

IRM PROCEDURAL UPDATE

DATE: 01/28/2026

NUMBER: sbse-04-0126-0162

SUBJECT: Suspend Claims Filed Under IRC 6435

AFFECTED IRM(s)/SUBSECTION(s): 4.24.22

CHANGE(s):

IRM 4.24.22.3.2 - Added temporary guidance that IRC 6435 claims should not be processed but should be held in suspense until further notice.

(1) This section contains general research items applicable to all Centralized Specialty Tax Operation (CSTO) modules. Specific research steps and suggestions are provided in the IRM section addressing each centralized excise tax form.

(2) For claim processing procedures in CSTO, refer to IRM 4.24.22.4.6, Specific Claims and Other Issues.

(3) Always contact the Large Corp Technical Unit before making an adjustment on a "Large Corp" case or notice. See IRM 21.7.1.4.11.4, Campus Contacts for Large Corp Cases, for additional information.

(4) For Form 720 filed returns that have not posted to the account, refer to IRM 25.23.9.4.1 BMF Returns Selected for Return Integrity and Compliance Services (RICS) Review, for how to identify if the return has been selected for RICS BMF Identify Theft (IDT) review. If there is no TC 150 posted because the return is being held pending a RICS review and it has been 23 weeks since RICS selected the return (TC 973), then fax a Form 4442, Inquiry Referral, to RICS at 844-201-5531. Indicate in Section B this is a request to review the Form 720 selected return to see if a case determination can be made and complete RICS case processing.

Note: Only RICS employees have the authority to determine if the return in question is RICS BMF IDT or not. Do not send any copies of a Form 720 return to be processed as the original return.

(5) Centralized Excise Operations employees should not process claims filed under IRC 6435, regardless of form used for filing. These claims should be held in suspense until further notice. Refer to IRM 4.24.22.4.5.5.2, for additional information.

IRM 4.24.22.4.5.5 - Changed title to Form 8849, Schedule 5, IRC Section 4081(e) and 6435 Claims. Added background information on the new IRC 6435 claims added by the One, Big, Beautiful Bill Act. Moved detailed content relating to 4081(e) claims to IRM 4.24.22.4.5.5.1.

(1) A person who has paid and reported a section 4081 fuel tax to the government uses Form 8849, Schedule 5 to claim an IRC 4081(e) refund of that tax if another taxpayer has also paid and reported the same fuel tax to the government. The tax liability has been paid and reported twice for the same fuel.

(2) IRC 4081(e) claims may only be made on Form 8849, Schedule 5, IRC 4081(e) Claims. They are not allowable on Form 720, Quarterly Federal Excise Tax Return, or Form 4136, Credit for Federal Tax Paid on Fuels. See Reg. Section 48.4081-7 of the Manufacturers and Retailers Excise Tax Regulations.

Note: Section 4081(e) claims may be filed electronically.

(3) The One, Big, Beautiful Bill Act (Public Law 119-21, 139 Stat. 282) created an IRC 6435 claim for payment, without interest, equal to the federal excise tax previously paid on clear diesel fuel or kerosene that is later indelibly dyed and removed at a terminal for a nontaxable use. Refer to IRM 4.24.22.4.5.5.2 for additional information and guidance.

IRM 4.24.22.4.5.5.1 - Changed title to Form 8849, Schedule 5, IRC Section 4081(e) Claims. Moved detailed content relating to 4081(e) claims from IRM 4.24.22.4.5.5. Moved existing content to IRM 4.24.22.4.5.5.1.1.

(1) The person who reported on Form 720 and paid the second tax to the government is the only person eligible to make this claim. Types of fuel that are allowable on the claim are:

Type of Fuel	CRN
Gasoline	362
Aviation gasoline	324
Diesel fuel	360
Kerosene	346
Diesel-water fuel emulsion	309
Dyed diesel fuel, dyed kerosene, and other exempt removals	303
Kerosene for use in aviation	369
Kerosene for use in commercial aviation (other than foreign trade)	355

(2) Information that must be attached to the claim:

- a. A copy of the First Taxpayer's Report,
- b. A copy of the "Statement of the Subsequent Seller" (if the fuel was bought from someone other than the first taxpayer) that the claimant received with respect to the fuel covered on the claim, and

Note: The First Taxpayer's Report and Statement of Subsequent Seller must contain all the information as shown in Model Certificates A and B in the Appendix of Pub 510.

(3) There is no minimum amount for this claim.

(4) The claim must be filed within 3 years from the time the return for the second tax was filed or 2 years from the time the second tax was paid to the government, whichever is later.

(5) No interest is allowable.

(6) Research master file to verify a return was filed and tax paid.

IRM 4.24.22.4.5.5.1.1 - Added title Form 8849, Schedule 5, IRC Section 4081(e) Claims Selected by Examination. Moved content from IRM 4.24.22.4.5.5.1.

(1) If the case is selected by Exam, the taxpayer is contacted by the Area Office within 30 days after receiving the file.

(2) Claims approved by the Area Office Excise Tax Group are annotated **Accepted** and returned to the Service Center Exam Classification IRC section on Form 3210, Document Transmittal, with a Memo to File for processing. The case is forwarded to Excise Operations for processing.

(3) These claims require expedite processing and must be worked immediately upon receipt.

(4) If claim accepted by Examination, adjust account using TC 290 with appropriate CRN (without a minus). Use hold code 3 and the following category codes:

- SC5P for paper-filed claims, or
- SC5R for electronically-filed claims

(5) Interest is not allowed; restrict module with TC 770.

(6) If claim is full disallowance (such as an expired period):

- a. Input TC 290,
- b. Use Blocking series 98, and

c. Issue Letter 105-C (full disallowance letter).

(7) If claim is a partial disallowance (e.g., a portion of the claim period is late):

- Input TC 290,
- Use Blocking Series 15,
- Use Block Series 00 if the original return is attached to the adjustment document,
- Use appropriate CRN for portion of claim that is allowed, and
- Issue Letter 106-C (partial disallowance letter).

IRM 4.24.22.4.5.5.2 - Added title Form 8849, Schedule 5, IRC Section 6435 Claims. Added new information and guidance on the new IRC 6435 claims added by the One, Big, Beautiful Bill Act.

(1) IRC 6435 claims include eligible fuels removed on or after December 31, 2025. Types of fuel that are allowable on the claim are:

- Dyed diesel fuel
- Dyed kerosene

(2) Eligible fuel means:

- a. Previously taxed fuel (that was not credited or refunded),
- b. Indelibly dyed by mechanical injection, and
- c. Removed from an approved terminal for a nontaxable use.

(3) Announcement 2026-1, issued December 22, 2025, provided information to potential claimants regarding IRC 6435 claims. The announcement notes that absent a statutory change, Treasury and the IRS lack the authority to pay the claims to anyone other than the person that paid the original tax on the dyed fuel to which the claim relates. The announcement also addresses forthcoming guidance, which will inform eligible taxpayers of the process for submitting a dyed fuel refund claim.

(4) The forthcoming guidance will enable refunds to taxpayers that paid the tax on the dyed fuel to which the claim relates. Guidance on the process for submitting claims will be issued in early 2026.

(5) Claimants have been requested to not file any IRC 6435 claims until guidance is issued. Announcement 2026-1 states that the IRS will not process any IRC 6435 claims until such guidance is issued.

(6) CSTO employees should not process claims filed under IRC 6435, regardless of form used for filing. These claims should be held in suspense until further notice.

Note: This does not apply to IRC 4081(e) claims filed on Form 8849, Schedule 5. Follow procedures in IRM 4.24.22.4.5.5.1.