DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED

September 21, 2011

Control #: SBSE-04-0911-079
Affected IRM: 4.24.2.7.1.1
4.24.2.7.1.3
4.24.4.4.1
4.24.4.9
4.24.13.29
4.24.9.16
IRM Exhibit: 4.24.2-1
Expiration Date: 9/21/12

MEMORANDUM FOR ALL EXCISE TERRITORY MANAGERS AND EXCISE TAX GROUP MANAGERS, SMALL BUSINESS/SELF-EMPLOYED

FROM: Holly L. McCann */s/ Holly L. McCann*
Chief, Excise Tax Program

SUBJECT: NGL and PGP Fractionation Facilities

The purpose of this memo is to provide interim guidance regarding:

- The issuance of Form 637 Registration numbers and Facility Control Numbers (FCNs), to Natural Gas Liquid (NGL) and Polymer Grade Propylene (PGP) fractionation facilities; and

- The applicable *ExSTARS* reporting requirement.

Fractionation facilities refine mixed product streams into higher value components. For example, fractionators can separate NGL into ethane, propane, normal butane, isobutene, and natural gasoline. A PGP fractionation facility separates Refinery Grade Propylene (RGP) into propane and butane. Generally, fractionation facilities have access to extensive bulk storage capacity and may have interconnectivity with other fractionators, pipelines and multiple markets, including the fuel distribution system.

In contrast, a more widely known fractionation process is the separation of transmix into diesel, kerosene, or gasoline. Transmix fractionation registration requirements are outlined in IRM 4.24.13, therefore not subject to this memorandum.

To identify and fully understand the NGL and PGP fractionation facility operation, the IRS has commenced a Form 637 registration, Activity Letter “S” and FCN issuance initiative.

The FCN issued to NGL and PGP fractionation facilities will be a refinery control number (RCN) **exempt** from *ExSTARS* reporting. Furthermore, these facilities are **not** required to register pipeline operations (activity letter "X") that feed disbursement racks. However, NGL and PGP fractionation facilities are subject to IRS policies regarding federal excise tax exemption rules for gasoline blendstocks. Failure to adhere to the rules and regulations may result in the issuance of a Terminal Control Number (TCN), *ExSTARS* reporting requirement, and imposition of federal excise tax and penalties.

NGL and PGP fractionation facilities are subject to IRC §6719 penalties in the event they fail to register or re-register. Examiners must consider reasonable cause in addressing this aspect of the Form 637 Registration review.

Revenue agents are asked to follow IRM 4.24.2; *Form 637 Excise Tax Registrations,* upon the receipt of an initial fractionation facility Form 637 application or lead.

An RCN will be issued to facilities that receive petroleum based feedstock or produce gasoline blendstocks, or suitable for use finished products.

To initiate the issuance or withdrawal of an RCN or, if applicable, TCN, revenue agents should submit a Guidance Request Memorandum (GRM) to group managers for tracking and routing to the FCN coordinator. The FCN coordinator will either return the GRM with an approval or denial, or contact the agent for additional information.

No further action regarding the FCN is required on the part of the revenue agent as the FCN coordinator will convey the GRM determination to the fractionation facility. The revenue agent should associate the completed GRM with the applicable 637 case file and follow IRM case closing procedures.

As part of this endeavor Form 720 and *ExSTARS* compliance examinations, and Form 637 registration reviews, should include analysis of any applicable fractionation operation to verify that the facility is operating within prescribed guidelines.

Additionally, it is possible for an approved facility with a TCN that submits monthly *ExSTARS* information reports, to cease operations or request withdrawal from the program.

Note: ExSTARS returns do not possess a final return indicator. The FCN Coordinator is responsible for inactivating the *ExSTARS* Letter of Application (LOA) upon notification from an operator or receipt of a GRM.

Terminal Inactivity or Asset Transfer *ExSTARS* Filing Requirement Table		
If …		Then …
[1]Transfer of terminal operation		The new operator must possess a Form 637 registration and be in position to file ExSTARS reports. Both parties must report the transfer of ownership, and the date of the transfer. The acquisition date must be the same on both the buyer's and seller's report.
Approved terminal ceases operation, no asset transfer	[2]Maintains terminal capacity	If facility is still capable of acting as a terminal then *ExSTARS* reporting is required. See no activity reports in Publication 3536.
	No terminal capacity	Dismantled and disabled facilities without terminal capability are exempt from ExSTARS reporting.

[1] Publication 3536, *Motor Fuel Excise Tax EDI Guide, revised 03-2010,* Appendix M, Page 254.
[2] Publication 3536, *Motor Fuel Excise Tax EDI Guide, revised 03-2010,* Appendix M, Page 10.

Below is a summary table which illustrates Form 637 registration and RCN review procedures based on different circumstances:

<table>
<tr><td>If…..</td><td>And….</td><td colspan="3">Then…</td></tr>
<tr><td rowspan="10">1 - Group Manager issues case file.</td><td rowspan="6">1(A) - Entity is not affiliated with any other examination activities</td><td rowspan="2">1(A)(i)-Verify Form 637 Registration Status</td><td>1(A)(i)(a) – If registered secure 637 case file</td><td rowspan="2">Follow IRM 4.24.2; Form 637 Excise Tax Registrations procedures;</td></tr>
<tr><td>1(A)(i)(b) – If not registered create new case file.</td></tr>
<tr><td colspan="3">1(A)(ii)- Determine RCN, and if applicable TCN, requirements;</td></tr>
<tr><td colspan="3">1(A)(iii)- Issue a Guidance Request Memorandum (GRM) to FCN Coordinator with your findings;</td></tr>
<tr><td colspan="3">1(A)(iv)- The FCN Coordinator returns the GRM with an approval or denial, or contacts agent for additional information;</td></tr>
<tr><td colspan="3">1(A)(v)- FCN will issue determination letter to fractionation facility. Associate completed GRM with Form 637 case file.</td></tr>
<tr><td rowspan="4">1(B) - Entity is related to other agent exam activities.</td><td colspan="3">1(B)(i) - Notify group manager;</td></tr>
<tr><td colspan="3">1(B)(ii) - Communicate with other agent(s);</td></tr>
<tr><td rowspan="2">1(B)(iii) - Coordinate exam activities;</td><td colspan="2">If case stays with you, verify and if necessary, establish proper case controls and follow procedures in 1(A) above.</td></tr>
<tr><td colspan="2">Case does not stay with you. Transfer case to appropriate agent.</td></tr>
<tr><td rowspan="2">2 - Assigned to you from another agent</td><td colspan="4">2(A)(i) - Establish case controls</td></tr>
<tr><td colspan="4">2(A)(ii) - Follow procedures 1(B)(iii)(a) above</td></tr>
<tr><td rowspan="3">3 - Facility operator inquiry</td><td>3(A) - Entity is not affiliated with any examination activities</td><td colspan="3">Issue Form 5346, Examination Information Report, to FCN Coordinator</td></tr>
<tr><td>3(B) - Facility is related to your exam activity.</td><td colspan="3">Follow procedures in 2(A)(i) and 1(A) above</td></tr>
<tr><td>3(C) - Facility is related to another agent’s exam activity.</td><td colspan="3">Follow procedures in 1(B) above</td></tr>
<tr><td>4 - You identify a lead</td><td colspan="4">Follow procedures in 3 above.</td></tr>
</table>

Interim Guidance Memorandum SBSE-04-0911-079 will be incorporated into the IRM sections, outlined above, prior to the expiration of this memo.

If you have any questions, please contact Richard Little, Excise Tax Fuel Policy Manager or Ron Sass, Excise Tax Fuel Policy Analyst.

cc: www.irs.gov