



States' Biofuels Statutes

STATE OF NEW MEXICO

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the New Mexico General Assembly.

§ 7-2-18.21. Credit; blended biodiesel fuel

A. A taxpayer who is liable for payment of the special fuel excise tax pursuant to Subsections A through D of Section 7-16A-2.1 NMSA 1978 and who files a New Mexico income tax return is eligible to claim a credit against income tax liability for each gallon of blended biodiesel fuel on which that person paid the special fuel excise tax in the taxable year, or would have paid the special fuel excise tax in the taxable year but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. The credit shall be in the following amounts for the following periods:

- (1) from January 1, 2007 until December 31, 2010, at a rate of three cents (\$.03) per gallon;
- (2) from January 1, 2011 until December 31, 2011, at a rate of two cents (\$.02) per gallon; and
- (3) from January 1, 2012 until December 31, 2012, at a rate of one cent (\$.01) per gallon.

B. The tax credit provided by this section may not be claimed with respect to the same blended biodiesel fuel for which a credit has been claimed pursuant to the Corporate Income and Franchise Tax Act or for which a credit or refund has been claimed pursuant to Section 7-16A-13 NMSA 1978.

C. A taxpayer who otherwise qualifies for and claims a credit pursuant to this section for blended biodiesel fuel on which special fuel excise tax has been paid by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association. The total credit claimed in the aggregate by all members of the partnership or business association shall not exceed the amount of credit allowed pursuant to Subsection A of this section.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

E. The tax credit provided by this section may only be applied against the income tax liability of the person who paid the special fuel excise tax on the blended biodiesel fuel with respect to which the credit is provided, or who would have paid the special fuel excise tax but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. If the credit exceeds the person's income tax liability for the taxable year in which the credit is granted, the credit may be carried forward for five years.

F. A taxpayer claiming a credit pursuant to this section shall provide documentation of eligibility in form and content as determined by the department.

G. For the purposes of this section:

- (1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;
- (2) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and
- (3) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle.

Credits: Added by L. 2007, Ch. 204, § 7, eff. June 15, 2007.