

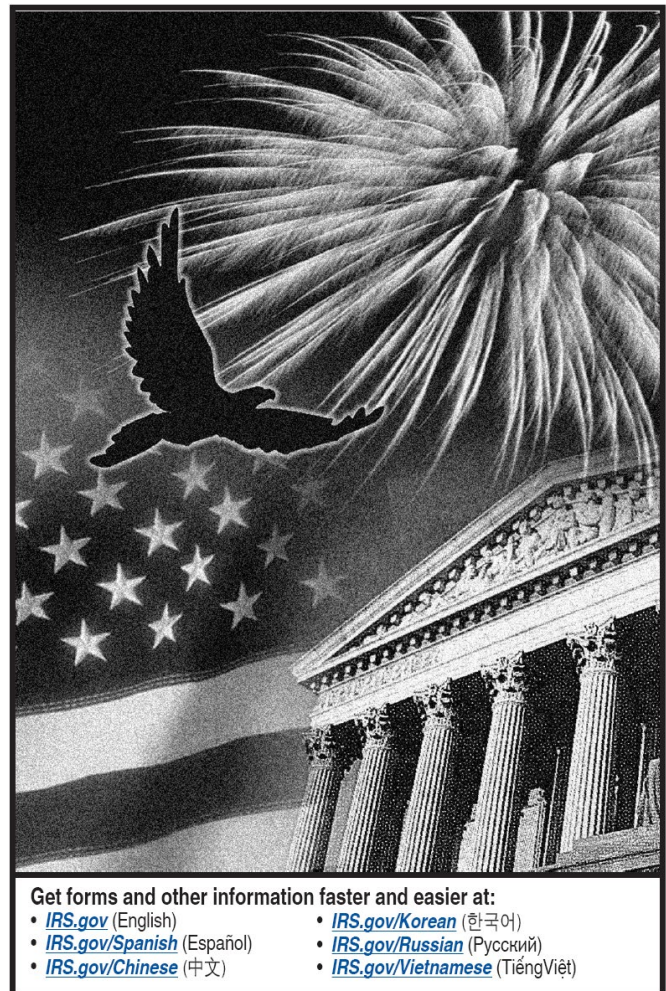
Publication 510

# Excise Tax

(Including Fuel Tax Credits and Refunds)

For use in preparing  
**2019** Returns

Volume 2 of 4



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**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. See Form 720 for the tax rate.

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 ocean-going vessels.*** Fuel isn't taxable when used by a vessel designed primarily for use on the high seas if it 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.

***Ocean-going barges.*** Fuel isn't taxable when used in tugs to move LASH and SEABED ocean-going barges released by their ocean-going 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, SEABED barge, or other ocean-going barge carried aboard an ocean-going 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).

## **Cellulosic or Second Generation Biofuel Not Used as Fuel**

If you claimed the section 40 cellulosic or second generation biofuel producer credit,

you are liable for an excise tax on each gallon of cellulosic or second generation biofuel if you don't use the fuel for the purposes described under *Qualified Cellulosic Biofuel Production* or *Qualified Second Generation Biofuel Production* next.

**Qualified cellulosic biofuel production.**

This is cellulosic biofuel which 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 cellulosic 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 cellulosic biofuel at retail to another person and puts the cellulosic 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 cellulosic biofuel production doesn't include purchasing alcohol and increasing the proof of the alcohol through additional distillation. Nor does it include cellulosic biofuel that isn't both produced in the United States or a U.S. possession and used as a fuel in the United States or a U.S. possession.

A qualified cellulosic biofuel mixture combines cellulosic 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.

**Qualified second generation biofuel production.** This is second generation biofuel which 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 in the United States or a U.S. possession 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**

If the credit was claimed (either as an excise tax credit or income tax credit) or a refund was claimed, you are liable for an excise tax if you used the mixture or biodiesel other than as a fuel, separated the biodiesel from a mixture, or mixed the biodiesel.

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 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, and
- Form 8849.

**Exported taxable fuel.** The claim rates for exported taxable fuel are listed on Schedule C (Form 720), 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 (defined earlier) 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 (see *Sales by registered ultimate vendors* and *Credit Card Purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by registered ultimate vendors* and *Credit Card 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 (see *Sales by registered ultimate vendors* and *Credit card purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by registered ultimate vendors* and *Credit and 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 Schedule C (Form 720) 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 (see *Sales by Registered Ultimate Vendors* and *Credit Card Purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by Registered Ultimate Vendors* and *Credit Card 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 (defined later) don't apply),
- Undyed kerosene sold from a blocked pump (defined below), 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**

**Ultimate purchasers.** Ultimate purchasers of kerosene used in certain aviation uses may make a claim if the rate of tax on their use is less than the rate of tax that was charged on the kerosene.

The ultimate purchaser of the kerosene used in commercial aviation (other than foreign trade) and noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia) is eligible to make a claim if the ultimate

purchaser certifies that the right to make the claim hasn't been waived. Generally, the ultimate purchaser is the aircraft operator.

The following are the nontaxable uses of kerosene used in noncommercial aviation for which a credit or refund may be allowable to the ultimate purchaser.

- On a farm for farming purposes.
- Certain helicopter and fixed-wing aircraft uses.
- 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.

**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.

## **Sales by Registered Ultimate Vendors**

**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* on page 11.

**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 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, 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.

## **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 (discussed below) 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, discussed next.

**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 (discussed earlier).
- A copy of the statement of 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.

**Type of use table.** The first column of the table is the number you enter on Form 4136, Form 8849, or Schedule C (Form 720) 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.



**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

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**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 are 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 are considered to be the ultimate purchaser that used the fuel on a farm for farming purposes. However, see *Custom application of fertilizer and pesticide*, next.

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.** Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her 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 her 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 permits 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 takeoff 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 takeoff 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).

**In military aircraft (No. 16).** In a military aircraft means fuel used in an aircraft owned by the United States or any foreign nation and constituting a part of its armed forces.

**In commercial aviation (other than foreign trade).** See *Commercial aviation*, earlier, for the definition.

**Use in a train.** Use in a train means fuel used in the propulsion engine of equipment or machinery that rides on rails. This includes use in a locomotive, work train, switching engine, and track maintenance machine.

# **Biodiesel or Renewable Diesel Mixture Credit, Alternative Fuel Credit, and Alternative Fuel Mixture Credit**

The section 6426 credit for biodiesel and alternative fuel consists of the biodiesel or renewable diesel mixture credit, alternative fuel credit, and alternative fuel mixture credit.

**Coordination with income tax credit.** Only one credit may be claimed for any amount of biodiesel or renewable diesel. If any amount is claimed (or will be claimed) for any amount of biodiesel or renewable diesel on Form 720, Form 8849, or Form 4136, then a claim can't be made on Form 8864 for that amount of biodiesel or renewable diesel.

**Biodiesel or renewable diesel mixture credit claimant.** Claimant produced a biodiesel mixture by mixing biodiesel with diesel fuel. Claimant produced a renewable diesel mixture by mixing renewable diesel with liquid fuel (other than renewable diesel).



The person that produced and sold or used the mixture in their trade or business is the only person eligible to make this claim. The credit is based on the gallons of biodiesel or renewable diesel in the mixture.



*Renewable diesel doesn't include any fuel derived from coprocessing biomass (as defined in section 45K(c)(3)) with a feedstock that isn't biomass.*

**Claim requirements.** See the Instructions for Form 720 for the biodiesel or renewable diesel mixture claim requirements.

**Alternative fuel credit claimant.** For the alternative fuel credit, the registered alternative fueler who (1) sold an alternative fuel at retail delivered it into the fuel supply tank of a motor vehicle or motorboat; (2) sold an alternative fuel, delivered it in bulk taxable use in a motor vehicle or motorboat, and received required statement from the buyer; (3) used an alternative fuel (not sold at retail or in bulk as previously described) motor vehicle or motorboat; or (4) sold an

alternative fuel used as a fuel in aviation is the only person eligible to make this claim.

**Carbon capture requirement.** A credit for Fischer-Tropsch process liquid fuel derived from coal (including peat) can be claimed only if the fuel is derived from coal produced at a gasification facility that separates and sequesters at least 75% of the facility's total carbon dioxide emissions.

**Alternative fuel credit.** The registered alternative fueler is the person eligible to make the claim. An alternative fueler is the person liable for tax on alternative fuel under the rules for taxable events for Other Fuels (discussed in chapter 1) or would be liable but for an exemption for nontaxable uses. An alternative fueler includes a person who sells for use or uses an alternative fuel in aviation.

**Alternative fuel mixture credit claimant.** For the alternative fuel mixture credit, the registered alternative fueler that produced and sold or used the mixture as a fuel in their trade or business is the only person eligible to make this claim. The credit is based on the gallons of alternative fuel in the mixture. An

alternative fuel mixture is a mixture of alternative fuel and section 4081 taxable fuel (gasoline, diesel fuel, or kerosene).



*For claims made on or after January 8, 2018, "alternative fuel mixture" means a mixture of taxable fuel and alternative fuel other than liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), liquefied gas derived from biomass, and compressed gas derived from biomass.*

**Registration.** You must be registered by the IRS to be eligible to claim the section 6426 fuel credit. See *Registration Requirements* in chapter 1.

**Credits for fuel provide incentive for United States production.** The section 6426 fuel credit may not be claimed for alternative fuel that is produced outside the United States for use as a fuel outside the United States. The United States includes any possession of the United States.

**No credit for fuels derived from paper or pulp production.** Credit for alternative fuels

and alternative fuel mixtures isn't available for any fuel derived from the production of paper or pulp.

## **Filing Claims**

This section tells you how to make a claim for a credit or refund of excise taxes on fuels.

This section also covers recordkeeping requirements and when to include the credit or refund in your income.

Generally, you will provide all the information needed to claim a credit or refund when you properly complete Form 8849, Form 4136, Schedule C (Form 720), Form 6478, or Form 8864. In some cases, you will have to attach additional information. You need to keep records that support your claim for a credit or refund.



Keep at your principal place of business all records needed to enable the IRS to verify that you are the person entitled to claim a credit or refund and the amount you claimed.

**Ultimate purchaser.** Ultimate purchasers may make claims for the nontaxable use of fuels on Form 4136, Schedule 1 (Form 8849), and Schedule C (Form 720) if reporting excise tax liability on that return. If you are an ultimate purchaser, you must keep the following records.

- The number of gallons purchased and used during the period covered by your claim.
- The dates of the purchases.
- The names and addresses of suppliers and amounts purchased from each in the period covered by your claim.
- The nontaxable use for which you used the fuel.
- The number of gallons used for each nontaxable use.

it's important that your records show separately the number of gallons used for each nontaxable use that qualifies as a claim. If the fuel is exported, you must have proof of exportation.

For more information about keeping records, see Publication 583, *Starting a Business and Keeping Records*, or chapter 1 of Publication 17, *Your Federal Income Tax for Individuals*.

***Exceptions.***

1. Generally, the ultimate purchaser may not claim a credit or refund for undyed diesel fuel, undyed kerosene, or kerosene for use in aviation sold for the exclusive use of a state or local government. However, see *Claims by credit card issuers*, later, for an exception.
2. The ultimate purchaser may not claim a credit or refund as follows.
  - a. The ultimate purchaser of gasoline or aviation gasoline used by a state or local government for its exclusive use or by a nonprofit educational organization for its exclusive use may waive its right to make a claim by providing a certificate that is signed under penalties of perjury by a person

authorized to bind the ultimate purchaser and is in the same format as the *Model Certificate M*. A new certificate is required each year or when any information in the current certificate expires.

- b. The ultimate purchaser of kerosene for use in commercial aviation 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 waive its right to make a claim by providing a waiver that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Waiver L*. A new waiver is required each year or when any information in the current waiver expires.
- c. The ultimate purchaser of undyed diesel fuel or undyed kerosene used in certain intercity and local

buses may waive its right to make a claim by providing a waiver that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Waiver N*. A new waiver is required each year or when any information in the current waiver expires.

- d. The ultimate purchaser of kerosene for use in nonexempt, noncommercial aviation must provide a certificate that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Certificate Q*. A new certificate is required each year or when any information in the current certificate expires.

**Registered ultimate vendor.** Registered ultimate vendors may make claims for certain sales of fuels on Form 4136, Schedule 2 (Form 8849), and Schedule C (Form 720) if reporting excise tax liability on that return. If



you are a registered ultimate vendor, you must keep certain information pertaining to the sale of the fuel.

To make a claim, you must have sold the fuel at a tax-excluded price, repaid the tax to the buyer, or obtained the buyer's written consent to the allowance of the claim. You are required to have a valid certificate or waiver in your possession in order to make the claim.

In addition, you must have a registration number that hasn't been revoked or suspended. See Form 637.

***State use.*** To make a claim as an ultimate vendor (state), you must have a UV registration number and the fuel can't be purchased with a credit card as explained below. If you sell undyed diesel fuel, undyed kerosene, or kerosene for use in aviation for use by a state or local government, you must keep the following information.

- The name and taxpayer identification number of each person (government unit) that bought the fuel.

- The number of gallons sold to each person.
- An unexpired certificate from the buyer. See *Model Certificate P* in the *Appendix*. The certificate expires on the earlier of 1 year after the date of the certificate or the date a new certificate is given to the registered ultimate vendor.

***Nonprofit educational organization and state use.*** To make a claim as an ultimate vendor (nonprofit educational organization or state), you must have a UV registration number and the fuel can't be purchased with a credit card as explained later. If you sell gasoline or aviation gasoline to a nonprofit educational organization for its exclusive use or to a state or local government for its exclusive use, you must keep the following information.

- The name and taxpayer identification number of each person (nonprofit educational organization or government unit) that bought the fuel.

- The number of gallons sold to each person.
- An unexpired certificate from the buyer. See *Model Certificate M* in the *Appendix*. The certificate expires on the earlier of 1 year after the date of the certificate or the date a new certificate is given to the registered ultimate vendor.

***Blocked pump.*** To make a claim as an ultimate vendor (blocked pump), you must have a UP registration number. If you sell undyed kerosene (other than kerosene for use in aviation) from a pump that qualifies as a blocked pump because it's locked by you after each sale and is unlocked by you at the request of the buyer, you must keep the following information for each sale of more than 5 gallons.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to that buyer.

***Certain intercity and local bus use.*** To make a claim as an ultimate vendor of

undyed diesel fuel or undyed kerosene used in certain intercity and local buses, you must have a UB registration number. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the waiver signed by the buyer at the time the credit or payment is claimed. See *Model Waiver N* in the Appendix.

***Kerosene for use in commercial aviation or noncommercial aviation.*** To make a claim as an 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), you must have a UA registration number. See *Kerosene for use in aviation*, earlier, for a list of nontaxable uses. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the waiver signed by the buyer at the time the credit or payment is claimed. See *Model Waiver L* in the *Appendix*.

***Kerosene for use in nonexempt, noncommercial aviation.*** To make a claim as an ultimate vendor of kerosene for use in nonexempt, noncommercial aviation, you must have a UA registration number. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the certificate signed by the buyer at the time the credit or payment is claimed. See *Model Certificate Q* in the *Appendix*.

**Claims by credit card issuers.** For sales of gasoline, aviation gasoline, diesel fuel,

kerosene, or kerosene for use in aviation that are purchased by an exempt user with the use of a credit card, the registered credit card issuer is the only person who can make the claim. An exempt user for this purpose is:

- For gasoline or aviation gasoline, a state or local government (including essential government use by an Indian tribal government) or a nonprofit educational organization; or
- For diesel fuel, kerosene, or kerosene for use in aviation, a state or local government (including essential government use by an Indian tribal government).

If gasoline is purchased without the use of a credit card, then the registered ultimate vendor of the gasoline may make the claim for refund or credit. However, if the gasoline is purchased with a credit card issued to a state, but the credit card issuer isn't registered by the IRS or doesn't meet the conditions described, the credit card issuer must collect the tax and the state may make the claim.

If diesel fuel, kerosene, or kerosene for use in aviation is purchased without the use of a credit card, the registered ultimate vendor may make the claim for refund or credit. A state isn't allowed to make a claim for these fuels. However, if the diesel fuel or kerosene is purchased with a credit card issued to a state, but the credit card issuer isn't registered by the IRS or doesn't meet the conditions described, the credit card issuer must collect the tax and the state may make the claim.

The claim from the credit card issuer must contain the following information as it applies to the fuel covered in the claim.

- The total number of gallons.
- Its registration number.
- A statement that it hasn't collected the amount of tax from the ultimate purchaser or has obtained the written consent of the ultimate purchaser to make the claim.
- A statement that it has repaid or agreed to repay the amount of tax to the ultimate vendor, has obtained the written consent

of the ultimate vendor to make the claim, or has otherwise made arrangements which directly or indirectly provide the ultimate vendor with reimbursement of the tax.

- Has in its possession an unexpired certificate similar to *Model Certificate R* in the *Appendix* and has no reason to believe any of the information in the certificate is false.

**Taxpayer identification number.** To file a claim, you must have a taxpayer identification number. Your taxpayer identification number can be an:

- Employer identification number (EIN),
- Social security number (SSN), or
- Individual taxpayer identification number (ITIN), if you are an alien individual and don't have and aren't eligible to get an SSN.

If you normally file only a U.S. individual income tax return (such as Form 1040 or 1040NR), use your SSN or ITIN. You get an



SSN by filing Form SS-5, Application for a Social Security Card, with the Social Security Administration. To get an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number, with the IRS.

If you operate a business, use your EIN. If you don't have an EIN, you may apply for one online. Go to the IRS website at [IRS.gov/Businesses/Small](https://www.irs.gov/Businesses/Small) and click on the "Employer ID Numbers (EINs)" link. You may also apply for an EIN by faxing or mailing Form SS-4, Application for Employer Identification Number, to the IRS.

## **Claiming A Refund**

Generally, you may claim a refund of excise taxes on Form 8849. Complete and attach to Form 8849 the appropriate Form 8849 schedules. The instructions for Form 8849 and the separate instructions for each schedule explain the requirements for making a claim for refund. If you file Form 720, you can use the Schedule C (Form 720) for your refund claims for the quarter. See the Instructions for Form 720. Don't claim a

refund on Form 8849 for any amount for which you have filed or will file a claim on Schedule C (Form 720) or Form 4136.

Only one claim may be made for any particular amount of alternative fuel.

## **Claiming a Credit on Form 4136**

A credit may be claimed for certain uses and sales of fuels on Form 4136 when you file your income tax return at the end of the year. If you meet certain requirements (discussed earlier), you may be able to make a claim during the year.

***Credit only.*** You can claim the following taxes only as a credit on Form 4136.

- Tax on fuels used for nontaxable uses if the total for your tax year is less than \$750.
- Tax on fuel you didn't include in any claim for refund previously filed for any quarter of your tax year.
- Tax on fuel you used in mobile machinery (off-highway business use) that traveled less than 7,500 miles on public highways.

Don't claim a credit for any amount for which you have filed a refund claim on Form 8849 or credit on Schedule C (Form 720).

**When to file.** You can claim a fuel tax credit on your income tax return for the year you used the fuel (or sold the fuel in the case of a registered ultimate vendor claim).



*You may be able to make a fuel tax claim on an amended income tax return for the year you used the fuel. Generally, you must file an amended return by the later of 3 years from the date you filed your original return or within 2 years from the date you paid the income tax.*

**How to claim a credit.** How you claim a credit depends on whether you are an individual, partnership, corporation, S corporation, or farmers' cooperative association.

**Individuals.** You claim the credit on the "Credits from" line of Form 1040. Also check box b on that line. If you wouldn't otherwise have to file an income tax return, you must do so to get a fuel tax credit.

***Partnerships.*** Partnerships (other than electing large partnerships) claim the credit by including a statement on Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., showing each partner's share of the number of gallons of each fuel sold or used for a nontaxable use, the type of use, and the applicable credit per gallon. Each partner claims the credit on his or her income tax return for the partner's share of the fuel used by the partnership.

***Other entities.*** Corporations, S corporations, farmers' cooperative associations, and trusts must make the claim on the appropriate line of their applicable income tax return.

Federal, state, and local governments, and certain tax-exempt organizations (as discussed earlier under *Claiming a Refund*) must use Form 8849, not Form 4136, to make an annual claim.

# Including the Credit or Refund in Income



*In most situations, the amount claimed as a credit or refund will be less than the amount deducted as fuel tax expense because the LUST tax is generally not refunded.*

Include any credit or refund of excise taxes on fuels in your gross income if you claimed the total cost of the fuel (including the excise taxes) as an expense deduction that reduced your income tax liability.

The year you include a credit or refund in gross income depends on whether you use the cash or an accrual method of accounting.

**Cash method.** If you use the cash method and file a claim for refund, include the refund amount in your gross income for the tax year in which you receive the refund. If you claim a credit on your income tax return, include the credit amount in gross income for the tax year in which you file Form 4136. If you file an amended return and claim a credit, include

the credit amount in gross income for the tax year in which you receive the credit.

**Example 1.** Sharon Brown, a cash basis farmer, filed her 2019 Form 1040 on March 3, 2020. On her Schedule F (Form 1040), Sharon deducted the total cost of gasoline (including \$110 of excise taxes) used on the farm. Then, on Form 4136, Sharon claimed \$108 as a credit. Sharon reports the \$108 as additional income on her 2019 Schedule F (Form 1040).

**Example 2.** March Corporation uses the calendar year as its tax year. For 2019, the following amounts of excise tax were included in the cost of gasoline the corporation used each quarter in a nontaxable use.

Calendar Quarters . . . . .	Fuel Tax Expense	Fuel Tax Claim
Jan. 1 – March 31 . . . . .	\$1,300	\$1,293
April 1 – June 30 . . . . .	1,100	1,094
July 1 – Sept. 30 . . . . .	400	397
Oct. 1 – Dec. 31 . . . . .	300	298
<b>Total</b>	<b>\$3,100</b>	<b>\$3,082</b>

The corporation deducts the entire cost of the gasoline (including the \$3,100 in excise taxes) it used during the year as a business expense on its corporation income tax return, thereby reducing its corporate income tax liability for that year.

**Form 8849.** March Corporation files quarterly refund claims for the first 2 quarters (ending March 31 and June 30). It can't file a quarterly refund claim for the third or fourth quarter because it didn't meet the \$750 minimum requirement.

Since March Corporation uses the cash method of accounting, the corporation includes \$2,387 (\$1,293 + \$1,094) in its gross income for the tax year in which it receives the refunds (2019).

**Form 4136.** The corporation claims the remaining amounts (\$397 + \$298) as a credit on its 2019 income tax return by attaching Form 4136. It files its tax return in 2020. It includes this credit (\$695) in its 2019 gross income.

**Example 3.** Tyler S. Sands used undyed diesel fuel in vehicles used in his construction business. The vehicles weren't registered (or required to be registered) for highway use. In the fourth quarter of his 2019 income tax year, which ends in December, he used 3,000 gallons of undyed diesel fuel. The excise tax on the 3,000 gallons of undyed diesel fuel he used was \$732 (tax of \$.244 per gallon).

Because the tax is less than \$750, Tyler must claim a credit for the tax on his 2019 income tax return. He fills out Form 4136 and attaches it to his 2019 income tax return, which he files in 2020. He enters \$729 (credit of \$.243 per gallon) on the "Credits from" line of his Form 1040 and checks box b.

Tyler uses the cash method of accounting. On his 2019 Schedule C (Form 1040), he deducts the total cost of the fuel, including the tax. When Tyler files his 2019 Form 1040, he will include the \$729 credit shown on his 2019 Form 4136 as additional income on his Schedule C (Form 1040) for 2019.

**Example, continued.** For the first 2 quarters of 2019, Tyler's records show the following.



<u>Quarter</u>	<u>Gallons Used</u>	<u>Claim Tax Rate</u>	<u>Claim Amount</u>
First	2,750	.243	\$668.25
Second	2,500	.243	607.50

Tyler couldn't file a claim for a refund for the first quarter because the amount of the claim was less than \$750. He adds the first quarter amount (\$668.25) to the second quarter amount (\$607.50) and claims a refund of \$1,275.75 by filing Form 8849 and Schedule 1 (Form 8849). The claim must be filed by September 30, 2019, which is the last day of the first quarter (July – Sept.) following the last quarter (April – June) included in the claim. He will have to include the \$1,275.75 excise tax refund as additional income on his Schedule C (Form 1040) for 2019.

**Accrual method.** If you use an accrual method, include the amount of credit or refund in gross income for the tax year in which you used the fuels (or sold the fuels if you are a registered ultimate vendor). It doesn't matter whether you filed for a

quarterly refund or claimed the entire amount as a credit.

**Example 1.** Patty Green uses an accrual method. She files her 2019 return in April 2020. On Schedule C (Form 1040) she deducts the total cost of gasoline (including \$155 of excise taxes) used for an off-highway business use during 2019. On Form 4136, Patty claims \$153 as a credit. She reports the \$153 as additional income on her 2019 Schedule C (Form 1040).

**Example 2.** Use the same facts as in *Example 2* above, except that March Corporation uses an accrual method of accounting. Since the nontaxable use occurred in 2019, the corporation reports the \$3,082 of excise taxes as income on its 2019 income tax return. This consists of the \$2,387 it claimed on Form 8849 and the \$695 it claimed on Form 4136.

## **Part Two.**

# **Excise Taxes Other Than Fuel Taxes**

### **3.**

## **Environmental Taxes**

Environmental taxes are imposed on crude oil and petroleum products (oil spill liability), the sale or use of ozone-depleting chemicals (ODCs), and imported products containing or manufactured with ODCs. In addition, a floor stocks tax is imposed on ODCs held on January 1 by any person (other than the manufacturer or importer of the ODCs) for sale or for use in further manufacture.

Figure the environmental tax on Form 6627. Enter the tax on the appropriate lines of Form 720 and attach Form 6627 to Form 720.

For environmental tax purposes, United States includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the continental shelf areas (applying the principles of section 638), and foreign trade zones. No one is exempt from the

environmental taxes, including the federal government, state and local governments, Indian tribal governments, and nonprofit educational organizations.

## **Oil Spill Liability Tax**

The oil spill liability tax is reported on Form 6627, Environmental Taxes, and Form 720, Quarterly Federal Excise Tax Return (IRS Nos. 18 and 21). The oil spill liability tax rate is \$.09 per barrel and generally applies to crude oil received at a U.S. refinery and to petroleum products entered into the United States for consumption, use, or warehousing. The tax also applies to certain uses and the exportation of domestic crude oil.

Crude oil includes crude oil condensates and natural gasoline. Petroleum products include crude oil, refined and residual oil, and other liquid hydrocarbon refinery products.

**Crude oil.** Tax is imposed on crude oil when it's received at a United States refinery. The operator of the refinery is liable for the tax.

Tax is imposed on domestic crude oil used or exported before it's received at a United States refinery. However, the use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced isn't taxable. The user or exporter is liable for the tax.

**Imported petroleum products.** Tax is imposed on petroleum products when they enter the United States for consumption, use, or warehousing. The person entering the petroleum product into the country is liable for the tax, including the tax on imported crude oil, even if it's subsequently received at a U.S. refinery.

Tax is imposed only once on any imported petroleum product. Thus, the operator of a U.S. refinery that receives imported crude oil must establish that the petroleum tax has already been imposed on such crude oil in order not to be liable for the tax.

# Ozone-Depleting Chemicals (ODCs)

For a list of the taxable ODCs and tax rates, see the Form 6627 instructions.

**Taxable event.** Tax is imposed on an ODC when it's first used or sold by its manufacturer or importer. The manufacturer or importer is liable for the tax.

**Use of ODCs.** You use an ODC if you put it into service in a trade or business or for the production of income. Also, an ODC is used if you use it in the making of an article, including incorporation into the article, chemical transformation, or release into the air. The loss, destruction, packaging, repackaging, or warehousing of ODCs isn't a use of the ODC.

The creation of a mixture containing an ODC is treated as a taxable use of the ODC contained in the mixture. An ODC is contained in a mixture only if the chemical identity of the ODC isn't changed. Generally, tax is imposed when the mixture is created and not

on its sale or use. However, you can choose to have the tax imposed on its sale or use by checking the appropriate box on Form 6627. You can revoke this choice only with IRS consent.

The creation of a mixture for export or for use as a feedstock isn't a taxable use of the ODCs contained in the mixture.

**Exceptions.** The following may be exempt from the tax on ODCs.

- Metered-dose inhalers.
- Recycled ODCs.
- Exported ODCs.
- ODCs used as feedstock.

***Metered-dose inhalers.*** There is no tax on ODCs used or sold for use as propellants in metered-dose inhalers. For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form as the sample certificate set forth in Regulations section 52.4682-2(d)(5). The certificate may be

included as part of the sales documentation. Keep the certificate with your records.

***Recycled ODCs.*** There is no tax on any ODC diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process). There is no tax on recycled Halon-1301 or recycled Halon-2402 imported from a country that has signed the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol).

The Montreal Protocol is administered by the United Nations (U.N.). To determine if a country has signed the Montreal Protocol, contact the U.N. The website is [UNtreaty.un.org](http://UNtreaty.un.org).

***Exported ODCs.*** Generally, there is no tax on ODCs sold for export if certain requirements are met. For a sale to be nontaxable, you and the purchaser must be registered. See Form 637, Application for Registration (for Certain Excise Tax Activities). Also, you must obtain from the purchaser an exemption certificate that you rely on in good faith. Keep the certificate with your records.