



## H.R.4520 - American Jobs Creation Act of 2004

108th Congress (2003-2004)

**Sponsor:** [Rep. Thomas, William M. \[R-CA-22\]](#) (Introduced 06/04/2004)  
**Committees:** House - Ways and Means; Agriculture  
**Committee Reports:** [H. Rept. 108-548](#); [H. Rept. 108-755 \(Conference Report\)](#)  
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Summary(6) **Text(7)** Actions(76) Titles(20) Amendments(3) Cosponsors(40) Committees(2) Related Bills(6)

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#### Public Law No: 108-357 (10/22/2004)

[108th Congress Public Law 357]  
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#### AMERICAN JOBS CREATION ACT OF 2004

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Public Law 108-357  
 108th Congress

#### An Act

To amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at <<NOTE: Oct. 22, 2004 - [H.R. 4520]>> home and abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress <<NOTE: American Jobs Creation Act of 2004.>> assembled,

#### SECTION 1. SHORT TITLE; ETC.

(a) Short Title.--This <<NOTE: 26 USC 1 note.>> Act may be cited as the ``American Jobs Creation Act of 2004''.

(b) Amendment of 1986 Code.--Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference

shall be required to be deducted and withheld

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under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence.''.

(c) Wage Withholding Not Required on Compensation Where Option Price Is Between 85 Percent and 100 Percent of Value of Stock.--Section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock) is amended by adding at the end the following new sentence: ``No amount shall be required to be deducted and withheld under chapter 24 with respect to any amount treated as compensation under this subsection.''.

(d) Effective Date.--The <<NOTE: 26 USC 421 note.>> amendments made by this section shall apply to stock acquired pursuant to options exercised after the date of the enactment of this Act.

### TITLE III--TAX RELIEF FOR AGRICULTURE AND SMALL MANUFACTURERS

#### Subtitle A--Volumetric Ethanol Excise Tax Credit

#### SEC. 301. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) In General.--Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

``SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

``(a) Allowance of Credits.--There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of--

- ``(1) the alcohol fuel mixture credit, plus
- ``(2) the biodiesel mixture credit.

``(b) Alcohol Fuel Mixture Credit.--

``(1) In general.--For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

``(2) Applicable amount.--For purposes of this subsection--

``(A) In general.--Except as provided in subparagraph (B), the applicable amount is 51 cents.

``(B) Mixtures not containing ethanol.--In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

``(3) Alcohol fuel mixture.--For purposes of this subsection, the term `alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which--

``(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

``(B) is used as a fuel by the taxpayer producing such mixture.

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For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

``(4) Other definitions.--For purposes of this subsection--

``(A) Alcohol.--The term `alcohol' includes methanol and ethanol but does not include--

``(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

``(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

``(B) Taxable fuel.--The term `taxable fuel' has the meaning given such term by section 4083(a)(1).

``(5) Termination.--This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

``(c) Biodiesel Mixture Credit.--

``(1) In general.--For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

``(2) Applicable amount.--For purposes of this subsection--

``(A) In general.--Except as provided in subparagraph (B), the applicable amount is 50 cents.

``(B) Amount for agri-biodiesel.--In the case of any biodiesel which is agri-biodiesel, the applicable amount is \$1.00.

``(3) Biodiesel mixture.--For purposes of this section, the term `biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which--

``(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

``(B) is used as a fuel by the taxpayer producing such mixture.

``(4) Certification for biodiesel.--No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

``(5) Other definitions.--Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

``(6) Termination.--This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

``(d) Mixture Not Used As a Fuel, Etc.--

``(1) Imposition of tax.--If--

``(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of

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any alcohol fuel mixture or biodiesel mixture, respectively, and

``(B) any person--

``(i) separates the alcohol or biodiesel from the mixture, or

``(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

“(2) Applicable laws.--All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

“(e) Coordination With Exemption From Excise Tax.--Rules similar to the rules under section 40(c) shall apply for purposes of this section.”.

(b) Registration Requirement.--Section 4101(a)(1) (relating to registration), as amended by section 861, is amended by inserting “and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))” before “shall register with the Secretary”.

(c) Additional Amendments.--

(1) Section 40(c) is amended by striking “subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)” and inserting “section 4041(b)(2), section 6426, or section 6427(e)”.

(2) Paragraph (4) of section 40(d) is amended to read as follows:

“(4) Volume of alcohol.--For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).”.

(3) Section 40(e)(1) is amended--

(A) by striking “2007” in subparagraph (A) and inserting “2010”, and

(B) by striking “2008” in subparagraph (B) and inserting “2011”.

(4) Section 40(h) is amended--

(A) by striking “2007” in paragraph (1) and inserting “2010”, and

(B) by striking “, 2006, or 2007” in the table contained in paragraph (2) and inserting “through 2010”.

(5) Section 4041(b)(2)(B) is amended by striking “a substance other than petroleum or natural gas” and inserting “coal (including peat)”.

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

“(2) Gasoline.--The term ‘gasoline’--

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“(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

“(B) includes, to the extent prescribed in regulations--

“(i) any gasoline blend stock, and

“(ii) any product commonly used as an

additive in gasoline (other than alcohol).  
 For purposes of subparagraph (B)(i), the term `gasoline blend stock' means any petroleum product component of gasoline.''.  
 (9) Section 6427 is amended by inserting after subsection

(d) the following new subsection:

``(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures.--Except as provided in subsection (k)--

``(1) Used to produce a mixture.--If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

``(2) Coordination with other repayment provisions.--No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

``(3) Termination.--This subsection shall not apply with respect to--

``(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2010, and

``(B) any biodiesel mixture (as defined in section 6426(c)(3)) sold or used after December 31, 2006.''.  
 (10) Section 6427(i)(3) is amended--

(A) by striking ``subsection (f)'' both places it appears in subparagraph (A) and inserting ``subsection (e)(1)'' ,

(B) by striking ``gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ``a mixture described in section 6426'' ,

(C) by adding at the end of subparagraph (A) the following new flush sentence:

``In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'' ,

(D) by striking ``subsection (f)(1)'' in subparagraph (B) and inserting ``subsection (e)(1)'' ,

(E) by striking ``20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ``45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'' , and

(F) by striking ``alcohol mixture'' in the heading and inserting ``alcohol fuel and biodiesel mixture'' .

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

``For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.  
 (12) Section 9503(b)(4) is amended--

(A) by adding ``or'' at the end of subparagraph (C),

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(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) Section 9503(c)(2)(A) is amended by adding at the end the following: ``Clauses (i)(III) and (ii) shall not apply to claims under section 6427(e).'' .

(14) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

``Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(d) Effective <<NOTE: 26 USC 40 note.>> Dates.--

(1) In general.--Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after December 31, 2004.

(2) Registration requirement.--The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.--The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal <<NOTE: Applicability.>> of general fund retention of certain alcohol fuels taxes.--The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2004.

(e) Format for Filing.--The <<NOTE: Deadline. 26 USC 6427 note.>> Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than December 31, 2004.

#### SEC. 302. BIODIESEL INCOME TAX CREDIT.

(a) In General.--Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

``SEC. 40A. BIODIESEL USED AS FUEL.

``(a) General Rule.--For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of--

- ``(1) the biodiesel mixture credit, plus
- ``(2) the biodiesel credit.

``(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.--For purposes of this section--

``(1) Biodiesel mixture credit.--

``(A) In general.--The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

``(B) Qualified biodiesel mixture.--The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which--

``(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

``(ii) is used as a fuel by the taxpayer producing such mixture.

``(C) Sale or use must be in trade or business, etc.--Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account--

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``(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

``(ii) for the taxable year in which such sale

or use occurs.

``(D) Casual off-farm production not eligible.--No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

``(2) Biodiesel credit.--

``(A) In general.--The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year--

``(i) is used by the taxpayer as a fuel in a trade or business, or

``(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

``(B) User credit not to apply to biodiesel sold at retail.--No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

``(3) Credit for agri-biodiesel.--

In <<NOTE: Applicability.>> the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '\$1.00' for '50 cents'.

``(4) Certification for biodiesel.--No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

``(c) Coordination With Credit Against Excise Tax.--The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

``(d) Definitions and Special Rules.--For purposes of this section--

``(1) Biodiesel.--The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet--

``(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

``(B) the requirements of the American Society of Testing and Materials D6751.

``(2) Agri-biodiesel.--The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

``(3) Mixture or biodiesel not used as a fuel, etc.--

``(A) Mixtures.--If--

``(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

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``(ii) any person--

``(I) separates the biodiesel from the mixture, or

``(II) without separation, uses the

mixture other than as a fuel,  
 then there is hereby imposed on such person a tax equal  
 to the product of the rate applicable under subsection  
 (b)(1)(A) and the number of gallons of such biodiesel in  
 such mixture.

``(B) Biodiesel.--If--

``(i) any credit was determined under this  
 section with respect to the retail sale of any  
 biodiesel, and

``(ii) any person mixes such biodiesel or uses  
 such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal  
 to the product of the rate applicable under subsection  
 (b)(2)(A) and the number of gallons of such biodiesel.

``(C) Applicable laws.--All provisions of law,  
 including penalties, shall, insofar as applicable and  
 not inconsistent with this section, apply in respect of  
 any tax imposed under subparagraph (A) or (B) as if such  
 tax were imposed by section 4081 and not by this  
 chapter.

``(4) Pass-thru <<NOTE: Regulations. Applicability.>> in the  
 case of estates and trusts.--Under regulations prescribed by the  
 Secretary, rules similar to the rules of subsection (d) of  
 section 52 shall apply.

``(e) Termination.--This section shall not apply to any sale or use  
 after December 31, 2006.''.

(b) Credit Treated as Part of General Business Credit.--Section  
 38(b) (relating to current year business credit), as amended by this  
 Act, is amended by striking ``plus'' at the end of paragraph (15), by  
 striking the period at the end of paragraph (16) and inserting ``  
 plus'', and by inserting after paragraph (16) the following new  
 paragraph:

``(17) the biodiesel fuels credit determined under section  
 40A(a).''.

(c) Conforming Amendments.--

(1)(A) Section 87 is amended to read as follows:

``SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

``Gross income includes--

``(1) the amount of the alcohol fuel credit determined with  
 respect to the taxpayer for the taxable year under section  
 40(a), and

``(2) the biodiesel fuels credit determined with respect to  
 the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections  
 for part II of subchapter B of chapter 1 is amended by striking  
 ``fuel credit'' and inserting ``and biodiesel fuels credits''.

(2) Section 196(c) is amended by striking ``and'' at the end  
 of paragraph (9), by striking the period at the end of paragraph  
 (10) and inserting `` and'', and by adding at the end the  
 following new paragraph:

``(11) the biodiesel fuels credit determined under section  
 40A(a).''.

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(3) The table of sections for subpart D of part IV of  
 subchapter A of chapter 1 is amended by adding after the item  
 relating to section 40 the following new item:



``Sec. 40A. Biodiesel used as fuel.''.

(d) Effective Date.--The <<NOTE: 26 USC 38 note.>> amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2004, in taxable years ending after such date.

SEC. 303. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) In General.--Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

``SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

``(a) In General.--The Secretary shall require any person claiming tax benefits--

``(1) under the provisions of section 34, 40, and 40A, to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

``(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a quarterly return (in such manner as the Secretary may prescribe).

``(b) Contents of Return.--Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

``(c) Enforcement.--With <<NOTE: Applicability.>> respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) Conforming Amendment.--The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

``Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) Effective Date.--The <<NOTE: 26 USC 4104 note.>> amendments made by this section shall take effect on January 1, 2005.

Subtitle B--Agricultural Incentives

SEC. 311. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Replacement of Livestock With Other Farm Property.--Subsection (f) of section 1033 (relating to involuntary conversions) is amended--

(1) by inserting ``drought, flood, or other weather-related conditions, or'' after ``because of'',

(2) by inserting ``in the case of soil contamination or other environmental contamination'' after ``including real property'', and

(3) by striking ``Where There Has Been Environmental Contamination'' in the heading and inserting ``in Certain Cases''.

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(b) Extension of Replacement Period of Involuntarily Converted Livestock.--Subsection (e) of section 1033 (relating to involuntary