



Biodiesel, Renewable Diesel & Co-Processed Renewable Diesel

What are Biodiesel, Renewable Diesel, and Co-Processed Renewable Diesel?

- Biodiesel: A fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats that meets the fuel specification requirements of ASTM D6751. Produced in free-standing facilities.
- Renewable Diesel: Defined in the Internal Revenue Code (IRC) as liquid fuel produced from biomass that meets the fuel specification requirements of ASTM D975 (petroleum diesel fuel) or ASTM D396 (home heating oil). Produced in free-standing facilities.
- Co-Processed Renewable Diesel: Renewable diesel that is produced when an oil company adds small amounts vegetable oils or animal fats to the traditional petroleum refining process when producing diesel fuel (co-processing). Scheduled to be produced in existing oil refineries.

The biodiesel tax incentive is a \$1 per gallon blenders excise tax credit that can be claimed on biodiesel produced from vegetable oils, animal fats and used restaurant grease (yellow grease). The incentive can also be claimed in the form of a general business income tax credit. To qualify for the tax incentive, the biodiesel must by statute meet both the ASTM D6751 fuel specification and the EPA registration requirements under Section 211 of the Clean Air Act. The incentive was enacted in 2004 as part of the American Jobs Creation Act. The incentive was subsequently extended through December 31, 2008 as part of the Energy Policy Act of 2005. The Emergency Economic Stabilization Act of 2008 extended the incentive for another year through December 31, 2009. The IRS had previously issued guidance (IRS Notice 2007-37) that had the effect of permitting co-processed renewable diesel to claim the renewable diesel tax incentive, which was poor tax policy. However, this was reversed October 3, 2008:

Co-Processed Renewable Diesel: P.L. 110-343 contains the following language to clarify the definition of renewable diesel as it applies to the \$1 per gallon renewable diesel excise tax credit: *(d) Coproduction of Renewable Diesel With Petroleum Feedstock - (1) '...Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass...'*

Background

The Energy Policy Act of 2005 added a new \$1.00 per gallon tax credit for renewable diesel. When enacted, the renewable diesel credit was meant to apply to a very specific, limited technology.

In April 2007, the Internal Revenue Service (IRS) issued regulatory guidance that broadly defined renewable diesel as including processes that allow integrated oil companies to add minimum amounts of animal or vegetable oils to the existing refining process – co-processing - and claim the \$1.00 per gallon renewable diesel credit. As per above, co-processed renewable diesel no longer qualifies for the credit.

Why Co-Processed Renewable Diesel no longer qualifies for the \$1 tax incentive

Allowing co-processed renewable diesel to qualify for the \$1 renewable diesel tax incentive was akin to directing tax benefits to subsidize existing oil refining operations at the expense of free-standing producers of biodiesel and renewable diesel. Co-processed Renewable Diesel already qualifies for a 50 cent per gallon tax credit that is provided under current law.

- A key component of rising fuel prices is the lack of refining capacity in the U.S. Free-standing biodiesel and renewable diesel producers add both fuel and refining capacity to the nation's diesel pool. By contrast, the production of co-processed renewable diesel adds no net new fuel and no new refining capacity to the diesel pool.
- The availability of feedstock, such as animal fat and vegetable oils, is essentially fixed. The \$1.00 renewable diesel tax credit is the motivation for integrated oil companies engaged in co-processing. This will clearly increase demand for the feedstock needed to produce biodiesel and increase costs. It is not wise for tax policy to drive tax incentives and limited feedstock to support existing oil refining operations at the expense of biodiesel and free-standing renewable diesel production.
- There are substantial economic benefits associated with domestic biodiesel production. In 2008, the U.S. biodiesel industry supported 51,893 jobs, added \$4.287 billion to the economy, and generated \$ \$866.2 million in tax revenue for federal, state and local governments. The economic benefits associated with free-standing biodiesel production could be lost if the \$1.00 per gallon renewable diesel tax incentive is directed to support operations in existing oil refineries.

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