



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

December 21, 2015

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Affected IRM: 4.24.2
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MEMORANDUM FOR DIRECTOR, SPECIALTY EXAMINATION; CHIEF, EXCISE
FIELD OPERATIONS; AND ALL EXCISE TERRITORY
MANAGERS, FIELD GROUP MANAGERS AND EXAMINERS

FROM: Barbara J. Fiebich */s/ Barbara J. Fiebich*
Director, SB/SE Specialty Examination Policy

SUBJECT: Reissuance Interim Guidance for Obtaining Biodiesel Lab
Samples When FCO/FCA Support is Not Readily Available

The purpose of this memorandum is to reissue Interim Guidance Memorandum (IGM) SBSE-04-0215-0010 dated February 23, 2015, which provides guidance to revenue agents for securing biodiesel lab samples when fuel compliance officer/agent (FCO/FCA) support is unavailable. Please ensure this information distributed to all affected employees within your organization.

Generally, biodiesel samples are collected by an FCO/FCA; however, there may be instances when an FCO/FCA is not readily available. A revenue agent may allow a Form 637 Registration applicant/registrant, or designated proxy, to collect and ship biodiesel samples to the Excise Forensics Laboratory (EFL). The collection and shipping of biodiesel samples without an FCO/FCA may occur under the following circumstances and procedures:

1. Agent requests FCO/FCA support through his or her group manager. If an FCO/FCA is not available to obtain the sample, the group manager will direct an FCA in the group to send the necessary sampling and shipping supplies to the revenue agent.

The supplies include:

- a) Sample bottles and caps
- b) Form 9667, Sample Bottle Seals and Identification Labels
- c) Shipping supplies, box, and current instructions

2. Agent contacts Juliana Therese Padilla, Fuel Tax Policy Analyst for a shipping air bill and informs her of the expected date the samples will be obtained. If the date changes, agent will inform Juliana as soon as possible.

3. Agent reviews IRM 4.24.15, *Excise Tax, Excise Fuel Compliance Inspection, Sampling, and Shipping*, to become familiar with the safety, sampling, and shipping aspects of handling fuel. Note: IRM 4.24.15.13.2, *Investigative Sample Procedure*, describes completion of required Form 14403, *Investigative Sample Information*. The form is available on the Forms Repository on the IRWeb.
4. Agent schedules an appointment to observe the collection of the samples. Note: The taxpayer's designation of a proxy requires a valid Form 2848, *Power of Attorney and Declaration of Representative* and Form 56, *Notice Concerning Fiduciary Relationship*, from the applicant prior to sample collection activity.
5. During the visit, the agent observes applicant/registrant fill four (4) one ounce production run samples (up to the one ounce line on the bottle) for each tank product to be tested. Note: The applicant/registrant may require the use of personal protective equipment. The applicant/registrant generally provides equipment but the agent should inquire about safety requirements prior to the site visit.
6. Agent completes the Form 9667, *Sample Bottle Seals and Identification Labels*.
7. Applicant/registrant places the two security strips and label from the Form 9667 onto each bottle. Place the strips and label as instructed below. Each Form 9667 can label four sample bottles of the same product from the same tank. The Form 9667 also has a label that may be included in the case file.
 - a) Crisscross the top two narrow labeling strips over the top of the capped bottle so that four approximately equal lengths come down the outside of the bottle. Note: Carefully press these strips against the side of the cap while one end of the strip is still not applied to the bottle.
 - b) Wrap the third section, identified as "Bottle Label" on the Form 9667 around the bottle, covering the bottom ends of the two crisscrossed strips.
8. Agent prepares Form 13927, *Chain of Custody and Shipping Record*, and encloses the form in the shipping box. The form is available on the Forms Repository on the IRWeb.
9. Applicant/registrant ships the samples to EFL the day of the visit unless the daily courier pickup deadline has passed. If the deadline has passed, the sample must be shipped the next day. Juliana Therese Padilla will inform the agent of the deadline prior to the visit. The agent must ensure the box is sealed prior to leaving the sampling site.
10. Agent completes the Form 14403, *Investigative Sample Information* and sends the completed form via fax or mail as soon as possible to:
 - a) Fax : (509) 371-6646 Attn: Bob Wright
 - b) Email: Bob.W.Wright@irs.gov and Susan.L.Smith@irs.gov

11. EFL sends lab sample results to the individual(s) listed on Form 14403.

This interim guidance will be incorporated into IRM 4.24.2, Excise Tax, Form 637 Excise Tax Registrations, prior to its expiration.

If you have questions contact Thomas E. Deis, Acting Program Manager, or Juliana Therese Padilla, Policy Analyst, Excise Fuel Tax Policy.

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