CREDIT AND ALTERNATIVE FUEL CREDIT

The IRS has issued special one-time claim procedures (IRS Notice 2016-05) for obtaining the \$1.00 per gallon biodiesel blender credit reinstated by Congress retroactively for calendar year 2015 *Protecting Americans from Tax Hikes Act of 2015* (PATH Act). PMAA worked closely with Congress over the past year to ensure that the biodiesel blender credit was reinstated, made retroactive to 2015 and not changed to a producer credit. In a major victory for marketers, the blender credit was extended through December 31, 2016 and made retroactive for biodiesel blends produced in calendar year 2015.

The biodiesel credit applies to qualified diesel fuel and heating oil blends that comply with ASTM D6751 standard for biodiesel. The IRS special procedures allow for one-time payments covering the entire 2015 claim period. Reinstatement of the biodiesel blender credit is limited to qualified blends created during calendar year 2015. The IRS is providing a straight refund of \$1.00 per gallon taken on IRS Form 8849 or taken as a credit on annual income tax return. Notice 2016-05 also sets forth claim procedures for the \$0.50-per gallon alternative fuel credit and the alternative fuel mixture credit.

The following special procedures must be used when filing a claim for the 2015 retroactive biodiesel blenders credit described above:

I. ONE-TIME CLAIM PROCEDURE FOR 2015 BIODIESEL BLENDER CREDIT:

- The IRS is allowing a one-time single claim for all biodiesel blender credits (*IRC Section 6426(c)* earned during calendar year 2015).
- The claim amount is \$1.00 for each gallon of qualified biodiesel blended into diesel fuel or heating oil during calendar year 2015.
- Claimant must have a valid IRS 637M certificate in order to make a claim for biodiesel blends created during calendar year 2015. Claimants who do not currently have a valid 637M certificate must first obtain one from the IRS before filing a claim for 2015 retroactive credits.
- Claim must be made on IRS Form 8849 *Claim for Refund of Excise Taxes* and IRS Form 8849 (Schedule 3) *Certain Fuel Mixtures and the Alternative Fuel Credit*.

- Use a single Form 8849 and Form 8849 (Schedule 3) to claim all biodiesel blend volumes created during calendar year 2015. Enter 2015 volumes on Form 8849 (Schedule 3) line 2. The IRS will not accept multiple claims or quarterly filings for biodiesel blends created during calendar year 2015.
- 2015 retroactive biodiesel blender claims may be filed as early as February 8, 2016, but no claim may be filed later than August 8, 2016. **The IRS will not accept claims for 2015 retroactive biodiesel blender credits filed after August 8, 2016.**
- Any 2015 retroactive biodiesel blender credit claim filed with the IRS before January 16, 2016 must be re-filed. The IRS will not honor or process 2015 biodiesel claims filed before January 16, 2016.
- Claims may be filed electronically, or mailed to the following address:

**Internal Revenue Service
P.O. Box 312
Covington, KY 41012-0312**

Write "Fuel Mixture Claim" on the claim envelope.

II. ONE-TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL CREDIT:

The IRS is also accepting retroactive claims for alternative fuel sold or used during calendar year 2015. The IRS allows a person that sells or uses alternative fuel as a fuel in a motor vehicle or motorboat and in aviation to claim a \$0.50-per-gallon credit against the claimant's motor fuel excise tax liability (relating to the tax imposed on diesel fuel and alternative fuel).

- **Alternative Fuels Include:** liquefied petroleum gas; P Series; compressed or liquefied natural gas; liquefied hydrogen, qualified liquids derived from coal (including peat); compressed or liquefied gas derived from biomass; and liquid fuel derived from biomass.
- Alternative fuels subject to the \$0.50-per gallon credit **do not** include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.
- Procedures for filing the alternative fuel claim are the same as for biodiesel credit above except the \$0.50-per gallon credit is taken on line 3 of IRS Form 8894 Schedule 3.

III. ONE TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL MIXTURE CREDIT:

Refer to IRS Notice 2016-05 to claim the \$0.50-per gallon credit on the alternative fuel mixture credit. This credit is for the mixture of alternative fuels into conventional fuel.

- Alternative fuels subject to the \$0.50-per gallon alternative fuel mixture credit **do not** include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

IV. OBTAINING IRS FORMS:

IRS Forms 637, 8849, and 8849 (Schedule 3) are available at www.irs.gov click on "Forms and Pubs", then click on "Find All Current Forms and Pubs" and scroll down to the appropriate IRS form. Forms are listed in numerical order. **The IRS has now published the revised Form 8849 Schedule 3 and posted it on its web site. This means that blenders may now file retroactive claims for 2015.**

IRS Notice 2016-05 outlining the special claim procedures for 2015 retroactive biodiesel blender credits, alternative fuel credits and alternative fuel mixture credits is available here: [IRS Notice 2016-05](#)

Got Questions? Contact PMAA Regulatory Counsel Mark S. Morgan at mmorgan@pmaa.org

HOUSE TO VOTE ON MENU LABELING LEGISLATION

Next week, the House is expected to take up the "Common Sense Nutrition Disclosure Act." The bipartisan legislation, introduced by Reps. Cathy McMorris Rogers (R-WA) and Loretta Sanchez (D-CA), passed the House Energy and Commerce Committee in November by a vote of 36-12.

This legislation modifies the Menu-Labeling language in Obamacare to permit retailers to identify a single primary menu while not having to include nutrition labeling in other areas of the store. Furthermore, the bill clarifies that advertisements and posters do not need to be labeled and provides flexibility in disclosing the caloric content for variable menu items that come in different flavors or varieties, and for combination meals. Lastly, the bill ensures that retailers acting in good faith are not penalized for inadvertent errors in complying with the rule and stipulates that individual store locations are not required to have an employee "certify" that the establishment has taken reasonable steps to comply with the requirements.

This legislation is important because it gives retailers the flexibility they need to comply with the menu-labeling regulations. PMAA is optimistic that it will be passed on the House floor. Companion legislation (S. 2217) introduced in the Senate by Senators Roy Blunt (R-MO) and Angus King (I-ME) will be voted on in the near future.

Click [here](http://www.congressweb.com/pmaa/6?setMobile=1) (<http://www.congressweb.com/pmaa/6?setMobile=1>) to write Congress in support of H.R. 2017 and S. 2217.

SENATE ENERGY LEGISLATION STALLED

The Senate spent most of its week debating amendments to S.2012, the "Energy Policy Modernization Act." The biggest provision in S. 2012 would require the Department of Energy to approve or deny the use and operation of an LNG export facility no later than 45 days after an environmental review conducted by the Federal Energy Regulatory Commission (FERC). It would also require the Department of Energy to gather and distribute data on the destinations of LNG exports.

So far, 25 amendments have been considered on the floor with 22 being agreed to. One amendment that failed would have expedited certain natural gas gathering lines on Federal land and Indian land. Another amendment that has been filed, but unlikely to see the light of day, is an amendment by Senator Barrasso (R-WY) which would authorize the construction and use of natural gas pipelines in national parks. PMAA continues to support fuel neutral pipeline legislation and because the amendment does not include oil pipelines, PMAA cannot support the amendment.

Although the bill has broad bipartisan support, the Senate failed to invoke cloture on the bill (meaning it needed 60 votes to move forward) because of a disagreement over how to handle the recent water crisis in Flint, Michigan. President Obama has stated that while he supports many of the provisions in the bill, he has serious concerns with others. He has yet to issue a veto threat.

PMAA will continue to closely monitor amendments that may affect our members. The House approved its own energy bill, H.R. 8, in early December by a vote of 249-174.

OBAMA SEEKS TO RAISE GASOLINE COSTS WITH A NEW FEE

Now that he is near the end of his term, and with a plan that has zero chance of passing Congress, President Obama has included a \$10 tax on every barrel of oil in his final budget request that will be released next week. The fee would pay for billions in investment on his green transportation projects.

Obama's entire budget request is expected to be "dead on arrival" on Capitol Hill, particularly his call for the barrel fee/gasoline tax which is expected to raise gasoline prices by 25 cents a gallon. Senator Barrasso (R-WY) released this statement after Obama's announcement, "Another budget, another tax on the middle class. President Obama targets new taxes on Americans that can afford it the least to spend more taxpayer dollars on his green energy schemes. Congress should and will reject it." Speaker Paul Ryan (R-WI) immediately rejected the budget.

Meanwhile, the House and Senate Republican Budget Committee Chairman said that they would not extend the usual invitation to the administration to testify before their panels to discuss the Administration's budget plan. "Rather than spend time on a proposal that, if anything like this administration's previous budgets, will double down on the same failed policies," this "Congress should continue our work on building a budget that balances and that will foster a healthy economy," House Budget Chairman Tom Price said in a statement.

HOUSE UNABLE TO OVERRIDE OBAMA'S VETO OF THE SAVE AMERICAN WORKERS ACT

This week, the House attempted to override President Obama's veto of legislation which was recently approved by the House and would change the definition of the Affordable Care Act's full time employee from a 30 hour work week to the standard 40 hour requirement. The bill known as the "Save American Workers Act of 2015" passed by a vote of 252- 172 in January, and was vetoed by Obama two days after House passage. This week with a vote of 241-186, Republicans were unable to obtain the 290 votes needed to override a Presidential veto.

Last year, the Obama Administration decided to delay employer mandate fines for employers with 50 to 99 full-time workers until January 1, 2016 if they fail to offer workers health insurance. Companies with more workers could avoid some penalties in 2015 if they show they were offering coverage to at least 70 percent of full-time workers. The move came after PMAA and other associations pressured the Obama administration to peel back the law's insurance requirements. Some companies had trimmed workers' hours to below 30 hours a week to avoid paying a penalty if they didn't offer insurance.

PMAA strongly supported the delay but remains concerned about long term consequences of the mandate for PMAA members. A change in presidential leadership will be required before the Affordable Care Act is repealed or significantly modified.

According to a statement made by House Speaker Paul Ryan (R-WI) on Tuesday, "If we have a Republican president next year, we will repeal Obamacare."

2016 WPMAEXPO - LAS VEGAS, NEVADA



Mark your calendars for February 16-18, 2016. Make plans now to attend the 2016 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 16 – 18, 2016 - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada

May 19-20, 2016 – Nevada (NPM&CSA) Big Dogs Shootout – Red Rock Resort & Casino – Las Vegas, Nevada

June 7-9, 2016 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Butte, Montana

June 20-23, 2016 - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, Washington

June 29, 2016 – Idaho (IPM&CSA) Magic Valley PAC Golf Outing – Blue Lakes Country Club, Twin Falls, Idaho

August 3 – 5, 2016 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

August 22-24, 2016 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, New Mexico

September 14-16, 2016 - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah

June 18-22, 2017 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

August 2-4, 2017 - Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, Idaho

June 17-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

August 8-10, 2018 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

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