

CHAPTER 123

ETHANOL BLENDED GASOLINE — RELATED TAXES

H.F. 716

AN ACT providing for taxes relating to ethanol blended gasoline, making penalties applicable, and providing for the Act's applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.333, subsection 1,¹ Code Supplement 1999, as amended by 2000 Iowa Acts, chapter 1213, section 1, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to refund all or a portion of an unused tax credit. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be used against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

1A. An eligible business whose project primarily involves the production of value-added agricultural products, that elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. An eligible business whose project primarily involves the production of value-added agricultural products shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates which total more than four million dollars during a fiscal year. If the department receives applications for tax credit certificates in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred. For a cooperative described in section 521 of the Internal Revenue Code that is not required to file an Iowa corporate income tax return, the department of economic development shall require that the

¹ Subsections 1 and 1A probably intended

cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

Sec. 2. NEW SECTION. 422.11C ETHANOL BLENDED GASOLINE TAX CREDIT.

1. As used in this section, unless the context otherwise requires:

- a. "Ethanol blended gasoline" means the same as defined in section 452A.2.
- b. "Gasoline" means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to section 214A.2 that is dispensed through a metered pump.
- c. "Metered pump" means a motor vehicle fuel pump licensed by the department of agriculture and land stewardship pursuant to chapter 214.
- d. "Retail dealer" means a retail dealer as defined in section 214A.1 who operates a metered pump at a service station.
- e. "Sell" means to sell on a retail basis.
- f. "Service station" means each geographic location in this state where a retail dealer sells and dispenses gasoline on a retail basis.
- g. "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this section.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this section. In order to be eligible, all of the following must apply:

- a. The taxpayer is a retail dealer.
- b. The taxpayer operates at least one service station at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more metered pumps by the taxpayer in the tax year is ethanol blended gasoline.
- c. The taxpayer complies with requirements of the department required to administer this section.

3. The tax credit shall be calculated separately for each service station site operated by the taxpayer. The amount of the tax credit for each eligible service station is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at that service station during the tax year in excess of sixty percent of all gasoline sold and dispensed through metered pumps at that service station during the tax year.

4. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

5. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

Sec. 3. Section 422.33, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 11. a. As used in this subsection, unless the context otherwise requires:

(1) "Ethanol blended gasoline", "gasoline", "metered pump", "retail dealer", "sell", and "service station" mean the same as defined in section 422.11C.

(2) "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this subsection.

b. The taxes imposed under this division shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection. In order to be eligible, all of the following must apply:

- (1) The taxpayer is a retail dealer.

(2) The taxpayer operates at least one service station at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more metered pumps by the taxpayer is ethanol blended gasoline.

(3) The taxpayer complies with requirements of the department required to administer this subsection.

c. The tax credit shall be calculated separately for each service station site operated by the taxpayer. The amount of the tax credit for each eligible service station is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at that service station during the tax year in excess of sixty percent of all gasoline sold and dispensed through metered pumps at that service station during the tax year.

d. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

Sec. 4. Section 452A.3, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Except as otherwise provided in this section and in this division, until June 30, 2007, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

a. The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state, which is referred to as the distribution percentage. The department shall determine the percentage basis for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

b. The rate for the excise tax shall be as follows:

(1) If the distribution percentage is not greater than fifty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

(2) If the distribution percentage is greater than fifty percent but not greater than fifty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(3) If the distribution percentage is greater than fifty-five percent but not greater than sixty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and three-tenths cents for motor fuel other than ethanol blended gasoline.

(4) If the distribution percentage is greater than sixty percent but not greater than sixty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and five-tenths cents for motor fuel other than ethanol blended gasoline.

(5) If the distribution percentage is greater than sixty-five percent but not greater than seventy percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(6) If the distribution percentage is greater than seventy percent but not greater than seventy-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty-one cents for motor fuel other than ethanol blended gasoline.

(7) If the distribution percentage is greater than seventy-five percent but not greater than eighty percent, the rate shall be nineteen and three-tenths cents for ethanol blended gasoline and twenty and eight-tenths cents for motor fuel other than ethanol blended gasoline.

(8) If the distribution percentage is greater than eighty percent but not greater than eighty-five percent, the rate shall be nineteen and five-tenths cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(9) If the distribution percentage is greater than eighty-five percent but not greater than ninety percent, the rate shall be nineteen and seven-tenths cents for ethanol blended gasoline and twenty and four-tenths cents for motor fuel other than ethanol blended gasoline.

(10) If the distribution percentage is greater than ninety percent but not greater than ninety-five percent, the rate shall be nineteen and nine-tenths cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(11) If the distribution percentage is greater than ninety-five percent, the rate shall be twenty cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

1A. Except as otherwise provided in this section and in this division, after June 30, 2007, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

Sec. 5. Section 452A.3, subsection 2, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 6. APPLICABILITY.

1. Notwithstanding section 452A.3, as amended in this Act, the excise tax imposed upon motor vehicle fuel, including ethanol blended gasoline, as provided in that section shall be the same as provided in that section on June 30, 2001, until July 1, 2002. The excise tax for the period beginning July 1, 2002, and ending June 30, 2003, and for each subsequent period, shall be based on a determination made by the department of revenue and finance as provided in section 452A.3, subsection 1.

2. The ethanol blended gasoline tax credits provided in sections 422.11C and 422.33 apply to tax years beginning on or after January 1, 2002. The department of revenue and finance shall perform functions, prior to the beginning of that tax year, necessary in order to implement the tax credits.

Approved May 7, 2001

CHAPTER 124

SOLID WASTE — TONNAGE FEES — SOLID WASTE ACCOUNT MONEYS

H.F. 722

AN ACT relating to tonnage fees and moneys in the solid waste account of the groundwater protection fund, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.310, subsection 4, Code 2001, is amended to read as follows:

4. ~~Ninety-five~~ If a planning area achieves the fifty percent waste reduction goal provided in section 455D.3, ninety-five cents of the tonnage fee shall be retained by a city, county, or public or private agency and. If the fifty percent waste reduction goal has not been met, one dollar and twenty cents of the tonnage fee shall be retained by a city, county, or public or private agency. Moneys retained by a city, county, or public or private agency shall be used as follows:

a. To meet comprehensive planning requirements of section 455B.306, the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, and the preparation of a financial plan.

b. ~~Forty-five~~ If a planning area achieves the fifty percent waste reduction goal provided in