



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTOR, SPECIALTY EXAMINATION; CHIEF EXCISE TAX PROGRAM; FUEL TERRITORY AND GROUP MANAGERS; FUEL COMPLIANCE OFFICERS (FCOs); AND FUEL COMPLIANCE AGENTS (FCAs)

FROM: Alfredo Valdespino /s/ Alfredo Valdespino
Acting Director, Examination Specialty Policy

SUBJECT: Interim Guidance for Fuel Inspection Penalty Referrals

This memorandum provides interim guidance on the referral process for FCOs and FCAs who conduct inspections resulting in IRC 6715, *Dyed Fuel Sold for Use or Used in Taxable Use* violations. The referral process is utilized to identify excise tax issues related to the sale, misuse or alteration of dyed fuel.

Effective immediately, when an FCO recommends an IRC 6715 violation, he/she must complete Form 5346, *Examination Information Report*. In order to identify the scope of the non-compliance and develop the penalty file, the FCO will collect the pertinent information, in accordance with IRM 4.24.15, *Excise Fuel Compliance Inspection, Sampling, and Shipping*.

An FCA will also complete a Form 5346 if an inspection results in an IRC 6715 penalty, unless the FCA directly works the excise tax case. If the FCA pursues the excise tax case, the FCA will use Form 5345-D, *Examination Request-ERCS (Examination Returns Control System) Users*, to request managerial approval. IRM 4.24.16.1.3, *Penalty Case Processing*, provides guidance on completing Form 5345-D and establishing the examination case on ERCS.

Form 5346 and the associated information should be submitted in accordance with IRM 4.24.13.8.1, *Referral Procedures*. An Excise-Workload Selection & Delivery (WSD) Classifier will make the determination whether to assign the referral to the Excise Field Examination group. The information provided by the FCO and FCA is critical to assist the Excise-WSD Classifier to make the proper recommendation and the Excise Revenue Agent to develop the back-up tax case.

This interim guidance is effective upon issuance. It will remain in effect until expiration, unless superseded by an updated IRM or later interim guidance.

If you have questions or concerns about this memorandum, please contact Edward Kipping, Acting Excise Fuel Program Manager or Douglas Sponsler, SB/SE Fuel Policy Analyst.

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