

HOUSE BILL 436

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT AND CORPORATE INCOME TAX CREDIT FOR PURCHASES OF BLENDED BIODIESEL HENRC→**AND RENEWABLE DIESEL**←HENRC ; PROVIDING A GROSS RECEIPTS TAX DEDUCTION AND COMPENSATING TAX DEDUCTION FOR THE SALE AND USE OF BLENDED BIODIESEL HENRC→**AND BLENDED RENEWABLE DIESEL**←HENRC .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.225256.1AIC February 28, 2023 (2:29pm)

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SECTION 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] BLENDED BIODIESEL HENRC→AND RENEWABLE DIESEL←HENRC INCOME TAX CREDIT.--

A. Prior to January 1, 2028, a taxpayer who is not a dependent of another individual and who purchases blended biodiesel HENRC→or blended renewable diesel←HENRC in New Mexico may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount equal to fifty cents (\$.50) for each gallon purchased. The tax credit provided by this section may be referred to as the "blended biodiesel HENRC→and renewable diesel←HENRC income tax credit".

B. A taxpayer may claim the credit provided by this section for the taxable year in which the taxpayer purchases blended biodiesel HENRC→or blended renewable diesel←HENRC . To receive the credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the blended biodiesel HENRC→or blended renewable diesel←HENRC is purchased. The application shall include proof the taxpayer purchased blended biodiesel HENRC→or blended renewable diesel←HENRC as provided in this section.

C. That portion of credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in the taxable year in which the credit is claimed may be carried forward for a period of three consecutive years.

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D. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the credit that would have been claimed on a joint return.

E. A taxpayer may be allocated the right to claim the credit provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

F. A taxpayer allowed a credit pursuant to this section shall report the amount of credit to the department on a form and in a manner required by the department.

G. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the credit.

H. As used in this section:

(1) "biodiesel" means a renewable,

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biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets commonly known standards in the industry for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

HENRC→and←HENRC

(2) "blended biodiesel" means a diesel engine fuel that contains at least five percent biodiesel.

HENRC→"←HENRC HENRC→; and←HENRC

HENRC→(3) "blended renewable biodiesel" means diesel engine fuel that contains at least five percent renewable biodiesel. As used in this paragraph, "renewable biodiesel" means biodiesel fuel that is produced from renewable biomass, as that term is defined in 42 U.S.C. 7545(o)(1)(I), as that section may be amended or renumbered."←HENRC

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] BLENDED BIODIESEL HENRC→AND RENEWABLE DIESEL←HENRC CORPORATE INCOME TAX CREDIT.--

A. Prior to January 1, 2028, a taxpayer that purchases blended biodiesel HENRC→or blended renewable diesel←HENRC in New Mexico may claim a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act in an amount equal to fifty cents (\$.50) for each gallon purchased. The tax credit provided by this section may be referred to as the "blended biodiesel

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HENRC→ and renewable diesel ← HENRC corporate income tax credit".

B. A taxpayer may claim the credit provided by this section for the taxable year in which the taxpayer purchases blended biodiesel HENRC→ or blended renewable diesel ← HENRC . To receive the credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the blended biodiesel HENRC→ or blended renewable diesel ← HENRC is purchased. The application shall include proof the taxpayer purchased blended biodiesel HENRC→ or blended renewable diesel ← HENRC as provided in this section.

C. That portion of credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in the taxable year in which the credit is claimed may be carried forward for a period of three consecutive years.

D. A taxpayer allowed a credit pursuant to this section shall report the amount of credit to the department on a form and in a manner required by the department.

E. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the credit.

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F. As used in this section:

(1) "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets commonly known standards in the industry for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

HENRC→and←HENRC

(2) "blended biodiesel" means a diesel engine fuel that contains at least five percent biodiesel.

HENRC→"←HENRC HENRC→; and←HENRC

HENRC→(3) "blended renewable biodiesel" means diesel engine fuel that contains at least five percent renewable biodiesel. As used in this paragraph, "renewable biodiesel" means biodiesel fuel that is produced from renewable biomass, as that term is defined in 42 U.S.C. 7545(o)(1)(I), as that section may be amended or renumbered."←HENRC

SECTION 3. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--
COMPENSATING TAX HENRC→--BLENDED BIODIESEL OR RENEWABLE
DIESEL←HENRC .--

A. Receipts for the sale of blended biodiesel HENRC→or blended renewal diesel←HENRC may be deducted from gross receipts.

B. The value of blended biodiesel HENRC→or blended

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renewable diesel←HENRC may be deducted in computing compensating tax due.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department on a form and in a manner required by the department.

D. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the deduction. The department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

E. As used in this section:

(1) "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets commonly known standards in the industry for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

HENRC→and←HENRC

(2) "blended biodiesel" means a diesel engine fuel that contains at least five percent biodiesel.

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HENRC→(3) "blended renewable biodiesel" means

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diesel engine fuel that contains at least five percent renewable biodiesel. As used in this paragraph, "renewable biodiesel" means biodiesel fuel that is produced from renewable biomass, as that term is defined in 42 U.S.C. 7545(o)(1)(I), as that section may be amended or renumbered."←HENRC

SECTION 4. APPLICABILITY.--The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2023.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of Section 3 of this act is July 1, 2023.

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