

1 HOUSE BILL 436

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT AND
12 CORPORATE INCOME TAX CREDIT FOR PURCHASES OF BLENDED BIODIESEL;
13 PROVIDING A GROSS RECEIPTS TAX DEDUCTION AND COMPENSATING TAX
14 DEDUCTION FOR THE SALE AND USE OF BLENDED BIODIESEL.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of the Income Tax Act is enacted
18 to read:

19 "[NEW MATERIAL] BLENDED BIODIESEL INCOME TAX CREDIT.--

20 A. Prior to January 1, 2028, a taxpayer who is not
21 a dependent of another individual and who purchases blended
22 biodiesel in New Mexico may claim a credit against the
23 taxpayer's tax liability imposed pursuant to the Income Tax Act
24 in an amount equal to fifty cents (\$.50) for each gallon
25 purchased. The tax credit provided by this section may be

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1 referred to as the "blended biodiesel income tax credit".

2 B. A taxpayer may claim the credit provided by this
3 section for the taxable year in which the taxpayer purchases
4 blended biodiesel. To receive the credit, a taxpayer shall
5 apply to the department on forms and in the manner prescribed
6 by the department within twelve months following the calendar
7 year in which the blended biodiesel is purchased. The
8 application shall include proof the taxpayer purchased blended
9 biodiesel as provided in this section.

10 C. That portion of credit claimed by a taxpayer
11 that exceeds the taxpayer's income tax liability in the taxable
12 year in which the credit is claimed may be carried forward for
13 a period of three consecutive years.

14 D. Married individuals filing separate returns for
15 a taxable year for which they could have filed a joint return
16 may each claim only one-half of the credit that would have been
17 claimed on a joint return.

18 E. A taxpayer may be allocated the right to claim
19 the credit provided by this section in proportion to the
20 taxpayer's ownership interest if the taxpayer owns an interest
21 in a business entity that is taxed for federal income tax
22 purposes as a partnership or limited liability company and that
23 business entity has met all of the requirements to be eligible
24 for the credit. The total credit claimed by all members of the
25 partnership or limited liability company shall not exceed the

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1 allowable credit pursuant to this section.

2 F. A taxpayer allowed a credit pursuant to this
3 section shall report the amount of credit to the department on
4 a form and in a manner required by the department.

5 G. The department shall compile an annual report on
6 the credit provided by this section that shall include the
7 number of taxpayers approved by the department to receive the
8 credit, the aggregate amount of credits approved and any other
9 information necessary to evaluate the credit. The department
10 shall compile and present the annual report to the revenue
11 stabilization and tax policy committee and the legislative
12 finance committee with an analysis of the cost of the credit.

13 H. As used in this section:

14 (1) "biodiesel" means a renewable,
15 biodegradable, mono alkyl ester combustible liquid fuel that is
16 derived from agricultural plant oils or animal fats and that
17 meets commonly known standards in the industry for biodiesel
18 fuel, B100 or B99 blend stock for distillate fuels; and

19 (2) "blended biodiesel" means a diesel engine
20 fuel that contains at least five percent biodiesel."

21 SECTION 2. A new section of the Corporate Income and
22 Franchise Tax Act is enacted to read:

23 "[NEW MATERIAL] BLENDED BIODIESEL CORPORATE INCOME TAX
24 CREDIT.--

25 A. Prior to January 1, 2028, a taxpayer that

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1 purchases blended biodiesel in New Mexico may claim a credit
2 against the taxpayer's tax liability imposed pursuant to the
3 Corporate Income and Franchise Tax Act in an amount equal to
4 fifty cents (\$.50) for each gallon purchased. The tax credit
5 provided by this section may be referred to as the "blended
6 biodiesel corporate income tax credit".

7 B. A taxpayer may claim the credit provided by this
8 section for the taxable year in which the taxpayer purchases
9 blended biodiesel. To receive the credit, a taxpayer shall
10 apply to the department on forms and in the manner prescribed
11 by the department within twelve months following the calendar
12 year in which the blended biodiesel is purchased. The
13 application shall include proof the taxpayer purchased blended
14 biodiesel as provided in this section.

15 C. That portion of credit claimed by a taxpayer
16 that exceeds the taxpayer's income tax liability in the taxable
17 year in which the credit is claimed may be carried forward for
18 a period of three consecutive years.

19 D. A taxpayer allowed a credit pursuant to this
20 section shall report the amount of credit to the department on
21 a form and in a manner required by the department.

22 E. The department shall compile an annual report on
23 the credit provided by this section that shall include the
24 number of taxpayers approved by the department to receive the
25 credit, the aggregate amount of credits approved and any other

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1 information necessary to evaluate the credit. The department
2 shall compile and present the annual report to the revenue
3 stabilization and tax policy committee and the legislative
4 finance committee with an analysis of the cost of the credit.

5 F. As used in this section:

6 (1) "biodiesel" means a renewable,
7 biodegradable, mono alkyl ester combustible liquid fuel that is
8 derived from agricultural plant oils or animal fats and that
9 meets commonly known standards in the industry for biodiesel
10 fuel, B100 or B99 blend stock for distillate fuels; and

11 (2) "blended biodiesel" means a diesel engine
12 fuel that contains at least five percent biodiesel."

13 SECTION 3. A new section of the Gross Receipts and
14 Compensating Tax Act is enacted to read:

15 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--
16 COMPENSATING TAX.--

17 A. Receipts for the sale of blended biodiesel may
18 be deducted from gross receipts.

19 B. The value of blended biodiesel may be deducted
20 in computing compensating tax due.

21 C. A taxpayer allowed a deduction pursuant to this
22 section shall report the amount of the deduction to the
23 department on a form and in a manner required by the
24 department.

25 D. The department shall compile an annual report on

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1 the deductions provided by this section that shall include the
2 number of taxpayers approved by the department to receive the
3 deduction, the aggregate amount of deductions approved and any
4 other information necessary to evaluate the deduction. The
5 department shall compile and present the annual report to the
6 revenue stabilization and tax policy committee and the
7 legislative finance committee with an analysis of the cost of
8 the deductions.

9 E. As used in this section:

10 (1) "biodiesel" means a renewable,
11 biodegradable, mono alkyl ester combustible liquid fuel that is
12 derived from agricultural plant oils or animal fats and that
13 meets commonly known standards in the industry for biodiesel
14 fuel, B100 or B99 blend stock for distillate fuels; and

15 (2) "blended biodiesel" means a diesel engine
16 fuel that contains at least five percent biodiesel."

17 SECTION 4. APPLICABILITY.--The provisions of Sections 1
18 and 2 of this act apply to taxable years beginning on or after
19 January 1, 2023.

20 SECTION 5. EFFECTIVE DATE.--The effective date of the
21 provisions of Section 3 of this act is July 1, 2023.