



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.24.13

FEBRUARY 11, 2021

EFFECTIVE DATE

(02-11-2021)

PURPOSE

- (1) Updated IRM 4.24.13, Excise Tax, Overview of Excise Fuel Compliance Program.

MATERIAL CHANGES

- (1) The material changes are listed in the following table:

IRM	Description
4.24.13.1.1 Background	Content was added to provide additional information on the program.
4.24.13.2 Structure of Fuel Compliance Program	Content was revised to clarify the scope of the program.
4.24.13.4 Excise Fuel Compliance Work Plan	Content was revised to clarify the FIDGAP content.
4.24.13.4.1 Fuel Compliance Work Planning Responsibilities	Content edited for clarity.
4.24.13.4.2 FIDGAP Selections and Self-Identified Sites	Added content to include requirement to state the reason the site was selected for inspection. Moved content from a note to a paragraph. Content edited for clarity.
4.24.13.5 Issue Management System (IMS)	Edited content for clarity.
4.24.13.5.2 IMS - Group Manager Required Actions	Added citation.
4.24.13.6 IMS Standard Audit Index Numbers (SAIN) for Inspections	Deleted table distinguishing an end-user inspection from a designated inspection site inspection. The content is no longer needed due to a change in the definitions of the two types of inspection. See IRM 4.24.15.7.
4.24.13.7 Time Reporting	Content was updated to include time used to conduct biodiesel related inspections.
4.24.13.8 Taxpayer Outreach and Education	Content edited for clarity.
4.24.13.9 Referrals	Content revised to reflect guidance memorandum SB/SE 04-1219-0052.
4.24.13.9.1 Referral Procedures	Content revised to reflect guidance memorandum SB/SE 04-1219-0052.
4.24.13.10 Fed/State and Fed/Fed Agreements	Content revised to clarify the types of agreements, updated procedures and to reflect guidance memorandum, SB/SE 04-1120-0092.

IRM	Description
4.24.13.10.1 Record Keeping and Accounting for Authorized State Disclosures	Updated content on disclosure procedures and to reflect guidance memorandum SB/SE 04-1120-0092.
4.24.13.11 Third Party Contacts	Moved content to IRM 4.24.15.
4.24.13.13 Glossary	Updated definition of Blitz Activity.
4.24.13 Excise Tax, Overview of Excise Fuel Compliance Program	Entire section content updated to reflect any organizational title changes, to update cites and to update links. Editorial changes were made throughout the section, as needed. Content also updated to adhere to the IRM Style Guide.

EFFECT ON OTHER DOCUMENTS

IRM 4.24.13 dated July 28, 2017, is updated to reflect the changes listed in the Material Changes Table. This IRM Section (section) incorporates Interim Guidance Memorandum SB/SE 04-1219-0052, Interim Guidance Referrals of IRC Section 6715 Penalties, dated December 12, 2019, and Interim Guidance Memorandum SB/SE 04-1120-0092, Prohibition of Sharing IRS Dyed Diesel Fuel Penalty Case Information with State Agencies, dated November 18, 2020.

AUDIENCE

This section provides direction to Supervisory Fuel Compliance Officers, Fuel Group Managers, Fuel Compliance Officers and Fuel Compliance Agents. Information in this section may also support coordination with SB/SE excise groups.

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Director, Examination - Specialty Policy
Small Business/Self Employed

4.24.13

Overview of Excise Fuel Compliance Program

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4.24.13.1
(02-11-2021)
**Program Scope and
Objectives**

- (1) The Fuel Compliance Program enforces the laws and regulations pertaining to the following:
 - a. Proper sale and use of dyed fuel.
 - b. Sulfur content of taxed, undyed diesel fuel.
 - c. Requirement to dye fuel by means of a mechanical dye injection system.
 - d. Reporting requirements for the bulk distribution of fuel through pipeline or barge.
 - e. Reporting requirements for the distribution of fuel below the terminal rack.
- (2) Employees conduct fuel inspections throughout the fuel distribution system without prior notice to the taxpayer. The employee starts the workday from his or her residence, post of duty (POD) station or other designated parking location and travels to a site to conduct an inspection. During the course of an inspection, interviews and tours are conducted, records are reviewed, and fuel samples are obtained. The samples are obtained from fuel storage tanks and the propulsion tanks of highway vehicles. The fuel samples are shipped to and tested by the Pacific Northwest National Laboratory (PNNL), under an inter-agency agreement with the IRS.
- (3) **Purpose** - It is essential for senior-level officials, managers and employees to understand the procedures contained in this section. This section contains general information, as well as procedures pertaining to the following:
 - Overview of fuel tax inspection.
 - Work planning.
 - Issue management system (IMS).
 - Time reporting.
 - Taxpayer outreach and education.
 - Referrals.
 - Fed/State agreements.
 - Third party contacts.
 - Fraud referrals.
 - Bribery awareness.
- (4) **Audience** - The intended audience of this section includes the Chief, Estate & Gift/Excise Tax Exam, Territory Managers, Group Managers, Fuel Compliance Officers (FCOs) and Fuel Compliance Agents (FCAs).
- (5) **Policy owner** – Director, Examination - Specialty Policy owns the policies contained herein.
- (6) **Program owner** – Program Manager, Excise Tax Policy is responsible for the administration, procedures, and updates related to the Fuel Compliance Program.
- (7) **Primary stakeholders** - Other areas that are affected by these policies and procedures include Excise Case Selection (ECS), Joint Operations Center (JOC), Workload Selection and Delivery (WSD), Counsel and Disclosure.

4.24.13.1.1
(02-11-2021)
Background

- (1) The IRS implemented the Fuel Compliance Program following passage of the Omnibus Budget Reconciliation Act of 1993. The program promotes compliance with fuel tax laws through fuel inspections conducted at sites throughout the fuel distribution chain. Though the program's initial focus was on the proper sale and use of dyed fuel solely, the program continues to adapt its enforcement strategy as the fuel industry changes to include alternative fuel sources.

4.24.13.1.2
(07-28-2017)
Authority

- (1) Imposition of federal excise tax on alternative and taxable fuels, see IRC 4041 and IRC 4081, respectively, and the applicable Treasury Regulations.
- (2) Exemptions from federal excise tax on alternative and taxable fuels, see IRC 4041 and IRC 4082, respectively, and the applicable Treasury Regulations.
- (3) Dyeing requirements, see IRC 4082, Treas. Reg. 48.4082-1, Treas. Reg. 48.4082-1T, (now expired per IRC 7805(e)) and Notice 2005-80 (2005-2 C.B. 953).
- (4) Notice requirement for dyed fuel, including required language, see Treas. Reg. 48.4082-2.
- (5) Back-up tax on diesel fuel and kerosene, see IRC 4041, and Treas. Reg. 48.4082-4.
- (6) Definition of taxable fuel, see IRC 4083(a).
- (7) Administrative authority, see IRC 4083(d) and Treas. Reg. 48.4083-1, which include:
 - a. Authority to inspect.
 - b. Reasonableness.
 - c. Place of inspection.
 - d. Scope of inspection.
 - e. Penalty for refusal of entry or refusal to submit to inspection.
- (8) Registration, see IRC 4101 and Treas. Reg. 48.4101-1.
- (9) Penalty on dyed fuel sold for use or used in taxable use, see IRC 6715(a)(1) & (2) and Treas. Reg. 48.6715-1.
- (10) Penalty for the willful alteration of dye in dyed fuel, see IRC 6715(a)(3).
- (11) Penalty for selling or holding for sale altered dyed fuel, see IRC 6715(a)(4).
- (12) Definition of dyed fuel, see IRC 6715(c)(1).
- (13) Tampering with or failing to maintain security requirements for mechanical dye injection systems, see IRC 6715A.
- (14) Assessable penalty for refusal of entry or refusal to submit to inspection, see IRC 6717.
- (15) Penalty for the failure to display tax registration on vessels, see IRC 6718.
- (16) Penalty with respect to certain adulterated fuels, see IRC 6720A.

4.24.13.1.3
(02-11-2021)
Responsibilities

- (1) Director, Examination - Specialty Policy is responsible for the procedures and policies in this section.
- (2) Program Manager, Excise Tax Policy is responsible for ensuring that the procedures are accurate and updated regularly, as needed.
- (3) Workload delivery is the responsibility of the Director, Exam Case Selection (ECS).
- (4) Chief, Estate & Gift/Excise Tax Exam is responsible for ensuring the procedures within this section are adhered to.
- (5) Territory Managers, Excise Tax Examination are responsible for ensuring that the group managers are aware and adhere to the procedures in this section.
- (6) Group Managers, Excise Tax Examination are responsible for ensuring their employees adhere to the procedures in this section.
- (7) FCOs and FCAs are responsible for following all procedures in this section. The term "employee(s)" is used throughout this section and refers to both the FCO and FCA positions.

4.24.13.1.4
(07-28-2017)
Program Objectives and Review

- (1) **Program Goals** - The goal of this section is to provide an overview of the Fuel Compliance Program that enables the audience to understand the program structure. This section also provides guidance on work planning, proper time reporting and guidance on other aspects related to the fuel compliance program.
- (2) **Program Reports** - The effectiveness of employees following the procedures outlined in this section is evaluated with the use of the following reports:
 - Issue Management System (IMS) reports.
 - Fiscal year plan monitoring reports.
- (3) **Program Effectiveness** - The effectiveness of this program is not measured by revenues assessed or collected, but by revenue protected. IRS employees being vigilant and visible in all geographic regions, promotes voluntary taxpayer compliance.
- (4) **Annual Review** - The following reviews are conducted annually:
 - Chief, Estate & Gift/Excise Tax Exam conducts territory operational reviews.
 - Territory Managers conduct group operational reviews.

4.24.13.1.5
(07-28-2017)
**Terms/Definitions/
Acronyms**

- (1) Fuel Compliance Program definitions of terms used throughout IRM 4.24.13, IRM 4.24.14, IRM 4.24.15, and IRM 4.24.16 are contained in IRM 4.24.13.13, Glossary.
- (2) The acronyms used throughout this section are as follows:

Acronym	Definition
ADP	Accounts Desk Procedures
CI	Criminal Investigation

Acronym	Definition
ECS	Excise Case Selection
EIN	Employer Identification Number
FCA	Fuel Compliance Agent
FCO	Fuel Compliance Officer
FIDGAP	Fuel Inspection Data Gathering and Analysis Project
FTI	Federal Tax Information
IMS	Issue Management System
JOC	Joint Operations Center
MOU	Memorandum of Understanding
NTEU	National Treasury Employees Union
POD	Post of Duty
PGLD	Privacy, Governmental Liaison and Disclosure
WSD	Workload Selection and Delivery
UNAX	Unauthorized Access of Taxpayer Accounts

4.24.13.1.6
(07-28-2017)

- (1) The fuel compliance IRMs consists of the following four sections:

Related Resources

IRM	Title
4.24.13	Overview of Excise Fuel Compliance Program
4.24.14	Excise Fuel Compliance Safety, Uniform, and Motor Vehicle Requirements
4.24.15	Excise Fuel Compliance Inspection, Sampling and Shipping
4.24.16	Excise Fuel Compliance Report Writing, Case Closing, and Appeals Procedures

4.24.13.2
(02-11-2021)

Structure of the Fuel Compliance Program

- (1) This section discusses basic procedures, guidelines and requirements for use by employees and fuel compliance managers in administering Fuel Compliance Program operations.

- (2) The Fuel Compliance Program is involved with the following compliance activities:
 - a. Inspections pertaining to dyed fuel.
 - b. Inspections pertaining to other taxable fuels.
 - c. Inspections related to alternative fuels.
 - d. Educational outreach to industry groups and taxpayers.
- (3) Employees use a variety of tools and techniques to ensure taxable fuel in the fuel distribution system is properly taxed and dyed. Employees are directly responsible for assertion of tax and penalties when non-compliance is identified.
- (4) Employees are also responsible for supporting excise fuel tax compliance by considering excise tax registration procedures found in IRM 4.24.2, Excise Tax, Form 637 Excise Tax Registrations, excise fuel tax examination procedures found in IRM 4.24.6, Technical Guidance and Information Processing for Excise Tax Examination Issues, and IRM 4.24.4, Excise Fuel Taxes Workload, Policies and Procedures.
- (5) Program compliance activities are structured around the annual Excise Program fiscal year work plan.

4.24.13.3
(07-28-2017)

**Fuel Compliance Officer
(FCO) and Fuel
Compliance Agent (FCA)
Responsibility Overview**

- (1) Responsibility for the delivery of the Excise Fuel Compliance Program is as follows:
 - a. Workload delivery is the responsibility of the Director, Exam Case Selection.
 - b. Policies, guidance and procedures are the responsibility of the Director, Examination - Specialty Policy.
 - c. Field examination delivery is the responsibility of the Director, Specialty Examination.
- (2) The procedures found in this section apply generally to both the FCO and FCA positions. The duties are summarized below:
 - a. FCOs conduct inspections and outreach to promote compliance with the fuel tax laws. Inspections may result in the assertion of penalties, if non-compliance is identified. The FCO also assists with the enforcement activities by other personnel within Excise Tax Examination. Assistance includes, but is not limited to, identifying potential excise tax issues and obtaining fuel samples.
 - b. FCAs conduct the inspections and the other activities included in the description of the FCO duties. In addition, the FCAs perform examinations and compliance reviews.

4.24.13.4
(02-11-2021)

**Excise Fuel Compliance
Work Plan**

- (1) An Excise Work Plan is developed to meet organizational planning needs and strategic objectives. The Excise Work Plan is the basis for most work assignments.
- (2) Work planning focuses on:
 - a. Conducting fuel inspections in accordance with the plan.
 - b. Conducting inspections in support of excise tax examinations and registration reviews.
 - c. Supporting information-sharing agreements between the IRS and various states. See IRM 4.24.13.10.

- d. Performing taxpayer education and outreach activities. See IRM 4.24.13.8.

(3) Work planning responsibilities involve:

- a. JOC, a group within ECS.
- b. Fuel compliance group managers.
- c. FCOs and FCAs.

(4) The Fuel Inspection Data Gathering and Analysis Project (FIDGAP), which is administered by the JOC, selects potential inspection sites in accordance with the annual fuel compliance plan and managerial direction.

- a. Sites are selected for each employee based on the employee's starting location (i.e., residence, POD or designated parking location).
- b. Sites are also selected for Blitzes set in specific geographic locations.
- c. The database is updated based on feedback received from the field groups and new data.

4.24.13.4.1
(02-11-2021)

**Fuel Compliance Work
Planning
Responsibilities**

(1) Fuel compliance group managers:

- a. Assign fuel inspection work to the employees.
- b. Plan inspection efforts, such as blitzes.
- c. Review and approve work planners.
- d. Ensure employees provide feedback for FIDGAP sites provided.
- e. Designate employees to pick up state samples and provide other support to the federal-state information-sharing agreements.
- f. Assign outreach efforts.

(2) The employee:

- a. Prepares work planners based on FIDGAP selections, other managerial direction and self-selected sites.
- b. Self-identifies potential fuel inspection sites.
- c. Posts feedback within FIDGAP on the sites visited.

(3) Input of work plans:

- a. The employee must use the work planner located on the Workplanner page of the Fuel Compliance SharePoint site.
- b. The work planner must include a minimum of 2 weeks of planned actions, updated weekly, including planned travel, specific inspection and examination sites (see (c) below), truck maintenance, leave, or any other pertinent information.
- c. Each field inspection day must include at least 1 anchor point. An anchor point is a specific site selected for inspection and will include sites selected by FIDGAP, the manager or by the employee. See IRM 4.24.13.4.3.
- d. The employee will update the plan to show what actually occurred only if the plan for the entire day changed (e.g., leave was taken instead of the planned inspection day).

(4) Approval of work plans:

- a. Group managers must review each work plan to ensure the planned work is in accordance with guidance in this section or interim guidance and managerial directives.

- b. Group managers will comment or indicate approval of the work plan on the SharePoint site.

4.24.13.4.2
(02-11-2021)

**FIDGAP Selections and
Self-Identified Inspection
Sites**

- (1) The FIDGAP sites forwarded by the manager are priority sites, but not mandatory.
 - (2) The employee may supplement the FIDGAP list with self-identified sites. Self-identified sites must be within the scope described in IRM 4.24.13.2.
 - (3) The employee is expected to adjust the plan based on actual events and field observations. For instance, the employee should self-identify sites:
 - a. When an inspection cannot be conducted at the FIDGAP site (e.g., out-of-business, closed). The employee should conduct other inspections in that area, if possible.
- Note:** The employee is not limited to sites with the same Activity Code as the FIDGAP site.
- b. If the employee observes an activity warranting an immediate inspection.
 - (4) The employee must record in the narrative workpaper in IMS the reason the site was selected for inspection. The comment will state whether the inspection site was selected through FIDGAP, manager directive such as a special project, or self-selected. If self-selected, the comment should include a statement explaining what prompted the action (e.g. "Self-selected site. I observed fuel tanks from the road.")

4.24.13.4.3
(07-28-2017)

Anchor Points

- (1) An anchor point is a specific location at which the employee plans to perform field work.

Note: General references are not acceptable such as counties, cities, towns or other non-specific locations.

- (2) When identifying anchor points, employees must consider the following:
 - a. FIDGAP sites and other assignments from the group manager.
 - b. Leads.
 - c. Self-identified potential inspection sites.

4.24.13.5
(02-11-2021)
**Issue Management
System (IMS)**

- (1) IMS provides automated support for the Fuel Compliance Program.
- (2) Employees and group managers should refer to the IMS guidance for specific instructional information pertaining to the use of IMS.
- (3) See IRM 4.24.16 for specific requirements on inputting inspections on IMS.

4.24.13.5.1
(02-11-2021)
**IMS - Employee
Required Actions**

- (1) Employees must use IMS to:
 - a. Upload a complete inspection case file including all forms and work papers, etc. as defined in IRM 4.24.16, Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures.
 - b. Input time worked and associated leave taken into Form 3081, Employee Time Report.

- c. Input time charged to allowable Activity Codes into Form 4502, Exam Technical Time Report. See IRM 4.24.13.7, Time Reporting.

4.24.13.5.2
(02-11-2021)

**IMS - Group Manager
Required Actions**

- (1) Group managers must use IMS for the following required actions:
 - a. Review inspection/examination cases.
 - b. Update inspections to include any group manager's involvement, as well as including comments pertaining to all contacts with taxpayers. See IRM 4.24.16.2 for guidance on recording comments in IMS.
 - c. Update, sign and approve Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, Form 3198, Special Handling Notice for Examination Case Processing, and Form 5345D, Examination Request - ERCS (Examination Returns Controls System) Users, in IMS.
 - d. Update the manager concurrence to yes, once all closing actions have been completed.

4.24.13.6
(02-11-2021)

**IMS Standard Audit
Index Numbers (SAIN)
for Inspections**

- (1) SAINs (Activity Code variation with suffixes) are used in IMS to differentiate the types of inspection activities. Numerical suffixes are used with certain SAINs to further distinguish the type of inspection.
- (2) SAIN 515 is used to record all terminal inspections. To record an inspection received from a state employee as part of a fed-state agreement, use the suffix "Z."
- (3) SAIN 516 is used to record all wholesaler and retailer inspections. When selecting and entering the inspection issue into IMS, the following list of alpha suffixes must be used to identify the type of inspection:
 - a. "R" - to record a retailer inspection (including truck stops).
 - b. "W" - to record a wholesaler inspection.
 - c. "Z" - to record an inspection received from a state employee as part of a Fed-state agreement.
- (4) SAIN 517 is used to record all designated inspection site screenings and inspections. When selecting and entering the inspection issue into IMS, the following list of alpha suffixes must be used to identify the type of screening or inspection:
 - a. "H"- to record fuel compliance inspections and screenings at any state highway inspection station, weigh station, mobile station, or other location designated by the IRS Commissioner to be used as a designated inspection site.
 - b. "O"- to record all inspections and screenings at sale barns, livestock auctions, construction sites, and similar situations where vehicles operated by various entities are inspected at a single site and law enforcement officers are not needed to direct the vehicles.
 - c. "Z" - to record an inspection received from a state employee as part of a fed-state agreement, if the state sample was secured as a result of an on-road inspection (designated inspection site).
- (5) SAIN 518 is used to record all end-user inspections. If the state sample was secured as a result of an end-user inspection (business/company inspection), use the alpha suffix "Z" to record inspections received from a state employee as part of a fed-state agreement.

4.24.13.7
(02-11-2021)
Time Reporting

- (1) All time (direct and indirect) must be entered into the time sheet application on IMS.
- (2) Direct inspection time is entered in the section entitled "Misc. Direct Exam Time."
- (3) Fuel inspections will not have time applied to them directly.
- (4) Activity Code 515 is used to report time related to terminal inspections and biodiesel producers.
- (5) Activity Code 516 is used to report time related to wholesaler, retailer and biodiesel blender inspections.
- (6) Activity Code 517 is used to report time related to designated inspection site inspections.
- (7) Activity Code 518 is used to report time related to end-user inspections.
- (8) Activity Codes 610 and 730 are used to report indirect and administrative time, respectively.
 - a. Activity Code 610 - Time spent on technical duties that cannot be charged to a specific case or activity. Generally this includes attending group meetings, reading procedural/technical material, preparing and attending technical/procedural conferences, completing forms, working on committees, managing records, preparing time reports/travel vouchers, general housekeeping (e.g., moving, ordering supplies and surveying space), truck maintenance, and e-mail/voice messaging system.
 - b. Activity Code 730 - The time reported under this Activity Code include duties such as Combined Federal Campaign, physical examinations, Commissioner Representative duties, participation in attitude surveys (survey and meetings), NTEU (bank and official which includes time spent by designated union representatives as provided for in the union contract), Special Emphasis Program Time, mandatory briefings (e.g. Unauthorized Access (UNAX), Privacy Information Protection and Disclosure, etc.), and performance discussions with managers (e.g., time and workload reviews, etc.). Activity Code 730 is also used to record computer breakdowns and when the employee experiences problems with hardware or software that results in a loss of productivity.
- (9) When experiencing computer, hardware or software issues, both requirements below must be met to charge time to Activity Code 730:
 - a. A help desk ticket has been submitted and remains open, and
 - b. The employee is actively engaged in the fix. This includes troubleshooting with someone to fix the system, resolving equipment and software problems, server time-outs or outages, computer problems, and participating in phone testing.

4.24.13.8
(07-28-2017)
Taxpayer Outreach and Education

- (1) Customer service includes appropriate educational and outreach efforts. This supports an overall strategy to promote voluntary compliance.

- (2) Employees shall engage in various outreach activities such as, but not limited to:
 - a. Formal meetings with trade organizations and associations.
 - b. Participation in trade shows.
 - c. Meetings with state fuel inspection employees.
 - d. One-on-one discussions during inspections/examinations.
- (3) Employees need to ensure that the group manager has approved the first three activities listed in (2) above.
- (4) When the outreach occurs as part of an inspection, the employee must record the actions in IMS.
- (5) At the conclusion of the outreach effort the group manager should be notified. The notification must include:
 - a. How the outreach was identified.
 - b. The audience.
 - c. The topics discussed.
 - d. The date it occurred.
 - e. Location.
 - f. Length of time.
- (6) Time associated with educational/outreach activities should be recorded under Activity Code 521, unless it was done at the time of the inspection.
- (7) The group manager should monitor Activity Code 521 time and obtain explanations and details, as warranted.

4.24.13.9
(02-11-2021)
Referrals

- (1) Employees are exposed to a variety of situations where direct penalty enforcement is not the only issue. Significant fuel tax issues, other excise tax issues, or other tax issues may be apparent or develop during an inspection. It is the responsibility of employees to recognize situations that potentially require a referral to other IRS operations, and promptly prepare and submit written referrals.

4.24.13.9.1
(02-11-2021)
Referral Procedures

- (1) An employee shall complete an electronic Form 5346, Examination Information Report, for any proposed IRC 6715 penalty in which information indicates at least 10,000 gallons of dyed fuel is involved in the penalty.
- (2) The employee should gather the facts, and review fuel purchase records and other records to determine the historical extent of the taxpayer's non-compliance and identify whether the 10,000 gallons threshold has been met.
- (3) A group manager may approve opening an examination involving less than 10,000 gallons if the case will remain within that excise tax field group.
- (4) Employees will attach to Form 5346 a document explaining the nature of the referral, if it is not fully explained in the form. A copy of Form 5346 and any supplemental document will be included in the closed IMS case file.
- (5) Form 5346 and the supporting information shall be transmitted via secured e-mail to the group manager for approval. See IRM 1.10.3.2.1, Secure Messaging & Encryption.

- (6) See IRM 4.24.15.14, Investigative Samples, for instructions on referring issues related to investigative samples.
- (7) The group manager shall send all approved referrals, Form 5346 and the supporting information if any, via a secured message, to the Excise Workload Selection and Delivery (Excise WSD) mailbox at *sbse.excise.wsd@irs.gov* with subject line, "Lead/Information Report Request."

4.24.13.10
(02-11-2021)
**Fed/State and Fed/Fed
Agreements**

- (1) A variety of written agreements may be developed to coordinate tax administration with other federal or state agencies. Development of these agreements is a responsibility of Excise Tax Policy in collaboration with Privacy, Government Liaison and Disclosure (PGLD).
- (2) The IRS has two types of agreements with states in relation to fuel inspections: fuel sampling agreements and information-sharing agreements. The two types may be combined into one agreement if the state agency that obtains and ships the fuel samples is the taxing agency with whom the IRS will share tax information.
 - In a fuel sampling agreement, the IRS agrees to accept state samples for testing at the Excise Forensics Laboratory (EFL). SB/SE Estate & Gift/Excise Tax Exam may share results from state fuel samples submitted to and tested by the EFL with state agencies; however, test results shared with state agencies may not reference the IRC 6715 penalty.
 - In an information-sharing agreement, the IRS and the state taxing agency share information on secured samples found within the state. Penalties authorized by IRC 6715 associated with these secured samples, may not be disclosed to state agencies under IRC 6103(d).
- (3) Responsibilities for meeting the administrative provisions of the agreements are shared by the excise territories and Excise Workload Selection and Delivery (Excise WSD).
- (4) The excise territory manager will appoint a group manager as the point of contact to address issues that may arise. As the point of contact, the manager will work with state officials, Excise WSD, Excise Tax Policy and PGLD.
- (5) As the point of contact, the group manager must:
 - a. Obtain copies of all current written agreements between any federal and state agencies within the geographically-assigned territory.
 - b. Review and familiarize themselves with all the provisions of the written agreements within their assigned geographic territory.
 - c. Meet the IRS obligations stated in existing agreements and work with their state counterparts to ensure the state fulfills its obligations.
 - d. Make authorized disclosures of IRC 4041 and IRC 4081 federal tax information as provided in the written agreements. Penalties authorized by IRC 6715 associated with these secured samples, may not be disclosed to state agencies under IRC 6103(d). See IRM 4.24.13.10.1, Record-keeping and Accounting for Authorized State Disclosures, for descriptions of the information disclosed to the states.
 - e. Provide copies of the current agreements between any federal and state agency to the FCO or FCA assigned that geographical territory.
 - f. Monitor employees' compliance with authorized disclosure and contract provisions of the agreements.

- g. Notify Excise Tax Policy when a state shows interest in entering into a fed/state agreement or when an existing agreement needs updating.
- (6) If a group manager has questions about a particular agreement or experiences problems with a state, the manager should contact Excise Tax Policy. An analyst will work with the manager and PGLD to answer questions and resolve issues.
- (7) Excise WSD will receive case information from states and lab testing results from EFL. WSD will:
 - a. Associate the case information with the testing results.
 - b. Ensure cases are input on ERCS and IMS and assigned to the appropriate excise field group.
 - c. Ensure disclosure reporting documents are completed.
- (8) Employees will work directly with federal and state officers. Maintaining a balance between making only authorized disclosures to those state officers and maintaining a solid working relationship is essential. Employees must at a minimum:
 - a. Obtain copies of all current agreements between any federal and state agency within their geographically-assigned territory.
 - b. Review and familiarize themselves with all provisions of the written agreements, including the limitations of authorized disclosures.
 - c. Elevate to the manager any issues or changes that should be considered.
 - d. Promptly process samples received from state officers.
 - e. Work cooperatively with federal and state officials within the parameters of written agreements.

4.24.13.10.1

(02-11-2021)

**Recordkeeping and
Accounting for
Authorized State
Disclosures**

- (1) Section 3(c) of the Privacy Act of 1974 and IRC 6103(p)(3)(A) require the IRS to keep an accurate accounting of each disclosure of information from tax or non-tax systems of records.
- (2) Though there are important differences in the various state agreements, there are generally two types of Federal Tax Information (FTI) shared with the state agencies:
 - a. Lab results for samples secured by the state.
 - b. Lab results and taxpayer information for IRS secured samples found within the state. Penalties authorized by IRC 6715 associated with these secured samples, may not be disclosed to state agencies under IRC 6103(d).
- (3) Group managers must keep records for both types of FTI shared with a state.
- (4) Group managers must report the disclosures using Form 5466-B, Multiple Records of Disclosure. The Form 5466-B is submitted on the last business day of each month in which FTI was shared with the state. See IRM 11.3.37.3.1 , Accounting Procedures, for the address to which the Form 5466-B should be sent. A copy of the form should also be sent to Excise WSD via secured email.
- (5) The requirement to report information and instructions for completing and submitting the Form 5466-B is detailed in IRM 11.3.37, Recordkeeping and Accounting for Disclosures.

- (6) Form 5466-B should be completed, as follows:
 - a. Name Control.
 - b. SSN/EIN.
 - c. Tax Period.
 - d. Disclosure Date - date the information was shared with the state agency.
 - e. Nature of Disclosure Code - Code 4.
 - f. State Agency Codes - See Exhibit 4, IRM 11.3.37, for a listing of state agency codes.
 - g. Purpose Code - Code 11.
 - h. Accounts Desk Procedures (ADP) Source Code - Code 120.
- (7) For more information on disclosures, see IRM 4.2.5, Disclosure of Official Information.

4.24.13.11
(11-27-2015)
Fraud Development

- (1) Employees must be alert to indicators of fuel tax evasion. See IRM 25.1, Fraud Handbook, for guidance on recognizing and developing a fraud case.
- (2) Tax fraud is an intentional wrongdoing on the part of a taxpayer, with the specific purpose of evading a tax known or believed to be owed. Tax fraud requires both a tax due and owing, along with fraudulent intent. See IRM 25.1.1.2, Definition of Fraud.
- (3) When employees encounter behavior or indicators of fraud, they shall immediately consult with their group manager to determine the proper course of action.
- (4) The employee and group manager will ensure jointly that they have sufficiently documented the appropriate fraud factors or information and consult with a Fraud Enforcement Advisor and the Excise Tax Policy Fraud Coordinator.
- (5) Based on these consultations and any development of a plan of action, the employee and group manager will determine whether to recommend a referral to Criminal Investigation (CI).
- (6) If the referral to CI is initiated, further participation by the employee may still be required. The CI request for employee assistance is made through the group manager.
- (7) The manager should ensure the employee's participation and that feedback is shared on the outcome of the referral.

4.24.13.12
(02-11-2021)
Bribery Awareness

- (1) The Treasury Inspector General for Tax Administration (TIGTA) is primarily responsible for investigating all attempted bribery cases. See IRM 4.10.1.4.7, Reporting Bribery Attempts.

4.24.13.13
(02-11-2021)
Glossary

- (1) Definitions of terms common to the Fuel Compliance Program are included below.
- (2) For more definitions of terms related to alternative fuels and the taxable fuels, see Treas. Reg. 48.4041-8 and 48.4081-1(b), respectively.
 - **Abnormal Sample Results** - Abnormal sample results are when the chromatogram (fuel test results) differs from the chromatogram of fuel

from the stated source of fuel. Abnormal sample results are assigned to an FCA or Excise Tax Revenue Agent for resolution.

- **ASTM** - American Society for Testing Materials.
- **Aviation Gasoline** - All special grades of gasoline suitable for use in aviation reciprocating engines and covered by ASTM specification D910 or military specification MIL-G-5572.
- **Barrel** - A barrel is 42 US Gallons at 60 degrees Fahrenheit.
- **Bill of Lading (BOL)** - Business document showing the product type, number of gallons, purchaser, carrier, date, destination of product, and driver information. Each BOL should be sequentially numbered.
- **Biodiesel** - The monoalkyl esters of long chain fatty acids derived from plant or animal matter, which meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency (EPA) under section 211 of the Clean Air Act (42 U.S.C. 7545), and the requirements of the American Society of Testing and Materials D6751. See IRC 40A(d)(1) and section 2(b) of Notice 2008-110 (2008-51 I.R.B. 1298).
- **Blender** - Any person that produces a blended taxable fuel. See Treas. Reg. 48.4081-1(b).
- **Blitz Activity** – A short-term inspection project during which inspection activity concentrates on a specific geographic area or segment within the fuel distribution system.
- **Blocked Pump** - A pump used to dispense undyed kerosene that is sold at retail for use by the buyer in any nontaxable use. A blocked pump is at a fixed location, contains a legible and conspicuous notice stating “Undyed, Untaxed Kerosene - Non-Taxable Use Only,” and cannot (because, for example, of its distance from a road surface or train track, or the length of its delivery hose) reasonably be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or train, or is locked by the vendor after each sale and unlocked by the vendor only in response to a buyer’s request for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train.
- **Card Lock Fuel Pumps** - Fuel pumps that are operated with the use of a card, similar to a credit card. The card has information encoded such as the owner’s name and address. Card lock fuel pumps are normally operated at an unattended location with the cardholder pumping his/her own fuel.
- **Chromatogram** - The result of a testing procedure in which the components of a product are separated and identified.
- **Commercial Motor Vehicle** - Defined by the 49 CFR 390.5 in the Department of Transportation Federal Motor Carrier Safety Regulations as having a minimum gross vehicle weight (GVW) of 10,001 pounds, or is designed or used to transport more than eight passengers (including the driver) for compensation, or is designed or used to transport more than 15 passengers (including the driver) and is not used to transport passengers for compensation, or considered hazardous material transporters.
- **Common Carrier** - A party holding itself out to the public as engaged in the business of transportation, storage, and/or distribution for compensation. A common carrier usually will not own the goods that it transports, stores, and/or distributes.
- **Commuting** - Commuting is a direct trip between the employee’s residence and post of duty. A trip with no intervening core business

activity conducted between the commuting points is considered a direct trip. A core business activity includes fuel inspections, picking up fuel samples, and transporting samples to the shipping company.

- **Concentration Sample** - A dyed fuel sample collected and analyzed to ensure the concentration of dye is in accordance with Treas. Reg. 48.4082-1(b). Normally, concentration samples are obtained from terminals and fractionators but may also be collected from wholesalers, retailers and end-users. Penalties under IRC 6715(a)(3) or IRC 6715(a)(4) may apply if concentration samples from wholesalers, and retailers are found to contain less than the required level of dye.
- **Consent Search** - Where the party whose person or premises is to be searched freely and voluntarily agrees to and consents to the search. Per IRS Chief Counsel, the terms search and inspect are synonymous.
- **Designated Inspection Site** - Treas. Reg. 48.4083-1(b)(2) defines a designated inspection site as: A designated inspection site is any State highway inspection station, weigh station, agricultural inspection site, mobile station or other location designated by the Commissioner to be used as a fuel inspection site. A designated inspection site is identified as a fuel inspection site. In accordance with IRS policy, these sites are designated with a free standing and/or magnetized vehicle sign displaying "IRS DYED FUEL INSPECTION SITE."
- **Diesel Fuel** - Any liquid that, without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train. See Treas. Reg. 48.4081-1(c)(2)(i) and (ii) for a more detailed definition and exclusions.
- **Diesel-Powered Highway Vehicle** - A highway vehicle, as defined in Treas. Reg. 48.4061(a)-1(d), that is propelled by a diesel-powered engine.
- **End-User** - A person that purchases diesel fuel in either bulk or non-bulk quantities for use, not resale.
- **Enterer** - Generally means the importer of record (under customs law) with respect to the taxable fuel, except if the importer of record is a customs broker engaged by the owner of the taxable fuel, the person for whom the broker is acting is the enterer. If there is no importer of record for taxable fuel entered into the United States, the owner of the taxable fuel at the time it is brought into the United States is the enterer.
- **Facility Control Number (FCN)** - A number that designates a storage location within the motor fuel or renewable fuel production, or the bulk transfer / terminal system. Facilities include refineries (RCN), and approved terminals (TCN). The list of facilities can be found at: <https://www.irs.gov/businesses/small-businesses-self-employed/refinery-control-number-rcn-refinery-location-directory> and <https://www.irs.gov/businesses/small-businesses-self-employed/terminal-control-number-tcn-terminal-locations-directory>.
- **Excise Forensics Laboratory (EFL)** - The name given to the section of the Pacific Northwest National Laboratory (PNNL) that tests fuels and other products with potential excise tax implications.
- **Fleet Operator/Trucking Company** - The operator of a fleet of highway trucks and/or tractor trailers. May store and use dyed diesel fuel for non-taxable use.
- **Fuel Thief** - A device used for taking fuel samples, and consisting of a bottle with a cork lid and an apparatus to lower and raise the bottle in the tank.

- **Fuel Transport** - A highway vehicle used to transport fuel over the highway. Normally, fuel transports are tractor-trailer combinations capable of carrying approximately 7,000 gallons of fuel as cargo.
- **Heating Oil** - Trade term for the group of distillate fuel oils used in heating homes and buildings as distinguished from residual fuel oils used in heating and power installations. Heating oil may be referred to as #2 diesel fuel. If the fuel is dyed to IRS specification it is exempt from the IRC 4081 tax.
- **Highway Vehicle** - The term "highway vehicle" means any self-propelled vehicle, or any trailer or semi-trailer, designed to perform a function of transporting a load over highways, whether or not also designed to perform other functions, but does not include a vehicle described under Treas. Reg. 48.4041-8(b)(2). Highway vehicles do not include off-highway vehicles described in IRC 7701(a)(48).
- **Intercity Bus** - Any automobile bus used predominantly in furnishing for compensation, passenger land transportation available to the general public if: a) such transportation is scheduled and along regular routes; or b) the seating capacity of such bus is at least 20 adults (not including the driver).
- **Investigative Sample** - A fuel sample collected because the nature and composition of the fuel is questionable. Investigative samples are fingerprinted (detailed compositional analysis of petroleum) and subjected to other analytical procedures to identify unusual components and the percentage of each component in the sample.
- **Key Lock Fuel Pumps** - Fuel pumps that are operated with the use of a key. The key lock fuel pumps are normally operated at an unmanned location with the keyholder pumping his/her own fuel.
- **Mechanical Dye Injection System** - An automated system used to add dye to taxable fuel. Typically, the system injects dye either as the product is dispensed across the rack or into a storage tank, pipeline, or vessel. See Treas. Reg. 48.4082-1T (now expired per IRC 7805(e)) and Notice 2005-80.
- **Middle Distillate Fuels** - Kerosene, jet fuel, diesel, and heating oil are all middle distillate fuels. During the distillation process, the lighter products such as gasoline and gasoline blendstocks vaporize first. They are collected at the top of the distillation column. The heavier products, No. 4 oil to asphalt, are found at the lower end of the column. The middle of the column yields No. 1 through No. 3 oils. No. 1 and No. 2 oils, are also called kerosene, K-1, K-2, jet fuel, Jet-A, JP-5, JP-8, diesel fuel, D-1, D-2, stove oil, heating oil, etc. The No.1 and No. 2 oils make up the non-gasoline taxable fuels.
- **Normal Sample Results** - Sample results in which the chromatogram agrees with the chromatogram of the stated source of the fuel. Normal sample results are not reported to the field.
- **Omnibus Budget Reconciliation Act of 1993 (OBRA '93)** - The Act (Pub. Law 103-66, 8-10-93), (the 1993 Act) changed the point of taxation for diesel fuel from sale by a registered wholesale distributor to the removal from the "bulk transfer/terminal system," effective January 1, 1994.
- **PNNL** - Pacific Northwest National Laboratory.
- **Pending Sample Result** - A lab result requiring further development or data perfection. The pending sample result is normally assigned to field personnel. The additional information is provided to the EFL.

- **Position Holder** - A position holder, with respect to taxable fuel in a terminal, is the person that holds the inventory position in the fuel, as reflected on the records of the terminal operator. A person holds the inventory position in taxable fuel when that person has a contractual agreement with the terminal operator for the use of storage facilities and terminaling services at a terminal with respect to the taxable fuel. The term also includes a terminal operator that owns taxable fuel in its terminal.
- **Post-Terminal Source** - Fuel in the system after it breaks bulk at the terminal rack. Examples are wholesale distributor, retail outlet, and end-user.
- **Refinery Control Number (RCN)** - An identifying number of an approved refinery facility located within the motor fuel or renewable fuel production, bulk transfer, or terminal system that has a Facility Control Number (FCN) and is operated by an IRS 637 Registrant.
- **Refrigeration Unit (Reefer Unit)** - A unit mounted on a truck or trailer that cools the storage area of the truck or the trailer. Units that use the fuel from the propulsion tank (saddle tank) for their fuel must use undyed, taxed fuel. Refrigeration units operating from a separate fuel tank may use dyed fuel.
- **Retailer** - Sells product to end-users. May sell motor fuel and/or heating fuel. A typical retailer has bulk storage.
- **Safety Data Sheet (SDS)** - Reflects the following information: product identification, physical properties, fire and explosion hazard data, product composition and exposure limits, potential health effects, special protection information, spill or leak procedures, handling and storage precautions, hazard warning, and regulatory information.
- **637 Registration Test** - One of the options within the "Type of Test" section on Form 9667, Sample Bottle Sealing and Identification Label. Samples are tested to determine whether the fuel qualifies the taxpayer to receive renewable or biodiesel credits (assuming that at the time they claim the credit, the taxpayer meets all the requirements to claim the credit).
- **Splash Dyeing** - Method of dyeing a product, whereby dye is manually introduced into the transport compartment. The intermixing of the fuel and dye is aided by movement of the tank such as a transport traveling down a road.
- **Sulfur Sample** - A fuel sample collected and analyzed to ensure the concentration of sulfur is in accordance with applicable EPA regulations. Sulfur samples are obtained from terminals, wholesalers and retailers. A penalty under IRC 6720A may apply if the concentration of sulfur exceeds the allowable level.
- **Tank Wagon** - Small trucks used to carry fuel. They usually have a capacity of 3,000 gallons or less.
- **Terminal** - A taxable fuel storage and distribution facility supplied by pipeline or vessel and from which taxable fuel may be removed at a rack. However, the term does not include any facility at which gasoline blendstocks are used in the manufacture of products other than finished gasoline and from which no gasoline is removed. Also, effective January 2, 1998, the term does not include any facility where finished gasoline, undyed diesel fuel, or undyed kerosene is stored if the facility is operated by a taxable fuel registrant and all such taxable fuel stored at the facility has been previously taxed under IRC 4081 upon removal from a refinery or terminal.

- **Terminal Control Number (TCN)** - A number identifying an approved terminal in the bulk transfer/terminal system that has a Facility Control Number (FCN).
- **Throughputter** - Within industry, the term generally means any person that stores fuel in a terminal. Under the taxable fuel regulations, however, the term is expanded to mean a person that (1) owns taxable fuel within the bulk transfer/terminal system (other than in a terminal), or (2) is a position holder. See Treas. Reg. 48.4081-1(b).
- **Transmix** - A by-product of refined products pipeline operations created by the mixing of different specification products during pipeline transportation. Transmix is considered diesel fuel under IRC 4083(a)(3)(A).
- **Transmix Fractionator** - An entity specializing in reprocessing "transmix" to recover separate saleable products such as gasoline and distillate fuels. A fractionation facility separates (fractions) the products in a distillation column. Many fractionators have a combination of mobile equipment and fixed facilities with the truck-based technical equipment moving between tank farms and storage sites, as business requires. Fractionators receive their raw material, transmix, in non-bulk shipments by rail car or by transport truck. Their finished product is dispensed either through a pipeline in bulk or across a rack, in a non-bulk distribution. If a fractionator produces taxable fuel it must have a Form 637 "S" registration as a refiner. If it dispenses taxable fuel over a rack, it must have a Form 637 "S," Application for Registration (for Certain Excise Tax Activities), registration as a terminal.
- **Ultimate Vendor** - An ultimate vendor (registered under IRC 4101) sells undyed diesel fuel or undyed kerosene tax free to a state or local government for its exclusive use, or (b) gasoline (including aviation gasoline) to a state or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use.
- **Usage Sample** - A dyed fuel sample collected and analyzed to determine whether the seller or user is subject to a penalty under IRC 6715.
- **Wholesale Distributor** - Fuel dealer who sells to retailers and end-users. Wholesale distributors may or may not have bulk storage. A wholesale distributor may merely buy fuel from a terminal and transport it to the retailer. A wholesale distributor may also engage in retailing.
- **Winter Blend** - A blend of #2 diesel with #1 diesel or kerosene. The resultant mixture is more suitable for use in cold weather. The percentage of #1 diesel added to the #2 is typically around 20 percent to 30 percent.
- **Writ of Entry** - A writ of entry is a court issued order that allows legal entry to otherwise constitutionally-protected private property for official purposes.