

## PMAA Regulatory Report

**SUBJECT:** *IRS – Alcohol and Biodiesel Blender’s Tax Credit*  
**ISSUE:** *Expiration of Blender’s Credit*  
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**EXECUTIVE SUMMARY:** The federal alcohol and biodiesel blender’s excise tax credits expire at midnight on December 31, 2011 unless reauthorized by Congress. While PMAA continues to lobby for an extension of the credits, we also have a responsibility to prepare members for the circumstance where the credits expire. If the credits expire, certain rules apply to the treatment of floor stock blends and blend stocks held and unsold at midnight December 31, 2011.

### **TAX TREATMENT OF FLOOR STOCKS UPON EXPIRATION OF FEDERAL ALCOHOL AND BIODIESEL TAX CREDIT:**

Both the 45 cent per gallon ethanol blender’s tax credit and the one dollar per gallon biodiesel tax credit are scheduled to expire at midnight December 31, 2011. If Congress takes no action to reauthorize one or both of the credits, the following rules regarding floor stock blends and blend stocks held at midnight on December 31, 2011 go into effect:

- The alcohol and biodiesel tax credit **will not** be allowed for blends created and sold **after** midnight December 31, 2011.
- The alcohol and biodiesel tax credit **will not** be allowed on blends created **before** midnight December 31, 2011 but remaining **unsold** by the blender. In other words, a jobber/blender **may not** “beat the deadline” by blending existing floor stocks of alcohol and biodiesel blend stocks in anticipation of the expiration, store them onsite **unsold** and apply for the credit. The IRS rules require both **blending** and **sale** of the blend to occur before a credit is allowed. The first **transfer of ownership** in the distribution chain after the point of blending is considered a “sale” for purposes of applying for the credit.
- Expiration of the blender’s credit for alcohol and biodiesel **does not** trigger a **floor stocks tax**. Floor stock taxes do not apply in the event of expiration of the blender’s credit. The only significance of the expiration date is that alcohol and biodiesel credits are no longer available for product blended and sold after midnight December 31, 2011.
- The federal excise tax rates for biodiesel blends remains 24.4 cpg and 18.4 cpg for alcohol blends (these rates include the non-refundable 1/10 cpg LUST tax).
- After December 31, 2011, blenders continue to pay on IRS Form 720 the full rate of federal motor fuel excise taxes due on the volume of biodiesel or alcohol added to diesel fuel or gasoline. An IRS 637 M registration is still required for blenders after December 31, 2011.
- The IRS will continue to pay claims for blender credits on blends created and sold before December 31, 2011 which are filed after December 31, 2011 according to existing timelines for filing.