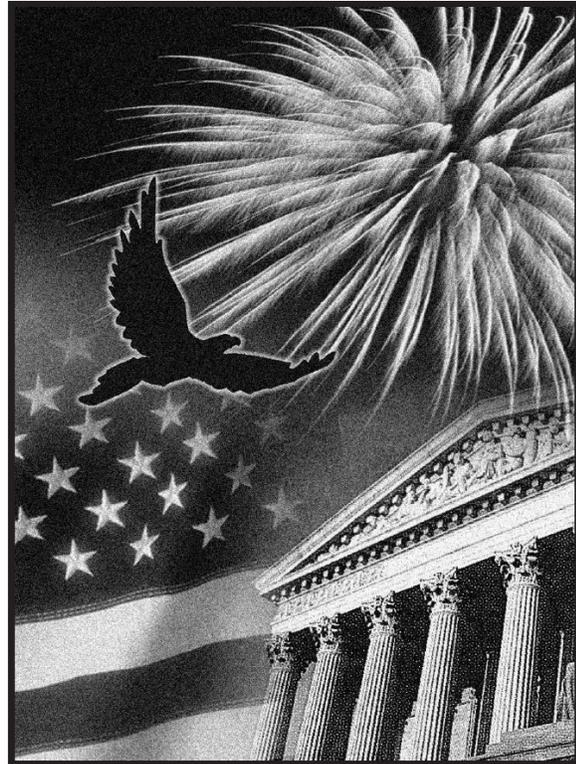


Publication 510

Excise Taxes

(Including Fuel Tax Credits and Refunds)

Volume 2 of 5



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In addition, for the registered commercial aviation operator to be liable at the \$.044 tax rate instead of the position holder, the position holder must meet the following requirements:

- Is a taxable fuel registrant;
- Has an unexpired certificate (a model certificate is shown in the Appendix as Model Certificate K) from the operator of the aircraft; and
- Has no reason to believe any of the information in the certificate is false.

Note. The \$.044 rate is only applicable to the registered commercial aviation operator. If the conditions above aren't met, the position holder is liable for tax at the \$.244 or \$.219 rate and a claim may be filed by either the ultimate purchaser or the registered ultimate vendor.

Kerosene for use in aviation, nontaxable uses. The tax rate for kerosene removed

directly from a terminal, such as through a hydrant system or by a qualifying refueler, into the fuel tank of an aircraft for nontaxable use (other than foreign trade) is \$.001 per gallon. The position holder is liable for the tax. For this rate to apply, the operator must provide the position holder with a certificate similar to Model Certificate K in the Appendix. See [Certificate for Commercial Aviation or Nontaxable Uses](#), later. The airport terminal doesn't need to be a SAT for this rate to apply to hydrant removals. However, in the case of a qualifying refueler, the airport terminal must be a SAT and the qualifying refueler must meet the requirements discussed under [Qualified refueler trucks, tankers, and tank wagons treated as terminals \(qualifying refueler\)](#), earlier.

Kerosene for use in foreign trade. There is no tax for kerosene removed directly from a terminal, such as through a hydrant system or by a qualifying refueler, into the fuel tank of

an aircraft for use in foreign trade. The airport terminal doesn't need to be a SAT for this rate to apply to hydrant removals. However, in the case of a qualifying refueler, the airport terminal must be a SAT and the qualifying refueler must meet the requirements discussed under [Qualified refueler trucks, tankers, and tank wagons treated as terminals \(qualifying refueler\)](#), earlier. For this rate to apply, the operator must provide the position holder with a certificate similar to Model Certificate K in the Appendix. See [Certificate for Commercial Aviation or Nontaxable Uses](#), later.

Liability For Tax

If the kerosene is removed directly into the fuel tank of an aircraft for use in commercial aviation, then the registered commercial aviation operator of the aircraft in commercial aviation is liable for the tax on the removal at the rate of \$.044 per gallon. If the kerosene is removed directly into the fuel tank of an

aircraft for a use that is exempt from tax under section 4041(c) (except foreign trade), then the position holder is liable for the \$.001 LUST tax for kerosene for use in aviation. For example, for kerosene removed directly into the aircraft for use in military aircraft, the position holder is liable for the tax.

For the registered commercial aviation operator to be liable for the \$.044 tax rate, the position holder must meet the following requirements:

- Is a taxable fuel registrant;
- Has an unexpired certificate (a model certificate is shown in the Appendix as Model Certificate K) from the operator of the aircraft; and
- Has no reason to believe any of the information in the certificate is false.

Surtax on Any Liquid Used in a Fractional Ownership Program Aircraft as Fuel

Fuel used in a fractional ownership program aircraft is subject to a surtax of \$.141 per gallon. The fractional ownership program manager is liable for the tax. The surtax applies in addition to any other taxes imposed on the removal, entry, use, or sale of the fuel. If the surtax is imposed, the following air transportation taxes don't apply.

- Transportation of persons by air.
- Transportation of property by air.
- Use of international air travel facilities.

These taxes are described under [*Air Transportation Taxes*](#), later.

A fractional ownership program aircraft flight is considered noncommercial aviation; for the rules for kerosene used in noncommercial

aviation, see [*Kerosene for Use in Aviation*](#), earlier.

A fractional ownership program is one under which:

- A single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners;
- There are one or more fractional owners per fractional program aircraft, with at least one fractional program aircraft having more than one owner;
- For at least two fractional program aircraft, none of the ownership interests in the aircraft are less than the minimum fractional ownership interest or held by the program manager;
- There exists a dry-lease aircraft exchange arrangement among all of the fractional owners; and

- There are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

Fractional program aircraft. Any aircraft that, in any fractional ownership aircraft program, is listed as a fractional program aircraft in the management specifications issued to the manager of such program by the Federal Aviation Administration under subpart K of part 91, title 14, Code of Federal Regulations, and is registered in the United States.

Fractional program aircraft aren't considered used for transportation of a qualified fractional owner or on account of such qualified fractional owner, when they're used for flight demonstration, maintenance, or crew training. In such situations, the flight isn't commercial aviation. Instead, the tax on

the fuel used in the flight is imposed at the non-commercial aviation rate.

Fractional owner. Any person owning any interest (including the entire interest) in a fractional program aircraft.

Dry lease aircraft exchange. An agreement, documented by the written program agreements, under which the fractional program aircraft are available, on an as-needed basis without crew, to each fractional owner.

Special rule relating to deadhead service.

A fractional program aircraft won't be considered to be used on account of a qualified fractional owner when it's used in deadhead service and a person other than a qualified fractional owner is separately charged for such service.

More information. See section 4043 for more information on the surtax.

Certificate for Commercial Aviation or Nontaxable Uses

A certificate is required from the aircraft operator:

- To support aircraft operator liability for tax on removal of kerosene for use in aviation directly into the fuel tank of an aircraft in commercial aviation, or
- For exempt uses.

Certificate. The certificate may be included as part of any business records normally used for a sale. See Model Certificate K in the Appendix.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.

- The date the buyer provides the seller a new certificate or notice that the current certificate is invalid.
- The date the IRS or the buyer notifies the seller that the buyer's right to provide a certificate has been withdrawn.

The buyer must provide a new certificate if any information on a certificate has changed.

The IRS may withdraw the buyer's right to provide a certificate if the buyer uses the kerosene for use in aviation to which a certificate relates other than as stated in the certificate.

Nontaxable use. The rate on kerosene for use in aviation is \$.001 (LUST tax) if it's removed from any refinery or terminal directly into the fuel tank of an aircraft for a nontaxable use. A nontaxable use includes kerosene for the exclusive use of a state or local government. There is no tax on

kerosene removed directly into the fuel tank of an aircraft for use in foreign trade.

Flash title transaction. In a "flash title transaction," the position holder sells the kerosene to a wholesale distributor (reseller) that in turn sells the kerosene to the aircraft operator as the kerosene is being removed from a terminal into the fuel tank of an aircraft. A position holder isn't liable for tax if, among other conditions, it obtains a certificate from the operator of the aircraft into which the kerosene is delivered. In this case, the position holder will be treated as having a certificate from the operator of the aircraft if:

- The aircraft operator puts the reseller's name, address, and EIN on the certificate in place of the position holder's information; and
- The reseller provides the position holder with a statement of the kerosene reseller.

Reseller statement. This is a statement that is signed under penalties of perjury by a person with authority to bind the reseller; is provided at the bottom or on the back of the certificate (or in an attached document); and contains:

- The reseller's name, address, and EIN;
- The position holder's name, address, and EIN; and
- A statement that the reseller has no reason to believe that any information in the accompanying aircraft operator's certificate is false.

Credits or payments. If the aircraft operator doesn't provide a certificate to the position holder, then the ultimate purchaser (the operator) may make a claim for the kerosene it uses in commercial aviation (other than foreign trade) and for nontaxable use (other than for exclusive use by a state or local government). A registered ultimate vendor

may make a claim for certain sales if the ultimate purchaser waives its right to make a claim. For more information, see [Kerosene for Use in Aviation](#), later.

Other Fuels (Including Alternative Fuels)

Other Fuels means any liquid except gas oil, fuel oil, or any product taxable under section 4081. Other Fuels include alternative fuels.

Alternative fuels are:

- Liquefied petroleum gas (LPG),
- "P Series" fuels,
- Compressed natural gas (CNG),
- Liquefied hydrogen,
- Any liquid fuel derived from coal (including peat) through the FischerTropsch process,
- Liquid fuel derived from biomass,
- Liquefied natural gas (LNG), and

- Liquefied gas derived from biomass.

Liquefied petroleum gas includes propane, pentane, or mixtures of those products.

Qualified methanol and ethanol fuels.

Qualified ethanol and methanol means any liquid at least 85% of which consists of alcohol produced from coal, including peat. The tax rates are listed in the Instructions for Form 720.

Partially exempt methanol and ethanol

fuels. A reduced tax rate applies to these fuels. Partially exempt ethanol and methanol means any liquid at least 85% of which consists of alcohol produced from natural gas. The tax rates are listed in the Instructions for Form 720.

Motor vehicles. Motor vehicles include all types of vehicles, whether or not registered (or required to be registered) for highway use, that have both the following characteristics.

- They're propelled by a motor.
- They're designed for carrying or towing loads from one place to another, regardless of the type of material or load carried or towed.

Motor vehicles don't include any vehicle that moves exclusively on rails, or any of the following items: farm tractors, trench diggers, power shovels, bulldozers, road graders, road rollers, and similar equipment that doesn't carry or tow a load.

Taxable Events

Tax is imposed on the delivery of other fuels into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat. However, there is no tax on the delivery if tax was imposed under the bulk sales rule, discussed next, or the delivery is for a nontaxable use. If the delivery is in connection with a sale, the seller is liable for the tax. If it isn't in connection with a sale,

the operator of the vehicle or boat is liable for the tax.

Bulk sales. Tax is imposed on the sale of other fuels that isn't in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller stating the entire quantity of the fuel covered by the sale is for other than a nontaxable use listed in chapter 2. The seller is liable for this tax.

Tax rate. See Form 720 and the Instructions for Form 720 for the tax rates.

Nontaxable uses. See the nontaxable uses of [*Other Fuels \(Including Alternative Fuels\)*](#) in chapter 2.

Compressed Natural Gas (CNG)

Taxable Events

Tax is imposed on the delivery of compressed natural gas (CNG) into the fuel supply tank of

the propulsion engine of a motor vehicle or motorboat. The tax is based on the gasoline gallon equivalent of CNG. See Form 720 for the tax rate.

However, there is no tax on the delivery if tax was imposed under the bulk sales rule, or the delivery is for a nontaxable use, listed in chapter 2. If the delivery is in connection with a sale, the seller is liable for the tax. If it isn't in connection with a sale, the operator of the boat or vehicle is liable for the tax.

If CNG is delivered into the fuel supply tank by the seller in connection with the sale of CNG for a nontaxable use, the seller is liable for the tax unless, at the time of the sale, the seller has an exemption certificate from the buyer. The seller must have no reason to believe any information in the certificate is false.

Certificate. The certificate from the buyer certifies the CNG will be used in a nontaxable use. The certificate may be included as part

of any business records normally used for a sale. A model certificate is shown in the Appendix as Model Certificate J.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (which may be no earlier than the date signed) of the certificate.
- The date a new certificate is provided to the seller.
- The date the seller is notified the buyer's right to provide a certificate has been withdrawn.

Bulk sales. Tax is imposed on the sale of CNG that isn't in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller that the entire quantity of the CNG covered by the sale is for use as a fuel in a motor vehicle or motorboat and the seller has given

the buyer a written acknowledgment of receipt of the statement. The seller of the CNG is liable for the tax.

Motor vehicle. For this purpose, motor vehicle has the same meaning as given under [Other Fuels \(Including Alternative Fuels\)](#), earlier.

Nontaxable uses. The nontaxable uses of CNG are discussed under [Other Fuels \(Including Alternative Fuels\)](#) in chapter 2.

Fuels Used on Inland Waterways



The tax on inland waterways fuel use applies at the rate listed on Form 720. This is in addition to all other taxes imposed on the sale or use of the fuel.

Tax applies to liquid fuel used in the propulsion system of commercial transportation vessels while traveling on certain inland and intracoastal waterways in the United States. The tax generally applies

to such use of a liquid fuel in all types of vessels, including ships, barges, and tugboats. The LUST tax must be paid on any liquid fuel used on inland waterways that isn't subject to LUST tax under section 4041(d) or 4081(a)(2)(B). For example, Bunker C residual fuel oil is subject to the LUST tax.

Inland and intracoastal waterways.

Inland and intracoastal waterways on which fuel consumption is subject to tax are specified in section 206 of the Inland Waterways Revenue Act of 1978, as amended. See Regulations section 48.40421(g) for a list of these waterways.

Commercial waterway transportation.

Commercial waterway transportation is the use of a vessel on inland or intracoastal waterways for either of the following purposes.

- The use is in the business of transporting property for compensation or hire.

- The use is in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or aquatic animal life caught on the voyage), whether or not a fee is charged.

The operation of all vessels meeting either of these requirements is commercial waterway transportation regardless of whether the vessel is actually transporting property on a particular voyage. However, see [Exemptions](#), later. The tax is imposed on fuel consumed in vessels while engaged in any of the following activities.

- Moving without cargo.
- Awaiting passage through locks.
- Moving to or from a repair facility.
- Dislodging vessels grounded on a sand bar.
- Fleeting barges into a single tow.

- Maneuvering around loading and unloading docks.

Liquid fuel. Liquid fuel includes diesel fuel, Bunker C residual fuel oil, gasoline, and other fuels. The tax is imposed on liquid fuel actually consumed by a vessel's propulsion engine and not on the unconsumed fuel in a vessel's tank.

Dual use of liquid fuels. The tax applies to all taxable liquid used as a fuel in the propulsion system of the vessel, regardless of whether the engine (or other propulsion system) is used for another purpose. The tax applies to all liquid fuel consumed by the propulsion engine even if it operates special equipment by means of a power takeoff or power transfer. For example, the fuel used in the engine both to operate an alternator, generator, or pumps and to propel the vessel is taxable.

The tax doesn't apply to fuel consumed in engines not used to propel the vessel.

If you draw liquid fuel from the same tank to operate both a propulsion engine and a nonpropulsion engine, determine the fuel used in the nonpropulsion engine and exclude that fuel from the tax. The IRS will accept a reasonable estimate of the fuel based on your operating experience, but you must keep records to support your allocation.

Voyages crossing boundaries of the specified waterways. The tax applies to fuel consumed by a vessel crossing the boundaries of the specified waterways only to the extent of fuel consumed for propulsion while on those waterways. Generally, the operator may figure the fuel so used during a particular voyage by multiplying total fuel consumed in the propulsion engine by a fraction. The numerator of the fraction is the time spent operating on the specified waterways and the denominator is the total time spent on the voyage. This calculation

can't be used where it's found to be unreasonable.

Taxable event. Tax is imposed on liquid fuel used in the propulsion system of a vessel.

The person who operates (or whose employees operate) the vessel in which the fuel is consumed is liable for the tax. If a vessel owner (or lessee) contracts with an independent contractor to operate the vessel, the independent contractor is the person liable for tax, regardless of who purchases the fuel. The tax is paid with Form 720. No tax deposits are required.

Exemptions. Certain types of commercial waterway transportation are excluded from the tax.

Fishing vessels. Fuel isn't taxable when used by a fishing vessel while traveling to a fishing site, while engaged in fishing, or while returning from the fishing site with its catch. A vessel isn't transporting property in the

business of the owner, lessee, or operator by merely transporting fish or other aquatic animal life caught on the voyage.

However, the tax does apply to fuel used by a commercial vessel along the specified waterways while traveling to pick up aquatic animal life caught by another vessel and while transporting the catch of that other vessel.

Deep-draft oceangoing vessels. Fuel isn't taxable when used by a vessel designed primarily for use on the high seas and that has a draft of more than 12 feet on the voyage. For each voyage, figure the draft when the vessel has its greatest load of cargo and fuel. A voyage is a round trip. If a vessel has a draft of more than 12 feet on at least one way of the voyage, the vessel satisfies the 12-foot draft requirement for the entire voyage.

Passenger vessels. Fuel isn't taxable when used by vessels primarily for the transportation of persons. The tax doesn't

apply to fuel used in commercial passenger vessels while being operated as passenger vessels, even if such vessels also transport property. Nor does it apply to ferryboats carrying passengers and their cars.

Oceangoing barges. Fuel isn't taxable when used in tugs to move LASH (Lighter Aboard Ship) and SEABEE oceangoing barges released by their oceangoing carriers solely to pick up or deliver international cargoes.

However, it's taxable when any of the following conditions apply.

- One or more of the barges in the tow isn't a LASH barge, SEABEE barge, or other oceangoing barge carried aboard an oceangoing vessel.
- One or more of the barges isn't on an international voyage.
- Part of the cargo carried isn't being transported internationally.

State or local governments. No tax is imposed on the fuel used in a vessel operated by a state or local government in transporting property on official business. The ultimate use of the cargo must be for a function ordinarily carried out by governmental units. An Indian tribal government is treated as a state only if the fuel is used in the exercise of an essential tribal government function.



All operators of vessels used in commercial waterway transportation who acquire liquid fuel must keep adequate records of all fuel used for taxable purposes. Operators who are seeking an exclusion from the tax must keep records that will support any exclusion claimed.

Your records should include all of the following information.

- The acquisition date and quantity of fuel delivered into storage tanks or the tanks on your vessel.

- The identification number or name of each vessel using the fuel.
- The departure time, departure point, route traveled, destination, and arrival time for each vessel.

If you claim an exemption from the tax, include in your records the following additional information as it pertains to you.

- The draft of the vessel on each voyage.
- The type of vessel in which you used the fuel.
- The ultimate use of the cargo (for vessels operated by state or local governments).

Second Generation Biofuel Not Used as Fuel

If you claimed the section 40 second generation biofuel producer credit, you're liable for an excise tax on each gallon of second generation biofuel if you don't use the fuel for the purposes described under *Qualified Second Generation Biofuel Production* next.

Qualified second generation biofuel production. This is second generation biofuel that during the tax year:

1. Is sold by the producer to another person:
 - a. For use by the buyer in the buyer's trade or business to produce a qualified second generation biofuel mixture (other than casual off-farm production),

- b. For use by the buyer as a fuel in a trade or business, or
 - c. Who sells the second generation biofuel at retail to another person and puts the second generation biofuel in the retail buyer's fuel tank; or
2. Is used or sold by the producer for any purpose described in (1) above.

Qualified second generation biofuel production doesn't include purchasing alcohol and increasing the proof of the alcohol through additional distillation. Nor does it include second generation biofuel that isn't both produced and used as a fuel in the United States or a U.S. possession. A qualified second generation biofuel mixture combines second generation biofuel with gasoline or a special fuel. The producer of the mixture either:

- Used it as a fuel, or

- Sold it as fuel to another person.

Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

Biodiesel Sold as But Not Used as Fuel

You must pay a tax (recapture) on each gallon of biodiesel or renewable diesel on which a credit was claimed at the rate used to figure the credit if you:

- Use it (including a mixture) other than as a fuel;
- Buy it at retail and use it to create a mixture;
- Separate it from a mixture; or
- Use agri-biodiesel on which the small agri-biodiesel producer credit was claimed for a use not described under Qualified Agri-

Biodiesel Production in the Instructions for Form 8864.

The tax is \$1.00 per gallon of biodiesel, agri-diesel, and renewable diesel. An additional \$.10 is added if the agri-biodiesel producer credit. Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

2.

Fuel Tax Credits and Refunds

Federal excise taxes are imposed on certain fuels as discussed in chapter 1. This chapter lists the nontaxable uses of each fuel and defines the nontaxable uses. Information on the refund of the second tax is included. This chapter also explains credits and refunds for the biodiesel or renewable diesel mixture credits, and the alternative fuel mixture and alternative fuel credits.

Information on how to make a claim for credit or refund is included in this chapter and in the instructions for:

- Form 720,
- Form 4136,
- Form 8849, and
- Form 8864.

Exported taxable fuel. The claim rates for exported taxable fuel are listed on Form 720, Schedule C; Schedule 1 (Form 8849); and Form 4136. Taxpayers making a claim for exported taxable fuel must include with their records proof of exportation. Proof of exportation includes:

- A copy of the export bill of lading issued by the delivering carrier,
- A certificate by the agent or representative of the export carrier showing actual exportation of the fuel,
- A certificate of lading signed by a customs officer of the foreign country to which the fuel is exported, or
- A statement of the foreign consignee showing receipt of the fuel.

Gasoline and Aviation Gasoline

Ultimate purchasers. The following are the uses of gasoline for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes (credit only).
- Off-highway business use.
- Export.
- In a boat engaged in commercial fishing.
- In certain intercity and local buses.
- In a school bus.
- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization.

- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see [*Sales by Registered Ultimate Vendors \(Other Than State or Local Government Purchases\)*](#), later).
- In an aircraft or vehicle owned by an aircraft museum.

The following are the uses of aviation gasoline for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes (credit only).
- Export.
- In foreign trade.
- Certain helicopter and fixed-wing air ambulance uses.
- In commercial aviation (other than foreign trade).

- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit education organization.
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see [*Sales by Registered Ultimate Vendors \(Other Than State or Local Government Purchases\)*](#), later).
- In an aircraft owned by an aircraft museum.
- In military aircraft.

Claims by persons who paid the tax to the government. Except for sales to nonprofit educational organizations and states and local governments, a credit or refund is allowable to the person that paid the tax to the government if the gasoline was sold to the ultimate purchaser (including an exporter) by either that person or by a retailer and the fuel was exported; used or sold for use as a

supply for vessels or aircraft, including military aircraft, commercial fishing, and foreign trade; sold to a qualified blood collector organization; or used or sold for use in the production of other fuels. See [Filing Claims](#), later.

Sales by registered ultimate vendors. This is an ultimate vendor that sells gasoline or aviation gasoline to any of the following and that is purchased without the use of a credit card.

- A state or local government for its exclusive use (including essential government use by an Indian tribal government).
- A nonprofit educational organization for its exclusive use.

The registered ultimate vendor may make the claim if the ultimate purchaser didn't use a credit card and waives its right to the credit or refund by providing the registered ultimate

vendor with a certificate. A sample certificate is included as Model Certificate M in the Appendix. The registered ultimate vendor must have the certificate at the time the credit or refund is claimed.

The ultimate vendor must be registered by the IRS. See [Registration Requirements](#), earlier.

Credit card purchases. If gasoline and aviation gasoline are purchased with a credit card issued to a state or local government for its exclusive use (including essential government use by an Indian tribal government), or a nonprofit educational organization for its exclusive use, the person who extended credit to the ultimate purchaser (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS;

- Has established that the amount of tax hasn't been collected from the person who purchased the gasoline or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund; and
- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

How to make the claim. If the claim is made by the credit card issuer see Form 720 Schedule C, or Schedule 8 (Form 8849).

Undyed Diesel Fuel and Undyed Kerosene (Other Than Kerosene Used in Aviation)

For conditions to an allowance of a credit or refund on exported dyed diesel fuel and dyed kerosene, see [Exported taxable fuel](#), earlier.

Ultimate purchasers. The following are nontaxable uses of diesel fuel and kerosene (defined earlier) for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes.
- Off-highway business use.
- Export.
- In a qualified local bus.
- In a school bus.
- Other than as a fuel in a propulsion engine of a diesel-powered highway vehicle (such as home heating oil).

- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization.
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see [*Sales by Registered Ultimate Vendors \(Other Than State or Local Government Purchases\)*](#), later).
- In a vehicle owned by an aircraft museum.
- As a fuel in a propulsion engine of a diesel-powered train.

Sales by Registered Ultimate Vendors

The following are the sales for which a credit or refund may be allowable to the registered ultimate vendor only.

- Undyed diesel fuel or undyed kerosene sold for the exclusive use by a state or local government (if credit card rules (don't apply));
- Undyed kerosene sold from a blocked pump; or
- Undyed diesel fuel or undyed kerosene used in certain intercity and local buses, only if the ultimate purchaser waives its right to the credit or refund by providing the registered ultimate vendor with a waiver.

Registered ultimate vendor (state use).

This is a person that sells undyed diesel fuel or undyed kerosene to a state or local government for its exclusive use (including essential government use by an Indian tribal government). The diesel fuel or kerosene must be purchased by the state without the use of a credit card, issued to the state by the credit card issuer, in order for the ultimate vendor to make the claim. The ultimate

vendor must be registered by the IRS. See [Registration Requirements](#), earlier.

Registered ultimate vendor (blocked pump). This is an ultimate vendor that sells undyed kerosene from a blocked pump.

A credit or refund may be allowable to a registered ultimate vendor (blocked pump) if the vendor sold to a buyer undyed kerosene from a blocked pump for use other than as a fuel in a diesel-powered highway vehicle and the vendor had no reason to believe the kerosene wouldn't be used in that manner.

Blocked pump. A blocked pump is a fuel pump that meets all the following requirements.

1. It's used to make retail sales of undyed kerosene for use by the buyer in any nontaxable use.
2. It's at a fixed location.

3. It's identified with a legible and conspicuous notice stating, ***UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY.***
4. It meets either of the following conditions.
 - a. It can't reasonably be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or train.
 - b. It's locked by the vendor after each sale and unlocked by the vendor only in response to a buyer's request for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or train.

Registered ultimate vendor (certain intercity and local buses). This is an ultimate vendor that sells undyed diesel fuel

or undyed kerosene to the ultimate purchaser for use in certain intercity and local buses.

The registered ultimate vendor may make the claim if the ultimate purchaser waives its right to the credit or refund by providing the registered ultimate vendor with a waiver. A sample waiver is included as Model Waiver N in the Appendix. The registered ultimate vendor must have the waiver at the time the credit or payment is claimed.

Credit card purchases. If undyed diesel fuel or kerosene is purchased with a credit card issued to a state, the person who extended credit to the state (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS;
- Has established that the amount of tax hasn't been collected from the person who purchased the diesel fuel or kerosene, or has obtained written consent from the

ultimate purchaser to the allowance of the credit or refund; and

- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

Diesel-Water Fuel Emulsion

A claim for credit or refund may be made for the nontaxable use of a diesel-water fuel emulsion and for undyed diesel fuel used to produce a diesel-water fuel emulsion. The claim rate for nontaxable use of a diesel-water fuel emulsion taxed at \$.198 per gallon

is \$.197 (if exported, the claim rate is \$.198). The following are the nontaxable uses for a diesel-water fuel emulsion for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes.
- Off-highway business use.
- Export.
- In a qualified local bus.
- In a school bus.
- Other than as fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway use).
- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization.

- Exclusive use by a state, political subdivision of a state, or the District of Columbia.
- In an aircraft or vehicle owned by an aircraft museum.

Blender claims. The claim rate for undyed diesel fuel taxed at \$.244 and used to produce a diesel-water fuel emulsion is \$.046 per gallon of diesel fuel so used. The blender must be registered by the IRS in order to make the claim. The blender must attach a statement to the claim certifying that:

- The diesel-water fuel emulsion contains at least 14% water,
- The emulsion additive is registered by a U.S. manufacturer with the EPA under section 211 of the Clean Air Act as in effect on March 31, 2003,
- Undyed diesel fuel taxed at \$.244 was used to produce the diesel-water fuel emulsion, and

- The diesel-water fuel emulsion was used or sold for use in the blender's trade or business.

Kerosene for Use in Aviation

A credit or payment of the tax on kerosene used in aviation may be allowed if the rate of tax on the use is less than the rate of tax that was charged on the kerosene. The credit or payment is allowable to the ultimate purchaser, registered ultimate vendor, or registered credit card issuer, depending on the how the kerosene was acquired and if certain conditions are satisfied.

Ultimate purchasers. Ultimate purchaser means a person who purchases kerosene for use in aviation. Generally, the ultimate purchaser is the aircraft operator.

Registered ultimate vendor. Registered ultimate vendor means a person who sells kerosene for use in aviation to the ultimate purchaser and is registered as an ultimate

vendor with an IRS Form 637 activity letter "UA," or "UV" for sales to a state or local government for its exclusive use.

Registered credit card issuer. Registered credit card issuer means a person that issues credit cards for sales of taxable fuel to a state or local government for its exclusive use and is registered as a credit card issuer with the IRS Form 637 activity letter "CC."

Kerosene for use in commercial aviation (other than foreign trade). An ultimate purchaser that purchases kerosene for use in commercial aviation on which tax was imposed at a rate higher than the commercial aviation rate of \$.044 per gallon may make a claim for the difference between the rate that was imposed (either \$.244 per gallon or \$.219 per gallon) and \$.044 per gallon.

The ultimate purchaser may file a claim for kerosene used in commercial aviation in which tax was originally imposed at a higher rate if the ultimate purchaser didn't provide a

waiver to the ultimate vendor with respect to the claim. An ultimate purchaser doesn't need to be registered to support an ultimate purchaser claim for commercial aviation use. See [Kerosene for use in aviation, nontaxable use \(other than use by state or local government\)](#), later, for information about registered ultimate vendor claims.

Kerosene for use in aviation, nontaxable use (other than use by state or local government). An ultimate purchaser, other than a state or local government, that purchases kerosene used in aviation for a nontaxable use, on which tax was imposed at a rate higher than the nontaxable use rate of \$.001 per gallon (or \$0 in the case of foreign trade), may make a claim for the difference between the rate that was imposed (either \$.244 per gallon or \$.219 per gallon) and \$.001 per gallon (or \$0 in the case of foreign trade). The ultimate purchaser may file a claim for nontaxable use of kerosene used in

aviation if the ultimate purchaser didn't provide a waiver to the ultimate vendor with respect to the claim.

The following are the nontaxable uses of kerosene used in aviation for which an ultimate purchaser may make a claim.

- On a farm for farming purposes.
- In foreign trade.
- Certain helicopter and fixed-wing aircraft uses.
- For use other than as a fuel in the propulsion engine of an aircraft.
- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit educational organization.
- In an aircraft owned by an aircraft museum.
- In military aircraft.

See [*Kerosene for use in aviation, nontaxable use \(other than use by state or local government\)*](#), later, for information about registered ultimate vendor claims.

Kerosene for use in aviation by a state or local government. A state or local government may generally not file an ultimate purchaser claim for nontaxable use of kerosene used in aviation. Generally, only a registered credit card issuer or a registered ultimate vendor may file a claim for kerosene sold for use in aviation to a state or local government for its exclusive use (including essential government use by an Indian tribal government).

State or local government credit card purchases. If taxed kerosene for use in aviation is purchased with a credit card issued to a state or local government, then the person who extended credit to the state or local government (the credit card issuer) is treated as the person that paid the tax and

may make the claim. In order for the credit card issuer to make the claim, the credit card issuer must be registered by the IRS with Form 637 activity letter "CC" and have the required certificate from the ultimate purchaser. A sample certificate is included as Model Certificate R in the Appendix. The credit card issuer must have the certificate at the time the claim is filed.

If the requirements above aren't met by the credit card issuer, then the credit card issuer must collect the tax from the ultimate purchaser (state or local government) and only the ultimate purchaser may make the claim.

State or local government purchases not made with a credit card. If a state or local government purchases kerosene for use in aviation without the use of a credit card, the ultimate vendor is the only person that may make a claim. In order for the ultimate vendor to make the claim, the ultimate

vendor must be registered by the IRS with Form 637 activity letter "UV" and have the required certificate from the ultimate purchaser. A sample certificate is included as Model Certificate P in the Appendix. The registered ultimate vendor must have the certificate at the time the claim is filed.

Sales by Registered Ultimate Vendors (Other Than State or Local Government Purchases)

Kerosene for use in commercial aviation or noncommercial aviation. The registered ultimate vendor of kerosene for use in commercial aviation (other than foreign trade) or noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia) may make this claim if the ultimate purchaser waives its right to the credit or payment by providing the registered ultimate vendor with a waiver. A sample waiver is included as

Model Waiver L in the Appendix. The registered ultimate vendor must have the waiver at the time the credit or payment is claimed.

Noncommercial aviation means any use of an aircraft not described as commercial aviation. For the definition of commercial aviation, see [Commercial aviation](#), earlier.

Kerosene for use in nonexempt, noncommercial aviation. Only the registered ultimate vendor may claim a credit or payment for sales of kerosene for use in nonexempt, noncommercial aviation. The ultimate vendor must be registered by the IRS (activity letter“ UA”) and have the required certificate from the ultimate purchaser. A sample certificate is included as Model Certificate Q in the Appendix. The registered ultimate vendor must have the certificate at the time the credit or payment is claimed.

Kerosene for use partly in commercial aviation and partly in nonexempt, noncommercial aviation. If the fuel is used partly for use in commercial aviation and partly for use in nonexempt, noncommercial aviation, the operator may identify, either at the time of purchase or after the kerosene has been used, the amount that will be (or has been) used in commercial aviation. At the same time, the operator would either make the claim or waive the right to make the claim for credit or refund of the kerosene for use in commercial and nonexempt, noncommercial aviation.

If the operator doesn't identify the amount of kerosene that will be (or has been) used in commercial aviation, the operator may provide a certificate to the ultimate vendor similar to Model Certificate Q in the Appendix. For kerosene purchased with the certificate, used in commercial aviation, and taxed at \$.244 per gallon, use of the certificate will be

treated as a waiver of the right to claim a credit or refund for the \$.025 per gallon part of the tax. The ultimate vendor may make this claim. The operator may make a claim for the \$.175 tax per gallon of the kerosene, but can't waive the right to make the claim for the \$.175 tax per gallon.

Kerosene for use in aviation by a state or local government. Only the registered ultimate vendor may claim a credit or payment for sales of kerosene for use in aviation to a state or local government for its exclusive use (including essential government use by an Indian tribal government). The kerosene for use in aviation must be purchased by the state without the use of a credit card in order for the ultimate vendor to make the claim. The ultimate vendor must be registered by the IRS (activity letter "UV") and have the required certificate from the ultimate purchaser. A sample certificate is included as Model Certificate P in the

Appendix. The registered ultimate vendor must have the certificate at the time the credit or payment is claimed.

Credit card purchases. If taxed kerosene for use in aviation is purchased with a credit card issued to a state, the person who extended credit to the state (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS;
- Has established that the amount of tax hasn't been collected from the person who purchased the kerosene, or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund;
- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the

credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

Other Fuels (Including Alternative Fuels)

Credit or refund for nontaxable use of taxed Other Fuels may be allowable to an ultimate purchaser. While tax is generally imposed on delivery, Other Fuels are taxed prior to delivery in the case of certain bulk sales described in chapter 1. The following are the nontaxable uses of Other Fuels for which a credit or refund may be allowable to the ultimate purchaser.

- On a farm for farming purposes.

- Off-highway business use.
- In a boat engaged in commercial fishing.
- In certain intercity and local buses.
- In a school bus.
- In a qualified local bus.
- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit educational organization.
- Exclusive use by a state, political subdivision of a state, or the District of Columbia.
- In an aircraft or vehicle owned by an aircraft museum.
- In any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation.

See *Biodiesel or Renewable Diesel Mixture Credit, Alternative Fuel Credit, and Alternative Fuel Mixture Credit*, later.

Refunds of Second Tax



The tax on dyed diesel fuel for inland waterways fuel use applies at the rate listed on Form 720. This is in addition to all other taxes imposed on the sale or use of the fuel. The section 4081(e) refund can't be claimed.

If the tax is paid and reported to the government on more than one taxable event for a taxable fuel under section 4081, the person paying the “second tax” may claim a refund (without interest) of that tax if certain conditions and reporting requirements are met. No credit against any tax is allowed for this tax. For information about taxable events, see the discussions under [*Gasoline*](#), [*Diesel Fuel and Kerosene*](#), and [*Kerosene for Use in Aviation*](#) in chapter 1.

Conditions to allowance of refund. A claim for refund of the tax is allowed only if all the following conditions are met.

1. A tax on the fuel was paid to the government and not credited or refunded (the "first tax").
2. After the first tax was imposed, another tax was imposed on the same fuel and was paid to the government (the "second tax").
3. The person that paid the second tax filed a timely claim for refund containing the information required (see [Refund claim](#), later).
4. The person that paid the first tax has met the reporting requirements.

Reporting requirements. Generally, the person that paid the first tax must file a "First Taxpayer's Report" with its Form 720 for the quarter to which the report relates. A model first taxpayer's report is shown in the

Appendix as Model Certificate B. The report must contain all information needed to complete the model.

By the due date for filing the Form 720, you must also send a separate copy of the report to the following address.

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999-0555

Write "EXCISE – FIRST TAXPAYER'S REPORT" across the top of that copy.

Optional reporting. A first taxpayer's report isn't required for the tax imposed on:

- Removal at a terminal rack,
- Nonbulk entries into the United States,
and
- Removals or sales by blenders.

However, if the person liable for the tax expects that another tax will be imposed on

that fuel, that person should (but isn't required to) file a first taxpayer's report.

Providing information. The first taxpayer must give a copy of the report to the buyer of the fuel within the bulk transfer/terminal system or to the owner of the fuel immediately before the first tax was imposed, if the first taxpayer isn't the owner at that time. If an optional report is filed, a copy should (but isn't required to) be given to the buyer or owner.

A person that receives a copy of the first taxpayer's report and later sells the fuel within the bulk transfer/terminal system must give the copy and a "Statement of Subsequent Seller" to the buyer. If the later sale is outside the bulk transfer/terminal system and that person expects that another tax will be imposed, that person should (but isn't required to) give the copy and the statement to the buyer. A model statement of subsequent seller is shown in the Appendix as

Model Certificate A. The statement must contain all information necessary to complete the model.

If the first taxpayer's report relates to fuel sold to more than one buyer, copies of that report must be made when the fuel is divided. Each buyer must be given a copy of the report.

Refund claim. You must have filed Form 720 and paid the second tax before you file for a refund of that tax. You must make your claim for refund on Form 8849. Complete Schedule 5 (Form 8849) and attach it to your Form 8849. Don't include this claim with a claim under another tax provision. You must not have included the second tax in the price of the fuel and must not have collected it from the purchaser. You must submit the following information with your claim.

- A copy of the first taxpayer's report.

- A copy of the statement of the subsequent seller if the fuel was bought from someone other than the first taxpayer.

Definitions of Nontaxable Uses

This section provides definitions of the terms used in Table 2-1 for nontaxable uses. If applicable, the type of use number from Table 2-1 is indicated in each heading.

Table 2-1. **Type of Use Table**

No.	Type of Use
1	On a farm for farming purposes
2	Off-highway business use (for business use other than in a highway vehicle registered or required to be registered for highway use) (other than use in mobile machinery)
3	Export

- 4 In a boat engaged in commercial fishing
- 5 In certain intercity and local buses
- 6 In a qualified local bus
- 7 In a bus transporting students and employees of schools (school buses)
- 8 For diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway business use)
- 9 In foreign trade
- 10 Certain helicopter and fixed-wing aircraft uses
- 11 Exclusive use by a qualified blood collector organization

- 12 In a highway vehicle owned by the United States that isn't used on a highway
- 13 Exclusive use by a nonprofit educational organization
- 14 Exclusive use by a state, political subdivision of a state, or the District of Columbia
- 15 In an aircraft or vehicle owned by an aircraft museum
- 16 In military aircraft

Type of use table. The first column of the table is the number you enter on Form 4136, Form 8849, or Form 720, Schedule C, for that type of use. For type of use 2, the mobile machinery parenthetical applies only to Form 8849 and Form 720.

On a farm for farming purposes (No. 1).

On a farm for farming purposes means fuel used in carrying on a trade or business of farming, on a farm in the United States, and for farming purposes.

Farm. A farm includes livestock, dairy, fish, poultry, fruit, fur-bearing animals, and truck farms; orchards; plantations; ranches; nurseries; ranges; and feed yards for fattening cattle. It also includes structures such as greenhouses used primarily for the raising of agricultural or horticultural commodities. A fish farm is an area where fish are grown or raised — not merely caught or harvested.

Farming purposes. As an owner, tenant, or operator, you use fuel on a farm for farming purposes if you use it in any of the following ways.

1. To cultivate the soil or to raise or harvest any agricultural or horticultural commodity.
2. To raise, shear, feed, care for, train, or manage livestock, bees, poultry, fur-bearing animals, or wildlife.
3. To operate, manage, conserve, improve, or maintain your farm and its tools and equipment.
4. To handle, dry, pack, grade, or store any raw agricultural or horticultural commodity. For this use to qualify, you must have produced more than half the commodity so treated during the tax year. Commodity means a single raw product. For example, apples and peaches are two separate commodities.
5. To plant, cultivate, care for, or cut trees or to prepare (other than sawing logs into lumber, chipping, or other

milling) trees for market, but only if the planting, etc., is incidental to your farming operations. Your tree operations will be incidental only if they're minor in nature when compared to the total farming operations.

If any other person, such as a neighbor or custom operator, performs a service for you on your farm for any of the purposes listed in (1) or (2), you're considered to be the ultimate purchaser that used the fuel on a farm for farming purposes.

If doubt exists whether the owner, the tenant, or the operator of the farm bought the fuel, determine who bore the cost of the fuel. For example, if the owner of a farm and the tenant equally share the cost of gasoline that is used on a farm for farming purposes, each can claim a credit for the tax on one-half of the fuel used.

Custom application of fertilizer and pesticide. Fuel used on a farm for farming purposes includes fuel used in the application of fertilizer, pesticides, or other substances, including aerial applications. Generally, the applicator is treated as having used the fuel on a farm for farming purposes. For aviation gasoline, the aerial applicator makes the claim as the ultimate purchaser. For kerosene used in aviation, the ultimate purchaser may make the claim or waive their right to make the claim to the registered ultimate vendor.

Fuel used between airfield and farm. Fuel used by an aerial applicator for the direct flight between the airfield and one or more farms is treated as a farming purpose.

Fuel not used for farming. Fuel isn't used on a farm for farming purposes if it's used in any of the following ways.

- Off the farm, such as on the highway or in noncommercial aviation, other than fuel used between the airfield and farm

described above, even if the fuel is used in transporting livestock, feed, crops, or equipment.

- For personal use, such as mowing the lawn.
- In processing, packaging, freezing, or canning operations.
- In processing crude gum into gum spirits of turpentine or gum resin or in processing maple sap into maple syrup or maple sugar.

Off-highway business use (No. 2). Off-highway business use means fuel used in a trade or business or in an income-producing activity other than as a fuel in a highway vehicle registered or required to be registered for use on public highways. The terms "highway vehicle," "public highway," and "registered" are defined below. Don't consider any use in a boat as an off-highway business use.

Off-highway business use includes fuels used in any of the following ways.

- In stationary machines such as generators, compressors, power saws, and similar equipment.
- For cleaning purposes.
- In forklift trucks, bulldozers, and earthmovers.

Generally, this use doesn't include nonbusiness use of fuel, such as use by minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment.

Example. Shannon owns a landscaping business. Shannon uses power lawn mowers and chain saws in the landscaping business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in the personal lawn mower at home doesn't qualify.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it's also designed to perform other functions.

Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles aren't considered highway vehicles for purposes of the credit or refund of fuel taxes.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle isn't a highway vehicle if all the following apply.
 - a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.

- b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.
- c. The chassis couldn't, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
- d. The vehicle must have traveled less than 7,500 miles on public highways during the taxable year.

2. **Vehicles specially designed for off-highway transportation.** A vehicle isn't treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a

particular type of load other than over the public highway and because of this special design, the vehicle's capability to transport a load over a public highway is substantially limited or impaired.

To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It doesn't matter that the vehicle can carry heavier loads off highway than it's allowed to carry over the highway.

3. **Nontransportation trailers and semitrailers.** A trailer or semitrailer isn't treated as a highway vehicle if it's specially designed to function only as an enclosed stationary shelter for carrying on a nontransportation

function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation isn't a highway vehicle.

Public highway. A public highway includes any road in the United States that isn't a private roadway. This includes federal, state, county, and city roads and streets.

Registered. A vehicle is considered registered when it's registered or required to be registered for highway use under the law of any state, the District of Columbia, or any foreign country in which it's operated or situated. Any highway vehicle operated under a dealer's tag, license, or permit is considered registered. A highway vehicle isn't considered registered solely because a special permit allows the vehicle to be operated at particular times and under specified conditions.

Dual use of propulsion motor. Off-highway business use doesn't include any fuel used in the propulsion motor of a registered highway vehicle even though that motor also operates special equipment by means of a power take-off or power transfer. It doesn't matter if the special equipment is mounted on the vehicle.

Example. The motor of a registered concrete-mixer truck operates both the engine and the mixing unit by means of a power take-off.

The fuel used in the motor to run the mixer isn't off-highway business use.

Use in separate motor. Off-highway business use includes fuel used in a separate motor to operate special equipment, such as a refrigeration unit, pump, generator, or mixing unit. If you draw fuel from the same tank that supplies fuel to the propulsion motor, you must figure the quantity used in the separate motor operating the special equipment. You may make a reasonable

estimate based on your operating experience and supported by your records.

You can use devices that measure the miles the vehicle has traveled (such as hubometers) to figure the gallons of fuel used to propel the vehicle. Add to this amount the fuel consumed while idling or warming up the motor before propelling the vehicle. The difference between your total fuel used and the fuel used to propel the vehicle is the fuel used in the separate motor.

Example. Hazel owns a refrigerated truck. It has a separate motor for the refrigeration unit. The same tank supplies both motors. Using the truck's hubometer, Hazel figures that 90% of the fuel was used to propel the truck. Therefore, 10% of the fuel is used in an off-highway business use.

Fuel lost or destroyed. You can't treat fuel lost or destroyed through spillage, fire, or other casualty as fuel used in an off-highway business use.

Export (No. 3). Export means fuel transported from the United States with the intention that the fuel remain in a foreign country or possession of the United States. Fuel isn't exported if it's in the fuel supply tank of a vehicle or aircraft.

In a boat engaged in commercial fishing (No. 4). In a boat engaged in commercial fishing means fuel used in taking, catching, processing, or transporting fish, shellfish, or other aquatic life for commercial purposes, such as selling or processing the catch, on a specific trip basis. They include boats used in both fresh and saltwater fishing. They don't include boats used for both sport fishing and commercial fishing on the same trip.

In certain intercity and local buses (No. 5). In certain intercity and local buses means fuel used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public. The bus must be engaged in one of the following activities.

- Scheduled transportation along regular routes.
- Nonscheduled operations if the seating capacity of the bus is at least 20 adults, not including the driver. Vans and similar vehicles used for van-pooling or taxi service don't qualify.

Available to the general public. This means you offer service to more than a limited number of persons or organizations. If a bus operator normally provides charter operations through travel agencies but has buses available for chartering by the general public, this service is available to the general public. A bus doesn't qualify when its operator uses it to provide exclusive services to only one person, group, or organization. Also, intercity bus transportation doesn't include transporting students and employees of schools or intercity transportation in a qualified local bus.

In a qualified local bus (No. 6). In a qualified local bus means fuel used in a bus meeting all the following requirements.

- It's engaged in furnishing (for compensation) intracity passenger land transportation available to the general public.
- It operates along scheduled, regular routes.
- It has a seating capacity of at least 20 adults (excluding the driver).
- It's under contract with (or is receiving more than a nominal subsidy from) any state or local government to furnish the transportation.

Intracity passenger land transportation.

This is the land transportation of passengers between points located within the same metropolitan area. It includes transportation along routes that cross state, city, or county

boundaries if the routes remain within the metropolitan area.

Under contract. A bus is under contract with a state or local government only if the contract imposes a bona fide obligation on the bus operator to furnish the transportation.

More than a nominal subsidy. A subsidy is more than nominal if it's reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used in buses on subsidized routes. A company that operates its buses along subsidized and unsubsidized intracity routes may consider its buses qualified local buses only when the buses are used on the subsidized intracity routes.

In a school bus (No. 7). In a school bus means fuel used in a bus engaged in the transportation of students or employees of schools. A school is an educational organization with a regular faculty and curriculum and a regularly enrolled body of

students who attend the place where the educational activities occur.

For diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel (No. 8). Diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train (not including off-highway business use) means undyed diesel fuel and undyed kerosene used:

- For home heating, lighting, and cooking;
- In boats;
- In stationary machines, such as generators and compressors;
- For cleaning purposes; or
- In minibikes and snowmobiles.

In foreign trade (No. 9). In foreign trade means fuel used in civil aircraft employed in foreign trade or trade between the United

States and any of its possessions. The term trade includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. In the case of aircraft registered in a foreign country, the country must allow reciprocal benefits for aircraft registered in the United States.

Certain helicopter and fixed-wing aircraft uses (No. 10). Includes:

Certain helicopter uses. Certain helicopter uses means fuel used by a helicopter for any of the following purposes.

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).

3. Providing emergency medical transportation.

During a use described in items (1) and (2), the helicopter must not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

Fixed-wing aircraft uses. Fixed-wing aircraft uses means fuel used by a fixed-wing aircraft for any of the following purposes.

1. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
2. Providing emergency medical transportation. The aircraft must be equipped for, and exclusively

dedicated on that flight to, acute care emergency medical services.

During a use described in item (1), the aircraft must not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code.

Exclusive use by a qualified blood collector organization (No. 11). Exclusive use by a qualified blood collector organization means fuel used by the qualified blood collector organization for its exclusive use in the collection, storage, or transportation of blood.

Qualified blood collector organization. A qualified blood collector organization is one that is:

- Described in section 501(c)(3) and exempt from tax under section 501(a),

- Primarily engaged in the activity of collecting human blood,
- Registered by the IRS, and
- Registered by the Food and Drug Administration to collect blood.

In a highway vehicle owned by the United States that isn't used on a highway (No. 12). In a highway vehicle owned by the United States that isn't used on a highway means fuel used in a vehicle that wasn't used on public highways during the period covered by the claim. This use applies whether or not the vehicle is registered or required to be registered for highway use.

Exclusive use by a nonprofit educational organization (No. 13). Exclusive use by a nonprofit educational organization means fuel used by an organization exempt from income tax under section 501(a) that meets both of the following requirements.

- It has a regular faculty and curriculum.

- It has a regularly enrolled body of students who attend the place where the instruction normally occurs.

A nonprofit educational organization also includes a school operated by a church or other organization described in section 501(c)(3) if the school meets the above requirements.

Exclusive use by a state, political subdivision of a state, or the District of Columbia (No. 14). Exclusive use by a state, political subdivision of a state, or the District of Columbia means fuel purchased by the state or local government for its exclusive use. A state or local government is any state, any political subdivision thereof, or the District of Columbia. An Indian tribal government is treated as a state only if the fuel is used in an activity that involves the exercise of an essential tribal government function. Gasoline, diesel fuel, and kerosene

used by the American Red Cross is considered to be the use of these fuels by a state.

In an aircraft or vehicle owned by an aircraft museum (No. 15). In an aircraft or vehicle owned by an aircraft museum means fuel used in an aircraft or vehicle that is owned by an organization that meets all the following requirements.

1. It's exempt from income tax as an organization described in section 501(c)(3).
2. It's operated as a museum under a state (or District of Columbia) charter.
3. It's operated exclusively for acquiring, exhibiting, and caring for aircraft of the type used for combat or transport in World War II.

The aircraft or vehicle (such as a ground servicing vehicle for aircraft) must be used exclusively for the purposes described in item (3).