



December 2, 2009

The Honorable Max Baucus  
Chairman, Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles E. Grassley  
Ranking Member, Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles B. Rangel  
Chairman, Committee on Ways and Means  
United States House of Representatives  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Dave Camp  
Ranking Member, Committee on Ways and Means  
United States House of Representatives  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Chairmen Baucus and Rangel and Ranking Members Grassley and Camp:

As your committees consider a tax extenders bill prior to the end of the year, the American Coalition for Ethanol (ACE) encourages you to adopt language to the Alternative Fuel Vehicle Refueling Property Credit clarifying that multi-product and blender fuel pumps should receive the full value of the credit.

Section 1342 of the Energy Policy Act of 2005 provided a 30 percent Alternative Fuel Vehicle Refueling Property tax credit, limited to \$30,000 per location, for businesses and individuals who installed alternative fuel vehicle fueling infrastructure. The American Recovery and Reinvestment Act of 2009 increased the credit to \$50,000 or 50 percent of the total cost and extended it to projects completed prior to January 1, 2011.

Unfortunately, in promulgating rules to implement the credit, the IRS interpreted the statute in such a way that multi-product pumps and blender pumps – the standard in the retail fueling industry – cannot receive the full value of the credit.

The actual language of the Alternative Fuel Vehicle Refueling Property Credit offers the tax credit for equipment that is used to store and/or dispense alternative fuels. However, IRS arbitrarily created a special classification of “dual use property (which they have applied to multi-product and blender pumps)” and limited the credit to be used “only to the extent such cost exceeds the cost of equivalent conventional refueling property.”

While the IRS interpretation may have been well-intended to keep alternative fuels incentives from paying for infrastructure for standard fuels, it effectively ignores the fact that the major cost of any dispenser – single-product or multi-product – is in the electronic circuitry and card reader that are part of

nearly every pump. Allowing the credit to be taken on the entire cost of a single-product E85 dispenser, while disallowing allowing the credit on the exact same equipment on a multi-product or blender pump and only offering it for the additional alternative fuel hoses and piping on a multi-product or blender pump is a disincentive of thousands of dollars per pump, and tens of thousands of dollars per location.

In other words, under the IRS interpretation of the tax credit, a marketer receives 50 percent of the cost of all components that make up a stand-alone E85 pump. Yet if E85 is one product on a four-product pump, which is again the industry standard, the marketer *only receives 50 percent of one-fourth of the base cost* of the pump, or 12.5 percent of the cost. In both cases, E85 is made available to the public, which is the goal of the credit. However, assuming a base cost of approximately \$12,000 for a pump, the credit on a stand-alone E85 pump is \$6,000, while the industry standard multi-product dispensers receive only a \$1500 credit, making it far less likely that a marketer will make alternative fuels available.

Given those options, the practical consequence of the IRS interpretation is that the credit is useless to most marketers and they choose not to install E85 fueling infrastructure. As a stand-alone option, the average E85 pump often does not make financial sense for a marketer, as it has a break-even point, even after credits, of more years than the useful life of a gasoline pump. However, as an added product offering on a pump that dispenses other fuels, the Alternative Fuel Vehicle Refueling Property Credit is enough of an incentive to “tip” many marketers toward adding E85.

Making this clarification is critically important for a number of reasons; the clarification would guarantee Congress’ original intent is indeed followed by IRS, provide more choices for motorists, ensure fueling systems are prepared for new blends of ethanol and gasoline that are surely to be approved by the Environmental Protection Agency in the future, and continue to reduce U.S. dependence on foreign oil by increasing the availability of clean domestic renewable fuel.

Please consider the suggested language below to clarify the intent of Congress with respect to the Alternative Fuel Vehicle Refueling Property Credit.

At 26 USC § 30C(c). Alternative fuel vehicle refueling property credit: ADD THE FOLLOWING TEXT:

**Dual Use Refueling Property – The credit shall be allowed, without limitation, for dual use property that is used to dispense both alternative fuel and conventional fuel.**

Thank you for your time and consideration. Should you or your staff have questions about this matter please feel free to contact me at 605-334-3381.

Sincerely,



Brian Jennings, Executive Vice President  
American Coalition for Ethanol (ACE)