

Tax Credit Available for Propane Forklift Operators

In 2005, Congress enacted the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2005, otherwise known as the Highway Bill (P.L. 109-59). Among other things, the legislation modestly increased excise taxes on alternative fuels while at the same time creating a 50 cent/gallon credit for alternative fuels, including propane, used in motor vehicles. These provisions went into effect on October 1, 2006. The ultimate goal of the legislation was to encourage the use of alternative fuels. Congress did increase the federal excise tax on most fuels, including propane, although propane received the smallest increase – the tax on propane went from 13.6 cents/gallon to 18.3 cents/gallon. Moreover, it should be emphasized that sales of propane for use in forklifts remain **exempt** from the federal excise tax on motor fuels.

In providing further guidance regarding the legislation, the Internal Revenue Service (IRS) made clear that forklifts fit the definition of an off-highway business motor vehicle and hence **fuel used in a forklift is eligible for the 50 cent/gallon credit**. Moreover, the IRS indicated that in this instance it is the end user, namely the forklift operator, who is entitled to apply for the credit, not the propane marketer. Therefore, forklift operators should be aware that the fuel they use for forklift operation will be eligible for a 50 cent/gallon credit assuming they take appropriate steps to properly register with the IRS.

As a first step, forklift operators need to file Form 637 with the IRS in order to be registered as an “Alternative Fueler.” IRS will then issue a registration number identifying the forklift operator as an Alternative Fueler. After receiving a registration number, the forklift operator can file a claim for the credit at the end of the year by filing Form 4136. If the alternative fuel excise tax credit exceeds the excise tax liability, the forklift operator may be able to claim an alternative fuel income tax credit (or refund) under certain circumstances.

This discussion is for information purposes. The discussion is not intended, and cannot be relied upon, as tax advice. We urge forklift operators to consult their own tax advisers regarding claims for credits or refunds. Relevant IRS forms may be viewed and downloaded by going to www.irs.gov/formspubs/index.html .