

## Section 40B: Sustainable Aviation Fuel Credit

Section 40B Sustainable Aviation Fuel (SAF) Credit is a tax credit established by the Inflation Reduction Act (IRA). The SAF credit is intended to subsidize the production of sustainable fuels used for aircraft with low or no greenhouse gas (GHG) emissions.

### Legislative History

The SAF credit was created by the IRA and will expire at the end of 2024, after which it will be replaced by 45Z, the Clean Fuel Production Credit which will go into effect at the start of 2025.

### Eligibility

Qualified SAF needs to:

- meet the requirements of either ASTM International Standard D7566 or Fischer Tropsch provisions of ASTM International Standard D1655, Annex A1,
- be not derived from coprocessing an applicable material or materials derived from an applicable material with a feedstock which is not biomass
- be not derived from palm fatty acid distillates or petroleum
- be certified as having a lifecycle GHG emissions reduction percentage of at least 50 percent

Eligible producers must register with the IRS and be located within the United States or its territories. Fuel mixtures must be suitable for use in an aircraft, produced before the end of 2024, and be sold to an unrelated party. Lifecycle GHG emissions must be calculated using Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization, or any similar methodology.

### Credit Amount

Producers of SAF are eligible for a tax credit of \$1.25 per gallon. Qualifying SAF must reduce greenhouse gas (GHG) emissions by 50%. SAF that decreases GHG emissions by more than 50% is eligible for an additional \$0.01 per gallon for each percent the reduction exceeds 50%, up to \$0.50 per gallon.

### Taxpayer Costs

The Joint Committee on Taxation estimates that the new 40B credit will cost taxpayers \$49 million from FY2023 to FY2025.

## Taxpayer Concerns

The IRA stipulated that the lifecycle greenhouse gas (GHG) emissions rate calculation for sustainable aviation fuel should utilize the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) methodology, or a similar method. If a similar methodology is used to calculate lifecycle GHG emissions for sustainable aviation fuel, it should not result in fuels qualifying for the tax credit if they would not have otherwise qualified under the CORSIA methodology. Implementation of the SAF credit must ensure that first-generation, high-carbon biofuel feedstocks do not become eligible for federal tax credits, as they would not under CORSIA, such as corn, soybean oil, and woody biomass, which has higher instead of lower GHG emissions, would require an unviable amount of cropland, increases food prices and potentially cause deforestation.

Unfortunately, IRS guidance on SAF credit has allowed 40BSAF-GREET 2024 model and allows for reduction in GHG emissions for the use of certain Climate Smart Agriculture practices under the USDA Climate Smart Agriculture Pilot Program. SAF's GHG emissions calculations takes into account indirect land-use changes like crop area expansions and conversions of food production for ethanol feedstock that come from growing corn and soy for production of ethanol-based SAF. The GREET methodology attributes lower emissions to indirect land CORSIA. Under GREET, producers of corn- and soy-based ethanol would qualify for the SAF credit while they would not under CORSIA. Using less stringent GHG lifecycle calculation methodology will lead to the subsidization of counterproductive climate-related policies instead of investing in solutions that reduce climate risk, costs, and future liabilities.