

D. Definition of Essential Governmental Function

The definition of an essential governmental function under § 7871(e) of the Code for purposes of determining the availability of tax-exempt bond financing for an ITG (including the summary of which activities are considered an essential governmental function customarily performed by State and local governments) described in the advance notice of proposed rulemaking under § 7871 published by the IRS on August 9, 2006³ will be considered a reasonable and good faith interpretation of what constitutes an essential government function under § 414(d).

E. Relief Only Applies Pending Further Guidance

The relief provided in this section III applies pending the issuance of further guidance relating to § 414(d), including the amendment made by section 906(a)(1) of PPA '06.

IV. Request for Comments

The IRS and the Department of the Treasury request public comments on issues relating to the amendment made by section 906(a)(1) of PPA '06, including transitional issues not addressed in this notice (such as issues for ITG plans with a cash or deferred arrangement under § 401(k)). Written comments should be submitted by January 22, 2007. Send submissions to: CC:PA:LPD:PR (Notice 2006-89), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. to: Crystal Mall 4 Building, 1901 S. Bell St., room 108, Arlington, VA 22202. Alternatively, taxpayers may submit comments electronically to notice.comments@irs.counsel.treas.gov (Notice 2006-89).

Drafting Information

The principal author of this notice is Ingrid Grinde of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding

this notice, please contact the Employee Plans taxpayer assistance telephone service at (877) 829-5500 (a toll-free number) between the hours of 8:30 am and 4:30 pm Eastern Time, Monday through Friday. Ms. Grinde may be reached at (202) 283-9888 (not a toll-free number).

Alternative Fuel and Alternative Fuel Mixtures; Blood Collector Organizations

Notice 2006-92

Section 1. PURPOSE

This notice provides guidance on: (1) the credit and payment provisions for alternative fuel and alternative fuel mixtures under §§ 34, 6426(d), 6426(e), and 6427(e) of the Internal Revenue Code; and (2) the imposition of tax on alternative fuel and alternative fuel mixtures under §§ 4041(a)(2), 4041(a)(3), and 4081(b). These provisions were added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59) and are effective October 1, 2006. This notice also provides guidance on the excise tax exemption for blood collector organizations added by the Pension Protection Act of 2006 (Pub. L. 109-280). References to regulations in this notice are to the Manufacturers and Retailers Excise Tax Regulations.

Section 2. DEFINITIONS

(a) *Alternative fuel* has the meaning given to the term by § 6426(d)(2). Section 6426(d)(2) provides that *alternative fuel* means liquefied petroleum gas, P Series Fuels (as defined by the Secretary of Energy under 42 U.S.C. 13211(2)), compressed or liquefied natural gas, liquefied hydrogen, any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and liquid hydrocarbons derived from biomass (as defined in § 45K(c)(3)). The term does not include ethanol, methanol, biodiesel, or renewable diesel. (For the definition of biodiesel, see § 40A(d)(1). For the definition of renewable diesel and treatment

of renewable diesel in the same manner as biodiesel, see § 40A(f).)

(b) *Alternative fuel mixture* means a mixture of alternative fuel and taxable fuel that contains at least 0.1 percent (by volume) of taxable fuel (as defined in § 4083(a)(1)).

(c) *Alternative fueler* means a person that—

(1) Is an alternative fueler (unmixed fuel); or

(2) Produces alternative fuel mixtures for sale or use in its trade or business.

(d) The *alternative fueler (unmixed fuel)* with respect to any alternative fuel is the person that—

(1) Is liable for tax on the alternative fuel imposed by § 4041(a)(2) or (3) (determined in the case of compressed natural gas after the application of § 48.4041-21 and in the case of any other alternative fuel after the application of rules similar to the rules of §§ 48.4041-3 and 48.4041-5); or

(2) Would be so liable for such tax but for the application of an exemption provided by § 4041(a)(3)(B), (b), (f), (g), or (h).

(e) *Motor vehicle* has the meaning given to the term by § 48.4041-8(c).

(f) *Use as a fuel*. The following definitions apply for purposes of section 4 of this notice (relating to alternative fuel mixtures):

(1) A mixture is *used as a fuel* when it is consumed in the production of energy. Thus, for example, a mixture is used as a fuel when it is consumed in an internal combustion engine to power a vehicle or in a furnace to produce heat. A mixture that is destroyed in a fire or other casualty loss is not used as a fuel.

(2) A mixture producer sells a mixture *for use as a fuel* if the producer has reason to believe that the mixture will be used as a fuel either by the person buying the mixture from the producer or by any later buyer of the mixture.

Section 3. ALTERNATIVE FUEL

(a) *Overview*. This section provides rules under which a credit or payment may be obtained under § 6426 (the alternative fuel excise tax credit), §§ 34 and 6427 (the alternative fuel income tax credit), or § 6427 (the alternative fuel payment) for

³ Advance notice of proposed rulemaking, REG-118788-06, 71 Fed. Reg. 45474 (August 9, 2006).

alternative fuel that is sold for use or used as a fuel in a motor vehicle or motorboat. The amount of the credit or payment allowed with respect to alternative fuel is based on the amount of alternative fuel sold or used.

(b) *Conditions to allowance*—(1) *Excise tax credit*. A claim for the alternative fuel excise tax credit with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under § 6426 only if the claimant—

(i) Is the alternative fueler (unmixed fuel) with respect to the fuel;

(ii)(A) Is registered under § 4101 as an alternative fueler; or

(B) In the case of a claim made before July 1, 2007, is registered under § 4101 for any purpose;

(iii) Has made no other claim with respect to the alternative fuel;

(iv) Has filed a timely claim on Form 720, *Quarterly Federal Excise Tax Return*, and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(v) Has § 4041 liability for the period of the claim and the total amount of the alternative fuel excise tax credit claimed under § 6426 for the period of the claim does not exceed such liability.

(2) *Refundable income tax credit*—(i) *In general*. A claim for the alternative fuel income tax credit with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under §§ 34 and 6427(e)(2) only if—

(A) The conditions of paragraphs (b)(1)(i) and (ii) of this section are met;

(B) The sale or use of the alternative fuel is in the claimant's trade or business;

(C) The claimant has filed a timely claim for credit on Form 4136, *Credit for Federal Tax Paid on Fuels*, and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(D) The amount claimed under §§ 34 and 6427(e)(2) as an alternative fuel income tax credit is the amount that exceeds the claimant's § 4041 liability for the period of the claim.

(ii) *Estimated tax reduction*. For purposes of determining the amount of required estimated tax payments, the alternative fuel income tax credit claimed on Form 4136 is subtracted from total tax and reduces estimated tax payments. Thus, a

taxpayer may benefit from the credit before filing an income tax return. See, for example, Form 1120-W, *Estimated Tax for Corporations*.

(3) *Payments*. A claim for the alternative fuel payment with respect to alternative fuel sold for use or used as a fuel in a motor vehicle or motorboat is allowed under § 6427(e)(2) only if—

(i) The claimant is—

(A) The United States;

(B) A State (as defined in § 48.4081-1(b)); or

(C) A § 501(a) exempt organization (other than an organization required to file a Form 990-T, *Exempt Organization Business Income Tax Return*);

(ii) The conditions of paragraphs (b)(1)(i) and (ii) of this section are met;

(iii) The sale or use of the alternative fuel is in the claimant's trade or business;

(iv) The claimant has filed a timely claim for payment on Form 8849, *Claim for Refund of Excise Taxes*, and the claim contains all of the information required by the claim form described in paragraph (c) of this section; and

(v) The amount claimed under § 6427(e)(2) as an alternative fuel payment is the amount that exceeds the claimant's § 4041 liability for the period of the claim.

(c) *Content of claim*. The claim form will provide that each claim for an alternative fuel credit or payment must contain the following information with respect to the alternative fuel covered by the claim:

(1) The amount of alternative fuel sold or used.

(2) A statement that the conditions to allowance described in paragraph (b) of this section have been met.

(3) A statement that the claimant either—

(i) Produced the alternative fuel it sold or used; or

(ii) Has in its possession the name, address, and employer identification number of the person(s) that sold the alternative fuel to the claimant, the date of purchase, and an invoice or other documentation identifying the alternative fuel.

(d) *Amount of the credit*. The amount of credit for any alternative fuel other than compressed natural gas is the product of \$0.50 and the number of gallons of alternative fuel. The amount of the credit for compressed natural gas is \$0.50 per 121 cubic feet.

Section 4. ALTERNATIVE FUEL MIXTURES

(a) *Overview*. This section provides rules under which a credit or payment may be obtained under § 6426 (the alternative fuel mixture excise tax credit), §§ 34 and 6427 (the alternative fuel mixture income tax credit), or § 6427 (the alternative fuel mixture payment) for an alternative fuel mixture that is sold for use or used as a fuel by the person producing the mixture. The amount of the credit or payment allowed with respect to an alternative fuel mixture is based on the amount of alternative fuel used to produce the mixture.

(b) *Conditions to allowance*—(1) *Excise tax credit*. A claim for the alternative fuel mixture excise tax credit with respect to an alternative fuel mixture is allowed under § 6426 only if the claimant—

(i) Produced the alternative fuel mixture for sale or use in the trade or business of the claimant;

(ii)(A) Sold the alternative fuel mixture for use as a fuel; or

(B) Used the alternative fuel mixture as a fuel;

(iii)(A) Is registered under § 4101 as an alternative fueler; or

(B) In the case of claims made before July 1, 2007, is registered under § 4101 for any purpose;

(iv) Has made no other claim with respect to the amount of alternative fuel in the mixture or, if a payment with respect to the amount of alternative fuel was erroneously claimed under § 6427 and received, claimant has repaid the government with interest;

(v) Has filed a timely claim on Form 720 and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(vi) Has § 4081 liability for the period of the claim and the total amount of the alternative fuel mixture excise tax credit claimed under § 6426 for the period of the claim does not exceed such liability.

(2) *Payment or income tax credit*. A claim for an alternative fuel mixture payment under § 6427 or an alternative fuel mixture income tax credit under §§ 34 and 6427 is allowed only if—

(i) The conditions of paragraphs (b)(1)(i), (ii), and (iii) of this section are met;

(ii) The claimant has filed a timely claim for payment on Form 8849 or Form 720 or for credit on Form 4136 and the claim contains all the information required by the claim form described in paragraph (c) of this section; and

(iii) The amount claimed under § 6427 as an alternative fuel mixture payment or under §§ 34 and 6427 as an alternative fuel mixture income tax credit is the amount that exceeds the claimant's § 4081 liability for the period of the claim.

(c) *Content of claim.* The claim form will provide that each claim for an alternative fuel mixture credit or payment must contain the following information with respect to the mixture covered by the claim:

(1) The amount of alternative fuel in the alternative fuel mixture.

(2) A statement that the conditions to allowance described in paragraph (b) of this section have been met.

(3) A statement that the claimant either—

(i) Produced the alternative fuel it used in the mixture; or

(ii) Has in its possession the name, address, and employer identification number of the person(s) that sold the alternative fuel to the claimant, the date of purchase, and an invoice or other documentation identifying the alternative fuel.

(d) *Amount of the credit or payment.* The amount of credit or payment for any alternative fuel mixture is the product of \$0.50 and the number of gallons of alternative fuel used to produce the mixture.

Section 5. REGISTRATION

(a) *Application for registration.* Application for registration as an alternative fueler is made on Form 637, *Application for Registration (For Certain Excise Tax Activities)*, in accordance with the instructions for that form. As provided in § 48.4101-1(a)(2), a person is registered under § 4101 only if the Service has issued a registration letter to the person.

(b) *Requirements.* The Service will register an applicant as an alternative fueler only if the Service—

(1) Determines that the applicant is an alternative fueler or is likely to become an alternative fueler within a reasonable time after being registered under § 4101; and

(2) Is satisfied with the filing, deposit, payment, reporting, and claim his-

tory for federal taxes of the applicant and any related person (as defined in § 48.4101-1(b)(5)).

Section 6. TAXATION OF ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES

(a) *Alternative fuels—(1) Liquids.* A liquid alternative fuel (that is, any alternative fuel other than compressed natural gas) is a liquid other than gas oil, fuel oil, or taxable fuel and is subject to the tax imposed by § 4041(a)(2) when it is sold for use or used as a fuel in a motor vehicle or motorboat. Rules similar to the rules of §§ 48.4041-3 and 48.4041-5 (relating to the application of the tax on sales of special motor fuels) apply. For exemptions from tax, see §§ 4041(b), (f), (g), and (h).

(2) *Compressed natural gas.* Compressed natural gas is subject to the tax imposed by § 4041(a)(3) when it is sold for use or used as a fuel in a motor vehicle or motorboat. The rules of § 48.4041-21 apply. For exemptions from tax, see §§ 4041(a)(3)(B), (b), (f), (g), and (h).

(b) *Alternative fuel mixtures—(1)* If an alternative fuel mixture is taxable fuel, the mixture is subject to tax imposed by § 4081 when it is removed, entered, or sold and the rules of §§ 48.4081-1 through 48.4081-8 apply.

(2) If an alternative fuel mixture is not a taxable fuel and is sold for use or used as a fuel in a diesel-powered highway vehicle or diesel-powered train, the mixture is subject to the tax imposed by § 4041(a)(1) at the time of such sale or use and the rules of § 48.4082-4 apply.

(3) If an alternative fuel mixture is not a taxable fuel and is sold for use or used as a fuel in a motor vehicle (other than a diesel-powered highway vehicle) or motorboat, the mixture is subject to the tax imposed by § 4041(a)(2) at the time of such sale or use and rules similar to the rules of §§ 48.4041-3 and 48.4041-5 (relating to the application of the tax on sales of special motor fuels) apply. For exemptions from tax, see §§ 4041(b), (f), (g), and (h).

(c) *Rate of tax.* For the rate of tax generally, see §§ 4041 and 4081. The rate of tax for compressed natural gas is \$0.183 per 126.67 cubic feet.

Section 7. QUALIFIED BLOOD COLLECTOR ORGANIZATIONS

(a) *Overview.* Under the Pension Protection Act of 2006 (Pub. L. 109-280), qualified blood collector organizations are exempt from many federal excise taxes (or a credit or payment relating to the tax is available). These taxes include the taxes on fuel, tires, communications services, and heavy vehicles. This provision is effective after December 31, 2006, except that the exemption from the highway use tax applies after June 30, 2007.

(b) *Definition.* *Qualified blood collector organization* has the meaning given to the term by § 7701(a)(49). Section 7701(a)(49) provides that a *qualified blood collector organization* means an organization that is described in § 501(c)(3) and is exempt from tax under § 501(a), primarily engaged in the activity of the collection of human blood, registered with the Service for purposes of excise tax exemptions, and registered by the Food and Drug Administration to collect blood.

(c) *Registration—(1) In general.* Each blood collector organization must be registered by the Service as a condition for applying for the exemptions (or credit or payments) under the Code as a blood collector organization. Application for registration is made on Form 637, *Application for Registration (For Certain Excise Tax Activities)*, in accordance with the instructions for that form. As provided in § 48.4101-1(a)(2), a person is registered under § 4101 only if the Service has issued a registration letter to the person.

(2) *Requirements.* The Service will register an applicant as a blood collector organization only if the Service—

(i) Determines that the applicant is a person described in § 7701(a)(49)(A), (B), and (D); and

(ii) Is satisfied with the filing, deposit, payment, reporting, and claim history for all federal taxes of the applicant and any related person (as defined in § 48.4101-1(b)(5)).

Section 8. EFFECTIVE DATE

This notice is effective after September 30, 2006, except that section 7 of this notice is effective after December 31, 2006.

Section 9. DRAFTING INFORMATION

The principal authors of this notice are Susan Athy and Deborah Karet of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Athy (concerning alternative fuel and alternative fuel mixtures) and Ms. Karet (concerning qualified blood collector organizations) at (202) 622-3130 (not a toll-free call).

Weighted Average Interest Rates Update

Notice 2006-94

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. In addition,

it provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II).

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004 and by the Pension Protection Act of 2006, provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 through 2007 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-1 C.B. 848, provides guidelines for determining the corporate bond weighted average interest rate

and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices. The methodology for determining the monthly composite corporate bond rate as set forth in Notice 2004-34 continues to apply in determining that rate. See Notice 2006-75, 2006-36 I.R.B. 366.

The composite corporate bond rate for September 2006 is 5.95 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

Month	For Plan Years Beginning in:	Year	Corporate Bond Weighted Average	90% to 100% Permissible Range
October		2006	5.79	5.21 to 5.79

30-YEAR TREASURY SECURITIES INTEREST RATE

Section 417(e)(3)(A)(ii)(II) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant's benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)-1(d)(3) of the Income Tax Regulations provides that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

The rate of interest on 30-year Treasury securities for September 2006 is 4.85 percent. The Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2036.

Drafting Information

The principal authors of this notice are Paul Stern and Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 877-829-5500 (a toll-free number), between the hours of 8:30 a.m. and 4:30 p.m. Eastern time, Monday through Friday. Mr. Stern may be reached at 202-283-9703. Mr. Montanaro may be reached at 202-283-9714. The telephone numbers in the preceding sentences are not toll-free.

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

(Also Part I, §§ 62, 162, 267, 274; 1.62-2, 1.162-17, 1.267(a)-1, 1.274-5.)

Rev. Proc. 2006-41

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 2005-67, 2005-42 I.R.B. 729, and provides rules under which the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses, or for meal and incidental expenses, incurred while traveling away from home are deemed substantiated under § 1.274-5 of the Income Tax Regulations when a payor (the employer, its agent, or a third party) provides a *per diem* allowance under a reimbursement or other expense allowance arrangement to pay for the expenses. In addition, this revenue procedure provides an optional method for employees and self-employed individuals who are not reimbursed to use in computing the deductible costs paid or incurred for business meal and incidental expenses,