

Part IV – Items of General Interest

Exported Coal Tax Refund

Announcement 2008-103

SECTION 1. PURPOSE

This announcement provides guidance to domestic coal producers and exporters regarding the submission of claims for refund of the coal excise tax pursuant to section 114 of the Energy Improvement and Extension Act of 2008 (Act section 114). Act section 114 provides criteria for refunds of the coal excise tax paid under § 4121 on coal exported on or after October 1, 1990, and on or before October 3, 2008. These claims must be filed by November 3, 2008.

SECTION 2. DEFINITIONS

(a) The terms coal producer and exporter have the meanings set forth in subsection (d) of Act section 114.

(b) Export includes the shipment of coal to a possession of the United States.

(c) Proof of exportation means evidence that the coal was exported. Acceptable evidence that coal was exported includes--

(1) A copy of the export bill of lading issued by the delivering carrier;

(2) A certificate signed by the agent or representative of the export carrier showing actual exportation of the coal;

(3) A certificate of landing signed by a customs officer of the foreign country to which the coal is exported; or

(4) In a case in which the foreign country has no customs administration, a statement of the foreign consignee showing receipt of the coal.

(d) For purposes of subsection (a)(2)(B) of Act section 114, tax return means any return with respect to an internal revenue tax.

SECTION 3. FORM FOR CLAIM

The following rules apply to all claims for a refund under Act section 114:

(a) Claims must be filed on a paper Form 8849, Claim for Refund of Excise Taxes, Schedule 6, Other Claims, in accordance with the instructions for this form. These claims may not be filed electronically.

(b) "Exported Coal Claim" must be written at the top of Form 8849.

(c) Claims must be mailed to: Internal Revenue Service, Cincinnati, OH 45999-0002.

(d) Claims must be filed no later than November 3, 2008.

SECTION 4. INFORMATION TO BE SUBMITTED; CLAIMS BY PRODUCER

Each claim by a coal producer under Act section 114 must contain the following

information with respect to the coal covered by the claim:

(a) A statement that this is a Producer claim and that the CRN (Credit Reference Number) is 382.

(b) The quarter and year for which the tax on the coal was reported on Form 720, Quarterly Federal Excise Tax Return.

(c) The IRS No. listed on Form 720 (IRS No. 36, 37, 38, or 39) on which the tax was reported.

(d) The amount of tax paid.

(e) The date the tax was paid.

(f) The amount of the payment allowable under subsection (a)(1) of Act section 114, determined after application of the limitations in subsections (b), (c), (g)(1), and (h) of that section.

(g) A statement that--

(1) The claimant has proof of exportation for the coal covered by the claim; or

(2) The claimant has a favorable judgment of a court of competent jurisdiction within the United States that relates to the constitutionality of any tax paid on exported coal under § 4121.

(h) If a producer has a judgment described in paragraph (g)(2) of this section, a statement that includes the caption of the case, the case docket number, the court that rendered the judgment, the date of the judgment, and a statement of the amount paid pursuant to the judgment.

(i) A statement that the claimant has no knowledge of any other entity claiming and/or receiving a credit or refund of the tax paid on the exported coal.

SECTION 5. INFORMATION TO BE SUBMITTED; CLAIMS BY EXPORTER

Each claim by an exporter under Act section 114 must contain the following information with respect to the coal covered by the claim:

(a) A statement that this is an Exporter claim and that the CRN (Credit Reference Number) is 385.

(b) The calendar quarter and year in which the coal was exported.

(c) The amount of coal exported in each quarter.

(d) The amount of the payment allowable under subsection (a)(2) of Act section 114, determined after application of the limitations in subsections (b), (c), (g)(2), and (h) of that section.

(e) A statement that the exporter had no contract or other arrangement with the producer or seller of the coal to export the coal to a third party on behalf of the producer or seller.

(f) A statement that the exporter has proof of exportation for the coal that is the subject of the claim.

(g) Proof that exporter filed a tax return on or after October 1, 1990, and on or before October 3, 2008.

(h) A statement that the exporter has no knowledge of any other entity claiming and/or receiving a credit or refund of the tax paid on the exported coal.

SECTION 6. EFFECT OF ADDITIONAL GUIDANCE

If additional guidance is issued under Act section 114, taxpayers will be permitted to amend timely filed claims. If the amendment occurs within the period specified in such additional guidance, the amended claim will be treated as a timely filed claim.

SECTION 7. PAPERWORK REDUCTION ACT

The collections of information contained in this announcement have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545- 2121.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 4 and 5. This information is required to support payments related to the coal tax. The collections of information are required to obtain a tax benefit. The likely respondents are businesses.

The estimated total annual reporting burden is 600 hours.

The estimated annual burden per respondent is 60 hours.

The estimated number of respondents is 100

The estimated frequency of responses is once.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 8. DRAFTING INFORMATION

The principal author of this announcement is Celia Gabrysh of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this announcement contact Dennis Caranna at (601) 292-4747 (not a toll-free call).