A BILL

To amend the Internal Revenue Code of 1986 to reform and extend the incentives for biodiesel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Renewable Fuel and Job Creation Act of 2017”.

SEC. 2. REFORM AND EXTENSION OF BIODIESEL TAX INCENTIVES.

(a) INCOME TAX CREDIT.—
(1) IN GENERAL.—So much of section 40A of the Internal Revenue Code as precedes subsection (c) is amended to read as follows:

"SEC. 40A. BIODIESEL FUELS CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is $1.00 for each gallon of biodiesel produced by the taxpayer which during the taxable year—

"(1) is sold by the taxpayer to another person—

"(A) for use by such other person’s trade or business as a fuel or in the production of a qualified biodiesel mixture (other than casual off-farm production), or

"(B) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

"(2) is used by such taxpayer for any purpose described in paragraph (1).

"(b) INCREASED CREDIT FOR SMALL PRODUCERS.—

"(1) IN GENERAL.—In the case of any eligible small biodiesel producer, subsection (a) shall be applied by increasing the dollar amount contained therein by 10 cents.
“(2) LIMITATION.—Paragraph (1) shall only apply with respect to the first 15,000,000 gallons of biodiesel produced by any eligible small biodiesel producer during any taxable year.”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 40A(d) of such Code is amended by striking all that follows paragraph (1) and inserting the following:

“(2) QUALIFIED BIODIESEL MIXTURE; BIODIESEL MIXTURE.—

“(A) QUALIFIED BIODIESEL MIXTURE.—

“(i) IN GENERAL.—The term ‘qualified biodiesel mixture’ means a biodiesel mixture which is—

“(I) sold by the producer of such mixture to any person for use as a fuel, or

“(II) used by the producer of such mixture as a fuel.

“(ii) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—A biodiesel mixture shall not be treated as a qualified biodiesel mixture unless the sale or use described in clause (i) is in a trade or busi-
ness of the person producing the biodiesel mixture.

“(B) BIODIESEL MIXTURE.—The term ‘biodiesel mixture’ means a mixture which consists of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene.

“(3) BIODIESEL NOT USED FOR A QUALIFIED PURPOSE.—If—

“(A) any credit was determined with respect to any biodiesel under this section, and

“(B) any person uses such biodiesel for a purpose not described in subsection (a), then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (a) and the number of gallons of such biodiesel.

“(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—

“(A) IN GENERAL.—No credit shall be determined under subsection (a) with respect to
biodiesel unless such biodiesel is produced in
the United States from qualified feedstocks.
For purposes of this paragraph, the term
‘United States’ includes any possession of the
United States.

“(B) QUALIFIED FEEDSTOCKS.—For pur-
poses of subparagraph (A), the term ‘qualified
feedstock’ means any feedstock which is allow-
able for a fuel that is assigned a D code of 4
under section 80.1426(f) of title 40, Code of
Federal Regulations.”.

(3) RULES FOR SMALL BIODIESEL PRO-
DUCERS.—
    (A) IN GENERAL.—Section 40A(e) of such
    Code is amended—

        (i) by striking “agri-biodiesel” each
place it appears in paragraphs (1) and
(5)(A) and inserting “biodiesel”,

        (ii) by striking “subsection (b)(4)(C)”
each place it appears in paragraphs (2)
and (3) and inserting “subsection (b)(2)”,
and

        (iii) by striking “subsection (a)(3)”
each place it appears in paragraphs (5)(A),
(6)(A)(i), and (6)(B)(i) and inserting “subsection (b)”.

(B) The heading for subsection (e) of section 40A of such Code is amended by striking “AGRI-BIODIESEL” and inserting “BIODIESEL”.

(C) The headings for paragraphs (1) and (6) of section 40A(e) of such Code are each amended by striking “AGRI-BIODIESEL” and inserting “BIODIESEL”.

(4) RENEWABLE DIESEL.—

(A) IN GENERAL.—Paragraph (3) of section 40A(f) of such Code is amended to read as follows:

“(3) RENEWABLE DIESEL DEFINED.—

“(A) IN GENERAL.—The term ‘renewable diesel’ means liquid fuel derived from biomass which—

“(i) is not a mono-alkyl ester,

“(ii) can be used in engines designed to operate on conventional diesel fuel, and

“(iii) meets the requirements for any Grade No. 1–D fuel or Grade No. 2–D fuel covered under the American Society for Testing and Materials specification D–975–13a.
“(B) EXCEPTIONS.—Such term shall not include—

“(i) any liquid with respect to which a credit may be determined under section 40,

“(ii) any fuel derived from coprocessing biomass with a feedstock which is not biomass, or

“(iii) any fuel that is not chemically equivalent to petroleum diesel fuels that can meet fuel quality specifications applicable to diesel fuel, gasoline, or aviation fuel.

“(C) BIOMASS.—For purposes of this paragraph, the term ‘biomass’ has the meaning given such term by section 45K(c)(3).”.

(B) CONFORMING AMENDMENTS.—Section 40A(f) of such Code is amended—

(i) by striking “Subsection (b)(4)” in paragraph (2) and inserting “Subsection (b)”;

(ii) by striking paragraph (4) and inserting the following:

“(4) CERTAIN AVIATION FUEL.—Except as provided paragraph (3)(B), the term ‘renewable diesel’
shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society for Testing and Materials specification for aviation turbine fuel.”.

(5) EXTENSION.—Subsection (g) of section 40A of such Code is amended by striking “December 31, 2016” and inserting “December 31, 2020”.

(6) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 40A and inserting the following new item:

“Sec. 40A. Biodiesel fuels credit.”.

(b) EXCISE TAX CREDIT.—

(1) REFORM.—Subsection (c) of section 6426 of the Internal Revenue Code of 1986 is amended to read as follows:

“(c) BIODIESEL PRODUCTION CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the biodiesel production credit is $1.00 for each gallon of biodiesel produced by the taxpayer and which—

“(A) is sold by such taxpayer to another person—
“(i) for use by such other person’s trade or business as a fuel or in the production of a qualified biodiesel mixture (other than casual off-farm production), or

“(ii) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

“(B) is used by such taxpayer for any purpose described in subparagraph (A).

“(2) DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

“(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal after December 31, 2020.”.

(2) PRODUCER REGISTRATION REQUIREMENT.—Subsection (a) of section 6426 of such Code is amended by striking “subsections (d) and (e)” in the flush sentence at the end and inserting “subsections (c), (d), and (e)”.

(3) RECAPTURE.—

(A) IN GENERAL.—Subsection (f) of section 6426 of such Code is amended—
(i) by striking “or biodiesel” each place it appears in subparagraphs (A) and (B)(i) of paragraph (1),
(ii) by striking “or biodiesel mixture” in paragraph (1)(A), and
(iii) by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:
“(2) BIODIESEL.—If any credit was determined under this section or paid pursuant to section 6427(e) with respect to the production of any biodiesel and any person uses such biodiesel for a purpose not described in subsection (e)(1), then there is hereby imposed on such person a tax equal to $1 for each gallon of such biodiesel.”.

(B) Conforming Amendments.—

(i) Paragraph (3) of section 6426(f) of such Code, as redesignated by subparagraph (A)(iii), is amended by inserting “or (2)” after “paragraph (1)”.

(ii) The heading for paragraph (1) of section 6426(f) of such Code is amended by striking “IMPOSITION OF TAX” and inserting “IN GENERAL”.

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(4) LIMITATION.—Section 6426(i) of such Code is amended—

(A) in paragraph (2)—

(i) by striking “biodiesel or”, and

(ii) by striking “BIODIESEL AND” in the heading, and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) BIODIESEL.—No credit shall be determined under subsection (a) with respect to biodiesel unless such biodiesel is produced in the United States from qualified feedstocks (as defined in section 40A(d)(5)(B)).”.

(5) CLERICAL AMENDMENTS.—

(A) The heading of section 6426 of such Code is amended by striking “ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL MIXTURES” and inserting “ALCOHOL FUEL MIXTURES, BIODIESEL PRODUCTION, AND ALTERNATIVE FUEL MIXTURES”.

(B) The item relating to section 6426 in the table of sections for subchapter B of chapter 65 of such Code is amended by striking “alcohol fuel, biodiesel, and alternative fuel mixtures” and inserting “alcohol fuel mixtures, bio-
diesel production, and alternative fuel mixtures’.

(c) EXCISE PAYMENTS.—Subsection (e) of section 6427 of the Internal Revenue Code of 1986 is amended—

(1) by striking “or the biodiesel mixture credit” in paragraph (1),

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) BIODIESEL PRODUCTION CREDIT.—If any person produces biodiesel and sells or uses such biodiesel as provided in section 6426(c)(1), the Secretary shall pay (without interest) to such person an amount equal to the biodiesel production credit with respect to such biodiesel.,”

(3) by striking “paragraph (1) or (2)” each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting “paragraph (1), (2), or (3)”,

(4) by striking “alternative fuel” each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting “fuel”, and

(5) in paragraph (7)(B), as redesignated by paragraph (2)—
(A) by striking “biodiesel mixture (as defined in section 6426(c)(3))” and inserting “biodiesel (within the meaning of section 40A)”, and

(B) by striking “December 31, 2016” and inserting “December 31, 2020”.

(d) GUIDANCE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary’s delegate, shall issue preliminary guidance with respect to the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2016.

(f) SPECIAL RULE FOR 2017.—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 period beginning after December 31, 2016, and ending before the date of the enactment of this Act, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(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 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.