

§5219-X. Biofuel commercial production and commercial use

1. Definition. As used in this section, unless the context otherwise indicates, the term "biofuel" means any commercially produced liquid or gas used to propel motor vehicles or otherwise substitute for liquid or gaseous fuels that is derived from agricultural crops or residues or from forest products or byproducts, as distinct from petroleum or other fossil carbon sources. "Biofuel" includes, but is not limited to, ethanol, methanol derived from biomass, levulinic acid, biodiesel, pyrolysis oils from wood, hydrogen or methane from biomass, or combinations of any of the above that may be used to propel motor vehicles either alone or in blends with conventional gasoline or diesel fuels or that may be used in place of petroleum products in whole or in part to fire heating devices or any stationary power device. The biofuel must be offered for sale and income must be derived from the commercial production of biofuel.

[PL 2005, c. 330, §3 (AMD); PL 2005, c. 330, §44 (AFF).]

2. Credit allowed. A taxpayer engaged in the production of biofuels in the State who has received certification under subsection 4 is allowed a credit against the tax imposed by this Part on income derived during the taxable year from the production of biofuel in the amount of 5¢ per gallon of liquid biofuel or gaseous biofuel with a BTU equivalent to that of one gallon of gasoline that replaces the use of petroleum or liquid fuels derived from other fossil carbon sources. In blends with petroleum or other nonbiofuels, the credit is allowed only on the portion of that blend that the biofuel constitutes. Biofuel for which the credit is allowed must meet state and federal regulatory requirements applicable to the nature and intended use of the fuel produced.

[PL 2003, c. 698, §1 (NEW).]

3. Limitations. A person entitled to a credit under this section for any taxable year may carry over and apply the portion of any unused credits to the tax liability on income derived from the production of biofuel for any one or more of the next succeeding 10 taxable years. The credit allowed, including carryovers, may not reduce the tax otherwise due under this Part to less than zero.

[PL 2007, c. 426, §1 (AMD).]

4. Certification. A taxpayer engaged in the production of biofuels who is claiming a credit under subsection 2 shall provide information to the Commissioner of Environmental Protection regarding the biofuel being produced, including the quantity of biofuel products, the type of forest or agricultural product being utilized, the nature and composition of the biofuel being produced, the proportion and composition of any nonbiofuel with which the biofuel is blended, the BTU equivalent of the biofuel as compared to the BTU value of one gallon of gasoline and the type of application for which it is intended to be used. Upon review of the information, the Commissioner of Environmental Protection shall provide the taxpayer with a letter of certification stating that the biofuel produced during the taxable year is eligible for a tax credit under this section and stating the number of gallons of biofuel produced during the taxable year.

[PL 2005, c. 330, §3 (AMD); PL 2005, c. 330, §44 (AFF).]

5. Application. This section applies to tax years beginning on or after January 1, 2004. Except for the credit allowed with respect to the carry-over of unused credit amounts pursuant to subsection 3, the tax credit allowed under this section does not apply to tax years beginning on or after January 1, 2016 and before January 1, 2021.

[PL 2019, c. 628, §2 (AMD).]

6. Reporting. A taxpayer allowed a credit under subsection 2 shall report to the Department of Economic and Community Development, for each tax credit awarded, the dollar amount of the tax credit, the number of direct manufacturing jobs created and the dollar amount of capital investment in manufacturing.

[PL 2021, c. 181, Pt. A, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 698, §1 (NEW). PL 2005, c. 330, §3 (AMD). PL 2005, c. 330, §44 (AFF). PL 2007, c. 426, §1 (AMD). PL 2015, c. 267, Pt. DD, §32 (AMD). PL 2019, c. 628, §2 (AMD). PL 2021, c. 181, Pt. A, §12 (AMD).

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