



TaxNewsFlash

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Reminder of energy-related excise tax extenders enacted in late 2019

President Trump on December 20, 2019, signed into law H.R. 1865 (“The Further Consolidated Appropriations Act, 2020”)—a government funding bill that includes extensions of 34 expired or expiring provisions.

With respect to energy-related excise tax provisions, the new law extended the following:

- Oil spill excise tax
- Coal excise tax
- Biodiesel and renewable diesel credit
- Second generation biofuel producer credit
- Alternative fuel and alternative fuel mixture credit

Oil spill excise tax

Effective January 1, 2020, the law reinstates the oil spill excise tax imposed on crude oil and imported petroleum products. The rate of tax is \$.09 per barrel of crude oil or imported petroleum product.

KPMG observation

Affected taxpayers need to note that the first deposit taking into account the reinstated oil spill excise tax is due January 29, 2020, and that the first return reporting the tax is due April 30, 2020. After the previous reinstatement of oil spill excise tax, the IRS issued guidance providing safe harbor deposit rules. It is unclear whether similar guidance will be issued again.

Coal excise tax

Effective January 1, 2020, the law reinstates a higher rate of tax for coal. The rate of tax is \$1.10 on coal from underground mines and \$.55 on coal from surface mines.

Retroactive reinstatement of certain renewable fuel credits

The law retroactively reinstates the biodiesel and renewable diesel excise tax incentives through 2022. It also retroactively reinstates the alternative fuel, alternative fuel mixture credit (with “clarification” discussed below), and second generation biofuel producer credits through the end of 2020.

KPMG observation

The alternative fuel and biodiesel mixture incentives had expired as of the end of 2017. The new law directs the IRS to issue guidance for taxpayers to make one-time claims related to otherwise eligible claims for incentives arising in 2018 and/or 2019. Guidance is expected by the end of January 2020.

“Clarification” regarding alternative fuel mixture credits

The new law also makes a “clarification” to the rules regarding the alternative fuel mixture credit. The law provides that the following alternative fuels do not qualify for the alternative fuel mixture credit:

- Liquefied petroleum gas
- Compressed natural gas
- Liquefied natural gas
- Compressed or liquefied gas derived from biomass

The effective date of this clarification is for fuel sold or used on or after the date of enactment (December 20, 2019) and for fuel sold or used before enactment, but only to the extent that claims for the alternative fuel mixture credit for such sale or use have not been paid or allowed and were made on or after January 8, 2018. The law also provides a “no inference” provision stating nothing in the clarification shall be construed to create any inference as to a change in law or guidance in effect prior to enactment.

Read a [December 2019 report](#) [PDF 987 KB] (13 pages) prepared by KPMG LLP providing more information, as well as preliminary analysis and observations, regarding some of the key tax provisions in the new law.

For more information, contact a tax professional with KPMG’s Excise Tax Practice group:

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