



Ohio Revised Code

Section 5747.77 [Repealed effective 11/15/2015 by S.B. 208, 131st General Assembly] Tax credit for retailers of alternative fuel.

Effective: May 31, 2010

Legislation: Senate Bill 131 - 128th General Assembly

(A) As used in this section:

- (1) "Alternative fuel" means E85 blend fuel or blended biodiesel.
- (2) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents that meets the American society for testing and materials specification for biodiesel fuel (B100) blend stock distillate fuels.
- (3) "Blended biodiesel" means a blend of biodiesel with petroleum-based diesel fuel in which the resultant product contains not less than twenty per cent biodiesel and meets the American society for testing and materials specification for blended diesel fuel. For taxable years ending in 2010 or 2011, "six per cent" shall be substituted for "twenty per cent."
- (4) "Diesel fuel" means any liquid fuel that is capable of use in discrete form or as a blend component in the operation of engines of the diesel type.
- (5) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.
- (6) "E85 blend fuel" means fuel containing eighty-five per cent or more ethanol, or containing any other percentage of not less than seventy per cent ethanol if the United States department of energy determines, by rule, that the lower percentage is necessary to provide for the requirements of cold start, safety, or other vehicle functions, and that meets the American society for testing and



materials specification for E85 blend fuel.

(7) "Retail dealer" means any person that is a taxpayer under this chapter that owns or operates a retail service station located in this state.

(8) "Retail service station" means a location in this state from which alternative fuel is sold to the general public and is dispensed or pumped directly into motor vehicle fuel tanks for consumption.

(B) For taxable years ending in 2008 and 2009, there is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a retail dealer that sells alternative fuel. The credit for a dealer's taxable year ending in 2008 shall equal fifteen cents per gallon of alternative fuel sold and dispensed through a metered pump at the retail dealer's retail service station during any part of calendar year 2007 or 2008 included in that taxable year. The credit for a dealer's taxable year ending in 2009 shall equal fifteen cents per gallon of alternative fuel sold and dispensed through a metered pump at the retail dealer's retail service station during any part of calendar year 2008 included in that taxable year, plus thirteen cents per gallon of alternative fuel sold and dispensed in that manner during any part of calendar year 2009 included in that taxable year.

(C)(1) For taxable years ending in 2010 or 2011, there is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a retail dealer that sells alternative fuel. Except as otherwise provided in division (C)(2) of this section, the credit for a dealer's taxable year ending in 2010 shall equal fifteen cents per gallon of alternative fuel sold and dispensed through a metered pump at the retail dealer's retail service station during any part of calendar year 2009 or 2010 included in that taxable year. Except as otherwise provided in division (C)(2) of this section, the credit for a dealer's taxable year ending in 2011 shall equal fifteen cents per gallon of alternative fuel sold and dispensed through a metered pump at the retail dealer's retail service station during any part of calendar year 2010 included in that taxable year, plus thirteen cents per gallon of alternative fuel sold and dispensed in that manner during any part of calendar year 2011 included in that taxable year.

(2) In the case of blended biodiesel containing at least ten per cent but less than twenty per cent biodiesel as sold and dispensed through such metered pump, the credit otherwise allowed under



division (C)(1) of this section shall equal seven and one-half cents per gallon. In the case of blended biodiesel containing at least six per cent but less than ten per cent biodiesel as sold and dispensed through such metered pump, the credit otherwise allowed under division (C)(1) of this section shall equal three and three-fourths cents per gallon.

(D) The credit shall be calculated separately for each retail service station owned or operated by the retail dealer. The credit allowed under this section may not be claimed for alternative fuel sold or dispensed before January 1, 2008, or on or after January 1, 2012.

(E) The retail dealer shall claim the credit under this section in the order prescribed in section 5747.98 of the Revised Code. The credit shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.

(F) Nothing in this section limits or disallows pass-through treatment of the credit if the retail dealer is a pass-through entity. If the retail dealer is a pass-through entity, references in other divisions of this section to "taxable year" refer to the dealer's taxable year; an equity owner of the retail dealer that is a pass-through entity may claim the owner's distributive or proportionate share of the credit for the equity owner's taxable year that includes the last day of the entity's taxable year.