Note: *The draft you are looking for begins on the next page.*

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This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We do **not** release draft forms until we believe we have incorporated all changes (except when explicitly stated on this coversheet). However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions generally are subject to OMB approval before they can be officially released, so we post only drafts of them until they are approved. Drafts of instructions and publications usually have some changes before their final release.

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Almost every form and publication has a page on IRS.gov with a friendly shortcut. For example, the Form 1040 page is at IRS.gov/Form1040; the Pub. 501 page is at IRS.gov/Pub501; the Form W-4 page is at IRS.gov/W4; and the Schedule A (Form 1040/SR) page is at IRS.gov/ScheduleA. If typing in a link above instead of clicking on it, be sure to type the link into the address bar of your browser, not a Search box.

If you wish, you can submit comments to the IRS about draft or final forms, instructions, or publications at IRS.gov/FormsComments. We cannot respond to all comments due to the high volume we receive and may not be able to consider many suggestions until the subsequent revision of the product.

If you have comments on reducing paperwork and respondent (filer) burden, with respect to draft or final forms, please respond to the relevant information collection through the Federal Register process; for more info, click here.

Department of the Treasury

Internal Revenue Service

Publication 510
(Rev. February 2020)

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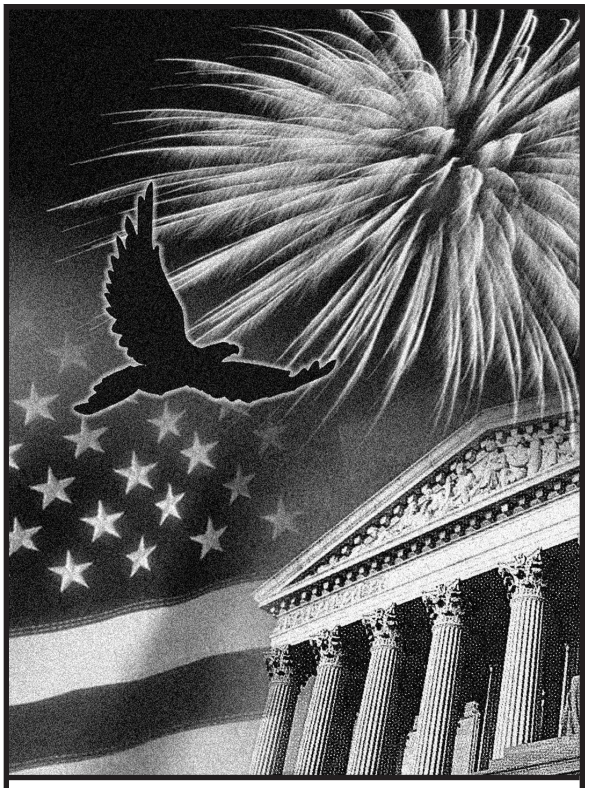
Excise Taxes

(Including Fuel Tax Credits and Refunds)

DRAFT AS OF March 3, 2020

Section references are to the Internal Revenue Code unless otherwise noted.



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What's New

Notes. References to "credit" below are for credits or any applicable allowable payments. Don't claim the credits or payments for fuel sold or used after the year they expire unless they're extended again.

Section 6426 credits and section 6427 payments extensions:

- **Biodiesel or renewable diesel mixtures.** The biodiesel or renewable diesel mixture credit is retroactively extended for fuel sold or used in 2018 through 2022.
- **Alternative fuel.** The alternative fuel credit is retroactively extended for fuel sold or used in 2018 through 2020.

Retroactive claims and Notice 2020-08. See Notice 2020-08 for information on how to make claims for retroactively extended section 6426 credits and section 6427 payments, for fuels sold or used in 2018 or 2019, at *IRS.gov/PUB/IRS-Drop#NOT2020-08*.

Alternative fuel mixtures. The section 6426 credits and section 6427 payments for alternative fuel mixtures are retroactively extended for fuels sold or used in 2018 through 2020.

CAUTION *For claims made on or after January 8, 2018, "alternative fuel mixture" means a mixture of taxable fuel and alternative fuel other than liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), liquefied gas derived from biomass, and compressed gas derived from biomass. To make a claim for the alternative fuel mixture credit for 2018 or 2019, you must file Form 720-X, Amended Quarterly Federal Excise Tax Return.*

Retroactive extension of income tax credits:

- **Section 40A biodiesel and renewable diesel fuels credit.** The section 40A biodiesel and renewable diesel fuels credit is retroactively extended for fuel sold or used in calendar years 2018 through 2022.
- **Section 40 biofuel producer credit.** The section 40 biofuel producer credit is retroactively extended for fuel sold or used in calendar years 2018 through 2020.

Section 4191 medical device tax. The medical device tax is repealed.

Extension of oil spill liability tax. The section 4611 tax on crude oil received (domestic petroleum oil spill tax), or petroleum products entered (imported petroleum oil spill tax), is extended through 2020 (no tax in 2019).

Inflation adjustments for 2020. For information about inflation adjustments for 2020, such as the inflation-adjusted section 4161 tax on arrow shafts, see Revenue Procedure 2019-44, at *IRS.gov//RP2019-44*.

Future Developments

The IRS has created a page on IRS.gov that includes information about Pub. 510, at *IRS.gov/Pub510*. Information about any future developments will be posted on that page.

Reminders

Pub. 510 updates. Pub. 510 isn't updated annually. Instead, it will be updated only when there are major changes in the tax law.

Reducing your excise tax liability. For federal income tax purposes, reduce your section 4081 excise tax liability by the amount of excise tax credit allowable under section 6426(c) or (e) and your section 4041 excise tax liability by the amount of your excise tax credit allowable under section 6426(d), in determining your deduction for those excise taxes or your cost of goods sold deduction attributable to those excise taxes.

Butane mixture doesn't qualify for a credit. A mixture of butane (or other gasoline blendstock) and gasoline is a mixture of two taxable fuels. Therefore, it isn't an alternative fuel mixture and doesn't qualify for the section 6426 alternative fuel mixture credit. See Revenue Ruling 2018-02 at *IRS.gov/IRB#RR2018-02*.

Aviation fuels for use in foreign trade. Aviation gasoline and kerosene for use in aviation are exempt from the leaking underground storage tank (LUST) tax.

Disregarded entities and qualified subchapter S subsidiaries. Qualified subchapter S subsidiaries (QSubs) and eligible single-owner disregarded entities are treated as separate entities for excise tax and reporting purposes. QSubs and eligible single-owner disregarded entities must pay and report excise taxes (other than IRS Nos. 31, 51, and 117), register for most excise tax activities, and claim any refunds, credits, and payments under the entity's employer identification number (EIN). These actions can't take place under the owner's taxpayer identification number (TIN). Some QSubs and disregarded entities may already have an EIN. However, if you are unsure, please call the IRS Business and Specialty Tax line at 800-829-4933.

Generally, QSubs and eligible single-owner disregarded entities will continue to be treated as disregarded entities for other federal tax purposes (other than employment taxes).

For more information on these regulations, see Treasury Decision (T.D.) 9356, T.D. 9462, and T.D. 9596. You can find T.D. 9356 on page 675 of Internal Revenue Bulletin (I.R.B.) 2007-39, at *IRS.gov/Pub/IRB/2007-39_IRB#TD9356*; T.D. 9462 on page 504 of I.R.B. 2009-42, at *IRS.gov/Pub/IRB/2009-42_IRB#TD9462*; and T.D. 9596 on page 84 of I.R.B. 2012-30, at *IRS.gov/Pub/IRB/2012-30_IRB#TD9596*.

Registration for certain activities. You are required to be registered for certain excise tax activities, such as blending of gasoline, diesel fuel, or kerosene outside the bulk transfer/terminal system. See the instructions for Form 637 for the list of activities for which you must register. Also see *Registration Requirements* under *Fuel Taxes* in chapter 1 for information on registration for activities related to fuel. Each business unit that has, or is required to have, a separate EIN must be registered.

To apply for registration, complete Form 637 and provide the information requested in its instructions. If your application is approved, you will receive a *Letter of Registration* showing the activities for which you are registered, the effective date of the registration, and your registration number. A copy of Form 637 isn't a *Letter of Registration*.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing & Exploited Children® (NCMEC). Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) or *www.missingkids.com/home* if you recognize a child.

Introduction

This publication covers the excise taxes for which you may be liable and which are reported on Form 720 and other forms. It also covers fuel tax credits and refunds. For information on fuel credits against income tax see the instructions for Form 4136, Credit for Federal Tax Paid on Fuels, Form 6478, Biofuel Producer Credit, and Form 8864, Biodiesel and Renewable Diesel Fuels Credit.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can send us comments from *IRS.gov/FormsPubs*. Click on "More Information," then on "Give Us Feedback."

Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax products.

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Useful Items

You may want to see:

Publication

- ❑ **509** Tax Calendars

Form (and Instructions)

- ❑ **11-C** Occupational Tax and Registration Return for Wagering
- ❑ **637** Application for Registration (For Certain Excise Tax Activities)
- ❑ **720** Quarterly Federal Excise Tax Return
- ❑ **720-X** Amended Quarterly Federal Excise Tax Return
- ❑ **730** Monthly Tax Return for Wagers
- ❑ **1363** Export Exemption Certificate
- ❑ **2290** Heavy Highway Vehicle Use Tax Return
- ❑ **2290(SP)** Declaración del Impuesto sobre el Uso de Vehículos Pesados en las Carreteras
- ❑ **4136** Credit for Federal Tax Paid on Fuels
- ❑ **6197** Gas Guzzler Tax
- ❑ **6478** Biofuel Producer Credit
- ❑ **6627** Environmental Taxes
- ❑ **8849** Claim for Refund of Excise Taxes, and Schedules 1–3, 5, 6, and 8
- ❑ **8864** Biodiesel and Renewable Diesel Fuels Credit

Information Returns

- **Form 720-TO**, Terminal Operator Report
- **Form 720-CS**, Carrier Summary Report

See *How To Get Tax Help* in chapter 17 for information about ordering forms and publications.

Guidance

- Notice 2005-4 (fuel tax) on page 289 of I.R.B. 2005-2, at *IRS.gov/Pub/IRB/IRB2005-2#NOT2005-4*
- Notice 2005-62 (biodiesel and aviation-grade kerosene) on page 443 of I.R.B. 2005-35, at *IRS.gov/Pub/IRB/IRB2005-35#NOT2005-62*.
- Notice 2005-80 (LUST, kerosene, credit card issuers, mechanical dye injection) on page 953 of I.R.B. 2005-46, at *IRS.gov/PUB/IRB/IRB2005-46#NOT2005-80*.
- Notice 2006-92 (alternative fuels mixtures) on page 774 of I.R.B. 2006-43, at *IRS.gov/PUB/IRB/IRB2006-43#NOT2006-92*.
- Notice 2008-110 (biodiesel, cellulosic biofuel) on page 1298 of I.R.B. 2008-51, at *IRS.gov/PUB/IRB/IRB2008-51#NOT2008-110*
- Notice 2010-68 (Alaska dyed diesel exemption) on page 576 of I.R.B. 2010-44, at *IRS.gov/PUB/IRB/IRB2010-44#NOT2010-68*.
- Notice 2012-27 (fractional aircraft fuel surtax) on page 849 of I.R.B. 2012-17, at *IRS.gov/PUB/IRB/IRB2012-17#NOT2012-27*.
- Revenue Ruling 2016-03 (foreign reinsurance), 2016-3 I.R.B. 282, at *IRS.gov/PUB/IRS-Drop#RR2016-02*
- T.D. 9621 (indoor tanning) on page 49 of I.R.B. 2013-28, at *IRS.gov/PUB/IRB/IRB2013-28#TD9621*.
- Rev. Proc. 2019-44 (inflation adjustments), at *IRS.gov//RP2019-44*
- Notice 2020–08 (retroactive 2018 and 2019 claims), at *IRS.gov/PUB/IRS-Drop#NOT2020-08*
- Revenue Ruling 2018-02 (butane mixture), at *IRS.govIRB#RR2018.02*.

Excise Taxes Not Covered

In addition to the taxes discussed in this publication, you may have to report certain other excise taxes.

For tax forms relating to alcohol, firearms, and tobacco, visit the Alcohol and Tobacco Tax and Trade Bureau website at *www.ttb.gov*.

Heavy highway vehicle use tax. You report the federal excise tax on the use of certain trucks, truck tractors, and buses used on public highways on Form 2290, Heavy Highway Vehicle Use Tax Return. The tax applies to highway motor vehicles with a taxable gross weight of 55,000 pounds or more. Vans, pickup trucks, panel trucks, and similar trucks generally aren't subject to this tax.

Note. A Spanish version (Formulario 2290(SP)) is also available. See *How To Get Tax Help* in chapter 17.

Registration of vehicles. Generally, you must prove that you paid your heavy highway vehicle use tax to register your taxable vehicle with your state motor vehicle department or to enter the United States in a Canadian or Mexican registered taxable vehicle. Generally, a copy of Schedule 1 (Form 2290) is stamped by the IRS and returned to you as proof of payment.

TIP *If you have questions on Form 2290, see its separate instructions, or you can call the Form 2290 call site at 1-866-699-4096 (toll free) from the United States, and 1-859-669-5733 (not toll free) from Canada and Mexico. The hours of service are 8:00 a.m. to 6:00 p.m. Eastern time.*

Wagering tax and occupational tax. The information on wagering tax can be found in the instructions for Form 730, Tax on Wagering, and Form 11-C, Occupational Tax and Registration Return for Wagering.

Part One.

Fuel Taxes and Fuel Tax Credits and Refunds

Chapter 1 defines the types of fuel, taxable events, and exemptions or exceptions to the fuel taxes. Chapter 2 provides information on, and definitions of, the nontaxable uses and explains how to make a claim.

DRAFT AS OF March 3, 2020

1. Fuel Taxes

Definitions

Excise taxes are imposed on all the following fuels.

- Gasoline, including aviation gasoline and gasoline blendstocks.
- Diesel fuel, including dyed diesel fuel.
- Diesel-water fuel emulsion.
- Kerosene, including dyed kerosene and kerosene used in aviation.
- Other Fuels (including alternative fuels).
- Compressed natural gas (CNG).
- Fuels used in commercial transportation on inland waterways.
- Any liquid used in a fractional ownership program aircraft as fuel.

The following terms are used throughout the discussion of fuel taxes. Other terms are defined in the discussion of the specific fuels to which they pertain.

Agri-biodiesel. Agri-biodiesel means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, and camelina, and from animal fats.

Approved terminal or refinery. This is a terminal operated by a registrant that is a terminal operator or a refinery operated by a registrant that is a refiner.

Biodiesel. Biodiesel means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency (EPA) under section 211 of the Clean Air Act, and the requirements of the American Society of Testing Materials (ASTM) D6751.

Blended taxable fuel. This means any taxable fuel produced outside the bulk transfer/terminal system by mixing taxable fuel on which excise tax has been imposed and any other liquid on which excise tax hasn't been imposed. This doesn't include a mixture removed or sold during the calendar quarter if all such mixtures removed or sold by the blender contain less than 400 gallons of a liquid on which the tax hasn't been imposed.

Blender. This is the person that produces blended taxable fuel.

Bulk transfer. This is the transfer of taxable fuel by pipeline or vessel.

Bulk transfer/terminal system. This is the taxable fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in the supply tank of any engine, or in any tank car, railcar, trailer, truck, or other equipment suitable for ground transportation isn't in the bulk transfer/terminal system.

Diesel-water fuel emulsion. A diesel-water fuel emulsion means an emulsion at least 14% of which is water. The emulsion additive used to produce the fuel must be registered by a United States manufacturer with the EPA under section 211 of the Clean Air Act as in effect on March 31, 2003.

Dry lease aircraft exchange. See later, under *Surtax on any liquid used in a fractional ownership program aircraft as fuel*.

Enterer. This is the importer of record (under customs law) for the taxable fuel. However, if the importer of record is acting as an agent, such as a customs broker, the person for whom the agent is acting is the enterer. If there is no importer of record, the owner at the time of entry into the United States is the enterer.

Entry. Taxable fuel is entered into the United States when it's brought into the United States and applicable customs law requires that it be entered for consumption, use, or warehousing. This doesn't apply to fuel brought into Puerto Rico (which is part of the U.S. customs territory), but does apply to fuel brought into the United States from Puerto Rico.

Fractional ownership aircraft program and **fractional program aircraft.** See later, under *Surtax on any liquid used in a fractional ownership program aircraft as fuel*.

Measurement of taxable fuel. Volumes of taxable fuel can be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit.

Other fuels. See *Other Fuels (Including Alternative Fuels)*, later, and *Alternative Fuel Credit and Alternative Fuel Mixture Credit* in chapter 2.

Pipeline operator. This is the person that operates a pipeline within the bulk transfer/terminal system.

Position holder. This is the person that holds the inventory position in the taxable fuel in the terminal, as reflected in the records of the terminal operator. You hold the inventory position when you have a contractual agreement with the terminal operator for the use of the storage facilities and terminaling services for the taxable fuel. A terminal operator that owns taxable fuel in its terminal is a position holder.

Rack. This is a mechanism capable of delivering fuel into a means of transport other than a pipeline or vessel.

Refiner. This is any person that owns, operates, or otherwise controls a refinery.

Refinery. This is a facility used to produce taxable fuel and from which taxable fuel may be removed by pipeline, by vessel, or at a rack. However, this term doesn't include a facility where only blended fuel, and no other type of fuel, is produced. For this purpose, blended fuel is any mixture that would be blended taxable fuel if produced outside the bulk transfer/terminal system.

Registrant. This is a taxable fuel registrant (see *Registration Requirements*, later).

Removal. This is any physical transfer of taxable fuel. It also means any use of taxable fuel other than as a material in the production of taxable fuel or Other Fuels. However, taxable fuel isn't removed when it evaporates or is otherwise lost or destroyed.

Renewable diesel. See *Renewable Diesel Credits* in chapter 2.

Sale. For taxable fuel not in a terminal, this is the transfer of title to, or substantial incidents of ownership in, taxable fuel to the buyer for money, services, or other property. For taxable fuel in a terminal, this is the transfer of the inventory position if the transferee becomes the position holder for that taxable fuel.

Second generation biofuel. This is any liquid fuel derived by, or from, qualified feedstocks, and meets the registration requirements for fuels and fuel additives established by the EPA

under section 211 of the Clean Air Act (42 U.S.C. 7545). It also includes certain liquid fuel which is derived by, or from, any cultivated algae, cyanobacteria, or lemna. It isn't alcohol of less than 150 proof (disregard any added denaturants). See Form 6478 for more information.

State. This includes any state, any of its political subdivisions, the District of Columbia, and the American Red Cross. An Indian tribal government is treated as a state only if transactions involve the exercise of an essential tribal government function.

Taxable fuel. This means gasoline, diesel fuel, and kerosene.

Terminal. This is a storage and distribution facility supplied by pipeline or vessel, and from which taxable fuel may be removed at a rack. It doesn't include a facility at which gasoline blendstocks are used in the manufacture of products other than finished gasoline if no gasoline is removed from the facility. A terminal doesn't include any facility where finished gasoline, diesel fuel, or kerosene is stored if the facility is operated by a registrant and all such taxable fuel stored at the facility has been previously taxed upon removal from a refinery or terminal.

Terminal operator. This is any person that owns, operates, or otherwise controls a terminal.

Throughputter. This is any person that is a position holder or that owns taxable fuel within the bulk transfer/terminal system (other than in a terminal).

Vessel operator. This is the person that operates a vessel within the bulk transfer/terminal system. However, vessel doesn't include a deep-draft ocean-going vessel.

Information Returns

Form 720-TO and Form 720-CS are information returns used to report monthly receipts and disbursements of liquid products. A liquid product is any liquid transported into storage at a terminal or delivered out of a terminal. For a list of products, see the product code table in the Instructions for Forms 720-TO and 720-CS.

The returns are due the last day of the month following the month in which the transaction occurs. Generally, these returns can be filed on paper or electronically. For information on filing electronically, see Publication 3536, Motor Fuel Excise Tax EDI Guide. Publication 3536 is only available on the IRS website.

Form 720-TO. This information return is used by terminal operators to report receipts and disbursements of all liquid products to and from all approved terminals. Each terminal operator must file a separate form for each approved terminal.

Form 720-CS. This information return must be filed by bulk transport carriers (barges, vessels, and pipelines) who receive liquid product from an approved terminal or deliver liquid product to an approved terminal.

Registration Requirements

The following discussion applies to excise tax registration requirements for activities relating to fuels only. See Form 637 for other persons who must register and for more information about registration.

Persons that are required to be registered. You are required to be registered if you are a:

- Blender;
- Enterer;
- Pipeline operator;
- Position holder;
- Refiner;
- Terminal operator;
- Vessel operator;
- Producer or importer of alcohol, biodiesel, agri-biodiesel, and renewable diesel; or
- Producer of cellulosic or second generation biofuel.

Persons that may register. You may, but aren't required to, register if you are a:

- Feedstock user,
- Industrial user,
- Throughputter that isn't a position holder,
- Ultimate vendor,
- Diesel-water fuel emulsion producer,
- Credit card issuer, or
- Alternative fuel claimant.

Ultimate vendors, credit card issuers, and alternative fuel claimants don't need to be registered to buy or sell fuel. However, they must be registered to file claims for certain sales and uses of fuel. See Form 637 for more information.

Taxable fuel registrant. This is an enterer, an industrial user, a refiner, a terminal operator, or a throughputter who received a *Letter of Registration* under the excise tax registration provisions and whose registration hasn't been revoked or suspended. The term registrant as used in the discussions of these fuels means a taxable fuel registrant.

Additional information. See the Form 637 instructions for the information you must submit when you apply for registration.

Failure to register. The penalty for failure to register if you must register, unless due to reasonable cause, is $10,000 for the initial failure, and then $1,000 each day thereafter you fail to register.

Gasoline and Aviation Gasoline

Gasoline. Gasoline means all products commonly or commercially known or sold as gasoline with an octane rating of 75 or more that are suitable for use as a motor fuel. Gasoline includes any gasoline blend other than:

- Qualified ethanol and methanol fuel (at least 85% of the blend consists of alcohol produced from coal, including peat),
- Partially exempt ethanol and methanol fuel (at least 85% of the blend consists of alcohol produced from natural gas), or
- Denatured alcohol.

Gasoline also includes , discussed later.

Aviation gasoline. This means all special grades of gasoline suitable for use in aviation reciprocating engines and covered by ASTM specification D910 or military specification MIL-G-5572.

Taxable Events

The tax on gasoline is $.184 per gallon. The tax on aviation gasoline is $.194 per gallon. When used in a fractional ownership program aircraft, gasoline also is subject to a surtax of $.141 per gallon. See *Surtax on any liquid used in a fractional ownership program aircraft as fuel*, later.

Tax is imposed on the removal, entry, or sale of gasoline. Each of these events is discussed later. Also, see the special rules that apply to , later.

If the tax is paid on the gasoline in more than one event, a refund may be allowed for the "second" tax paid. See *Refunds of Second Tax* in chapter 2.

Removal from terminal. All removals of gasoline at a terminal rack are taxable. The position holder for that gasoline is liable for the tax.

Two-party exchanges. In a two-party exchange, the receiving person, not the delivering person, is liable for the tax imposed on the removal of taxable fuel from the terminal at the terminal rack. A two-party exchange means a transaction (other than a sale) where the delivering person and receiving person are both taxable fuel registrants and all of the following apply.

- The transaction includes a transfer from the delivering person, who holds the inventory position for the taxable fuel in the terminal as reflected in the records of the terminal operator.
- The exchange transaction occurs before or at the same time as removal across the rack by the receiving person.
- The terminal operator in its records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction on Form 720-TO.
- The transaction is subject to a written contract.

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator and isn't a registrant.

However, a terminal operator meeting all the following conditions at the time of the removal won't be liable for the tax.

- The terminal operator is a registrant.

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- The terminal operator has an unexpired notification certificate (discussed later) from the position holder.
- The terminal operator has no reason to believe any information on the certificate is false.

Removal from refinery. The removal of gasoline from a refinery is taxable if the removal meets either of the following conditions.

- it's made by bulk transfer and the refiner, the owner of the gasoline immediately before the removal, or the operator of the pipeline or vessel isn't a registrant.
- it's made at the refinery rack.

The refiner is liable for the tax.

Exception. The tax doesn't apply to a removal of gasoline at the refinery rack if all the following requirements are met.

- The gasoline is removed from an approved refinery not served by pipeline (other than for receiving crude oil) or vessel.
- The gasoline is received at a facility operated by a registrant and located within the bulk transfer/terminal system.
- The removal from the refinery is by railcar.
- The same person operates the refinery and the facility at which the gasoline is received.

Entry into the United States. The entry of gasoline into the United States is taxable if the entry meets either of the following conditions.

- it's made by bulk transfer and the enterer or the operator of the pipeline or vessel isn't a registrant.
- it'sn't made by bulk transfer.

The enterer is liable for the tax.

Importer of record's liability. The importer of record is jointly and severally liable for the tax with the enterer if the importer of record isn't the enterer of the taxable fuel and the enterer isn't a taxable fuel registrant.

However, an importer of record meeting both of the following conditions at the time of the entry won't be liable for the tax.

- The importer of record has an unexpired notification certificate (discussed later) from the enterer.
- The importer of record has no reason to believe any information in the certificate is false.

Customs bond. The customs bond won't be charged for the tax imposed on the entry of the gasoline if at the time of entry the surety has an unexpired notification certificate from the enterer and has no reason to believe any information in the certificate is false.

Removal from a terminal by unregistered position holder or unregistered pipeline or vessel operator. The removal by bulk transfer of gasoline from a terminal is taxable if the position holder for the gasoline or the operator of the pipeline or vessel isn't a registrant. The position holder is liable for the tax. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator. However, see *Terminal operator's liability* under *Removal from terminal*, earlier, for an exception.

Bulk transfers not received at approved terminal or refinery. The removal by bulk transfer of gasoline from a terminal or refinery, or the entry of gasoline by bulk transfer into the United States, is taxable if the following conditions apply.

1. No tax was previously imposed (as discussed earlier) on any of the following events.
   a. The removal from the refinery.
   b. The entry into the United States.
   c. The removal from a terminal by an unregistered position holder.
2. Upon removal from the pipeline or vessel, the gasoline isn't received at an approved terminal or refinery (or at another pipeline or vessel).

The owner of the gasoline when it's removed from the pipeline or vessel is liable for the tax. However, an owner meeting all the following conditions at the time of the removal won't be liable for the tax.

- The owner is a registrant.
- The owner has an unexpired notification certificate (discussed later) from the operator of the terminal or refinery where the gasoline is received.
- The owner has no reason to believe any information on the certificate is false.

The operator of the facility where the gasoline is received is liable for the tax if the owner meets these conditions. The operator is jointly and severally liable if the owner doesn't meet these conditions.

Sales to unregistered person. The sale of gasoline located within the bulk transfer/terminal system to a person that isn't a registrant is taxable if tax wasn't previously imposed under any of the events discussed earlier.

The seller is liable for the tax. However, a seller meeting all the following conditions at the time of the sale won't be liable for the tax.

- The seller is a registrant.
- The seller has an unexpired notification certificate (discussed later) from the buyer.
- The seller has no reason to believe any information on the certificate is false.

The buyer of the gasoline is liable for the tax if the seller meets these conditions. The buyer is jointly and severally liable if the seller doesn't meet these conditions.

Exception. The tax doesn't apply to a sale if all of the following apply.

- The buyer's principal place of business isn't in the United States.
- The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel.
- The seller is a registrant and the exporter of record.
- The fuel was exported.

Removal or sale of blended gasoline. The removal or sale of blended gasoline by the blender is taxable. See *Blended taxable fuel* under *Definitions*, earlier.

The blender is liable for the tax. The tax is figured on the number of gallons not previously subject to the tax on gasoline.

Persons who blend alcohol with gasoline to produce an alcohol fuel mixture outside the bulk transfer/terminal system must pay the gasoline tax on the volume of alcohol in the mixture. See Form 720 to report this tax. You also must be registered with the IRS as a blender. See Form 637.

However, if an untaxed liquid is sold as taxed taxable fuel and that untaxed liquid is used to produce blended taxable fuel, the person that sold the untaxed liquid is jointly and severally liable for the tax imposed on the blender's sale or removal of the blended taxable fuel.

Notification certificate. The notification certificate is used to notify a person of the registration status of the registrant. A copy of the registrant's letter of registration can't be used as a notification certificate. A model notification certificate is shown in the *Appendix* as *Model Certificate C*. A notification certificate must contain all information necessary to complete the model.

The certificate may be included as part of any business records normally used for a sale. A certificate expires on the earlier of the date the registrant provides a new certificate, or the date the recipient of the certificate is notified that the registrant's registration has been revoked or suspended. The registrant must provide a new certificate if any information on a certificate has changed.

Additional persons liable. When the person liable for the tax willfully fails to pay the tax, joint and several liability for the tax is imposed on:

- Any officer, employee, or agent of the person who is under a duty to ensure the payment of the tax and who willfully fails to perform that duty, or
- Anyone who willfully causes the person to fail to pay the tax.

Gasoline Blendstocks

CAUTION *Gasoline blendstocks may be subject to $.001 per gallon LUST tax as discussed below.*

Gasoline includes gasoline blendstocks. The previous discussions apply to these blendstocks. However, if certain conditions are met, the removal, entry, or sale of gasoline blendstocks are taxed at $.001 per gallon or aren't subject to the excise tax.

Blendstocks. Gasoline blendstocks are:

- Alkylate,
- Butane,
- Butene,
- Catalytically cracked gasoline,
- Coker gasoline,
- Ethyl tertiary butyl ether (ETBE),
- Hexane,
- Hydrocrackate,
- Isomerate,
- Methyl tertiary butyl ether (MTBE),
- Mixed xylene (not including any separated isomer of xylene),

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- Natural gasoline,
- Pentane,
- Pentane mixture,
- Polymer gasoline,
- Raffinate,
- Reformate,
- Straight-run gasoline,
- Straight-run naphtha,
- Tertiary amyl methyl ether (TAME),
- Tertiary butyl alcohol (gasoline grade) (TBA),
- Thermally cracked gasoline, and
- Toluene.

However, gasoline blendstocks don't include any product that can't be used without further processing in the production of finished gasoline.

Not used to produce finished gasoline. Gasoline blendstocks not used to produce finished gasoline aren't taxable (other than LUST) if the following conditions are met.

Removals and entries not connected to sale. Nonbulk removals and entries aren't taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) is a registrant.

Removals and entries connected to sale. Nonbulk removals and entries aren't taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) is a registrant, and at the time of the sale, meets the following requirements.

- The person has an unexpired certificate (discussed later) from the buyer.
- The person has no reason to believe any information in the certificate is false.

Sales after removal or entry. The sale of a gasoline blendstock that wasn't subject to tax on its nonbulk removal or entry, as discussed earlier, is taxable. The seller is liable for the tax. However, the sale isn't taxable if, at the time of the sale, the seller meets the following requirements.

- The seller has an unexpired certificate (discussed next) from the buyer.
- The seller has no reason to believe any information in the certificate is false.

Certificate of buyer. The certificate from the buyer certifies the gasoline blendstocks won't be used to produce finished gasoline. The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in the *Appendix* as *Model Certificate D*. The certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.
- The date a new certificate is provided to the seller.
- The date the seller is notified that the buyer's right to provide a certificate has been withdrawn.

The buyer must provide a new certificate if any information on a certificate has changed.

The IRS may withdraw the buyer's right to provide a certificate if that buyer uses the gasoline blendstocks in the production of finished gasoline or resells the blendstocks without getting a certificate from its buyer.

Received at approved terminal or refinery. The nonbulk removal or entry of gasoline blendstocks received at an approved terminal or refinery isn't taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) meets all the following requirements.

- The person is a registrant.
- The person has an unexpired notification certificate (discussed earlier) from the operator of the terminal or refinery where the gasoline blendstocks are received.
- The person has no reason to believe any information on the certificate is false.

Bulk transfers to registered industrial user. The removal of gasoline blendstocks from a pipeline or vessel isn't taxable (other than LUST) if the blendstocks are received by a registrant that is an industrial user. An industrial user is any person that receives gasoline blendstocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

Credits or refunds. A credit or refund of the gasoline tax may be allowable if gasoline is used for a nontaxable purpose or exempt use. For more information, see chapter 2.

Diesel Fuel and Kerosene

Generally, diesel fuel and kerosene are taxed in the same manner as gasoline (discussed earlier). However, special rules (discussed later) apply to dyed diesel fuel and dyed kerosene, and to undyed diesel fuel and undyed kerosene sold or used in Alaska for certain nontaxable uses and undyed kerosene used for a feedstock purpose.

Diesel fuel means:

- Any liquid that without further processing or blending is suitable for use as a fuel in a diesel-powered highway vehicle or train, and
- Transmix.

A liquid is suitable for this use if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train. A liquid may possess this practical and commercial fitness even though the specified use isn't the predominant use of the liquid. However, a liquid doesn't possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train. Diesel fuel doesn't include gasoline, kerosene, excluded liquid, No. 5 and No. 6 fuel oils covered by ASTM specification D396, or F-76 (Fuel Naval Distillate) covered by military specification MIL-F-16884.

An **excluded liquid** is either of the following.

1. A liquid that contains less than 4% normal paraffins.
2. A liquid with all the following properties.
   a. Distillation range of 125 degrees Fahrenheit or less.
   b. Sulfur content of 10 ppm or less.
   c. Minimum color of +27 Saybolt.

Transmix means a by-product of refined products created by the mixing of different specification products during pipeline transportation.

Kerosene. This means any of the following liquids.

- One of the two grades of kerosene (No. 1-K and No. 2-K) covered by ASTM specification D3699.
- Kerosene-type jet fuel covered by ASTM specification D1655 or military specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8). See *Kerosene for Use in Aviation*, later.

However, kerosene doesn't include excluded liquid, discussed earlier.

Kerosene also includes any liquid that would be described above but for the presence of a dye of the type used to dye kerosene for a nontaxable use.

Diesel-powered highway vehicle. This is any self-propelled vehicle designed to carry a load over public highways (whether or not also designed to perform other functions) and propelled by a diesel-powered engine. Specially designed mobile machinery for nontransportation functions and vehicles specially designed for off-highway transportation are generally not considered diesel-powered highway vehicles. For more information about these vehicles and for information about vehicles not considered highway vehicles, see *Off-Highway Business Use (No. 2)* in chapter 2.

Diesel-powered train. This is any diesel-powered equipment or machinery that rides on rails. The term includes a locomotive, work train, switching engine, and track maintenance machine.

Taxable Events

The tax on diesel fuel and kerosene is $.244 per gallon. it's imposed on the removal, entry, or sale of diesel fuel and kerosene. Each of these events is discussed later. Only the $.001 LUST tax applies to dyed diesel fuel and dyed kerosene, discussed later.

If the tax is paid on the diesel fuel or kerosene in more than one event, a refund may be allowed for the "second" tax paid. See *Refunds of Second Tax* in chapter 2.

Use in certain intercity and local buses. Dyed diesel fuel and dyed kerosene can't be used in certain intercity and local buses. A claim for $.17 per gallon may be made by the registered ultimate vendor (under certain conditions) or the ultimate purchaser for undyed diesel fuel or undyed kerosene sold for use in certain intercity or local buses. An intercity or local bus is a bus engaged in furnishing (for compensation) passenger land transportation available to the

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general public. The bus must be engaged in one of the following activities.

- Scheduled transportation along regular routes regardless of the size of the bus.
- Nonscheduled transportation if the seating capacity of the bus is at least 20 adults (not including the driver).

A bus is available to the general public if the bus is available for hire to more than a limited number of persons, groups, or organizations.

Removal from terminal. All removals of diesel fuel and kerosene at a terminal rack are taxable. The position holder for that fuel is liable for the tax.

Two-party exchanges. In a two-party exchange, the receiving person, not the delivering person, is liable for the tax imposed on the removal of taxable fuel from the terminal at the terminal rack. A two-party exchange means a transaction (other than a sale) where the delivering person and receiving person are both taxable fuel registrants and all of the following apply.

- The transaction includes a transfer from the delivering person, who holds the inventory position for the taxable fuel in the terminal as reflected in the records of the terminal operator.
- The exchange transaction occurs before or at the same time as completion of removal across the rack by the receiving person.
- The terminal operator in its records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction on Form 720-TO.
- The transaction is subject to a written contract.

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that diesel fuel or kerosene is dyed (discussed later).

The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator and isn't a registrant. However, a terminal operator won't be liable for the tax in this situation if, at the time of the removal, the following conditions are met.

- The terminal operator is a registrant.
- The terminal operator has an unexpired notification certificate (discussed under *Gasoline*) from the position holder.
- The terminal operator has no reason to believe any information on the certificate is false.

Removal from refinery. The removal of diesel fuel or kerosene from a refinery is taxable if the removal meets either of the following conditions.

- it's made by bulk transfer and the refiner, the owner of the fuel immediately before the removal, or the operator of the pipeline or vessel isn't a registrant.
- it's made at the refinery rack.

The refiner is liable for the tax.

Exception. The tax doesn't apply to a removal of diesel fuel or kerosene at the refinery rack if all the following conditions are met.

1. The diesel fuel or kerosene is removed from an approved refinery not served by pipeline (other than for receiving crude oil) or vessel.
2. The diesel fuel or kerosene is received at a facility operated by a registrant and located within the bulk transfer/terminal system.
3. The removal from the refinery is by:
   a. Railcar and the same person operates the refinery and the facility at which the diesel fuel or kerosene is received, or
   b. For diesel fuel only, a trailer or semitrailer used exclusively to transport the diesel fuel from a refinery (described in (1)) to a facility (described in (2)) less than 20 miles from the refinery.

Entry into the United States. The entry of diesel fuel or kerosene into the United States is taxable if the entry meets either of the following conditions.

- it's made by bulk transfer and the enterer or the operator of the pipeline or vessel isn't a registrant.
- It isn't made by bulk transfer.

The enterer is liable for the tax.

Importer of record's liability. The importer of record is jointly and severally liable for the tax with the enterer if the importer of record isn't the enterer of the taxable fuel and the enterer isn't a taxable fuel registrant.

However, an importer of record meeting both of the following conditions at the time of the entry won't be liable for the tax.

1. The importer of record has an unexpired notification certificate (discussed under *Gasoline*) from the enterer.
2. The importer of record has no reason to believe any information in the certificate is false.

Customs bond. The customs bond won't be charged for the tax imposed on the entry of the diesel fuel or kerosene if at the time of entry the surety has an unexpired notification certificate from the enterer and has no reason to believe any information in the certificate is false.

Removal from a terminal by unregistered position holder or unregistered pipeline or vessel operator. The removal by bulk transfer of diesel fuel or kerosene from a terminal is taxable if the position holder for that fuel or the operator of the pipeline or vessel isn't a registrant. The position holder is liable for the tax. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator. However, see *Terminal operator's liability* under *Removal from terminal*, earlier, for an exception.

Bulk transfers not received at approved terminal or refinery. The removal by bulk transfer of diesel fuel or kerosene from a terminal or refinery or the entry of diesel fuel or kerosene by bulk transfer into the United States is taxable if the following conditions apply.

1. No tax was previously imposed (as discussed earlier) on any of the following events.
   a. The removal from the refinery.
   b. The entry into the United States.
   c. The removal from a terminal by an unregistered position holder.
2. Upon removal from the pipeline or vessel, the diesel fuel or kerosene isn't received at an approved terminal or refinery (or at another pipeline or vessel).

The owner of the diesel fuel or kerosene when it's removed from the pipeline or vessel is liable for the tax. However, an owner meeting all the following conditions at the time of the removal won't be liable for the tax.

- The owner is a registrant.
- The owner has an unexpired notification certificate (discussed under *Gasoline*) from the operator of the terminal or refinery where the diesel fuel or kerosene is received.
- The owner has no reason to believe any information on the certificate is false.

The operator of the facility where the diesel fuel or kerosene is received is liable for the tax if the owner meets these conditions. The operator is jointly and severally liable if the owner doesn't meet these conditions.

Sales to unregistered person. The sale of diesel fuel or kerosene located within the bulk transfer/terminal system to a person that isn't a registrant is taxable if tax wasn't previously imposed under any of the events discussed earlier.

The seller is liable for the tax. However, a seller meeting all the following conditions at the time of the sale won't be liable for the tax.

- The seller is a registrant.
- The seller has an unexpired notification certificate (discussed under *Gasoline*) from the buyer.
- The seller has no reason to believe any information on the certificate is false.

The buyer of the diesel fuel or kerosene is liable for the tax if the seller meets these conditions. The buyer is jointly and severally liable if the seller doesn't meet these conditions.

Exception. The tax doesn't apply to a sale if all of the following apply.

- The buyer's principal place of business isn't in the United States.
- The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel.
- The seller is a registrant and the exporter of record.
- The fuel was exported.

Removal or sale of blended diesel fuel or kerosene. The removal or sale of blended diesel fuel or blended kerosene by the blender is taxable. Blended taxable fuel produced using biodiesel is subject to the tax. See *Blended taxable fuel* under *Definitions*, earlier.

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The blender is liable for the tax. The tax is figured on the number of gallons not previously subject to the tax.

Persons who blend biodiesel with undyed diesel fuel to produce and sell or use a biodiesel mixture outside the bulk transfer/terminal system must pay the diesel fuel tax on the volume of biodiesel in the mixture. Generally, the biodiesel mixture must be diesel fuel (defined earlier). See Form 720 to report this tax. You also must be registered by the IRS as a blender. See Form 637 for more information.

However, if an untaxed liquid is sold as taxable fuel and that untaxed liquid is used to produce blended taxable fuel, the person that sold the untaxed liquid is jointly and severally liable for the tax imposed on the blender's sale or removal of the blended taxable fuel.

Additional persons liable. When the person liable for the tax willfully fails to pay the tax, joint and several liability for the tax applies to:

- Any officer, employee, or agent of the person who is under a duty to ensure the payment of the tax and who willfully fails to perform that duty; or
- Anyone who willfully causes the person to fail to pay the tax.

Credits or refunds. A credit or refund is allowable for the tax on undyed diesel fuel or undyed kerosene used for a nontaxable use. For more information, see chapter 2.

Dyed Diesel Fuel and Dyed Kerosene

CAUTION *Dyed diesel fuel and dyed kerosene are subject to $.001 per gallon LUST tax as discussed below, unless the fuel is for export.*

The excise tax isn't imposed on the removal, entry, or sale of diesel fuel or kerosene (other than the LUST tax) if all the following tests are met.

- The person otherwise liable for tax (for example, the position holder) is a registrant.
- In the case of a removal from a terminal, the terminal is an approved terminal.
- The diesel fuel or kerosene satisfies the dyeing requirements (described next).

Dyeing requirements. Diesel fuel or kerosene satisfies the dyeing requirements only if it satisfies the following requirements.

- It contains the dye Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of fuel or any dye of a type and in a concentration that has been approved by the Commissioner.
- Is indelibly dyed by mechanical injection. See section 6 of Notice 2005-80 for transition rules that apply until final regulations are issued by the IRS.

Notice required. A legible and conspicuous notice stating either: ***DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*** or ***DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*** must be:

1. Provided by the terminal operator to any person that receives dyed diesel fuel or dyed kerosene at a terminal rack of that operator, and
2. Posted by a seller on any retail pump or other delivery facility where it sells dyed diesel fuel or dyed kerosene for use by its buyer.

The notice under item (1) must be provided by the time of the removal and must appear on all shipping papers, bills of lading, and similar documents accompanying the removal of the fuel.

Any seller that fails to post the required notice under item (2) is presumed to know that the fuel will be used for a taxable use (a use other than a nontaxable use listed later). That seller is subject to the penalty described next.

Penalty. A penalty is imposed on a person if any of the following situations apply.

1. Any dyed fuel is sold or held for sale by the person for a use the person knows or has reason to know isn't a nontaxable use of the fuel.
2. Any dyed fuel is held for use or used by the person for a use other than a nontaxable use and the person knew, or had reason to know, that the fuel was dyed.
3. The person willfully alters, chemically or otherwise, or attempts to so alter, the strength or composition of any dye in dyed fuel.
4. The person has knowledge that a dyed fuel that has been altered, as described in (3) above, sells or holds for sale such fuel for any use for which the person knows or has reason to know isn't a nontaxable use of the fuel.

The penalty is the greater of $1,000 or $10 per gallon of the dyed diesel fuel or dyed kerosene involved. After the first violation, the $1,000 portion of the penalty increases depending on the number of violations.

This penalty is in addition to any tax imposed on the fuel.

If the penalty is imposed, each officer, employee, or agent of a business entity who willfully participated in any act giving rise to the penalty is jointly and severally liable with that entity for the penalty.

There is no administrative appeal or review allowed for the third and subsequent penalty imposed by section 6715 on any person except for:

- Fraud or a mistake in the chemical analysis, or
- Mathematical calculation of the penalty.

If you are liable for the penalty, you may also be liable for the back-up tax, discussed later. However, the penalty applies only to dyed diesel fuel and dyed kerosene, while the back-up tax may apply to other fuels. The penalty may apply if the fuel is held for sale or use for a taxable use while the back-up tax doesn't apply unless the fuel is delivered into a fuel supply tank.

Exception to penalty. The penalty under item (3) won't apply in any of the following situations.

- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with any undyed liquid and the resulting product meets the dyeing requirements.
- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with any other liquid (other than diesel fuel or kerosene) that contains the type and amount of dye required to meet the dyeing requirements.
- The alteration or attempted alteration occurs in an exempt area of Alaska. See *Removal for sale or use in Alaska*, later.
- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with diesel fuel or kerosene not meeting the dyeing requirements and the blending occurs as part of a nontaxable use (other than export), discussed later.

Alaska and Feedstocks

Tax of $.001 per gallon is imposed on:

- Undyed diesel fuel or undyed kerosene sold or used in Alaska for certain nontaxable uses (see *Later sales* on page 10).
- Undyed kerosene used for feedstock purposes.

Removal for sale or use in Alaska. No tax is imposed on the removal, entry, or sale of diesel fuel or kerosene in Alaska for ultimate sale or use in certain areas of Alaska for certain nontaxable uses. The removal or entry of any diesel fuel or kerosene isn't taxed if all the following requirements are satisfied.

1. The person otherwise liable for the tax (position holder, refiner, or enterer):
   a. Is a registrant,
   b. Can show satisfactory evidence of the nontaxable nature of the transaction, and
   c. Has no reason to believe the evidence is false.
2. In the case of a removal from a terminal, the terminal is an approved terminal.
3. The owner of the fuel immediately after the removal or entry holds the fuel for its own use in a nontaxable use (discussed later) or is a qualified dealer.

If all three of the requirements above aren't met, then tax is imposed at $.244 per gallon.

A **qualified dealer** is any person that holds a qualified dealer license from the state of Alaska or has been registered by the IRS as a qualified retailer. Satisfactory evidence may include copies of qualified dealer licenses or exemption certificates obtained for state tax purposes.

Later sales. The excise tax applies to diesel fuel or kerosene sold by a qualified dealer after the removal or entry. The tax is imposed at the time of the sale and the qualified dealer is liable for the tax. However, the sale isn't taxable

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(other than the LUST tax at $.001 per gallon) if all the following requirements are met.

- The fuel is sold in Alaska for certain nontaxable uses.
- The buyer buys the fuel for its own use in a nontaxable use or is a qualified dealer.
- The seller can show satisfactory evidence of the nontaxable nature of the transaction and has no reason to believe the evidence is false.

Feedstock purposes. The $.001 per gallon LUST tax is imposed on the removal or entry of undyed kerosene if all the following conditions are met.

1. The person otherwise liable for tax (position holder, refiner, or enterer) is a registrant.
2. In the case of a removal from a terminal, the terminal is an approved terminal.
3. Either:
   a. The person otherwise liable for tax uses the kerosene for a feedstock purpose, or
   b. The kerosene is sold for use by the buyer for a feedstock purpose and, at the time of the sale, the person otherwise liable for tax has an unexpired certificate (described later) from the buyer and has no reason to believe any information on the certificate is false.

If all of the requirements above aren't met, then tax is imposed at $.244 per gallon.

Kerosene is used for a feedstock purpose when it's used for nonfuel purposes in the manufacture or production of any substance other than gasoline, diesel fuel, or Other Fuels. For example, kerosene is used for a feedstock purpose when it's used as an ingredient in the production of paint, but isn't used for a feedstock purpose when it's used to power machinery at a factory where paint is produced. A feedstock user is a person that uses kerosene for a feedstock purpose. A registered feedstock user is a person that has been registered by the IRS as a feedstock user. See *Registration Requirements*, earlier.

Later sales. The excise tax ($.244 per gallon) applies to kerosene sold for use by the buyer for a feedstock purpose (item (3)(b) above) if the buyer in that sale later sells the kerosene. The tax is imposed at the time of the later sale and that seller is liable for the tax.

Certificate. The certificate from the buyer certifies the buyer is a registered feedstock user and the kerosene will be used by the buyer for a feedstock purpose. The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in the *Appendix* as *Model Certificate G*. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.
- The date the seller is provided a new certificate or notice that the current certificate is invalid.
- The date the seller is notified the buyer's registration has been revoked or suspended.

The buyer must provide a new certificate if any information on a certificate has changed.

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Back-up Tax

Tax is imposed on the delivery of any of the following into the fuel supply tank of a diesel-powered highway vehicle.

- Any dyed diesel fuel or dyed kerosene for other than a nontaxable use.
- Any undyed diesel fuel or undyed kerosene on which a credit or refund (for fuel used for a nontaxable purpose) has been allowed.
- Any liquid other than gasoline, diesel fuel, or kerosene.

Generally, this back-up tax is imposed at a rate of $.244 per gallon.

Liability for tax. Generally, the operator of the vehicle into which the fuel is delivered is liable for the tax. In addition, the seller of the diesel fuel or kerosene is jointly and severally liable for the tax if the seller knows or has reason to know that the fuel will be used for other than a nontaxable use.

Exemptions from the back-up tax. The back-up tax doesn't apply to a delivery of diesel fuel or kerosene for uses 1, 2, 6, 7, 12, 13, 14, and 15 listed under *Definitions of Nontaxable Uses* in chapter 2.

In addition, since the back-up tax is imposed only on the delivery into the fuel supply tank of a diesel-powered vehicle or train, the tax doesn't apply to diesel fuel or kerosene used as heating oil or in stationary engines.

Diesel-Water Fuel Emulsion

Diesel-water fuel emulsion means diesel fuel at least 14% of which is water and for which the emulsion additive is registered by a United States manufacturer with the EPA under section 211 of the Clean Air Act as in effect on March 31, 2003.

A reduced tax rate of $.198 per gallon is imposed on a diesel-water fuel emulsion. To be eligible for the reduced rate, the person who sells, removes, or uses the diesel-water fuel emulsion must be registered by the IRS. If the diesel-water fuel emulsion doesn't meet the requirements above, or if the person who sells, removes, or uses the fuel isn't registered, the diesel-water fuel emulsion is taxed at $.244 per gallon.

Credits or refunds. The allowance for a credit or refund on a diesel-water fuel emulsion is discussed in chapter 2.

Kerosene for Use in Aviation

Taxable Events

Generally, kerosene is taxed at $.244 per gallon unless a reduced rate applies (see *Diesel Fuel and Kerosene*, earlier).

For kerosene removed directly from a terminal into the fuel tank of an aircraft for use in noncommercial aviation, the tax rate is $.219. The rate of $.219 also applies if kerosene is removed into any aircraft from a qualified refueler truck, tanker, or tank wagon that is loaded with the kerosene from a terminal that is located within an airport. The airport terminal doesn't need to be a secured airport terminal for this rate to apply. However, the refueler truck, tanker, or tank wagon must meet the requirements discussed under *Certain refueler trucks, tankers, and tank wagons, treated as terminals*, later.

For kerosene removed directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax is $.044 per gallon. For kerosene removed into an aircraft from a qualified refueler truck, tanker, or tank wagon, the $.044 rate applies only if the truck, tanker, or tank wagon is loaded at a terminal that is located in a secured area of the airport. See *Terminal located within a secured area of an airport*, later. In addition, the operator must provide the position holder with a certificate similar to *Model Certificate K* in the *Appendix*.

For kerosene removed directly into the fuel tank of an aircraft for a use exempt from tax under section 4041(c) (such as use in an aircraft for the exclusive use of a state or local government), the rate of tax is $.001. There is no tax on kerosene removed directly into the fuel tank of an aircraft for use in foreign trade. The kerosene must be removed from a qualifying refueler truck, tanker, or tank wagon loaded at a terminal located within a secured area of an airport. See *Terminal located within a secured area of an airport*, later. In addition, the operator must provide the position holder with a certificate similar to *Model Certificate K* in the *Appendix*. The position holder is liable for the $.001 per gallon tax.

For kerosene removed directly from a terminal into the fuel tank of a fractional ownership program aircraft after March 31, 2012, a surtax of $.141 per gallon applies.

Certain refueler trucks, tankers, and tank wagons treated as terminals. For purposes of the tax imposed on kerosene for use in aviation removed directly into the fuel tank of an aircraft for use in commercial aviation, certain refueler trucks, tankers, and tank wagons are treated as part of a terminal if the following conditions are met.

1. Such terminal is located within an area of an airport.
2. Any kerosene for use in aviation that is loaded in a refueler truck, tanker, or tank

wagon at a terminal is for delivery into aircraft at the airport in which the terminal is located.

3. Except in exigent circumstances, such as those identified in Notice 2005-80, no vehicle registered for highway use is loaded with kerosene for use in aviation at the terminal.
4. The refueler truck, tanker, or tank wagon meets the following requirements:
   a. Has storage tanks, hose, and coupling equipment designed and used for fueling aircraft,
   b. Isn't registered for highway use, and
   c. Is operated by the terminal operator or a person that makes a daily accounting to the terminal operator of each delivery of fuel from the refueler truck, tanker, or tank wagon. Information reporting will be required by terminal operators regarding this provision. Until the format of this information reporting is issued, taxpayers are required to retain records regarding the daily accounting, but aren't required to report such information.

Terminal located within a secured area of an airport. See Notice 2005-4 and Notice 2005-80 for the list of terminals located within a secured area of an airport. This list refers to fueling operations at airport terminals as it applies to the federal excise tax on kerosene for use in aviation, and has nothing to do with the general security of airports either included or not included in the list.

Liability For Tax

If the kerosene is removed directly into the fuel tank of an aircraft for use in commercial aviation, the operator of the aircraft in commercial aviation is liable for the tax on the removal at the rate of $.044 per gallon. However, the position holder is liable for the LUST tax for kerosene for use in aviation removed directly into the fuel tank of an aircraft for use exempt from tax under section 4041(c) (except foreign trade). For example, for kerosene removed directly into the aircraft for use in military aircraft, the position holder is liable for the tax.

For the aircraft operator to be liable for the tax $.044 rate, the position holder must meet the following requirements:

- Is a taxable fuel registrant,
- Has an unexpired certificate (a model certificate is shown in the *Appendix* as *Model Certificate K*) from the operator of the aircraft, and
- Has no reason to believe any of the information in the certificate is false.

Commercial aviation. Commercial aviation is any use of an aircraft in the business of transporting persons or property by air for pay. However, commercial aviation doesn't include any of the following uses.

- Any use exclusively for the purpose of skydiving.
- Certain air transportation by seaplane. See *Seaplanes* under *Transportation of Persons by Air* in chapter 4.
- Any use of an aircraft owned or leased by a member of an affiliated group and unavailable for hire by nonmembers. For more information, see *Aircraft used by affiliated corporations* under *Special Rules on Transportation Taxes* in chapter 4.
- Any use of an aircraft that has a maximum certificated takeoff weight of 6,000 pounds or less, unless the aircraft is operated on an established line. For more information, see *Small aircraft* under *Special Rules on Transportation Taxes* in chapter 4.
- Any use where the surtax on fuel used in a fractional ownership program aircraft is imposed. See *Surtax on any liquid used in a fractional ownership program aircraft as fuel* below.

Surtax on Any Liquid Used in a Fractional Ownership Program Aircraft as Fuel

Fuel used in a fractional ownership program aircraft (as defined below) after March 31, 2012, is subject to a surtax of $.141 per gallon. The fractional ownership program manager is liable for the tax. The surtax applies in addition to any other taxes imposed on the removal, entry, use, or sale of the fuel. If the surtax is imposed, the following air transportation taxes don't apply.

- Transportation of persons by air.
- Transportation of property by air.
- Use of international air travel facilities.

These taxes are described under *Air Transportation Taxes*, later.

A fractional ownership program aircraft flight is considered noncommercial aviation; for the rules for kerosene used in noncommercial aviation, see *Kerosene for Use in Aviation* above.

A fractional ownership program is one under which:

- A single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners;
- There are one or more fractional owners per fractional program aircraft, with at least one fractional program aircraft having more than one owner;
- For at least two fractional program aircraft, none of the ownership interests in the aircraft are less than the minimum fractional ownership interest or held by the program manager;
- There exists a dry-lease aircraft exchange arrangement among all of the fractional owners; and
- There are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

Fractional program aircraft. Any aircraft that, in any fractional ownership aircraft program, is listed as a fractional program aircraft in the management specifications issued to the manager of such program by the Federal Aviation Administration under subpart K of part 91, title 14, Code of Federal Regulations, and is registered in the United States.

Fractional program aircraft aren't considered used for transportation of a qualified fractional owner, or on account of such qualified fractional owner when they are used for flight demonstration, maintenance or crew training. In such situations, the flight isn't commercial aviation. Instead, the tax on the fuel used in the flight is imposed at the non-commercial aviation rate.

Fractional owner. Any person owning any interest (including the entire interest) in a fractional program aircraft.

Dry lease aircraft exchange. An agreement, documented by the written program agreements, under which the fractional program aircraft are available, on an as-needed basis without crew, to each fractional owner.

Special rule relating to deadhead service. A fractional program aircraft won't be considered to be used on account of a qualified fractional owner when it's used in deadhead service and a person other than a qualified fractional owner is separately charged for such service.

More information. See section 4043 for more information on the surtax.

Certificate for Commercial Aviation and Exempt Uses

A certificate is required from the aircraft operator:

- To support aircraft operator liability for tax on removal of kerosene for use in aviation directly into the fuel tank of an aircraft in commercial aviation, or
- For exempt uses.

Certificate. The certificate may be included as part of any business records normally used for a sale. See *Model Certificate K* in the *Appendix*.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.
- The date the buyer provides the seller a new certificate or notice that the current certificate is invalid.
- The date the IRS or the buyer notifies the seller that the buyer's right to provide a certificate has been withdrawn.

The buyer must provide a new certificate if any information on a certificate has changed.

The IRS may withdraw the buyer's right to provide a certificate if the buyer uses the kerosene for use in aviation to which a certificate relates other than as stated in the certificate.

Exempt use. The rate on kerosene for use in aviation is $.001 (LUST tax) if it's removed from any refinery or terminal directly into the

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fuel tank of an aircraft for an exempt use. An exempt use includes kerosene for the exclusive use of a state or local government. There is no tax on kerosene removed directly into the fuel tank of an aircraft for use in foreign trade.

Flash title transaction. A position holder isn't liable for tax if, among other conditions, it obtains a certificate (described above) from the operator of the aircraft into which the kerosene is delivered. In a "flash title transaction" the position holder sells the kerosene to a wholesale distributor (reseller) that in turn sells the kerosene to the aircraft operator as the kerosene is being removed from a terminal into the fuel tank of an aircraft. In this case, the position holder will be treated as having a certificate from the operator of the aircraft if:

- The aircraft operator puts the reseller's name, address, and EIN on the certificate in place of the position holder's information; and
- The reseller provides the position holder with a statement of the kerosene reseller.

Reseller statement. This is a statement that is signed under penalties of perjury by a person with authority to bind the reseller; is provided at the bottom or on the back of the certificate (or in an attached document); and contains:

- The reseller's name, address, and EIN;
- The position holder's name, address, and EIN; and
- A statement that the reseller has no reason to believe that any information in the accompanying aircraft operator's certificate is false.

Credits or refunds. A claim may be made by the ultimate purchaser (the operator) for taxed kerosene for use in aviation used in commercial aviation (other than foreign trade) and noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia). A claim may be made by a registered ultimate vendor for certain sales. For more information, see chapter 2.

Other Fuels (Including Alternative Fuels)

Other Fuels means any liquid except gas oil, fuel oil, or any product taxable under section 4081. Other Fuels include alternative fuels. Alternative fuels are:

- Liquefied petroleum gas (LPG),
- "P Series" fuels,
- Compressed natural gas (CNG) (discussed later),
- Liquefied hydrogen,
- Any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process,
- Liquid fuel derived from biomass,
- Liquefied natural gas (LNG), and
- Liquefied gas derived from biomass.

Liquefied petroleum gas includes propane, pentane, or mixtures of those products.

Qualified methanol and ethanol fuels. Qualified ethanol and methanol means any liquid at least 85% of which consists of alcohol produced from coal, including peat. The tax rates are listed in the Instructions for Form 720.

Partially exempt methanol and ethanol fuels. A reduced tax rate applies to these fuels. Partially exempt ethanol and methanol means any liquid at least 85% of which consists of alcohol produced from natural gas. The tax rates are listed in the Instructions for Form 720.

Motor vehicles. Motor vehicles include all types of vehicles, whether or not registered (or required to be registered) for highway use, that have both the following characteristics.

- They are propelled by a motor.
- They are designed for carrying or towing loads from one place to another, regardless of the type of material or load carried or towed.

Motor vehicles don't include any vehicle that moves exclusively on rails, or any of the following items: farm tractors, trench diggers, power shovels, bulldozers, road graders, road rollers, and similar equipment that doesn't carry or tow a load.

Taxable Events

Tax is imposed on the delivery of Other Fuels into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat. However, there is no tax on the delivery if tax was imposed under the bulk sales rule, discussed next, or the delivery is for a nontaxable use. If the delivery is in connection with a sale, the seller is liable for the tax. If it isn't in connection with a sale, the operator of the vehicle or boat is liable for the tax.

Bulk sales. Tax is imposed on the sale of Other Fuels that isn't in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller stating the entire quantity of the fuel covered by the sale is for other than a nontaxable use listed in chapter 2. The seller is liable for this tax.

Tax rate. See Form 720 and the Instructions for Form 720 for the tax rates.

Nontaxable uses. The nontaxable uses of Other Fuels (including alternative fuels) are discussed in chapter 2.

Compressed Natural Gas (CNG)

Taxable Events

Tax is imposed on the delivery of compressed natural gas (CNG) into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat. The tax is based on the gasoline gallon equivalent of CNG. See Form 720 for the tax rate.

However, there is no tax on the delivery if tax was imposed under the bulk sales rule discussed next, or the delivery is for a nontaxable use, listed in chapter 2. If the delivery is in connection with a sale, the seller is liable for the tax. If it isn't in connection with a sale, the operator of the boat or vehicle is liable for the tax.

If CNG is delivered into the fuel supply tank by the seller in connection with the sale of CNG for a nontaxable use, the seller is liable for the tax unless, at the time of the sale, the seller has an exemption certificate from the buyer. The seller must have no reason to believe any information in the certificate is false.

Certificate. The certificate from the buyer certifies the CNG will be used in a nontaxable use. The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in the *Appendix* as *Model Certificate J*.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (which may be no earlier than the date signed) of the certificate.
- The date a new certificate is provided to the seller.
- The date the seller is notified the buyer's right to provide a certificate has been withdrawn.

Bulk sales. Tax is imposed on the sale of CNG that isn't in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller that the entire quantity of the CNG covered by the sale is for use as a fuel in a motor vehicle or motorboat and the seller has given the buyer a written acknowledgment of receipt of the statement. The seller of the CNG is liable for the tax.

Motor vehicle. For this purpose, motor vehicle has the same meaning as given under *Other Fuels (Including Alternative Fuels)*, earlier.

Nontaxable uses. The nontaxable uses of CNG are discussed under *Other Fuels (Including Alternative Fuels)* in chapter 2.

Fuels Used on Inland Waterways

CAUTION *The tax on inland waterways fuel use applies at the rate listed on Form 720. This is in addition to all other taxes imposed on the sale or use of the fuel.*

Tax applies to liquid fuel used in the propulsion system of commercial transportation vessels while traveling on certain inland and intracoastal waterways. The tax generally applies to all types of vessels, including ships, barges, and tugboats. The LUST tax must be paid on any liquid fuel used on inland waterways that isn't subject to LUST tax under section 4041(d) or 4081. For example, Bunker C residual fuel oil is subject to the LUST tax.

Inland and intracoastal waterways. Inland and intracoastal waterways on which fuel

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consumption is subject to tax are specified in section 206 of the Inland Waterways Revenue Act of 1978, as amended. See Regulations section 48.4042-1(g) for a list of these waterways.

Commercial waterway transportation. Commercial waterway transportation is the use of a vessel on inland or intracoastal waterways for either of the following purposes.

- The use is in the business of transporting property for compensation or hire.
- The use is in transporting property in the business of the owner, lessee, or operator of the vessel, whether or not a fee is charged.

The operation of all vessels meeting either of these requirements is commercial waterway transportation regardless of whether the vessel is actually transporting property on a particular voyage. However, see *Exemptions*, later. The tax is imposed on fuel consumed in vessels while engaged in any of the following activities.

- Moving without cargo.
- Awaiting passage through locks.
- Moving to or from a repair facility.
- Dislodging vessels grounded on a sand bar.
- Fleeting barges into a single tow.
- Maneuvering around loading and unloading docks.

Liquid fuel. Liquid fuel includes diesel fuel, Bunker C residual fuel oil, Other Fuels, and gasoline. The tax is imposed on liquid fuel actually consumed by a vessel's propulsion engine and not on the unconsumed fuel in a vessel's tank.

Dual use of liquid fuels. The tax applies to all taxable liquid used as a fuel in the propulsion of the vessel, regardless of whether the engine (or other propulsion system) is used for another purpose. The tax applies to all liquid fuel consumed by the propulsion engine even if it operates special equipment by means of a power take-off or power transfer. For example, the fuel used in the engine both to operate an alternator, generator, or pumps and to propel the vessel is taxable.

The tax doesn't apply to fuel consumed in engines not used to propel the vessel.

If you draw liquid fuel from the same tank to operate both a propulsion engine and a nonpropulsion engine, determine the fuel used in the nonpropulsion engine and exclude that fuel from the tax. IRS will accept a reasonable estimate of the fuel based on your operating experience, but you must keep records to support your allocation.

Voyages crossing boundaries of the specified waterways. The tax applies to fuel consumed by a vessel crossing the boundaries of the specified waterways only to the extent of fuel consumed for propulsion while on those waterways. Generally, the operator may figure the fuel so used during a particular voyage by multiplying total fuel consumed in the propulsion engine by a fraction. The numerator of the fraction is the time spent operating on the specified waterways and the denominator is the total time spent on the voyage. This calculation can't be used where it's found to be unreasonable.

Taxable event. Tax is imposed on liquid fuel used in the propulsion system of a vessel. See Form 720 for the tax rate.

The person who operates (or whose employees operate) the vessel in which the fuel is consumed is liable for the tax. If a vessel owner (or lessee) contracts with an independent contractor to operate the vessel, the independent contractor is the person liable for tax, regardless of who purchases the fuel. The tax is paid with Form 720. No tax deposits are required.

Exemptions. Certain types of commercial waterway transportation are excluded from the tax.

Fishing vessels. Fuel isn't taxable when used by a fishing vessel while traveling to a fishing site, while engaged in fishing, or while returning from the fishing site with its catch. A vessel isn't transporting property in the business of the owner, lessee, or operator by merely transporting fish or other aquatic animal life caught on the voyage.

However, the tax does apply to fuel used by a commercial vessel along the specified waterways while traveling to pick up aquatic animal life caught by another vessel and while transporting the catch of that other vessel.

Deep-draft ocean-going vessels. Fuel isn't taxable when used by a vessel designed primarily for use on the high seas if it has a draft of more than 12 feet on the voyage. For each voyage, figure the draft when the vessel has its greatest load of cargo and fuel. A voyage is a round trip. If a vessel has a draft of more than 12 feet on at least one way of the voyage, the vessel satisfies the 12-foot draft requirement for the entire voyage.

Passenger vessels. Fuel isn't taxable when used by vessels primarily for the transportation of persons. The tax doesn't apply to fuel used in commercial passenger vessels while being operated as passenger vessels, even if such vessels also transport property. Nor does it apply to ferryboats carrying passengers and their cars.

Ocean-going barges. Fuel isn't taxable when used in tugs to move LASH and SEABED ocean-going barges released by their ocean-going carriers solely to pick up or deliver international cargoes.

However, it's taxable when any of the following conditions apply.

- One or more of the barges in the tow isn't a LASH barge, SEABED barge, or other ocean-going barge carried aboard an ocean-going vessel.
- One or more of the barges isn't on an international voyage.
- Part of the cargo carried isn't being transported internationally.

State or local governments. No tax is imposed on the fuel used in a vessel operated by a state or local government in transporting property on official business. The ultimate use of the cargo must be for a function ordinarily carried out by governmental units. An Indian tribal government is treated as a state only if the fuel is used in the exercise of an essential tribal government function.

RECORDS

All operators of vessels used in commercial waterway transportation who acquire liquid fuel must keep adequate records of all fuel used for taxable purposes. Operators who are seeking an exclusion from the tax must keep records that will support any exclusion claimed.

Your records should include all of the following information.

- The acquisition date and quantity of fuel delivered into storage tanks or the tanks on your vessel.
- The identification number or name of each vessel using the fuel.
- The departure time, departure point, route traveled, destination, and arrival time for each vessel.

If you claim an exemption from the tax, include in your records the following additional information as it pertains to you.

- The draft of the vessel on each voyage.
- The type of vessel in which you used the fuel.
- The ultimate use of the cargo (for vessels operated by state or local governments).

Cellulosic or Second Generation Biofuel Not Used as Fuel

If you claimed the section 40 cellulosic or second generation biofuel producer credit, you are liable for an excise tax on each gallon of cellulosic or second generation biofuel if you don't use the fuel for the purposes described under *Qualified Cellulosic Biofuel Production* or *Qualified Second Generation Biofuel Production* next.

Qualified cellulosic biofuel production. This is cellulosic biofuel which during the tax year:

1. Is sold by the producer to another person—
   a. For use by the buyer in the buyer's trade or business to produce a qualified cellulosic biofuel mixture (other than casual off-farm production),
   b. For use by the buyer as a fuel in a trade or business, or
   c. Who sells the cellulosic biofuel at retail to another person and puts the cellulosic biofuel in the retail buyer's fuel tank; or
2. Is used or sold by the producer for any purpose described in (1) above.

Qualified cellulosic biofuel production doesn't include purchasing alcohol and increasing the proof of the alcohol through additional distillation. Nor does it include cellulosic biofuel that isn't both produced in the United States or a U.S. possession and used as a fuel in the United States or a U.S. possession.

A qualified cellulosic biofuel mixture combines cellulosic biofuel with gasoline or a special fuel. The producer of the mixture either:

- Used it as a fuel, or
- Sold it as fuel to another person.

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Qualified second generation biofuel production. This is second generation biofuel which during the tax year:

1. Is sold by the producer to another person–
   a. For use by the buyer in the buyer's trade or business to produce a qualified second generation biofuel mixture (other than casual off-farm production),
   b. For use by the buyer as a fuel in a trade or business, or
   c. Who sells the second generation biofuel at retail to another person and puts the second generation biofuel in the retail buyer's fuel tank; or
2. Is used or sold by the producer for any purpose described in (1) above.

Qualified second generation biofuel production doesn't include purchasing alcohol and increasing the proof of the alcohol through additional distillation. Nor does it include second generation biofuel that isn't both produced in the United States or a U.S. possession and used as a fuel in the United States or a U.S. possession. A qualified second generation biofuel mixture combines second generation biofuel with gasoline or a special fuel. The producer of the mixture either:

- Used it as a fuel, or
- Sold it as fuel to another person.

Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

Biodiesel Sold as But Not Used as Fuel

If the credit was claimed (either as an excise tax credit or income tax credit) or a refund was claimed, you are liable for an excise tax if you used the mixture or biodiesel other than as a fuel, separated the biodiesel from a mixture, or mixed the biodiesel.

Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

2.

Fuel Tax Credits and Refunds

Federal excise taxes are imposed on certain fuels as discussed in chapter 1. This chapter lists the nontaxable uses of each fuel and defines the nontaxable uses. Information on the refund of second tax is included. This chapter also explains credits and refunds for the biodiesel or renewable diesel mixture credits, and the alternative fuel mixture and alternative fuel credits.

Information on how to make a claim for credit or refund is included in this chapter and in the instructions for:

- Form 720,
- Form 4136, and
- Form 8849.

Exported taxable fuel. The claim rates for exported taxable fuel are listed on Schedule C (Form 720), Schedule 1 (Form 8849), and Form 4136. Taxpayers making a claim for exported taxable fuel must include with their records proof of exportation. Proof of exportation includes:

- A copy of the export bill of lading issued by the delivering carrier,
- A certificate by the agent or representative of the export carrier showing actual exportation of the fuel,
- A certificate of lading signed by a customs officer of the foreign country to which the fuel is exported, or
- A statement of the foreign consignee showing receipt of the fuel.

Gasoline and Aviation Gasoline

Ultimate purchasers. The following are the uses of gasoline (defined earlier) for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes (credit only).
- Off-highway business use.
- Export.
- In a boat engaged in commercial fishing.
- In certain intercity and local buses.
- In a school bus.
- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization (see *Sales by registered ultimate vendors* and *Credit Card Purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by registered ultimate vendors* and *Credit Card Purchases*, later).
- In an aircraft or vehicle owned by an aircraft museum.

The following are the uses of aviation gasoline for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes (credit only).
- Export.
- In foreign trade.
- Certain helicopter and fixed-wing air ambulance uses.
- In commercial aviation (other than foreign trade).
- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit education organization (see *Sales by registered ultimate vendors* and *Credit card purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by registered ultimate vendors* and *Credit and purchases*, later).
- In an aircraft owned by an aircraft museum.
- In military aircraft.

Claims by persons who paid the tax to the government. Except for sales to nonprofit educational organizations and states and local governments, a credit or refund is allowable to the person that paid the tax to the government if the gasoline was sold to the ultimate purchaser (including an exporter) by either that person or by a retailer and the fuel was exported; used or sold for use as a supply for vessels or aircraft, including military aircraft, commercial fishing, and foreign trade; sold to a qualified blood collector organization; or used or sold for use in the production of Other Fuels. See *Filing Claims*, later.

Sales by registered ultimate vendors. This is an ultimate vendor that sells gasoline or aviation gasoline to any of the following and that is purchased without the use of a credit card.

- A state or local government for its exclusive use (including essential government use by an Indian tribal government).
- A nonprofit educational organization for its exclusive use.

The registered ultimate vendor may make the claim if the ultimate purchaser didn't use a credit card and waives its right to the credit or refund by providing the registered ultimate vendor with a certificate. A sample certificate is included as *Model Certificate M* in the *Appendix*. The registered ultimate vendor must have the certificate at the time the credit or refund is claimed.

The ultimate vendor must be registered by the IRS. See *Registration Requirements*, earlier.

Credit card purchases. If gasoline and aviation gasoline are purchased with a credit card issued to a state or local government for its exclusive use (including essential government use by an Indian tribal government), or a nonprofit educational organization for its exclusive use, the person who extended credit to the ultimate purchaser (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS,
- Has established that the amount of tax hasn't been collected from the person who purchased the gasoline or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund, and
- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

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If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

How to make the claim. If the claim is made by the credit card issuer, see Schedule C (Form 720) or Schedule 8 (Form 8849).

Undyed Diesel Fuel and Undyed Kerosene (Other Than Kerosene Used in Aviation)

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For conditions to an allowance of a credit or refund on exported dyed diesel fuel and dyed kerosene, see *Exported taxable fuel*, earlier.

Ultimate purchasers. The following are nontaxable uses of diesel fuel and kerosene (defined earlier) for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes.
- Off-highway business use.
- Export.
- In a qualified local bus.
- In a school bus.
- Other than as a fuel in a propulsion engine of a diesel-powered highway vehicle (such as home heating oil).
- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization (see *Sales by Registered Ultimate Vendors* and *Credit Card Purchases*, later).
- Exclusive use by a state, political subdivision of a state, or the District of Columbia (see *Sales by Registered Ultimate Vendors* and *Credit Card Purchases*, later).
- In a vehicle owned by an aircraft museum.
- As a fuel in a propulsion engine of a diesel-powered train.

Sales by Registered Ultimate Vendors

The following are the sales for which a credit or refund may be allowable to the registered ultimate vendor only.

- Undyed diesel fuel or undyed kerosene sold for the exclusive use by a state or local government (if credit card rules (defined later) don't apply),
- Undyed kerosene sold from a blocked pump (defined below), or
- Undyed diesel fuel or undyed kerosene used in certain intercity and local buses, only if the ultimate purchaser waives its right to the credit or refund by providing the registered ultimate vendor with a waiver.

Registered ultimate vendor (state use). This is a person that sells undyed diesel fuel or undyed kerosene to a state or local government for its exclusive use (including essential government use by an Indian tribal government). The diesel fuel or kerosene must be purchased by the state without the use of a credit card, issued to the state by the credit card issuer, in order for the ultimate vendor to make the claim. The ultimate vendor must be registered by the IRS. See *Registration Requirements*, earlier.

Registered ultimate vendor (blocked pump). This is an ultimate vendor that sells undyed kerosene from a blocked pump.

A credit or refund may be allowable to a registered ultimate vendor (blocked pump) if the vendor sold to a buyer undyed kerosene from a blocked pump for use other than as a fuel in a diesel-powered highway vehicle and the vendor had no reason to believe the kerosene wouldn't be used in that manner.

Blocked pump. A blocked pump is a fuel pump that meets all the following requirements.

1. it's used to make retail sales of undyed kerosene for use by the buyer in any nontaxable use.
2. it's at a fixed location.
3. it's identified with a legible and conspicuous notice stating, "UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY."
4. It meets either of the following conditions.
   a. It can't reasonably be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or train.
   b. it's 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 train.

Registered ultimate vendor (certain intercity and local buses). This is an ultimate vendor that sells undyed diesel fuel or undyed kerosene to the ultimate purchaser for use in certain intercity and local buses.

The registered ultimate vendor may make the claim if the ultimate purchaser waives its right to the credit or refund by providing the registered ultimate vendor with a waiver. A sample waiver is included as *Model Waiver N* in the *Appendix*. The registered ultimate vendor must have the waiver at the time the credit or payment is claimed.

Credit card purchases. If undyed diesel fuel or kerosene is purchased with a credit card issued to a state, the person who extended credit to the state (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS,
- Has established that the amount of tax hasn't been collected from the person who purchased the diesel fuel or kerosene, or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund, and
- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

Diesel-Water Fuel Emulsion

A claim for credit or refund may be made for the nontaxable use of a diesel-water fuel emulsion and for undyed diesel fuel used to produce a diesel-water fuel emulsion. The claim rate for nontaxable use of a diesel-water fuel emulsion taxed at $.198 per gallon is $.197 (if exported, the claim rate is $.198). The following are the nontaxable uses for a diesel-water fuel emulsion for which a credit or refund may be allowable to an ultimate purchaser.

- On a farm for farming purposes.
- Off-highway business use.
- Export.
- In a qualified local bus.
- In a school bus.
- Other than as fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway use).
- Exclusive use by a qualified blood collector organization.
- In a highway vehicle owned by the United States that isn't used on a highway.
- Exclusive use by a nonprofit educational organization.
- Exclusive use by a state, political subdivision of a state, or the District of Columbia.
- In an aircraft or vehicle owned by an aircraft museum.

Blender claims. The claim rate for undyed diesel fuel taxed at $.244 and used to produce a diesel-water fuel emulsion is $.046 per gallon of diesel fuel so used. The blender must be registered by the IRS in order to make the claim. The blender must attach a statement to the claim certifying that:

- The diesel-water fuel emulsion contains at least 14% water,
- The emulsion additive is registered by a U.S. manufacturer with the EPA under section 211 of the Clean Air Act as in effect on March 31, 2003,
- Undyed diesel fuel taxed at $.244 was used to produce the diesel-water fuel emulsion, and
- The diesel-water fuel emulsion was used or sold for use in the blender's trade or business.

Kerosene for Use in Aviation

Ultimate purchasers. Ultimate purchasers of kerosene used in certain aviation uses may make a claim if the rate of tax on their use is less than the rate of tax that was charged on the kerosene.

The ultimate purchaser of the kerosene used in commercial aviation (other than foreign

trade) and noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia) is eligible to make a claim if the ultimate purchaser certifies that the right to make the claim hasn't been waived. Generally, the ultimate purchaser is the aircraft operator.

The following are the nontaxable uses of kerosene used in noncommercial aviation for which a credit or refund may be allowable to the ultimate purchaser.

- On a farm for farming purposes.
- Certain helicopter and fixed-wing aircraft uses.
- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit educational organization.
- In an aircraft owned by an aircraft museum.
- In military aircraft.

Kerosene for use partly in commercial aviation and partly in nonexempt, noncommercial aviation. If the fuel is used partly for use in commercial aviation and partly for use in nonexempt, noncommercial aviation, the operator may identify, either at the time of purchase or after the kerosene has been used, the amount that will be (or has been) used in commercial aviation. At the same time, the operator would either make the claim or waive the right to make the claim for credit or refund of the kerosene for use in commercial and nonexempt, noncommercial aviation.

If the operator doesn't identify the amount of kerosene that will be (or has been) used in commercial aviation, the operator may provide a certificate to the ultimate vendor similar to *Model Certificate Q* in the *Appendix*. For kerosene purchased with the certificate, used in commercial aviation, and taxed at $.244 per gallon, use of the certificate will be treated as a waiver of the right to claim a credit or refund for the $.025 per gallon part of the tax. The ultimate vendor may make this claim. The operator may make a claim for the $.175 tax per gallon of the kerosene, but can't waive the right to make the claim for the $.175 tax per gallon.

Sales by Registered Ultimate Vendors

Kerosene for use in commercial aviation or noncommercial aviation. The registered ultimate vendor of kerosene for use in commercial aviation (other than foreign trade) or noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia) may make this claim if the ultimate purchaser waives its right to the credit or payment by providing the registered ultimate vendor with a waiver. A sample waiver is included as *Model Waiver L* in the *Appendix*. The registered ultimate vendor must have the waiver at the time the credit or payment is claimed.

Noncommercial aviation means any use of an aircraft not described as commercial aviation. For the definition of commercial aviation, see *Commercial aviation* on page 11.

Kerosene for use in nonexempt, noncommercial aviation. Only the registered ultimate vendor may claim a credit or payment for sales of kerosene for use in nonexempt, noncommercial aviation. The ultimate vendor must be registered by the IRS (activity letter UA) and have the required certificate from the ultimate purchaser. A sample certificate is included as *Model Certificate Q* in the *Appendix*. The registered ultimate vendor must have the certificate at the time the credit or payment is claimed.

Kerosene for use in aviation by a state or local government. Only the registered ultimate vendor may claim a credit or payment for sales of kerosene for use in aviation to a state or local government for its exclusive use (including essential government use by an Indian tribal government). The kerosene for use in aviation must be purchased by the state without the use of a credit card in order for the ultimate vendor to make the claim. The ultimate vendor must be registered by the IRS (activity letter UV) and have the required certificate from the ultimate purchaser. A sample certificate is included as *Model Certificate P* in the *Appendix*. The registered ultimate vendor must have the certificate at the time the credit or payment is claimed.

Credit card purchases. If taxed kerosene for use in aviation is purchased with a credit card issued to a state, the person who extended credit to the state (the credit card issuer) is treated as the person that paid the tax and makes the claim if the credit card issuer:

- Is registered by the IRS,
- Has established that the amount of tax hasn't been collected from the person who purchased the kerosene, or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund, and
- Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the requirements above aren't met by the credit card issuer, the credit card issuer must collect the tax from the ultimate purchaser and only the ultimate purchaser may make the claim.

Other Fuels (Including Alternative Fuels)

Credit or refund for nontaxable use of taxed Other Fuels may be allowable to an ultimate purchaser. While tax is generally imposed on delivery, Other Fuels are taxed prior to delivery in the case of certain bulk sales described in chapter 1. The following are the nontaxable uses of Other Fuels for which a credit or refund may be allowable to the ultimate purchaser.

- On a farm for farming purposes.
- Off-highway business use.
- In a boat engaged in commercial fishing.
- In certain intercity and local buses.
- In a school bus.
- In a qualified local bus.
- Exclusive use by a qualified blood collector organization.
- Exclusive use by a nonprofit educational organization.
- Exclusive use by a state, political subdivision of a state, or the District of Columbia.
- In an aircraft or vehicle owned by an aircraft museum.
- In any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation.

See *Biodiesel or Renewable Diesel Mixture Credit, Alternative Fuel Credit, and Alternative Fuel Mixture Credit*, later.

Refunds of Second Tax

CAUTION *The tax on dyed diesel fuel for inland waterways fuel use applies at the rate listed on Form 720. This is in addition to all other taxes imposed on the sale or use of the fuel. The section 4081(e) refund (discussed below) can't be claimed.*

If the tax is paid and reported to the government on more than one taxable event for a taxable fuel under section 4081, the person paying the "second tax" may claim a refund (without interest) of that tax if certain conditions and reporting requirements are met. No credit against any tax is allowed for this tax. For information about taxable events, see the discussions under *Gasoline, Diesel Fuel and Kerosene* and *Kerosene for Use in Aviation* in chapter 1.

Conditions to allowance of refund. A claim for refund of the tax is allowed only if all the following conditions are met.

1. A tax on the fuel was paid to the government and not credited or refunded (the "first tax").
2. After the first tax was imposed, another tax was imposed on the same fuel and was paid to the government (the "second tax").
3. The person that paid the second tax filed a timely claim for refund containing the information required (see *Refund claim*, later).
4. The person that paid the first tax has met the reporting requirements, discussed next.

Reporting requirements. Generally, the person that paid the first tax must file a "First Taxpayer's Report" with its Form 720 for the quarter to which the report relates. A model first taxpayer's report is shown in the *Appendix* as *Model Certificate B*. The report must contain all information needed to complete the model.

By the due date for filing the Form 720, you must also send a separate copy of the report to the following address.

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999-0555

Write "EXCISE – FIRST TAXPAYER'S REPORT" across the top of that copy.

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Optional reporting. A first taxpayer's report isn't required for the tax imposed on:

- Removal at a terminal rack,
- Nonbulk entries into the United States, and
- Removals or sales by blenders.

However, if the person liable for the tax expects that another tax will be imposed on that fuel, that person should (but isn't required to) file a first taxpayer's report.

Providing information. The first taxpayer must give a copy of the report to the buyer of the fuel within the bulk transfer/terminal system or to the owner of the fuel immediately before the first tax was imposed, if the first taxpayer isn't the owner at that time. If an optional report is filed, a copy should (but isn't required to) be given to the buyer or owner.

A person that receives a copy of the first taxpayer's report and later sells the fuel within the bulk transfer/terminal system must give the copy and a "Statement of Subsequent Seller" to the buyer. If the later sale is outside the bulk transfer/terminal system and that person expects that another tax will be imposed, that person should (but isn't required to) give the copy and the statement to the buyer. A model statement of subsequent seller is shown in the *Appendix* as *Model Certificate A*. The statement must contain all information necessary to complete the model.

If the first taxpayer's report relates to fuel sold to more than one buyer, copies of that report must be made when the fuel is divided. Each buyer must be given a copy of the report.

Refund claim. You must have filed Form 720 and paid the second tax before you file for a refund of that tax. You must make your claim for refund on Form 8849. Complete Schedule 5 (Form 8849) and attach it to your Form 8849. Don't include this claim with a claim under another tax provision. You must not have included the second tax in the price of the fuel and must not have collected it from the purchaser. You must submit the following information with your claim.

- A copy of the first taxpayer's report (discussed earlier).
- A copy of the statement of subsequent seller if the fuel was bought from someone other than the first taxpayer.

Definitions of Nontaxable Uses

This section provides definitions of the terms used in Table 2-1 for nontaxable uses. If applicable, the type of use number from Table 2-1 is indicated in each heading.

Type of use table. The first column of the table is the number you enter on Form 4136, Form 8849, or Schedule C (Form 720) for that type of use. For type of use 2, the mobile machinery parenthetical applies only to Form 8849 and Form 720.

On a farm for farming purposes (No. 1). On a farm for farming purposes means fuel used in carrying on a trade or business of farming, on a farm in the United States, and for farming purposes.

Farm. A farm includes livestock, dairy, fish, poultry, fruit, fur-bearing animals, and truck farms; orchards; plantations; ranches; nurseries; ranges; and feed yards for fattening cattle. It also includes structures such as greenhouses used primarily for the raising of agricultural or horticultural commodities. A fish farm is an area where fish are grown or raised — not merely caught or harvested.

Farming purposes. As an owner, tenant, or operator, you use fuel on a farm for farming purposes if you use it in any of the following ways.

1. To cultivate the soil or to raise or harvest any agricultural or horticultural commodity.
2. To raise, shear, feed, care for, train, or manage livestock, bees, poultry, fur-bearing animals, or wildlife.
3. To operate, manage, conserve, improve, or maintain your farm and its tools and equipment.
4. To handle, dry, pack, grade, or store any raw agricultural or horticultural commodity. For this use to qualify, you must have produced more than half the commodity so treated during the tax year. Commodity means a single raw product. For example, apples and peaches are two separate commodities.
5. To plant, cultivate, care for, or cut trees or to prepare (other than sawing logs into lumber, chipping, or other milling) trees for market, but only if the planting, etc., is incidental to your farming operations. Your tree operations will be incidental only if they are minor in nature when compared to the total farming operations.

If any other person, such as a neighbor or custom operator, performs a service for you on your farm for any of the purposes listed in (1) or (2), you are considered to be the ultimate purchaser that used the fuel on a farm for farming purposes. However, see *Custom application of fertilizer and pesticide*, next.

If doubt exists whether the owner, the tenant, or the operator of the farm bought the fuel, determine who bore the cost of the fuel. For example, if the owner of a farm and the tenant equally share the cost of gasoline that is used on a farm for farming purposes, each can claim a credit for the tax on one-half of the fuel used.

Custom application of fertilizer and pesticide. Fuel used on a farm for farming purposes includes fuel used in the application of fertilizer, pesticides, or other substances, including aerial applications. Generally, the applicator is treated as having used the fuel on a farm for farming purposes. For aviation gasoline, the aerial applicator makes the claim as the ultimate purchaser. For kerosene used in aviation, the ultimate purchaser may make the claim or waive their right to make the claim to the registered ultimate vendor.

Fuel used between airfield and farm. Fuel used by an aerial applicator for the direct flight between the airfield and one or more farms is treated as a farming purpose.

Fuel not used for farming. Fuel isn't used on a farm for farming purposes if it's used in any of the following ways.

- Off the farm, such as on the highway or in noncommercial aviation, other than fuel used between the airfield and farm described above, even if the fuel is used in transporting livestock, feed, crops, or equipment.
- For personal use, such as mowing the lawn.
- In processing, packaging, freezing, or canning operations.
- In processing crude gum into gum spirits of turpentine or gum resin or in processing maple sap into maple syrup or maple sugar.

Table 2-1. **Type of Use Table**

No.	Type of Use
1	On a farm for farming purposes
2	Off-highway business use (for business use other than in a highway vehicle registered or required to be registered for highway use) (other than use in mobile machinery)
3	Export
4	In a boat engaged in commercial fishing
5	In certain intercity and local buses
6	In a qualified local bus
7	In a bus transporting students and employees of schools (school buses)
8	For diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway business use)
9	In foreign trade
10	Certain helicopter and fixed-wing aircraft uses
11	Exclusive use by a qualified blood collector organization
12	In a highway vehicle owned by the United States that isn't used on a highway
13	Exclusive use by a nonprofit educational organization
14	Exclusive use by a state, political subdivision of a state, or the District of Columbia
15	In an aircraft or vehicle owned by an aircraft museum
16	In military aircraft

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Off-highway business use (No. 2). Off-highway business use means fuel used in a trade or business or in an income-producing activity other than as a fuel in a highway vehicle registered or required to be registered for use on public highways. The terms "highway vehicle," "public highway," and "registered" are defined below. Don't consider any use in a boat as an off-highway business use.

Off-highway business use includes fuels used in any of the following ways.

- In stationary machines such as generators, compressors, power saws, and similar equipment.
- For cleaning purposes.
- In forklift trucks, bulldozers, and earthmovers.

Generally, this use doesn't include nonbusiness use of fuel, such as use by minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment.

Example. Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home doesn't qualify.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it's also designed to perform other functions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles aren't considered highway vehicles for purposes of the credit or refund of fuel taxes.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle isn't a highway vehicle if all the following apply.
   a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.
   b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.
   c. The chassis couldn't, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
   d. The vehicle must have traveled less than 7,500 miles on public highways during the taxable year.
2. **Vehicles specially designed for off-highway transportation.** A vehicle isn't treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicle's capability to transport a load over a public highway is substantially limited or impaired.

   To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It doesn't matter that the vehicle can carry heavier loads off highway than it's allowed to carry over the highway.
3. **Nontransportation trailers and semitrailers.** A trailer or semitrailer isn't treated as a highway vehicle if it's specially designed to function only as an enclosed stationary shelter for carrying on a nontransportation function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation isn't a highway vehicle.

Public highway. A public highway includes any road in the United States that isn't a private roadway. This includes federal, state, county, and city roads and streets.

Registered. A vehicle is considered registered when it's registered or required to be registered for highway use under the law of any state, the District of Columbia, or any foreign country in which it's operated or situated. Any highway vehicle operated under a dealer's tag, license, or permit's considered registered. A highway vehicle isn't considered registered solely because a special permit allows the vehicle to be operated at particular times and under specified conditions.

Dual use of propulsion motor. Off-highway business use doesn't include any fuel used in the propulsion motor of a registered highway vehicle even though that motor also operates special equipment by means of a power take-off or power transfer. It doesn't matter if the special equipment is mounted on the vehicle.

Example. The motor of a registered concrete-mixer truck operates both the engine and the mixing unit by means of a power take-off. The fuel used in the motor to run the mixer isn't off-highway business use.

Use in separate motor. Off-highway business use includes fuel used in a separate motor to operate special equipment, such as a refrigeration unit, pump, generator, or mixing unit. If you draw fuel from the same tank that supplies fuel to the propulsion motor, you must figure the quantity used in the separate motor operating the special equipment. You may make a reasonable estimate based on your operating experience and supported by your records.

You can use devices that measure the miles the vehicle has traveled (such as hubometers) to figure the gallons of fuel used to propel the vehicle. Add to this amount the fuel consumed while idling or warming up the motor before propelling the vehicle. The difference between your total fuel used and the fuel used to propel the vehicle is the fuel used in the separate motor.

Example. Hazel owns a refrigerated truck. It has a separate motor for the refrigeration unit. The same tank supplies both motors. Using the truck's hubometer, Hazel figures that 90% of the fuel was used to propel the truck. Therefore, 10% of the fuel is used in an off-highway business use.

Fuel lost or destroyed. You can't treat fuel lost or destroyed through spillage, fire, or other casualty as fuel used in an off-highway business use.

Export (No. 3). Export means fuel transported from the United States with the intention that the fuel remain in a foreign country or possession of the United States. Fuel isn't exported if it's in the fuel supply tank of a vehicle or aircraft.

In a boat engaged in commercial fishing (No. 4). In a boat engaged in commercial fishing means fuel used in taking, catching, processing, or transporting fish, shellfish, or other aquatic life for commercial purposes, such as selling or processing the catch, on a specific trip basis. They include boats used in both fresh and salt water fishing. They don't include boats used for both sport fishing and commercial fishing on the same trip.

In certain intercity and local buses (No. 5). In certain intercity and local buses means fuel used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public. The bus must be engaged in one of the following activities.

- Scheduled transportation along regular routes.
- Nonscheduled operations if the seating capacity of the bus is at least 20 adults, not including the driver. Vans and similar vehicles used for van-pooling or taxi service don't qualify.

Available to the general public. This means you offer service to more than a limited number of persons or organizations. If a bus operator normally provides charter operations through travel agencies but has buses available for chartering by the general public, this service is available to the general public. A bus doesn't qualify when its operator uses it to provide exclusive services to only one person, group, or organization. Also, intercity bus transportation doesn't include transporting students and

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employees of schools or intercity transportation in a qualified local bus.

In a qualified local bus (No. 6). In a qualified local bus means fuel used in a bus meeting all the following requirements.

- it's engaged in furnishing (for compensation) intracity passenger land transportation available to the general public.
- It operates along scheduled, regular routes.
- It has a seating capacity of at least 20 adults (excluding the driver).
- it's under contract with (or is receiving more than a nominal subsidy from) any state or local government to furnish the transportation.

Intracity passenger land transportation. This is the land transportation of passengers between points located within the same metropolitan area. It includes transportation along routes that cross state, city, or county boundaries if the routes remain within the metropolitan area.

Under contract. A bus is under contract with a state or local government only if the contract imposes a bona fide obligation on the bus operator to furnish the transportation.

More than a nominal subsidy. A subsidy is more than nominal if it's reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used in buses on subsidized routes. A company that operates its buses along subsidized and unsubsidized intracity routes may consider its buses qualified local buses only when the buses are used on the subsidized intracity routes.

In a school bus (No. 7). In a school bus means fuel used in a bus engaged in the transportation of students or employees of schools. A school is an educational organization with a regular faculty and curriculum and a regularly enrolled body of students who attend the place where the educational activities occur.

For diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel (No. 8). Diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train (not including off-highway business use) means undyed diesel fuel and undyed kerosene used:

- For home heating, lighting, and cooking;
- In boats;
- In stationary machines, such as generators and compressors;
- For cleaning purposes; or
- In minibikes and snowmobiles.

In foreign trade (No. 9). In foreign trade means fuel used in civil aircraft employed in foreign trade or trade between the United States and any of its possessions. The term trade includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. In the case of aircraft registered in a foreign country, the country must allow reciprocal benefits for aircraft registered in the United States.

Certain helicopter and fixed-wing aircraft uses (No. 10). Includes:

Certain helicopter uses. Certain helicopter uses means fuel used by a helicopter for any of the following purposes.

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
3. Providing emergency medical transportation.

During a use described in items (1) and (2), the helicopter must not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

Fixed-wing aircraft uses. Fixed-wing aircraft uses means fuel used by a fixed-wing aircraft for any of the following purposes.

1. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
2. Providing emergency medical transportation. The aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

During a use described in item (1), the aircraft must not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code.

Exclusive use by a qualified blood collector organization (No. 11). Exclusive use by a qualified blood collector organization means fuel used by the qualified blood collector organization for its exclusive use in the collection, storage, or transportation of blood.

Qualified blood collector organization. A qualified blood collector organization is one that is:

- Described in section 501(c)(3) and exempt from tax under section 501(a),
- Primarily engaged in the activity of collecting human blood,
- Registered by the IRS, and
- Registered by the Food and Drug Administration to collect blood.

In a highway vehicle owned by the United States that isn't used on a highway (No. 12). In a highway vehicle owned by the United States that isn't used on a highway means fuel used in a vehicle that wasn't used on public highways during the period covered by the claim. This use applies whether or not the vehicle is registered or required to be registered for highway use.

Exclusive use by a nonprofit educational organization (No. 13). Exclusive use by a nonprofit educational organization means fuel used by an organization exempt from income tax under section 501(a) that meets both of the following requirements.

- It has a regular faculty and curriculum.
- It has a regularly enrolled body of students who attend the place where the instruction normally occurs.

A nonprofit educational organization also includes a school operated by a church or other organization described in section 501(c)(3) if the school meets the above requirements.

Exclusive use by a state, political subdivision of a state, or the District of Columbia (No. 14). Exclusive use by a state, political subdivision of a state, or the District of Columbia means fuel purchased by the state or local government for its exclusive use. A state or local government is any state, any political subdivision thereof, or the District of Columbia. An Indian tribal government is treated as a state only if the fuel is used in an activity that involves the exercise of an essential tribal government function. Gasoline, diesel fuel, and kerosene used by the American Red Cross is considered to be the use of these fuels by a state.

In an aircraft or vehicle owned by an aircraft museum (No. 15). In an aircraft or vehicle owned by an aircraft museum means fuel used in an aircraft or vehicle that is owned by an organization that meets all the following requirements.

1. it's exempt from income tax as an organization described in section 501(c)(3).
2. it's operated as a museum under a state (or District of Columbia) charter.
3. it's operated exclusively for acquiring, exhibiting, and caring for aircraft of the type used for combat or transport in World War II.

The aircraft or vehicle (such as a ground servicing vehicle for aircraft) must be used exclusively for the purposes described in item (3).

In military aircraft (No. 16). In a military aircraft means fuel used in an aircraft owned by the United States or any foreign nation and constituting a part of its armed forces.

In commercial aviation (other than foreign trade). See *Commercial aviation*, earlier, for the definition.

Use in a train. Use in a train means fuel used in the propulsion engine of equipment or machinery that rides on rails. This includes use in a locomotive, work train, switching engine, and track maintenance machine.

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Biodiesel or Renewable Diesel Mixture Credit, Alternative Fuel Credit, and Alternative Fuel Mixture Credit

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The section 6426 credit for biodiesel and alternative fuel consists of the biodiesel or renewable diesel mixture credit, alternative fuel credit, and alternative fuel mixture credit.

Coordination with income tax credit. Only one credit may be claimed for any amount of biodiesel or renewable diesel. If any amount is claimed (or will be claimed) for any amount of biodiesel or renewable diesel on Form 720, Form 8849, or Form 4136, then a claim can't be made on Form 8864 for that amount of biodiesel or renewable diesel.

Biodiesel or renewable diesel mixture credit claimant. Claimant produced a biodiesel mixture by mixing biodiesel with diesel fuel. Claimant produced a renewable diesel mixture by mixing renewable diesel with liquid fuel (other than renewable diesel).

The person that produced and sold or used the mixture in their trade or business is the only person eligible to make this claim. The credit is based on the gallons of biodiesel or renewable diesel in the mixture.

CAUTION *Renewable diesel doesn't include any fuel derived from coprocessing biomass (as defined in section 45K(c)(3)) with a feedstock that isn't biomass.*

Claim requirements. See the Instructions for Form 720 for the biodiesel or renewable diesel mixture claim requirements.

Alternative fuel credit claimant. For the alternative fuel credit, the registered alternative fueler who (1) sold an alternative fuel at retail delivered it into the fuel supply tank of a motor vehicle or motorboat; (2) sold an alternative fuel, delivered it in bulk taxable use in a motor vehicle or motorboat, and received required statement from the buyer; (3) used an alternative fuel (not sold at retail or in bulk as previously described) motor vehicle or motorboat; or (4) sold an alternative fuel used as a fuel in aviation is the only person eligible to make this claim.

Carbon capture requirement. A credit for Fischer-Tropsch process liquid fuel derived from coal (including peat) can be claimed only if the fuel is derived from coal produced at a gasification facility that separates and sequesters at least 75% of the facility's total carbon dioxide emissions.

Alternative fuel credit. The registered alternative fueler is the person eligible to make the claim. An alternative fueler is the person liable for tax on alternative fuel under the rules for taxable events for Other Fuels (discussed in chapter 1) or would be liable but for an exemption for nontaxable uses. An alternative fueler includes a person who sells for use or uses an alternative fuel in aviation.

Alternative fuel mixture credit claimant. For the alternative fuel mixture credit, the registered alternative fueler that produced and sold or used the mixture as a fuel in their trade or business is the only person eligible to make this claim. The credit is based on the gallons of alternative fuel in the mixture. An alternative fuel mixture is a mixture of alternative fuel and section 4081 taxable fuel (gasoline, diesel fuel, or kerosene).

CAUTION *For claims made on or after January 8, 2018, "alternative fuel mixture" means a mixture of taxable fuel and alternative fuel other than liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), liquefied gas derived from biomass, and compressed gas derived from biomass.*

Registration. You must be registered by the IRS to be eligible to claim the section 6426 fuel credit. See *Registration Requirements* in chapter 1.

Credits for fuel provide incentive for United States production. The section 6426 fuel credit may not be claimed for alternative fuel that is produced outside the United States for use as a fuel outside the United States. The United States includes any possession of the United States.

No credit for fuels derived from paper or pulp production. Credit for alternative fuels and alternative fuel mixtures isn't available for any fuel derived from the production of paper or pulp.

Filing Claims

This section tells you how to make a claim for a credit or refund of excise taxes on fuels. This section also covers recordkeeping requirements and when to include the credit or refund in your income.

Generally, you will provide all the information needed to claim a credit or refund when you properly complete Form 8849, Form 4136, Schedule C (Form 720), Form 6478, or Form 8864. In some cases, you will have to attach additional information. You need to keep records that support your claim for a credit or refund.

RECORDS Keep at your principal place of business all records needed to enable the IRS to verify that you are the person entitled to claim a credit or refund and the amount you claimed.

Ultimate purchaser. Ultimate purchasers may make claims for the nontaxable use of fuels on Form 4136, Schedule 1 (Form 8849), and Schedule C (Form 720) if reporting excise tax liability on that return. If you are an ultimate purchaser, you must keep the following records.

- The number of gallons purchased and used during the period covered by your claim.
- The dates of the purchases.
- The names and addresses of suppliers and amounts purchased from each in the period covered by your claim.
- The nontaxable use for which you used the fuel.
- The number of gallons used for each nontaxable use.

it's important that your records show separately the number of gallons used for each nontaxable use that qualifies as a claim. If the fuel is exported, you must have proof of exportation.

For more information about keeping records, see Publication 583, Starting a Business and Keeping Records, or chapter 1 of Publication 17, Your Federal Income Tax for Individuals.

Exceptions.

1. Generally, the ultimate purchaser may not claim a credit or refund for undyed diesel fuel, undyed kerosene, or kerosene for use in aviation sold for the exclusive use of a state or local government. However, see *Claims by credit card issuers*, later, for an exception.
2. The ultimate purchaser may not claim a credit or refund as follows.
   a. The ultimate purchaser of gasoline or aviation gasoline used by a state or local government for its exclusive use or by a nonprofit educational organization for its exclusive use may waive its right to make a claim by providing a certificate that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Certificate M*. A new certificate is required each year or when any information in the current certificate expires.
   b. The ultimate purchaser of kerosene for use in commercial aviation or noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia) may waive its right to make a claim by providing a waiver that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Waiver L*. A new waiver is required each year or when any information in the current waiver expires.
   c. The ultimate purchaser of undyed diesel fuel or undyed kerosene used in certain intercity and local buses may waive its right to make a claim by providing a waiver that is signed under penalties of perjury by a person authorized to bind the ultimate purchaser and is in the same format as the *Model Waiver N*. A new waiver is required each year or when any information in the current waiver expires.
   d. The ultimate purchaser of kerosene for use in nonexempt, noncommercial aviation must provide a certificate that is signed under penalties of perjury by a person authorized to bind the

ultimate purchaser and is in the same format as the *Model Certificate Q*. A new certificate is required each year or when any information in the current certificate expires.

Registered ultimate vendor. Registered ultimate vendors may make claims for certain sales of fuels on Form 4136, Schedule 2 (Form 8849), and Schedule C (Form 720) if reporting excise tax liability on that return. If you are a registered ultimate vendor, you must keep certain information pertaining to the sale of the fuel.

To make a claim, you must have sold the fuel at a tax-excluded price, repaid the tax to the buyer, or obtained the buyer's written consent to the allowance of the claim. You are required to have a valid certificate or waiver in your possession in order to make the claim.

In addition, you must have a registration number that hasn't been revoked or suspended. See Form 637.

State use. To make a claim as an ultimate vendor (state), you must have a UV registration number and the fuel can't be purchased with a credit card as explained below. If you sell undyed diesel fuel, undyed kerosene, or kerosene for use in aviation for use by a state or local government, you must keep the following information.

- The name and taxpayer identification number of each person (government unit) that bought the fuel.
- The number of gallons sold to each person.
- An unexpired certificate from the buyer. See *Model Certificate P* in the *Appendix*. The certificate expires on the earlier of 1 year after the date of the certificate or the date a new certificate is given to the registered ultimate vendor.

Nonprofit educational organization and state use. To make a claim as an ultimate vendor (nonprofit educational organization or state), you must have a UV registration number and the fuel can't be purchased with a credit card as explained later. If you sell gasoline or aviation gasoline to a nonprofit educational organization for its exclusive use or to a state or local government for its exclusive use, you must keep the following information.

- The name and taxpayer identification number of each person (nonprofit educational organization or government unit) that bought the fuel.
- The number of gallons sold to each person.
- An unexpired certificate from the buyer. See *Model Certificate M* in the *Appendix*. The certificate expires on the earlier of 1 year after the date of the certificate or the date a new certificate is given to the registered ultimate vendor.

Blocked pump. To make a claim as an ultimate vendor (blocked pump), you must have a UP registration number. If you sell undyed kerosene (other than kerosene for use in aviation) from a pump that qualifies as a blocked pump because it's locked by you after each sale and is unlocked by you at the request of the buyer, you must keep the following information for each sale of more than 5 gallons.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to that buyer.

Certain intercity and local bus use. To make a claim as an ultimate vendor of undyed diesel fuel or undyed kerosene used in certain intercity and local buses, you must have a UB registration number. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the waiver signed by the buyer at the time the credit or payment is claimed. See *Model Waiver N* in the *Appendix*.

Kerosene for use in commercial aviation or noncommercial aviation. To make a claim as an ultimate vendor of kerosene for use in commercial aviation (other than foreign trade) or noncommercial aviation (other than nonexempt, noncommercial aviation and exclusive use by a state, political subdivision of a state, or the District of Columbia), you must have a UA registration number. See *Kerosene for use in aviation*, earlier, for a list of nontaxable uses. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the waiver signed by the buyer at the time the credit or payment is claimed. See *Model Waiver L* in the *Appendix*.

Kerosene for use in nonexempt, noncommercial aviation. To make a claim as an ultimate vendor of kerosene for use in nonexempt, noncommercial aviation, you must have a UA registration number. You must keep the following information.

- The date of each sale.
- The name and address of the buyer.
- The number of gallons sold to the buyer.
- A copy of the certificate signed by the buyer at the time the credit or payment is claimed. See *Model Certificate Q* in the *Appendix*.

Claims by credit card issuers. For sales of gasoline, aviation gasoline, diesel fuel, kerosene, or kerosene for use in aviation that are purchased by an exempt user with the use of a credit card, the registered credit card issuer is the only person who can make the claim. An exempt user for this purpose is:

- For gasoline or aviation gasoline, a state or local government (including essential government use by an Indian tribal government) or a nonprofit educational organization; or
- For diesel fuel, kerosene, or kerosene for use in aviation, a state or local government (including essential government use by an Indian tribal government).

If gasoline is purchased without the use of a credit card, then the registered ultimate vendor of the gasoline may make the claim for refund or credit. However, if the gasoline is purchased with a credit card issued to a state, but the credit card issuer isn't registered by the IRS or doesn't meet the conditions described, the credit card issuer must collect the tax and the state may make the claim.

If diesel fuel, kerosene, or kerosene for use in aviation is purchased without the use of a credit card, the registered ultimate vendor may make the claim for refund or credit. A state isn't allowed to make a claim for these fuels. However, if the diesel fuel or kerosene is purchased with a credit card issued to a state, but the credit card issuer isn't registered by the IRS or doesn't meet the conditions described, the credit card issuer must collect the tax and the state may make the claim.

The claim from the credit card issuer must contain the following information as it applies to the fuel covered in the claim.

- The total number of gallons.
- Its registration number.
- A statement that it hasn't collected the amount of tax from the ultimate purchaser or has obtained the written consent of the ultimate purchaser to make the claim.
- A statement that it has repaid or agreed to repay the amount of tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to make the claim, or has otherwise made arrangements which directly or indirectly provide the ultimate vendor with reimbursement of the tax.
- Has in its possession an unexpired certificate similar to *Model Certificate R* in the *Appendix* and has no reason to believe any of the information in the certificate is false.

Taxpayer identification number. To file a claim, you must have a taxpayer identification number. Your taxpayer identification number can be an:

- Employer identification number (EIN),
- Social security number (SSN), or
- Individual taxpayer identification number (ITIN), if you are an alien individual and don't have and aren't eligible to get an SSN.

If you normally file only a U.S. individual income tax return (such as Form 1040 or 1040NR), use your SSN or ITIN. You get an SSN by filing Form SS-5, Application for a Social Security Card, with the Social Security Administration. To get an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number, with the IRS.

If you operate a business, use your EIN. If you don't have an EIN, you may apply for one online. Go to the IRS website at *IRS.gov/Businesses/Small* and click on the "Employer ID Numbers (EINs)" link. You may also apply for an EIN by faxing or mailing Form SS-4, Application for Employer Identification Number, to the IRS.

Claiming A Refund

Generally, you may claim a refund of excise taxes on Form 8849. Complete and attach to Form 8849 the appropriate Form 8849 schedules. The instructions for Form 8849 and the separate instructions for each schedule explain the requirements for making a claim for refund. If you file Form 720, you can use the Schedule C (Form 720) for your refund claims for the quarter. See the Instructions for Form 720.

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Don't claim a refund on Form 8849 for any amount for which you have filed or will file a claim on Schedule C (Form 720) or Form 4136.

Only one claim may be made for any particular amount of alternative fuel.

Claiming a Credit on Form 4136

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A credit may be claimed for certain uses and sales of fuels on Form 4136 when you file your income tax return at the end of the year. If you meet certain requirements (discussed earlier), you may be able to make a claim during the year.

Credit only. You can claim the following taxes only as a credit on Form 4136.

- Tax on fuels used for nontaxable uses if the total for your tax year is less than $750.
- Tax on fuel you didn't include in any claim for refund previously filed for any quarter of your tax year.
- Tax on fuel you used in mobile machinery (off-highway business use) that traveled less than 7,500 miles on public highways.

Don't claim a credit for any amount for which you have filed a refund claim on Form 8849 or credit on Schedule C (Form 720).

When to file. You can claim a fuel tax credit on your income tax return for the year you used the fuel (or sold the fuel in the case of a registered ultimate vendor claim).

TIP *You may be able to make a fuel tax claim on an amended income tax return for the year you used the fuel. Generally, you must file an amended return by the later of 3 years from the date you filed your original return or within 2 years from the date you paid the income tax.*

How to claim a credit. How you claim a credit depends on whether you are an individual, partnership, corporation, S corporation, or farmers' cooperative association.

Individuals. You claim the credit on the "Credits from" line of Form 1040. Also check box b on that line. If you wouldn't otherwise have to file an income tax return, you must do so to get a fuel tax credit.

Partnerships. Partnerships (other than electing large partnerships) claim the credit by including a statement on Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., showing each partner's share of the number of gallons of each fuel sold or used for a nontaxable use, the type of use, and the applicable credit per gallon. Each partner claims the credit on his or her income tax return for the partner's share of the fuel used by the partnership.

Other entities. Corporations, S corporations, farmers' cooperative associations, and trusts must make the claim on the appropriate line of their applicable income tax return.

Federal, state, and local governments, and certain tax-exempt organizations (as discussed earlier under *Claiming a Refund*) must use Form 8849, not Form 4136, to make an annual claim.

Including the Credit or Refund in Income

CAUTION *In most situations, the amount claimed as a credit or refund will be less than the amount deducted as fuel tax expense because the LUST tax is generally not refunded.*

Include any credit or refund of excise taxes on fuels in your gross income if you claimed the total cost of the fuel (including the excise taxes) as an expense deduction that reduced your income tax liability.

The year you include a credit or refund in gross income depends on whether you use the cash or an accrual method of accounting.

Cash method. If you use the cash method and file a claim for refund, include the refund amount in your gross income for the tax year in which you receive the refund. If you claim a credit on your income tax return, include the credit amount in gross income for the tax year in which you file Form 4136. If you file an amended return and claim a credit, include the credit amount in gross income for the tax year in which you receive the credit.

Example 1. Sharon Brown, a cash basis farmer, filed her 2019 Form 1040 on March 3, 2020. On her Schedule F (Form 1040), Sharon deducted the total cost of gasoline (including $110 of excise taxes) used on the farm. Then, on Form 4136, Sharon claimed $108 as a credit. Sharon reports the $108 as additional income on her 2019 Schedule F (Form 1040).

Example 2. March Corporation uses the calendar year as its tax year. For 2019, the following amounts of excise tax were included in the cost of gasoline the corporation used each quarter in a nontaxable use.

Calendar Quarters	Fuel Tax Expense	Fuel Tax Claim
Jan. 1 – March 31	$1,300	$1,293
April 1 – June 30	1,100	1,094
July 1 – Sept. 30	400	397
Oct. 1 – Dec. 31	300	298
Total	**$3,100**	**$3,082**

The corporation deducts the entire cost of the gasoline (including the $3,100 in excise taxes) it used during the year as a business expense on its corporation income tax return, thereby reducing its corporate income tax liability for that year.

Form 8849. March Corporation files quarterly refund claims for the first 2 quarters (ending March 31 and June 30). It can't file a quarterly refund claim for the third or fourth quarter because it didn't meet the $750 minimum requirement.

Since March Corporation uses the cash method of accounting, the corporation includes $2,387 ($1,293 + $1,094) in its gross income for the tax year in which it receives the refunds (2019).

Form 4136. The corporation claims the remaining amounts ($397 + $298) as a credit on its 2019 income tax return by attaching Form 4136. It files its tax return in 2020. It includes this credit ($695) in its 2019 gross income.

Example 3. Tyler S. Sands used undyed diesel fuel in vehicles used in his construction business. The vehicles weren't registered (or required to be registered) for highway use. In the fourth quarter of his 2019 income tax year, which ends in December, he used 3,000 gallons of undyed diesel fuel. The excise tax on the 3,000 gallons of undyed diesel fuel he used was $732 (tax of $.244 per gallon).

Because the tax is less than $750, Tyler must claim a credit for the tax on his 2019 income tax return. He fills out Form 4136 and attaches it to his 2019 income tax return, which he files in 2020. He enters $729 (credit of $.243 per gallon) on the "Credits from" line of his Form 1040 and checks box b.

Tyler uses the cash method of accounting. On his 2019 Schedule C (Form 1040), he deducts the total cost of the fuel, including the tax. When Tyler files his 2019 Form 1040, he will include the $729 credit shown on his 2019 Form 4136 as additional income on his Schedule C (Form 1040) for 2019.

Example, continued. For the first 2 quarters of 2019, Tyler's records show the following.

Quarter	Gallons Used	Claim Tax Rate	Claim Amount
First	2,750	.243	$668.25
Second	2,500	.243	607.50

Tyler couldn't file a claim for a refund for the first quarter because the amount of the claim was less than $750. He adds the first quarter amount ($668.25) to the second quarter amount ($607.50) and claims a refund of $1,275.75 by filing Form 8849 and Schedule 1 (Form 8849). The claim must be filed by September 30, 2019, which is the last day of the first quarter (July – Sept.) following the last quarter (April – June) included in the claim. He will have to include the $1,275.75 excise tax refund as additional income on his Schedule C (Form 1040) for 2019.

Accrual method. If you use an accrual method, include the amount of credit or refund in gross income for the tax year in which you used the fuels (or sold the fuels if you are a registered ultimate vendor). It doesn't matter whether you filed for a quarterly refund or claimed the entire amount as a credit.

Example 1. Patty Green uses an accrual method. She files her 2019 return in April 2020. On Schedule C (Form 1040) she deducts the total cost of gasoline (including $155 of excise taxes) used for an off-highway business use during 2019. On Form 4136, Patty claims $153 as a credit. She reports the $153 as additional income on her 2019 Schedule C (Form 1040).

Example 2. Use the same facts as in *Example 2* above, except that March Corporation uses an accrual method of accounting. Since the nontaxable use occurred in 2019, the

corporation reports the $3,082 of excise taxes as income on its 2019 income tax return. This consists of the $2,387 it claimed on Form 8849 and the $695 it claimed on Form 4136.

DRAFT AS OF
March 3, 2020

Part Two.

Excise Taxes Other Than Fuel Taxes

DRAFT AS OF March 9, 2020

3. Environmental Taxes

Environmental taxes are imposed on crude oil and petroleum products (oil spill liability), the sale or use of ozone-depleting chemicals (ODCs), and imported products containing or manufactured with ODCs. In addition, a floor stocks tax is imposed on ODCs held on January 1 by any person (other than the manufacturer or importer of the ODCs) for sale or for use in further manufacture.

Figure the environmental tax on Form 6627. Enter the tax on the appropriate lines of Form 720 and attach Form 6627 to Form 720.

For environmental tax purposes, United States includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the continental shelf areas (applying the principles of section 638), and foreign trade zones. No one is exempt from the environmental taxes, including the federal government, state and local governments, Indian tribal governments, and nonprofit educational organizations.

Oil Spill Liability Tax

The oil spill liability tax is reported on Form 6627, Environmental Taxes, and Form 720, Quarterly Federal Excise Tax Return (IRS Nos. 18 and 21). The oil spill liability tax rate is $.09 per barrel and generally applies to crude oil received at a U.S. refinery and to petroleum products entered into the United States for consumption, use, or warehousing. The tax also applies to certain uses and the exportation of domestic crude oil.

Crude oil includes crude oil condensates and natural gasoline. Petroleum products include crude oil, refined and residual oil, and other liquid hydrocarbon refinery products.

Crude oil. Tax is imposed on crude oil when it's received at a United Sates refinery. The operator of the refinery is liable for the tax.

Tax is imposed on domestic crude oil used or exported before it's received at a United States refinery. However, the use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced isn't taxable. The user or exporter is liable for the tax.

Imported petroleum products. Tax is imposed on petroleum products when they enter the United States for consumption, use, or warehousing. The person entering the petroleum product into the country is liable for the tax, including the tax on imported crude oil, even if it's subsequently received at a U.S. refinery.

Tax is imposed only once on any imported petroleum product. Thus, the operator of a U.S. refinery that receives imported crude oil must establish that the petroleum tax has already been imposed on such crude oil in order not to be liable for the tax.

Ozone-Depleting Chemicals (ODCs)

For a list of the taxable ODCs and tax rates, see the Form 6627 instructions.

Taxable event. Tax is imposed on an ODC when it's first used or sold by its manufacturer or importer. The manufacturer or importer is liable for the tax.

Use of ODCs. You use an ODC if you put it into service in a trade or business or for the production of income. Also, an ODC is used if you use it in the making of an article, including incorporation into the article, chemical transformation, or release into the air. The loss, destruction, packaging, repackaging, or warehousing of ODCs isn't a use of the ODC.

The creation of a mixture containing an ODC is treated as a taxable use of the ODC contained in the mixture. An ODC is contained in a mixture only if the chemical identity of the ODC isn't changed. Generally, tax is imposed when the mixture is created and not on its sale or use. However, you can choose to have the tax imposed on its sale or use by checking the appropriate box on Form 6627. You can revoke this choice only with IRS consent.

The creation of a mixture for export or for use as a feedstock isn't a taxable use of the ODCs contained in the mixture.

Exceptions. The following may be exempt from the tax on ODCs.

- Metered-dose inhalers.
- Recycled ODCs.
- Exported ODCs.
- ODCs used as feedstock.

Metered-dose inhalers. There is no tax on ODCs used or sold for use as propellants in metered-dose inhalers. For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form as the sample certificate set forth in Regulations section 52.4682-2(d)(5). The certificate may be included as part of the sales documentation. Keep the certificate with your records.

Recycled ODCs. There is no tax on any ODC diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process). There is no tax on recycled Halon-1301 or recycled Halon-2402 imported from a country that has signed the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol).

The Montreal Protocol is administered by the United Nations (U.N.). To determine if a country has signed the Montreal Protocol, contact the U.N. The website is UNtreaty.un.org.

Exported ODCs. Generally, there is no tax on ODCs sold for export if certain requirements are met. For a sale to be nontaxable, you and the purchaser must be registered. See Form 637, Application for Registration (for Certain Excise Tax Activities). Also, you must obtain from the purchaser an exemption certificate that you rely on in good faith. Keep the certificate with your records. The certificate must be in substantially the same form as the sample certificate set forth in Regulations section 52.4682-5(d)(3). The tax benefit of this exemption is limited. For more information, see Regulations section 52.4682-5.

ODCs used as feedstock. There is no tax on ODCs sold for use or used as a feedstock. An ODC is used as a feedstock only if the ODC is entirely consumed in the manufacture of another chemical. The transformation of an ODC into one or more new compounds qualifies as use as a feedstock, but use of an ODC in a mixture doesn't qualify.

For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the same form as the sample certificate set forth in Regulations section

52.4682-2(d)(2). Keep the certificate with your records.

Credits or refunds. A credit or refund (without interest) of tax paid on ODCs may be claimed if a taxed ODC is:

- Used as a propellant in a metered-dose inhaler (the person who used the ODC as a propellant may file a claim),
- Exported (the manufacturer may file a claim), or
- Used as a feedstock (the person who used the ODC may file a claim).

For information on how to file for credits or refunds, see the Instructions for Form 720 or Schedule 6 (Form 8849).

Conditions to allowance for ODCs exported. To claim a credit or refund for ODCs that are exported, you must have repaid or agreed to repay the tax to the exporter, or obtained the exporter's written consent to allowance of the credit or refund. You must also have the evidence required by the EPA as proof that the ODCs were exported.

Imported Taxable Products

An imported product containing or manufactured with ODCs is subject to tax if it's entered into the United States for consumption, use, or warehousing and is listed in the Imported Products Table. The Imported Products Table is listed in Regulations section 52.4682-3(f)(6).

The tax is based on the weight of the ODCs used in the manufacture of the product. Use the following methods to figure the ODC weight.

- The actual (exact) weight of each ODC used as a material in manufacturing the product.
- If the actual weight can't be determined, the ODC weight listed for the product in the Imported Products Table.

However, if you can't determine the actual weight and the table doesn't list an ODC weight for the product, the rate of tax is 1% of the entry value of the product.

Taxable event. Tax is imposed on an imported taxable product when the product is first sold or used by its importer. The importer is liable for the tax.

Use of imported products. You use an imported product if you put it into service in a trade or business or for the production of income or use it in the making of an article, including incorporation into the article. The loss, destruction, packaging, repackaging, warehousing, or repair of an imported product isn't a use of that product.

Entry as use. The importer may choose to treat the entry of a product into the United States as the use of the product. Tax is imposed on the date of entry instead of when the product is sold or used. The choice applies to all imported taxable products that you own and haven't used when you make the choice and all later entries. Make the choice by checking the box in Part II of Form 6627. The choice is effective as of the beginning of the calendar quarter to which the Form 6627 applies. You can revoke this choice only with IRS consent.

Sale of article incorporating imported product. The importer may treat the sale of an article manufactured or assembled in the United States as the first sale or use of an imported taxable product incorporated in that article if both the following apply.

- The importer has consistently treated the sale of similar items as the first sale or use of similar taxable imported products.
- The importer hasn't chosen to treat entry into the United States as use of the product.

Imported products table. The table lists all the products that are subject to the tax on imported taxable products and specifies the ODC weight (discussed later) of each product.

Each listing in the table identifies a product by name and includes only products that are described by that name. Most listings identify a product by both name and Harmonized Tariff Schedule (HTS) heading. In those cases, a product is included in that listing only if the product is described by that name and the rate of duty on the product is determined by reference to that HTS heading. A product is included in the listing even if it's manufactured with or contains a different ODC than the one specified in the table.

Part II of the table lists electronic items that aren't included within any other list in the table. An imported product is included in this list only if the product meets one of the following tests.

- it's an electronic component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits.
- It contains components described in (1), which account for more than 15% of the cost of the product.

These components don't include passive electrical devices, such as resistors and capacitors. Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic item aren't themselves included in the listing for electronic items.

Rules for listing products. Products are listed in the table according to the following rules.

1. A product is listed in Part I of the table if it's a mixture containing ODCs.
2. A product is listed in Part II of the table if the Commissioner has determined that the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.
3. A product is listed in Part III of the table if the Commissioner has determined that the product meets both the following tests.
   a. It isn't an imported taxable product.
   b. It would otherwise be included within a list in Part II of the table.

For example, floppy disk drive units are listed in Part III because they aren't imported taxable products and would have been included in the Part II list for electronic items not specifically identified, but for their listing in Part III.

ODC weight. The Table ODC weight of a product is the weight, determined by the Commissioner, of the ODCs used as materials in the manufacture of the product under the predominant method of manufacturing. The ODC weight is listed in Part II in pounds per single unit of product unless otherwise specified.

Modifying the table. A manufacturer or importer of a product may request that the IRS add a product and its ODC weight to the table. They also may request the IRS remove a product from the table, or change or specify the ODC weight of a product. To request a modification, see Regulations section 52.4682-3(g) for the mailing address and information that must be included in the request.

Floor Stocks Tax

Tax is imposed on any ODC held (other than by the manufacturer or importer of the ODC) on January 1 for sale or use in further manufacturing. The person holding title (as determined under local law) to the ODC is liable for the tax, whether or not delivery has been made.

These chemicals are taxable without regard to the type or size of storage container in which the ODCs are held. The tax may apply to an ODC whether it's in a 14-ounce can or a 30-pound tank.

You are liable for the floor stocks tax if you hold any of the following on January 1.

1. At least 400 pounds of ODCs other than halons or methyl chloroform,
2. At least 50 pounds of halons, or
3. At least 1,000 pounds of methyl chloroform.

If you are liable for the tax, prepare an inventory on January 1 of the taxable ODCs held on that date for sale or for use in further manufacturing. You must pay this floor stocks tax by June 30 of each year. Report the tax on Form 6627 and Part II of Form 720 for the second calendar quarter.

For the tax rates, see the Form 6627 instructions.

ODCs not subject to floor stocks tax. The floor stocks tax isn't imposed on any of the following ODCs.

1. ODCs mixed with other ingredients that contribute to achieving the purpose for which the mixture will be used, unless the mixture contains only ODCs and one or more stabilizers.
2. ODCs contained in a manufactured article in which the ODCs will be used for their intended purpose without being released from the article.
3. ODCs that have been reclaimed or recycled.

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4. ODCs sold in a qualifying sale for:
   a. Use as a feedstock,
   b. Export, or
   c. Use as a propellant in a metered-dose inhaler.

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4. Communications and Air Transportation Taxes

Excise taxes are imposed on amounts paid for certain facilities and services. If you receive any payment on which tax is imposed, you are required to collect the tax, file returns, and pay the tax over to the government.

If you fail to collect and pay over the taxes, you may be liable for the trust fund recovery penalty. See chapter 14, later.

Uncollected Tax Report

A separate report is required to be filed by collecting agents of communications services and air transportation taxes if the person from whom the facilities or services tax (the tax) is required to be collected (the taxpayer) refuses to pay the tax, or it's impossible for the collecting agent to collect the tax. The report must contain the name and address of the taxpayer, the type of facility provided or service rendered, the amount paid for the facility or service (the amount on which the tax is based), and the date paid.

Regular method taxpayers. For regular method taxpayers, the report must be filed by the due date of the Form 720 on which the tax would have been reported.

Alternative method taxpayers. For alternative method taxpayers, the report must be filed by the due date of the Form 720 that includes an adjustment to the separate account for the uncollected tax. See *Alternative method* in chapter 11.

Where to file. Don't file the uncollected tax report with Form 720. Instead, mail the report to:

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999

Communications Tax

A 3% tax is imposed on amounts paid for local telephone service and teletypewriter exchange service.

Local telephone service. This includes access to a local telephone system and the privilege of telephonic quality communication with most people who are part of the system. Local telephone service also includes any facility or services provided in connection with this service. The tax applies to lease payments for certain customer premises equipment (CPE) even though the lessor doesn't also provide access to a local telecommunications system.

Local-only service. Local-only service is local telephone service as described above, provided under a plan that doesn't include long distance telephone service or that separately states the charge for local service on the bill to customers. Local-only service also includes any facility or services provided in connection with this service, even though these services and facilities may also be used with long-distance service.

Private communication service. Private communication service isn't local telephone service. Private communication service includes accessory-type services provided in connection with a Centrex, PBX, or other similar system for dual use accessory equipment. However, the charge for the service must be stated separately from the charge for the basic system, and the accessory must function, in whole or in part, in connection with intercommunication among the subscriber's stations.

Teletypewriter exchange service. This includes access from a teletypewriter or other data station to a teletypewriter exchange system and the privilege of intercommunication by that station with most persons having teletypewriter or other data stations in the same exchange system.

Figuring the tax. The tax is based on the sum of all charges for local telephone service included in the bill. However, if the bill groups individual items for billing and tax purposes, the tax is based on the sum of the individual items within that group. The tax on the remaining items not included in any group is based on the charge for each item separately. Don't include in the tax base state or local sales or use taxes that are separately stated on the taxpayer's bill.

Exemptions

Payments for certain services or payments from certain users are exempt from the communications tax.

Nontaxable service. Nontaxable service means bundled service and long distance service. Nontaxable service also includes pre-paid telephone cards and pre-paid cellular service.

Bundled service. Bundled service is local and long distance service provided under a plan that doesn't separately state the charge for the local telephone service. Bundled service includes plans that provide both local and long distance service for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the service is used. Telecommunications companies provide bundled service for both landlines and wireless (cellular) service. If Voice over Internet Protocol service provides both local and long distance service and the charges aren't separately stated, such service is bundled service.

The method for sending or receiving a call, such as on a landline telephone, wireless (cellular), or some other method, doesn't affect whether a service is local-only or bundled.

Long distance service. Long distance service is telephonic quality communication with persons whose telephones are outside the local telephone system of the caller.

Pre-paid telephone cards (PTC). A PTC will be treated as bundled service unless a PTC expressly states it's for local-only service. Generally, the person responsible for collecting the tax is the carrier who transfers the PTC to the transferee. The transferee is the first person that isn't a carrier to whom a PTC is transferred by the carrier. The transferee is the person liable for the tax and is eligible to request a credit or refund. For more information, see Regulations section 49.4251-4.

The holder is the person that purchases a PTC to use and not to resell. Holders aren't liable for the tax and can't request a credit or refund.

Pre-paid cellular telephones. Rules similar to the PTC rules described above apply to pre-paid cellular telephones. The transferee is the person eligible to request the credit or refund.

Installation charges. The tax doesn't apply to payments received for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment. However, the tax does apply to payments for the repair or replacement of those items incidental to ordinary maintenance.

Answering services. The tax doesn't apply to amounts paid for a private line, an answering service, and a one-way paging or message service if they don't provide access to a local telephone system and the privilege of telephonic communication as part of the local telephone system.

Mobile radio telephone service. The tax doesn't apply to payments for a two-way radio service that doesn't provide access to a local telephone system.

Coin-operated telephones. The tax for local telephone service doesn't apply to payments made for services by inserting coins in public coin-operated telephones. But the tax applies if the coin-operated telephone service is furnished for a guaranteed amount. Figure the tax on the amount paid under the guarantee plus any fixed monthly or other periodic charge.

Telephone-operated security systems. The tax doesn't apply to amounts paid for telephones used only to originate calls to a limited

number of telephone stations for security entry into a building. In addition, the tax doesn't apply to any amounts paid for rented communication equipment used in the security system.

News services. The tax on teletypewriter exchange service doesn't apply to charges for the following news services.

- Services dealing exclusively with the collection or dissemination of news for or through the public press or radio or television broadcasting.
- Services used exclusively in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press.

This exemption applies to payments received for messages from one member of the news media to another member (or to or from their bona fide correspondents). For the exemption to apply, the charge for these services must be billed in writing to the person paying for the service and that person must certify in writing that the services are used for an exempt purpose.

Services not exempted. The tax applies to amounts paid by members of the news media for local telephone service.

International organizations and the American Red Cross. The tax doesn't apply to communication services furnished to an international organization or to the American National Red Cross.

Nonprofit hospitals. The tax doesn't apply to telephone services furnished to income tax-exempt nonprofit hospitals for their use. Also, the tax doesn't apply to amounts paid by these hospitals to provide local telephone service in the homes of their personnel who must be reached during their off-duty hours.

Nonprofit educational organizations. The tax doesn't apply to payments received for services and facilities furnished to a nonprofit educational organization for its use. A nonprofit educational organization is one that satisfies all the following requirements.

- It normally maintains a regular faculty and curriculum.
- It normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.
- it's exempt from income tax under section 501(a).

This includes a school operated by an organization exempt under section 501(c)(3) if the school meets the above qualifications.

Qualified blood collector organizations. The tax doesn't apply to telephone services furnished to qualified blood collector organizations for their use. A qualified blood collector organization is one that is:

- Described in section 501(c)(3) and exempt from tax under section 501(a),
- Primarily engaged in the activity of collecting human blood,
- Registered with the IRS, and
- Registered by the Food and Drug Administration to collect blood.

Federal, state, and local government. The tax doesn't apply to communication services provided to the government of the United States, the government of any state or its political subdivisions, the District of Columbia, or the United Nations. Treat an Indian tribal government as a state for the exemption from the communications tax only if the services involve the exercise of an essential tribal government function.

Exemption certificate. Any form of exemption certificate will be acceptable if it includes all the information required by the Internal Revenue Code and Regulations. See Regulations section 49.4253-11. File the certificate with the provider of the communication services. An exemption certificate isn't required for nontaxable services.

The following users that are exempt from the communications tax don't have to file an annual exemption certificate after they have filed the initial certificate to claim an exemption from the communications tax.

- The American National Red Cross and other international organizations.
- Nonprofit hospitals.
- Nonprofit educational organizations.
- Qualified blood collector organizations.
- State and local governments.

The federal government doesn't have to file any exemption certificate.

All other organizations must furnish exemption certificates when required.

Credits or Refunds

If tax is collected and paid over for nontaxable services, or for certain services or users exempt from the communications tax, the collector or taxpayer may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the tax may claim a refund. For more information on how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

Collectors. The collector may request a credit or refund if it has repaid the tax to the person from whom the tax was collected, or obtained the consent of that person to the allowance of the credit or refund. These requirements also apply to nontaxable service refunds.

Collectors using the regular method for deposits. Collectors using the regular method for deposits must use Form 720-X to request a credit or refund if the collector has repaid the tax to the person from whom the tax was collected, or obtained the consent of that person to the allowance of the credit or refund.

Collectors using the alternative method for deposits. Collectors using the alternative method for deposits must adjust their separate accounts for the credit or refund if it has repaid the tax to the person from whom the tax was collected, or obtained the consent of that person to the allowance of the credit or refund. For more information, see the Instructions for Form 720.

Air Transportation Taxes

Taxes are imposed on amounts paid for:

- Aircraft Management Services
- Transportation of persons by air,
- Use of international air travel facilities, and
- Transportation of property by air.

Aircraft Management Services

Effective December 23, 2017, payments related to the management of private aircraft are exempt from section 4261 excise taxes imposed on taxable transportation by air. If the passenger is the owner of the aircraft and makes a payment to a management company for the provision of a pilot and services on the aircraft owner's personal aircraft, the payment isn't subject to the tax. However, the provision provides a pro rata allocation rule in the event that a monthly payment made to a management company is allocated in part to exempt services for flights on the aircraft owner's aircraft, and in part to flights on aircraft other than the aircraft owner's. In this circumstance, the tax must be collected on that portion of the payment attributable to flights on aircraft not owned by the aircraft owner. This exemption includes those who lease an aircraft for more than 31 days. If the lease is for less than 31 days, fractional aircraft ownerships, or on an aircraft that is part of a fleet of aircraft available for third-party charter services, then the payment is subject to the tax.

Transportation of Persons by Air

The tax on transportation of persons by air is made up of the:

- Percentage tax, and
- Domestic-segment tax.

Percentage tax. A tax of 7.5% applies to amounts paid for taxable transportation of persons by air. Amounts paid for transportation include charges for layover or waiting time and movement of aircraft in deadhead service.

Mileage awards. The percentage tax may apply to an amount paid (in cash or in kind) to an air carrier (or any related person) for the right to provide mileage awards for, or other reductions in the cost of, any transportation of persons by air. For example, this applies to mileage awards purchased by credit card companies, telephone companies, restaurants, hotels, and other businesses.

Generally, the percentage tax doesn't apply to amounts paid for mileage awards where the mileage awards can't, under any circumstances, be redeemed for air transportation that is subject to the tax. Until regulations are issued, the following rules apply to mileage awards.

- Amounts paid for mileage awards that can't be redeemed for taxable transportation beginning and ending in the United States aren't subject to the tax. For this rule, mileage awards issued by a foreign air carrier are considered to be usable only on that foreign air carrier and thus not

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redeemable for taxable transportation beginning and ending in the United States. Therefore, amounts paid to a foreign air carrier for mileage awards aren't subject to the tax.

- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation aren't subject to the tax to the extent those miles will be awarded in connection with the purchase of taxable transportation.
- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are subject to the tax to the extent those miles won't be awarded in connection with the purchase of taxable transportation.

Domestic-segment tax. The domestic-segment tax is a flat dollar amount for each segment of taxable transportation for which an amount is paid. However, see *Rural airports* below. A segment is a single take off and a single landing.

Note. Generally, the tax on each domestic-segment of taxable air transportation increases annually based on adjustments for inflation. See the Instructions for Form 720 for the tax rate.

Charter flights. If an aircraft is chartered, the domestic-segment tax for each segment of taxable transportation is figured by multiplying the tax by the number of passengers transported on the aircraft.

Rural airports. The domestic-segment tax doesn't apply to a segment to or from a rural airport. An airport is a rural airport for a calendar year if fewer than 100,000 commercial passengers departed from the airport by air during the second preceding calendar year (the 100,000 passenger rule), and one of the following is true:

1. The airport isn't located within 75 miles of another airport from which 100,000 or more commercial passengers departed during the second preceding calendar year,
2. The airport was receiving essential air service subsidies as of August 5, 1997, or
3. The airport isn't connected by paved roads to another airport.

To apply the 100,000 passenger rule to any airport described in (3) above, only count commercial passengers departing from the airport by air on flight segments of at least 100 miles.

An updated list of rural airports can be found on the Department of Transportation website at *www.dot.gov* and enter the phrase "Essential Air Service" in the search box.

Taxable transportation. Taxable transportation is transportation by air that meets either of the following tests.

- It begins and ends either in the United States or at any place in Canada or Mexico not more than 225 miles from the nearest point on the continental United States boundary (this is the 225-mile zone).
- it's directly or indirectly from one port or station in the United States to another port or station in the United States, but only if it isn't a part of uninterrupted international air transportation, discussed later.

Round trip. A round trip is considered two separate trips. The first trip is from the point of departure to the destination. The second trip is the return trip from that destination.

Uninterrupted international air transportation. This means transportation entirely by air that doesn't begin and end in the United States or in the 225-mile zone if there isn't more than a 12-hour scheduled interval between arrival and departure at any station in the United States. For a special rule that applies to military personnel, see *Exemptions*, later.

Transportation between the continental United States and Alaska or Hawaii. This transportation is partially exempt from the tax on transportation of persons by air. The tax doesn't apply to the part of the trip between the point at which the route of transportation leaves or enters the continental United States (or a port or station in the 225-mile zone) and the point at which it enters or leaves Hawaii or Alaska. Leaving or entering occurs when the route of the transportation passes over either the United States border or a point 3 nautical miles (3.45 statute miles) from low tide on the coastline, or when it leaves a port or station in the 225-mile zone. Therefore, this transportation is subject to the percentage tax on the part of the trip in U.S. airspace, the domestic-segment tax for each domestic segment, and the tax on the use of international air travel facilities, discussed later.

Transportation within Alaska or Hawaii. The tax on transportation of persons by air applies to the entire fare paid in the case of flights between any of the Hawaiian Islands, and between any ports or stations in the Aleutian Islands or other ports or stations elsewhere in Alaska. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on the direct line of transportation between the ports or stations is more than 225 miles from the United States (Hawaii or Alaska).

Package tours. The air transportation taxes apply to "complimentary" air transportation furnished solely to participants in package holiday tours. The amount paid for these package tours includes a charge for air transportation even though it may be advertised as "free." This rule also applies to the tax on the use of international air travel facilities, discussed later.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person receiving the payment collects the tax, files the returns, and pays the tax over to the government. However, if payment is made outside the United States for a prepaid order, exchange order, or similar order, the person furnishing the initial transportation provided for under that order must collect the tax.

A travel agency that is an independent broker and sells tours on aircraft that it charters must collect the transportation tax, file the returns, and pay the tax over to the government. However, a travel agency that sells tours as the agent of an airline must collect the tax and remit it to the airline for the filing of returns and for the payment of the tax over to the government. An independent third party that isn't under the airline's supervision or control, but is acting on behalf of, and receiving compensation from, a passenger, isn't required to collect the tax and pay it to the government. For more information on resellers of air transportation, see Revenue Ruling 2006-52. You can find Revenue Ruling 2006-52 on page 761 of I.R.B. 2006-43, at *IRS.gov/PUB/IRB/IRB2006-43#RR2006-52*.

The fact that the aircraft doesn't use public or commercial airports in taking off and landing has no effect on the tax. But see *Certain helicopter uses*, later.

For taxable transportation that begins and ends in the United States, the tax applies regardless of whether the payment is made in or outside the United States.

If the tax isn't paid when payment for the transportation is made, the air carrier providing the initial segment of the transportation that begins or ends in the United States becomes liable for the tax.

Exemptions. The tax on transportation of persons by air doesn't apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

Military personnel on international trips. When traveling in uniform at their own expense, United States military personnel on authorized leave are deemed to be traveling in uninterrupted international air transportation (defined earlier) even if the scheduled interval between arrival and departure at any station in the United States is actually more than 12 hours. However, such personnel must buy their tickets within 12 hours after landing at the first domestic airport and accept the first available accommodation of the type called for by their tickets. The trip must begin or end outside the United States and the 225-mile zone.

Certain helicopter uses. The tax doesn't apply to air transportation by helicopter if the helicopter is used for any of the following purposes.

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
3. Providing emergency medical transportation.

However, during a use described in items (1) or (2), the tax applies if the helicopter takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

Fixed-wing aircraft uses. The tax doesn't apply to air transportation by fixed-wing aircraft if the fixed-wing aircraft is used for any of the following purposes.

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1. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
2. Providing emergency medical transportation. The aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

However, during a use described in item (1), the tax applies if the fixed-wing aircraft takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code.

Skydiving. The tax doesn't apply to any air transportation exclusively for the purpose of skydiving.

Seaplanes. The tax doesn't apply to any air transportation by seaplane for any segment consisting of a takeoff from, and a landing on, water if the places where the takeoff and landing occur aren't receiving financial assistance from the Airport and Airways Trust Fund.

Bonus tickets. The tax doesn't apply to free bonus tickets issued by an airline company to its customers who have satisfied all requirements to qualify for the bonus tickets. However, the tax applies to amounts paid by customers for advance bonus tickets when customers have traveled insufficient mileage to fully qualify for the free advance bonus tickets.

International Air Travel Facilities

A tax per person is imposed (whether in or outside the United States) for international flights that begin **or** end in the United States. However, for a domestic segment that begins or ends in Alaska or Hawaii, a reduced tax per person applies only to departures. This tax doesn't apply if all the transportation is subject to the percentage tax, discussed earlier. It also doesn't apply if the surtax on fuel used in a fractional ownership program aircraft (discussed earlier) is imposed. See the Instructions for Form 720 for the tax rates.

Note. Generally, both the tax on the use of international air travel facilities for any international air transportation, if the transportation begins or ends in the United States, and the tax per person for domestic segments that begins or ends in Alaska or Hawaii (applies to departures only), are increased annually based on inflation adjustments. See the Instructions for Form 720 for the tax rate.

Transportation of Property by Air

A tax of 6.25% is imposed on amounts paid (whether in or outside the United States) for transportation of property by air. The fact that the aircraft may not use public or commercial airports in taking off and landing has no effect on the tax. The tax applies only to amounts paid to a person engaged in the business of transporting property by air for hire.

The tax applies only to transportation (including layover time and movement of aircraft in deadhead service) that begins and ends in the United States. Thus, the tax doesn't apply to transportation of property by air that begins or ends outside the United States.

Exemptions. The tax on transportation of property by air doesn't apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

Cropdusting and firefighting service. The tax doesn't apply to amounts paid for cropdusting or aerial firefighting service.

Exportation. The tax doesn't apply to payments for transportation of property by air in the course of exportation (including to United States possessions) by continuous movement, as evidenced by the execution of Form 1363, Export Exemption Certificate. See Form 1363 for more information.

Certain helicopter and fixed-wing air ambulance uses. The tax doesn't apply to amounts paid for the use of helicopters in construction to set heating and air conditioning units on roofs of buildings, to dismantle tower cranes, and to aid in construction of power lines and ski lifts.

The tax also doesn't apply to air transportation by helicopter or fixed-wing aircraft for the purpose of providing emergency medical services. The fixed-wing aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

Skydiving. The tax doesn't apply to any air transportation exclusively for the purpose of skydiving.

Excess baggage. The tax doesn't apply to excess baggage accompanying a passenger on an aircraft operated on an established line.

Surtax on fuel used in a fractional ownership program aircraft. The tax doesn't apply if the surtax on fuel used in a fractional ownership program aircraft (discussed earlier) is imposed.

Alaska and Hawaii. For transportation of property to and from Alaska and Hawaii, the tax in general doesn't apply to the portion of the transportation that is entirely outside the continental United States (or the 225-mile zone if the aircraft departs from or arrives at an airport in the 225-mile zone). But the tax applies to flights between ports or stations in Alaska and the Aleutian Islands, as well as between ports or stations in Hawaii. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on a line drawn from where the route of transportation leaves the United States (Alaska) to where it reenters the United States (Alaska) is more than 225 miles from the United States.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person engaged in the business of transporting property by air for hire receives the payment, collects the tax, files the returns, and pays the tax over to the government.

If tax isn't paid when a payment is made outside the United States, the person furnishing the last segment of taxable transportation collects the tax from the person to whom the property is delivered in the United States.

Special Rules on Transportation Taxes

Aircraft used by affiliated corporations. The taxes don't apply to payments received by one member of an affiliated group of corporations from another member for services furnished in connection with the use of an aircraft. However, the aircraft must be owned or leased by a member of the affiliated group and can't be available for hire by a nonmember of the affiliated group. Determine whether an aircraft is available for hire by a nonmember of an affiliated group on a flight-by-flight basis.

For this rule, an affiliated group of corporations is any group of corporations connected with a common parent corporation through 80% or more of stock ownership.

Small aircraft. The taxes don't apply to transportation furnished by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less. However, the taxes do apply if the aircraft is operated on an established line. "Operated on an established line" means the aircraft operates with some degree of regularity between definite points. However, it doesn't include any time an aircraft is being operated on a flight that is solely for sightseeing.

Consider an aircraft to be operated on an established line if it's operated on a charter basis between two cities also served by that carrier on a regularly scheduled basis.

Also, the taxes apply if the aircraft is jet-powered, regardless of its maximum certificated takeoff weight or whether or not it's operated on an established line.

Mixed load of persons and property. If a single amount is paid for air transportation of persons and property, the payment must be allocated between the amount subject to the tax on transportation of persons and the amount subject to the tax on transportation of property. The allocation must be reasonable and supported by adequate records.

Credits or refunds. If tax is collected and paid over for air transportation that isn't taxable air transportation, the collector may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the tax may claim a refund. For information on how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

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Manufacturers Taxes

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The following discussion of manufacturers taxes applies to the tax on:

- Sport fishing equipment;
- Fishing rods and fishing poles;
- Electric outboard motors;
- Fishing tackle boxes;
- Bows, quivers, broadheads, and points;
- Arrow shafts;
- Coal;
- Taxable tires;
- Gas guzzler automobiles; and
- Vaccines.

Manufacturer. The term "manufacturer" includes a producer or importer. A manufacturer is any person who produces a taxable article from new or raw material, or from scrap, salvage, or junk material, by processing or changing the form of an article or by combining or assembling two or more articles. If you furnish the materials and keep title to those materials and to the finished article, you are considered the manufacturer even though another person actually manufactures the taxable article.

A manufacturer who sells a taxable article in knockdown (unassembled) condition is liable for the tax. The person who buys these component parts and assembles a taxable article may also be liable for tax as a further manufacturer depending on the labor, material, and overhead required to assemble the completed article if the article is assembled for business use.

Importer. An importer is a person who brings a taxable article into the United States, or withdraws a taxable article from a customs bonded warehouse for sale or use in the United States.

Sale. A sale is the transfer of the title to, or the substantial incidents of ownership in, an article to a buyer for consideration that may consist of money, services, or other things.

Use considered sale. A manufacturer who uses a taxable article is liable for the tax in the same manner as if it were sold.

Lease considered sale. The lease of an article (including any renewal or extension of the lease) by the manufacturer is generally considered a taxable sale. However, for the gas guzzler tax, only the first lease (excluding any renewal or extension) of the automobile by the manufacturer is considered a sale.

Manufacturers taxes based on sale price. The manufacturers taxes imposed on the sale of sport fishing equipment, electric outboard motors, and bows are based on the sale price of the article. The taxes imposed on coal are based either on the sale price or the weight.

The price for which an article is sold includes the total consideration paid for the article, whether that consideration is in the form of money, services, or other things. However, you include certain charges made when a taxable article is sold and you exclude others. To figure the price on which you base the tax, use the following rules.

1. **Include** both the following charges in the price.
   a. Any charge for coverings or containers (regardless of their nature).
   b. Any charge incident to placing the article in a condition packed ready for shipment.
2. **Exclude** all the following amounts from the price.
   a. The manufacturers excise tax, whether or not it's stated as a separate charge.
   b. The transportation charges pursuant to the sale. The cost of transportation of goods to a warehouse before their bona fide sale isn't excludable.
   c. Delivery, insurance, installation, retail dealer preparation charges, and other charges you incur in placing the article in the hands of the purchaser under a bona fide sale.
   d. Discounts, rebates, and similar allowances actually granted to the purchaser.
   e. Local advertising charges. A charge made separately when the article is sold and that qualifies as a charge for "local advertising" may, within certain limits, be excluded from the sale price.
   f. Charges for warranty paid at the purchaser's option. However, a charge for a warranty of an article that the manufacturer requires the purchaser to pay to obtain the article is included in the sale price on which the tax is figured.

Bonus goods. Allocate the sale price if you give free nontaxable goods with the purchase of taxable merchandise. Figure the tax only on the sale price attributable to the taxable articles.

Example. A manufacturer sells a quantity of taxable articles and gives the purchaser certain nontaxable articles as a bonus. The sale price of the shipment is $1,500. The normal sale price is $2,000: $1,500 for the taxable articles and $500 for the nontaxable articles. Since the taxable items represent 75% of the normal sale price, the tax is based on 75% of the actual sale price, or $1,125 (75% of $1,500). The remaining $375 is allocated to the nontaxable articles.

Taxable Event

Tax attaches when the title to the article sold passes from the manufacturer to the buyer. When the title passes depends on the intention of the parties as gathered from the contract of sale. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale occurs determine when title passes.

If the taxable article is used by the manufacturer, the tax attaches at the time use begins.

The manufacturer is liable for the tax.

Partial payments. The tax applies to each partial payment received when taxable articles are:

- Leased,
- Sold conditionally,
- Sold on installment with chattel mortgage, or
- Sold on installment with title to pass in the future.

To figure the tax, multiply the partial payment by the tax rate in effect at the time of the payment.

Exemptions

The following sales by the manufacturer are exempt from the manufacturers tax.

- Sale of an article to a state or local government for the exclusive use of the state or local government. This exemption doesn't apply to the taxes on coal, gas guzzlers, and vaccines. State is defined in *Definitions* in chapter 1.
- Sale of an article to a nonprofit educational organization for its exclusive use. This exemption doesn't apply to the taxes on coal, gas guzzlers, and vaccines. Nonprofit educational organization is defined under *Communications Tax* in chapter 4.
- Sale of an article to a qualified blood collector organization. This exemption doesn't apply to gas guzzlers, recreational equipment, and vaccines. Qualified blood collector organizations are defined under *Communications Tax* in chapter 4.
- Sale of an article for use by the purchaser as supplies for vessels. This exemption doesn't apply to the taxes on coal and vaccines. Supplies for vessels means ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or any foreign nation, vessels employed in the fisheries or whaling business, or vessels actually engaged in foreign trade.
- Sale of an article for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by the second purchaser for further manufacture. This exemption doesn't apply to the tax on coal and tires. Use for further manufacture means use in the manufacture or production of an article subject to the manufacturers excise taxes. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and sold them.
- Sale of an article for export or for resale by the purchaser to a second purchaser for export. The article may be exported to a foreign country or to a possession of the United States. A vaccine shipped to a possession of the United States isn't considered to be exported. If an article is sold tax free for export and the manufacturer

doesn't receive proof of export, described later, the manufacturer is liable for the tax.
- Sales of articles of native Indian handicraft, such as bows and arrow shafts, manufactured by Indians on reservations, in Indian schools, or under U.S. jurisdiction in Alaska.
- For tire exemptions, see section 4221(e)(2).

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Requirements for Exempt Sales

The following requirements must be met for a sale to be exempt from the manufacturers tax.

Registration requirements. The manufacturer, first purchaser, and second purchaser in the case of resales must be registered. See the Form 637 instructions for more information.

Exceptions to registration requirements. Registration isn't required for:
- State or local governments,
- Foreign purchasers of articles sold or resold for export,
- The U.S. Government, or
- Parties to a sale of supplies for vessels and aircraft.

Certification requirement. If the purchaser is required to be registered, the purchaser must give the manufacturer its registration number and certify the exempt purpose for which the article will be used. The information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with the sale.

For a sale to a state or local government, an exemption certificate must be signed by an officer or employee authorized by the state or local government. See Regulations section 48.4221-5(c) for the certificate requirements.

For sales for use as supplies for vessels and aircraft, if the manufacturer and purchaser aren't registered, the owner or agent of the vessel must provide an exemption certificate to the manufacturer before or at the time of sale. See Regulations section 48.4221-4(d) for the certificate requirements.

Proof of export requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof of exportation. See Regulations section 48.4221-3(d) for evidence that qualifies as proof of exportation.

Proof of resale for further manufacture requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof that the article has been resold for use in further manufacture. See Regulations section 48.4221-2(c) for evidence that qualifies as proof of resale.

Information to be furnished to purchaser. The manufacturer must indicate to the purchaser that the articles normally would be subject to tax and are being sold tax free for an exempt purpose because the purchaser has provided the required certificate.

Credits or Refunds

The manufacturer may be eligible to obtain a credit or refund of the manufacturers tax for certain uses, sales, exports, and price readjustments. The claim must set forth in detail the facts upon which the claim is based.

Uses, sales, and exports. A credit or refund (without interest) of the manufacturers taxes may be allowable if a tax-paid article is, by any person:
- Exported,
- Used or sold for use as supplies for vessels (except for coal and vaccines),
- Sold to a state or local government for its exclusive use (except for coal, gas guzzlers, and vaccines),
- Sold to a nonprofit educational organization for its exclusive use (except for coal, gas guzzlers, and vaccines),
- Sold to a qualified blood collector organization for its exclusive use (except for gas guzzlers, recreational equipment, and vaccines), or
- Used for further manufacture of another article subject to the manufacturers taxes (except for coal).

Export. If a tax-paid article is exported, the exporter or shipper may claim a credit or refund if the manufacturer waives its right to claim the credit or refund. In the case of a tax-paid article used to make another taxable article, the subsequent manufacturer may claim the credit or refund.

Price readjustments. In addition, a credit or refund (without interest) may be allowable for a tax-paid article for which the price is readjusted by reason of return or repossession of the article or a bona fide discount, rebate, or allowance for taxes based on price.

Conditions to allowance. To claim a credit or refund in the case of export; supplies for vessels; or sales to a state or local government, nonprofit educational organization, or qualified blood collector organization, the person who paid the tax must certify on the claim that one of the following applies and that the claimant has the required supporting information.
- The claimant sold the article at a tax-excluded price.
- The person has repaid, or agreed to repay, the tax to the ultimate vendor of the article.
- The person has obtained the written consent of the ultimate vendor to make the claim.

The ultimate vendor generally is the seller making the sale that gives rise to the overpayment of tax.

Claim for further manufacture. To claim a credit or refund for further manufacture the claimant must include a statement that contains the following.
- The name and address of the manufacturer and the date of payment.
- An identification of the article for which the credit or refund is claimed.
- The amount of tax paid on the article and the date on which it was paid.
- Information indicating that the article was used as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the manufacturer, or was sold on or in connection with, or with the sale of a second article manufactured or produced by the manufacturer.
- An identification of the second article.

For claims by the exporter or shipper, the claim must contain the proof of export and a statement signed by the person that paid the tax waiving the right to claim a credit or refund. The statement must include the amount of tax paid, the date of payment, and the office to which it was paid.

Claim for price readjustment. To claim a credit or refund for a price readjustment, the person who paid the tax must include with the claim, a statement that contains the following.
- A description of the circumstances that gave rise to the price readjustment.
- An identification of the article whose price was readjusted.
- The price at which the article was sold.
- The amount of tax paid on the article and the date on which it was paid.
- The name and address of the purchaser.
- The amount repaid to the purchaser or credited to the purchaser's account.

Sport Fishing Equipment

A tax of 10% of the sale price is imposed on many articles of sport fishing equipment sold by the manufacturer. This includes any parts or accessories sold on or in connection with the sale of those articles.

Pay this tax with Form 720. No tax deposits are required.

Sport fishing equipment includes all the following items.

1. Fishing rods and poles (and component parts), fishing reels, fly fishing lines, and other fishing lines not over 130 pounds test, fishing spears, spear guns, and spear tips.
2. Items of terminal tackle, including leaders, artificial lures, artificial baits, artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels (but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in (1)).
3. The following items of fishing supplies and accessories: fish stringers, creels, bags, baskets, and other containers designed to hold fish, portable bait containers, fishing vests, landing nets, gaff hooks, fishing hook disgorgers, and dressing for fishing lines and artificial flies.
4. Fishing tip-ups and tilts.
5. Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers.

See Revenue Ruling 88-52 in Cumulative Bulletin 1988-1 for a more complete description of the items of taxable equipment.

Fishing rods and fishing poles. The tax on fishing rods and fishing poles (and component parts) is 10% of the sales price not to exceed $10 per article. The tax is paid by the manufacturer, producer, or importer.

Fishing tackle boxes. The tax on fishing tackle boxes is 3% of the sales price. The tax is paid by the manufacturer, producer, or importer.

Electric outboard boat motors. A tax of 3% of the sale price is imposed on the sale by the manufacturer of electric outboard motors. This includes any parts or accessories sold on or in connection with the sale of those articles.

Certain equipment resale. The tax on the sale of sport fishing equipment is imposed a second time under the following circumstances. If the manufacturer sells a taxable article to any person, the manufacturer is liable for the tax. If the purchaser or any other person then sells it to a person who is related (discussed next) to the manufacturer, that related person is liable for a second tax on any subsequent sale of the article. The second tax, however, isn't imposed if the constructive sale price rules under section 4216(b) apply to the sale by the manufacturer.

If the second tax is imposed, a credit for tax previously paid by the manufacturer is available provided the related person can document the tax paid. The documentation requirement is generally satisfied only through submission of copies of actual records of the person that previously paid the tax.

Related person. For the tax on sport fishing equipment, a person is a related person of the manufacturer if that person and the manufacturer have a relationship described in section 465(b)(3)(C).

Bows, Quivers, Broadheads, and Points

The tax on bows is 11% (.11) of the sales price. The tax is paid by the manufacturer, producer, or importer. It applies to bows having a peak draw weight of 30 pounds or more. The tax is also imposed on the sale of any part or accessory suitable for inclusion in or attachment to a taxable bow and any quiver, broadhead, or point suitable for use with arrows described below.

Pay this tax with Form 720. No tax deposits are required.

Arrow Shafts

Generally, the section 4161 tax on arrow shafts increases annually based on inflation adjustments. See Form 720 for the tax rate. The tax is paid by the manufacturer, producer, or importer of any arrow shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow that after its assembly meets either of the following conditions.

- It measures 18 inches or more in overall length.
- It measures less than 18 inches in overall length but is suitable for use with a taxable bow, described earlier.

Exemption for certain wooden arrows. After October 3, 2008, the tax doesn't apply to any shaft made of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) and used in the manufacture of any arrow that after its assembly meets both of the following conditions.

- It measures 5/16 of an inch or less in diameter.
- It isn't suitable for use with a taxable bow, described earlier.

Pay this tax with Form 720. No tax deposits are required.

Coal

A tax is imposed on the first sale of coal mined in the United States. The producer of the coal is liable for the tax. The **producer** is the person who has vested ownership of the coal under state law immediately after the coal is severed from the ground. Determine vested ownership without regard to any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. A producer includes any person who extracts coal from coal waste refuse piles (or from the silt waste product that results from the wet washing of coal).

The tax isn't imposed on coal extracted from a riverbed by dredging if it can be shown that the coal has been taxed previously.

Tax rates. The tax on underground-mined coal is the lower of:

- $1.10 a ton, or
- 4.4% of the sale price.

The tax on surface-mined coal is the lower of:

- 55 cents a ton, or
- 4.4% of the sale price.

Coal will be taxed at the 4.4% rate if the selling price is less than $25 a ton for underground-mined coal and less than $12.50 a ton for surface-mined coal. Apply the tax proportionately if a sale or use includes a portion of a ton.

Example. If you sell 21,000 pounds (10.5 tons) of coal from an underground mine for $525, the price per ton is $50. The tax is $1.10 × 10.5 tons ($11.55).

Coal production. Coal is produced from surface mines if all geological matter (trees, earth, rock) above the coal is removed before the coal is mined. Treat coal removed by auger and coal reclaimed from coal waste refuse piles as produced from a surface mine.

Treat coal as produced from an underground mine when the coal isn't produced from a surface mine. In some cases, a single mine may yield coal from both surface mining and underground mining. Determine if the coal is from a surface mine or an underground mine for each ton of coal produced and not on a mine-by-mine basis.

Determining tonnage or selling price. The producer pays the tax on coal at the time of sale or use. In figuring the selling price for applying the tax, the point of sale is f.o.b. (free on board) mine or f.o.b. cleaning plant if you clean the coal before selling it. This applies even if you sell the coal for a delivered price. The f.o.b. mine or f.o.b. cleaning plant is the point at which you figure the number of tons sold for applying the applicable tonnage rate, and the point at which you figure the sale price for applying the 4.4% rate.

The tax applies to the full amount of coal sold. However, the IRS allows a calculated reduction of the taxable weight of the coal for the weight of the moisture in excess of the coal's inherent moisture content. Include in the sale price any additional charge for a freeze-conditioning additive in figuring the tax.

Don't include in the sales price the excise tax imposed on coal.

Coal used by the producer. The tax on coal applies if the coal is used by the producer in other than a mining process. A mining process means the same for this purpose as for percentage depletion. For example, the tax doesn't apply if, before selling the coal, you break it, clean it, size it, or apply any other process considered mining under the rules for depletion. In this case, the tax applies only when you sell the coal. The tax doesn't apply to coal used as fuel in the coal drying process since it's considered to be used in a mining process. However, the tax does apply when you use the coal as fuel or as an ingredient in making coke since the coal isn't used in a mining process.

You must use a constructive sale price to figure the tax under the 4.4% rate if you use the coal in other than a mining process. Base your constructive sale price on sales of a like kind and grade of coal by you or other producers made f.o.b. mine or cleaning plant. Normally, you use the same constructive price used to figure your percentage depletion deduction.

Blending. If you blend surface-mined coal with underground-mined coal during the cleaning process, you must figure the excise tax on the sale of the blended, cleaned coal. Figure the tax separately for each type of coal in the blend. Base the tax on the amount of each type in the blend if you can determine the proportion of each type of coal contained in the final blend. Base the tax on the ratio of each type originally put into the cleaning process if you can't determine the proportion of each type of coal in the blend. However, the tax is limited to 4.4% of the sale price per ton of the blended coal.

Exemption from tax. The tax doesn't apply to sales of lignite and imported coal. The only other exemption from the tax on the sale of coal is for coal exported as discussed next.

Exported. The tax doesn't apply to the sale of coal if the coal is in the stream of export when sold by the producer and the coal is actually exported.

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Coal is in the stream of export when sold by the producer if the sale is a step in the exportation of the coal to its ultimate destination in a foreign country. For example, coal is in the stream of export when:

1. The coal is loaded on an export vessel and title is transferred from the producer to a foreign purchaser, or
2. The producer sells the coal to an export broker in the United States under terms of a contract showing that the coal is to be shipped to a foreign country.

Proof of export includes any of the following items.

- A copy of the export bill of lading issued by the delivering carrier.
- A certificate signed by the export carrier's agent or representative showing actual exportation of the coal.
- A certificate of landing signed by a customs officer of the foreign country to which the coal is exported.
- If the foreign country doesn't have a customs administrator, a statement of the foreign consignee showing receipt of the coal.

Taxable Tires

Taxable tires are divided into three categories for reporting and figuring the tax as described below.

A tax is imposed on taxable tires sold by the manufacturer, producer, or importer at the rate of $.0945 ($.04725 in the case of a biasply tire or super single tire) for each 10 pounds of the maximum rated load capacity over 3,500 pounds. The three categories for reporting the tax and the tax rate are listed below.

- Taxable tires other than biasply or super single tires at $.0945.
- Taxable tires, biasply or super single tires (other than super single tires designed for steering) at $.04725.
- Taxable tires, super single tires designed for steering at $.0945.

A **taxable tire** is any tire of the type used on highway vehicles if wholly or partially made of rubber and if marked according to federal regulations for highway use. A biasply tire is a pneumatic tire on which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread. A super single tire is a tire greater than 13 inches in cross section width designed to replace 2 tires in a dual fitment.

Special rule, manufacturer's retail stores. The excise tax on taxable tires is imposed at the time the taxable tires are delivered to the manufacturer-owned retail stores, not at the time of sale.

Tires on imported articles. The importer of an article equipped with taxable tires is treated as the manufacturer of the tires and is liable for the taxable tire excise tax when the article is sold (except in the case of an automobile bus chassis or body with tires).

Tires exempt from tax. The tax on taxable tires doesn't apply to the following items.

- Domestically recapped or retreaded tires if the tires have been sold previously in the United States and were taxable tires at the time of sale.
- Tire carcasses not suitable for commercial use.
- Tires for use on qualifying intercity, local, and school buses. For tax-free treatment, the registration requirements discussed earlier under *Requirements for Exempt Sales* apply.
- Tires sold for the exclusive use of the Department of Defense or the Coast Guard.
- Tires of a type used exclusively on mobile machinery. A taxable tire used on mobile machinery isn't exempt from tax.

Qualifying intercity or local bus. This is any bus used mainly (more than 50%) to transport the general public for a fee and that either operates on a schedule along regular routes or seats at least 20 adults (excluding the driver).

Qualifying school bus. This is any bus substantially all the use (85% or more) of which is to transport students and employees of schools.

Credit or refund. A credit or refund (without interest) is allowable on tax-paid tires if the tires have been:

- Exported;
- Sold to a state or local government for its exclusive use;
- Sold to a nonprofit educational organization for its exclusive use (as defined under *Communications Tax* in chapter 4);
- Sold to a qualified blood collector organization (as defined under *Communications Tax* in chapter 4) for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood;
- Used or sold for use as supplies for vessels; or
- Sold in connection with qualified intercity, local, or school buses.

Also, a credit or refund (without interest) is allowable on tax-paid tires sold by any person on, or in connection with, any other article that is sold or used in an activity listed above.

The person who paid the tax is eligible to make the claim.

Gas Guzzler Tax

Tax is imposed on the sale by the manufacturer of automobiles of a model type that has a fuel economy standard as measured by the Environmental Protection Agency (EPA) of less than 22.5 miles per gallon. If you import an automobile for personal use, you may be liable for this tax. Figure the tax on Form 6197, as discussed later. The tax rate is based on fuel economy rating. The tax rates for the gas guzzler tax are shown on Form 6197.

A person that lengthens an existing automobile is the manufacturer of an automobile.

Automobiles. An automobile (including limousines) means any four-wheeled vehicle that is:

- Rated at an unloaded gross vehicle weight of 6,000 pounds or less,
- Propelled by an engine powered by gasoline or diesel fuel, and
- Intended for use mainly on public streets, roads, and highways.

Vehicles not subject to tax. For the gas guzzler tax, the following vehicles aren't considered automobiles.

1. Limousines with a gross unloaded vehicle weight of more than 6,000 pounds.
2. Vehicles operated exclusively on a rail or rails.
3. Vehicles sold for use and used primarily:
   a. As ambulances or combination ambulance-hearses,
   b. For police or other law enforcement purposes by federal, state, or local governments, or
   c. For firefighting purposes.
4. Vehicles treated under 49 U.S.C. 32901 (1978) as non-passenger automobiles. This includes limousines manufactured primarily to transport more than 10 persons.

The manufacturer can sell a vehicle described in item (3) tax free only when the sale is made directly to a purchaser for the described emergency use and the manufacturer and purchaser (other than a state or local government) are registered.

Treat an Indian tribal government as a state only if the police or other law enforcement purposes are an essential tribal government function.

Model type. Model type is a particular class of automobile as determined by EPA regulations.

Fuel economy. Fuel economy is the average number of miles an automobile travels on a gallon of gasoline (or diesel fuel) rounded to the nearest 0.1 mile as figured by the EPA.

Imported automobiles. The tax also applies to automobiles that don't have a prototype-based fuel economy rating assigned by the EPA. An automobile imported into the United States without a certificate of conformity to United States emission standards and that has no assigned fuel economy rating must be either:

- Converted by installation of emission controls to conform in all material respects to an automobile already certified for sale in the United States, or
- Modified by installation of emission control components and individually tested to demonstrate emission compliance.

An imported automobile that has been converted to conform to an automobile already certified for sale in the United States may use the fuel economy rating assigned to that certified automobile.

A fuel economy rating isn't generally available for modified imported automobiles because the EPA doesn't require a highway fuel economy test on them. A separate highway fuel

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economy test would be required to devise a fuel economy rating (otherwise the automobile is presumed to fall within the lowest fuel economy rating category).

For more information about fuel economy ratings for imported automobiles, see Revenue Ruling 86-20 and Revenue Procedure 86-9 in Cumulative Bulletin 1986-1, and Revenue Procedure 87-10 in Cumulative Bulletin 1987-1.

Exemptions. No one is exempt from the gas guzzler tax, including the federal government, state and local governments, qualified blood collector organizations, and nonprofit educational organizations. However, see *Vehicles not subject to tax,* earlier.

Form 6197. Use Form 6197 to figure your tax liability for each quarter. Attach Form 6197 to your Form 720 for the quarter. See the Form 6197 instructions for more information and the one-time filing rules.

Credit or refund. If the manufacturer paid the tax on a vehicle that is used or resold for an emergency use (see item (3) under *Vehicles not subject to tax*), the manufacturer can claim a credit or refund. For information about how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

Vaccines

Tax is imposed on certain vaccines sold by the manufacturer in the United States. A taxable vaccine means any of the following vaccines.

- Any vaccine containing diphtheria toxoid.
- Any vaccine containing tetanus toxoid.
- Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.
- Any vaccine containing polio virus.
- Any vaccine against measles.
- Any vaccine against mumps.
- Any vaccine against rubella.
- Any vaccine against hepatitis A.
- Any vaccine against hepatitis B.
- Any vaccine against chicken pox.
- Any vaccine against rotavirus gastroenteritis.
- Any HIB vaccine.
- Any conjugate vaccine against streptococcus pneumoniae.
- Any trivalent vaccine against influenza or any other vaccine against influenza.
- Any meningococcal vaccine.
- Any vaccine against the human papillomavirus.

The effective date for the tax on any vaccine against influenza, other than trivalent influenza vaccines, is the later of August 1, 2013, or the date the Secretary of Health and Human Services lists a vaccine against seasonal influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

The tax is $.75 per dose of each taxable vaccine. The tax per dose on a vaccine that contains more than one taxable vaccine is $.75 times the number of taxable vaccines.

Taxable use. Any manufacturer (including a governmental entity) that uses a taxable vaccine before it's sold will be liable for the tax in the same manner as if the vaccine was sold by the manufacturer.

Credit or refund. A credit or refund (without interest) is available if the vaccine is:

- Returned to the person who paid the tax (other than for resale), or
- Destroyed.

The claim for a credit or refund must be filed within 6 months after the vaccine is returned or destroyed.

Conditions to allowance. To claim a credit or refund, the person who paid the tax must have repaid or agreed to repay the tax to the ultimate purchaser of the vaccine or obtained the written consent of such purchaser to allowance of the credit or refund.

6.

Retail Tax on Heavy Trucks, Trailers, and Tractors

A tax of 12% of the sales price is imposed on the first retail sale of the following articles, including related parts and accessories sold on or in connection with, or with the sale of, the articles.

- Truck chassis and bodies.
- Truck trailer and semitrailer chassis and bodies.
- Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A truck is a highway vehicle primarily designed to transport its load on the same chassis as the engine, even if it's equipped to tow a vehicle, such as a trailer or semitrailer.

A tractor is a highway vehicle designed to tow a vehicle, such as a trailer or semitrailer. A tractor may carry incidental items of cargo when towing or limited amounts of cargo when not towing.

A sale of a truck, truck trailer, or semitrailer is considered a sale of a chassis and a body.

The seller is liable for the tax.

Chassis or body. A chassis or body is taxable only if you sell it for use as a component part of a highway vehicle that is a truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it's also designed to perform other functions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles aren't considered highway vehicles for purposes of the retail tax.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle isn't a highway vehicle if all the following apply.
   a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.
   b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.
   c. The chassis couldn't, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
2. **Vehicles specially designed for off-highway transportation.** A vehicle isn't treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicles's capability to transport a load over a public highway is substantially limited or impaired.

   To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It doesn't matter that the vehicle can carry heavier loads off highway than it's allowed to carry over the highway.
3. **Nontransportation trailers and semitrailers.** A trailer or semitrailer isn't treated as a highway vehicle if it's specially designed to function only as an enclosed stationary shelter for carrying on

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a nontransportation function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation isn't a highway vehicle.

Gross vehicle weight. The tax doesn't apply to truck chassis and bodies suitable for use with a vehicle that has a gross vehicle weight (defined below) of 33,000 pounds or less. It also doesn't apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. Tractors that have a gross vehicle weight of 19,500 pounds or less and a gross combined weight of 33,000 pounds or less are excluded from the 12% retail tax.

The following four classifications of truck body types meet the **suitable for use standard** and will be excluded from the retail excise tax.

- Platform truck bodies 21 feet or less in length.
- Dry freight and refrigerated truck van bodies 24 feet or less in length.
- Dump truck bodies with load capacities of 8 cubic yards or less.
- Refuse packer truck bodies with load capacities of 20 cubic yards or less.

For more information on these classifications, see Revenue Procedure 2005-19, which is on page 832 of I.R.B. 2005-14 at *IRS.gov/PUB/IRB/IRB2015-14#RR2005-19*.

The gross vehicle weight means the maximum total weight of a loaded vehicle. Generally, this maximum total weight is the gross vehicle weight rating provided by the manufacturer or determined by the seller of the completed article. The seller's gross vehicle weight rating is determined solely on the basis of the strength of the chassis frame and the axle capacity and placement. The seller may not take into account any readily attachable components (such as tires or rim assemblies) in determining the gross vehicle weight. See Regulations section 145.4051-1(e)(3) for more information.

Parts or accessories. The tax applies to parts or accessories sold on or in connection with, or with the sale of, a taxable article. For example, if at the time of the sale by the retailer, the part or accessory has been ordered from the retailer, the part or accessory will be considered as sold in connection with the sale of the vehicle. The tax applies in this case whether or not the retailer bills the parts or accessories separately.

If the retailer sells a taxable chassis, body, or tractor without parts or accessories considered essential for the operation or appearance of the taxable article, the sale of the parts or accessories by the retailer to the purchaser is considered made in connection with the sale of the taxable article even though they are shipped separately, at the same time, or on a different date. The tax applies unless there is evidence to the contrary. For example, if a retailer sells to any person a chassis and the bumpers for the chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to the parts or accessories regardless of the method of billing or the time at which the shipments were made. The tax doesn't apply to parts and accessories that are spares or replacements.

The tax imposed on parts and accessories sold on or in connection with the taxable articles listed earlier and the tax imposed on the separate purchase of parts and accessories (discussed next) for the taxable articles listed earlier don't apply to an idling reduction device or insulation that has an R value of at least R35 per inch.

Idling reduction device. An idling reduction device is any device or system of devices that provide the tractor with services, such as heat, air conditioning, and electricity, without the use of the main drive engine while the tractor is temporarily parked or stationary. The device must be affixed to the tractor and determined by the Administrator of the EPA, in consultation with the Secretary of Energy and Secretary of Transportation, to reduce idling while parked or stationary. The EPA discusses idling reduction technologies on its website at *www.epa.gov/smartway/technology/idling.htm*.

Separate purchase. The tax generally applies to the price of a part or accessory and its installation if the following conditions are met.

- The owner, lessee, or operator of any vehicle that contains a taxable article installs any part or accessory on the vehicle.
- The installation occurs within 6 months after the vehicle is first placed in service.

The owners of the trade or business installing the parts or accessories are secondarily liable for the tax.

A vehicle is placed in service on the date the owner takes actual possession of the vehicle. This date is established by a signed delivery ticket or other comparable document indicating delivery to and acceptance by the owner.

The tax doesn't apply if the installed part or accessory is a replacement part or accessory. The tax also doesn't apply if the total price of the parts and accessories, including installation charges, during the 6-month period is $1,000 or less. However, if the total price is more than $1,000, the tax applies to the cost of all parts and accessories (and installation charges) during that period.

Example. You bought a taxable vehicle and placed it in service on April 8. On May 3, you bought and installed parts and accessories at a cost of $850. On July 15, you bought and installed parts and accessories for $300. Tax of $138 (12% of $1,150) applies on July 15. Also, tax will apply to any costs of additional parts and accessories installed on the vehicle before October 8.

First retail sale defined. The sale of an article is treated as the first retail sale, and the seller will be liable for the tax imposed on the sale unless one of the following exceptions applies.

- There has been a prior taxable sale, lease, or use of the article (however, see *Tax on resale of tax-paid trailers and semitrailers*, later).
- The sale qualifies as a tax-free sale under section 4221 (see *Sales exempt from tax*, later).
- The seller in good faith accepts from the purchaser a statement signed under penalties of perjury and executed in good faith that the purchaser intends to resell the article or lease it on a long-term basis. There is no registration requirement.

Leases. A long-term lease (a lease with a term of 1 year or more, taking into account options to renew) before a first retail sale is treated as a taxable sale. The tax is imposed on the lessor at the time of the lease.

A short-term lease (a lease with a term of less than 1 year, taking into account options to renew) before a first retail sale is treated as a taxable use. The tax is imposed on the lessor at the time of the lease.

Exported vehicle. A vehicle exported before its first retail sale, used in a foreign country, and then returned to the United States is subject to the retail tax on its first domestic use or retail sale after importation.

Tax on resale of tax-paid trailers and semitrailers. The tax applies to a trailer or semitrailer resold within 6 months after having been sold in a taxable sale. The seller liable for the tax on the resale can claim a credit equal to the tax paid on the prior taxable sale. The credit can't exceed the tax on the resale. See Regulations section 145.4052-1(a)(4) for information on the conditions to allowance for the credit.

Use treated as sale. If any person uses a taxable article before the first retail sale of the article, that person is liable for the tax as if the article had been sold at retail by that person. Figure the tax on the price at which similar articles are sold in the ordinary course of trade by retailers. The tax attaches when the use begins.

If the seller of an article regularly sells the articles at retail in arm's-length transactions, figure the tax on its use on the lowest established retail price for the articles in effect at the time of the taxable use.

If the seller of an article doesn't regularly sell the articles at retail in arm's-length transactions, a constructive price on which the tax is figured will be determined by the IRS after considering the selling practices and price structures of sellers of similar articles.

If a seller of an article incurs liability for tax on the use of the article and later sells or leases the article in a transaction that otherwise would be taxable, liability for tax isn't incurred on the later sale or lease.

Presumptive retail sales price. There are rules to ensure that the tax base of transactions considered to be taxable sales includes either an actual or presumed markup percentage. If the person liable for tax is the vehicle's manufacturer, producer, or importer, the following discussions show how you figure the presumptive retail sales price depending on the type of transaction and the persons involved in the transaction. *Table 6-1* outlines the appropriate tax base calculation for various transactions.

The **presumed markup percentage** to be used for trucks and truck-tractors is 4%. But for truck trailers and semitrailers and remanufactured trucks and tractors, the presumed markup percentage is zero.

Sale. For a taxable sale by a manufacturer, producer, importer, or related person, you generally figure the tax on a tax base of the sales

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price plus an amount equal to the presumed markup percentage times that sales price.

Long-term lease. In the case of a long-term lease by a manufacturer, producer, importer, or related person, figure the tax on a tax base of the constructive sales price plus an amount equal to the presumed markup percentage times the constructive sales price.

Short-term lease. When a manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a constructive sales price at which those or similar articles generally are sold in the ordinary course of trade by retailers.

But if the lessor in this situation regularly sells articles at retail in arm's-length transactions, figure the tax on the lowest established retail price in effect at the time of the taxable use.

If a person other than the manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a tax base of the price for which the article was sold to the lessor plus the cost of parts and accessories installed by the lessor and a presumed markup percentage.

Related person. A related person is any member of the same controlled group as the manufacturer, producer, or importer. Don't treat as a related person a person that sells the articles through a permanent retail establishment in the normal course of being a retailer if that person has records to prove the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

General rule for sales by dealers to the consumer. For a taxable sale, other than a long-term lease, by a person other than a manufacturer, producer, importer, or related person, your tax base is the retail sales price as discussed next under *Determination of tax base*.

When you sell an article to the consumer, generally you don't add a presumed markup to the tax base. However, you do add a markup if all the following apply.

- You don't perform any significant activities relating to the processing of the sale of a taxable article.
- The main reason for processing the sale through you is to avoid or evade the presumed markup.
- You don't have records proving that the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

In these situations, your tax base is the sales price plus an amount equal to the presumed markup percentage times that selling price.

Determination of tax base. These rules apply to both normal retail sales price and presumptive retail sales price computations. To arrive at the tax base, the price is the total consideration paid (including trade-in allowance) for the item and includes any charge incident to placing the article in a condition ready for use. However, see *Presumptive retail sales price*, earlier.

Exclusions from tax base. Exclude from the tax base the retail excise tax imposed on the sale. Exclude any state or local retail sales tax if stated as a separate charge from the price whether the sales tax is imposed on the seller or purchaser. Also exclude the value of any used component of the article furnished by the first user of the article.

Exclude charges for transportation, delivery, insurance, and installation (other than installation charges for parts and accessories, discussed earlier) and other expenses incurred in connection with the delivery of an article to a purchaser. These expenses are those incurred in delivery from the retail dealer to the customer. In the case of delivery directly from the manufacturer to the dealer's customer, include the transportation and delivery charges to the extent the charges don't exceed what it would have cost to ship the article to the dealer.

Exclude amounts charged for machinery or equipment that doesn't contribute to the highway transportation function of the vehicle, provided those charges are supported by adequate records. For example, for an industrial vacuum loader vehicle, exclude amounts charged for the vacuum pump and hose, filter system, material separator, silencer or muffler, control cabinet, and ladder. Similarly, for a sewer cleaning vehicle, exclude amounts charged for the high pressure water pump, hose components, and the vacuum pipe.

Sales not at arm's length. For any taxable article sold (not at arm's length) at less than the fair market price, figure the excise tax on the price for which similar articles are sold at retail in the ordinary course of trade.

A sale isn't at arm's length if either of the following apply.

- One of the parties is controlled (in law or in fact) by the other or there is common control, whether or not the control is actually exercised to influence the sales price.
- The sale is made under special arrangements between a seller and a purchaser.

Installment sales. If the first retail sale is an installment sale, or other form of sale in which the sales price is paid in installments, tax liability arises at the time of the sale. The tax is figured on the entire sales price. No part of the tax is deferred because the sales price is paid in installments.

Repairs and modifications. The tax doesn't apply to the sale or use of an article that has been repaired or modified unless the cost of the repairs and modifications is more than 75% of the retail price of a comparable new article. This includes modifications that change the transportation function of an article or restore a wrecked article to a functional condition. However, this exception generally doesn't apply to an article that wasn't subject to the tax when it was new.

Further manufacture. The tax doesn't apply to the use by a person of a taxable article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by that person. Don't treat a person as engaged in the manufacture of any article merely because that person combines the article with a:

- Coupling device (including any fifth wheel);
- Wrecker crane;
- Loading and unloading equipment (including any crane, hoist, winch, or power liftgate);
- Aerial ladder or tower;
- Ice and snow control equipment;
- Earth moving, excavation, and construction equipment;
- Spreader;
- Sleeper cab;
- Cab shield; or
- Wood or metal floor.

Combining an article with an item in this list doesn't give rise to taxability. However, see *Parts or accessories* discussed earlier.

Articles exempt from tax. The tax on heavy trucks, trailers, and tractors doesn't apply to sales of the articles described in the following discussions.

Rail trailers and rail vans. This is any chassis or body of a trailer or semitrailer designed for use both as a highway vehicle and a railroad car (including any parts and

Table 6-1. **Tax Base**

IF the transaction is a...	THEN figuring the base by using the...
Sale by the manufacturer, producer, importer, or related person	Sales price plus (presumed markup percentage × sales price)
Sale by the dealer	Total consideration paid for the item including any charges incident to placing it in a condition ready for use
Long-term lease by the manufacturer, producer, importer, or related person	Constructive sales price plus (presumed markup percentage × constructive sales price)
Short-term lease by the manufacturer, producer, importer, or related person	Constructive sales price at which such or similar articles are sold
Short-term lease by a lessor other than the manufacturer, producer, importer, or related person	Price for which the article was sold to the lessor plus the cost of parts and accessories installed by the lessor plus a presumed markup percentage
Short-term lease where the articles are regularly sold at arm's length	Lowest established retail price in effect at the time of the taxable use

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accessories designed primarily for use on and in connection with it). Don't treat a piggyback trailer or semitrailer as designed for use as a railroad car.

Parts and accessories. This is any part or accessory sold separately from the truck or trailer, except as described earlier under *Parts or accessories* and *Separate purchase*.

Trash containers. This is any box, container, receptacle, bin, or similar article that meets all the following conditions.

- it's designed to be used as a trash container.
- It isn't designed to carry freight other than trash.
- It isn't designed to be permanently mounted on or affixed to a truck chassis or body.

House trailers. This is any house trailer (regardless of size) suitable for use in connection with either passenger automobiles or trucks.

Camper coaches or bodies for self-propelled mobile homes. This is any article designed to be mounted or placed on trucks, truck chassis, or automobile chassis and to be used primarily as living quarters or camping accommodations. Further, the tax doesn't apply to chassis specifically designed and constructed to accommodate and transport self-propelled mobile home bodies.

Farm feed, seed, and fertilizer equipment. This is any body primarily designed to process or prepare, haul, spread, load, or unload feed, seed, or fertilizer to or on farms. This exemption applies only to the farm equipment body (and parts and accessories) and not to the chassis upon which the farm equipment is mounted.

Ambulances and hearses. This is any ambulance, hearse, or combination ambulance-hearse.

Truck-tractors. This is any truck-tractor specifically designed for use in shifting semitrailers in and around freight yards and freight terminals.

Concrete mixers. This is any article designed to be placed or mounted on a truck, truck trailer, or semitrailer chassis to be used to process or prepare concrete. This exemption doesn't apply to the chassis on which the article is mounted.

Sales exempt from tax. The following sales are ordinarily exempt from tax.

- Sales to a state or local government for its exclusive use.
- Sales to Indian tribal governments, but only if the transaction involves the exercise of an essential tribal government function.
- Sales to a nonprofit educational organization for its exclusive use.
- Sales to a qualified blood collector organization (as defined under *Communications Tax* in chapter 4) for its exclusive use in the collection, storage, or transportation of blood.
- Sales for use by the purchaser for further manufacture of other taxable articles (see below).
- Sales for export or for resale by the purchaser to a second purchaser for export.
- Sales to the United Nations for official use.

Registration requirement. In general, the seller and buyer must be registered for a sale to be tax free. See the Form 637 instructions for more information. Certain registration exceptions apply in the case of sales to state and local governments, sales to foreign purchasers for export, and sales for resale or long term leasing.

Further manufacture. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and made the first retail sale of them.

Credits or refunds. A credit or refund (without interest) of the retail tax on the taxable articles described earlier may be allowable if the tax has been paid with respect to an article and, before any other use, such article is used by any person as a component part of another taxable article manufactured or produced. The person using the article as a component part is eligible for the credit or refund.

A credit or refund is allowable if, before any other use, an article is, by any person:

- Exported,
- Used or sold for use as supplies for vessels,
- Sold to a state or local government for its exclusive use,
- Sold to a nonprofit educational organization for its exclusive use, or
- Sold to a qualified blood collector organization (as defined under*Communications Tax* in chapter 4) for its exclusive use in the collection, storage, or transportation of blood.

A credit or refund is also allowable if there is a price readjustment by reason of the return or repossession of an article or by reason of a bona fide discount, rebate, or allowance.

See also *Conditions to allowance* in chapter 5.

Tire credit. A credit is allowed against the retail tax on the taxable articles described earlier if taxable tires are sold on or in connection with the sale of the article. The credit is equal to the manufacturers excise tax imposed on the taxable tires (discussed earlier). This is the section 4051(d) taxable tire credit and is claimed on Schedule C (Form 720) for the same quarter for which the tax on the heavy vehicle is reported.

7.

Ship Passenger Tax

A tax of $3 per passenger is imposed on certain ship voyages, as explained later under *Taxable situations*. The tax is imposed only once for each passenger, either at the time of first embarkation or disembarkation in the United States.

The person providing the voyage (the operator of the vessel) is liable for the tax.

Voyage. A voyage is the vessel's journey that includes the outward and homeward trips or passages. The voyage starts when the vessel begins to load passengers and continues until the vessel has completed at least one outward and one homeward passage. The tax may be imposed even if a passenger doesn't make both an outward and a homeward passage as long as the voyage begins or ends in the United States.

Passenger. A passenger is an individual carried on the vessel other than the master or a crew member or other individual engaged in the business of the vessel or its owners.

Example 1. John Smith works as a guest lecturer. The cruise line hired him for the benefit of the passengers. Therefore, he is engaged in the business of the vessel and isn't a passenger.

Example 2. Marian Green is a travel agent. She is taking the cruise as a promotional trip to determine if she wants to offer it to her clients. She is a passenger.

Taxable situations. There are two taxable situations. The first situation involves voyages on commercial passenger vessels extending over one or more nights. A voyage extends over one or more nights if it extends for more than 24 hours. A passenger vessel is any vessel with stateroom or berth accommodations for more than 16 passengers.

The second situation involves voyages on a commercial vessel transporting passengers engaged in gambling on the vessel beyond the territorial waters of the United States. Territorial waters of the United States are those waters within the international boundary line between the United States and any contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. If passengers participate as players in any policy game or other lottery, or any other game of chance for money or other thing of value that the owner or operator of the vessel (or their employee, agent, or franchisee) conducts, sponsors, or operates, the voyage is subject to the ship passenger tax. The tax applies regardless of the duration of the voyage. A casual, friendly game of chance with

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other passengers that isn't conducted, sponsored, or operated by the owner or operator isn't gambling for determining if the voyage is subject to the ship passenger tax.

Exemptions. The tax doesn't apply when a vessel is on a voyage of less than 12 hours between two points in the United States or if a vessel is owned or operated by a state or local government.

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8. Foreign Insurance Taxes

Tax is imposed on insurance policies issued by foreign insurers. Any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit they are made, signed, issued, or sold, is liable for the tax.

The following tax rates apply to each dollar (or fraction thereof) of the premium paid.

1. Casualty insurance and indemnity, fidelity, and surety bonds: 4 cents. For example, on a premium payment of $10.10, the tax is 44 cents.
2. Life, sickness, and accident insurance, and annuity contracts: 1 cent. For example, on a premium payment of $10.10, the tax is 11 cents.
3. Reinsurance policies covering any of the taxable contracts described in items (1) and (2): 1 cent.

However, the tax doesn't apply to casualty insurance premiums paid to foreign insurers for coverage of export goods in transit to foreign destinations.

Premium. Premium means the agreed price or consideration for assuming and carrying the risk or obligation. It includes any additional charge or assessment payable under the contract, whether in one sum or installments. If premiums are refunded, claim the tax paid on those premiums as an overpayment against tax due on other premiums paid or file a claim for refund.

When liability attaches. The liability for this tax attaches when the premium payment is transferred to the foreign insurer or reinsurer (including transfers to any bank, trust fund, or similar recipient designated by the foreign insurer or reinsurer) or to any nonresident agent, solicitor, or broker. A person can pay the tax before the liability attaches if the person keeps records consistent with that practice.

Who must file. The person who pays the premium to the foreign insurer (or to any nonresident person such as a foreign broker) must pay the tax and file the return. Otherwise, any person who issued or sold the policy, or who is insured under the policy, is required to pay the tax and file the return.

RECORDS The person liable for this tax must keep accurate records that identify each policy or instrument subject to tax. These records must clearly establish the type of policy or instrument, the gross premium paid, the identity of the insured and insurer, and the total premium charged. If the premium is to be paid in installments, the records must also establish the amount and anniversary date of each installment.

The records must be kept at the place of business or other convenient location for at least 3 years after the later of the date any part of the tax became due, or the date any part of the tax was paid. During this period, the records must be readily accessible to the IRS.

The person having control or possession of a policy or instrument subject to this tax must keep the policy for at least 3 years after the date any part of the tax on it was paid.

TIP *For information on reinsurance premiums paid from one foreign insurer to another foreign insurer, see Rev. Rul. 2008-15. You can find Rev. Rul. 2008-15 on page 633 of I.R.B. 2008-12 at IRS.gov/PUB/IRB/IRB2008-12#RR2008-15.*

Treaty-based positions under IRC 6114. You may have to file an annual report disclosing the amount of premiums exempt from U.S. excise tax as a result of the application of a treaty with the United States that overrides (or otherwise modifies) any provision of the Internal Revenue Code.

Attach any disclosure statement to the first quarter Form 720. You may be able to use Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), as a disclosure statement. See the Instructions for Form 720 for information on how and where to file.

See Revenue Procedure 92-14 in Cumulative Bulletin 1992-1 for procedures you can use to claim a refund of this tax under certain U.S. treaties.

9. Obligations Not in Registered Form

Tax is imposed on any person who issues a registration-required obligation not in registered form. The tax is:

- 1% of the principal of the obligation, multiplied by
- The number of calendar years (or portions of calendar years) during the period starting on the date the obligation was issued and ending on the date it matures.

A registration-required obligation is any obligation other than one that meets any of the following conditions.

1. it's issued by a natural person.
2. It isn't of a type offered to the public.
3. It has a maturity (at issue) of not more than 1 year.
4. It can only be issued to a foreign person.

For item (4), if the obligation isn't in registered form, the interest on the obligation must be payable only outside the United States and its possessions. Also, the obligation must state on its face that any U.S. person who holds it shall be subject to limits under the U.S. income tax laws.

10. Indoor Tanning Services Tax

The tax on indoor tanning service is 10% of the amount paid for that service. The tax is paid by the person paying for the services and is collected by the person receiving payment for the indoor tanning services.

Definition of indoor tanning services. Indoor tanning service means a service employing any electronic product designed to incorporate one or more ultraviolet lamps and intended for the irradiation of an individual by ultraviolet radiation, with wavelengths in air between 200 and 400 nanometers, to induce skin tanning. The term doesn't include phototherapy service performed by, and on the premises of, a licensed medical professional (such as a dermatologist, psychologist, or registered nurse). See regulations section 49.5000B-1 for more information, and special rules for qualified physical fitness facilities, undesignated payment cards, and bundled payments.

File Form 720. The person receiving the payment for indoor tanning services (collector) must collect and remit the tax and file the return. If the tax isn't collected for any reason, the collector is liable for the tax. The collector isn't required to make semimonthly deposits of the tax.

11.

Patient-Centered Outcomes Research Fee

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The patient-centered outcomes research fee is imposed on issuers of specified health insurance policies (section 4375) and plan sponsors of applicable self-insured health plans (section 4376) for policy and plan years ending on or after October 1, 2012. Generally, references to taxes on Form 720 include this fee.

Specified health insurance policies. See the Instructions for Form 720 revised for the second quarter of each year for information on the fee amount. Generally, issuers of specified health insurance polices must use one of the following four alternative methods to determine the average number of lives covered under a policy for the policy year

1. **The actual count method.**
2. **The snapshot method.**
3. **The member months method.**
4. **The state form method.**

Applicable self-insured health plans. See the Instructions for Form 720 revised for the second quarter of each year for information on the fee amount. Generally, plan sponsors of applicable self-insured health plans must use one of the following three alternative methods to determine the average number of lives covered under a plan for the plan year.

1. **Actual count method.**
2. **Snapshot method.**
3. **Form 5500 method.**

Reporting and paying the fee. File Form 720 annually to report and pay the fee on the second quarter Form 720 no later than July 31 of the calendar year immediately following the last day of the policy year or plan year to which the fee applies. If you file Form 720 only to report the fee, don't file Form 720 for the first, third, or fourth quarters of the year. If you file Form 720 to report quarterly excise tax liability for the first, third, or fourth quarter of the year (for example, filers reporting the foreign insurance tax (IRS No. 30)), don't make an entry on the line for IRS No. 133 on those filings.

Deposits aren't required for this fee, so issuers and plan sponsors aren't required to pay the fee using Electronic Federal Tax Payment System (EFTPS).

However, if the fee is paid using EFTPS, the payment should be applied to the second quarter. See *Electronic deposit requirement* under *How To Make Deposits* in chapter 13, later.

More information. For more information, including methods for calculating the average number of lives covered, see sections 4375, 4376, 4377 and Regulations 46.4375-1; also see T.D. 9602, which is on page 746 of I.R.B. 2012-52 at *IRS.gov/PUB/IRB/IRB2012-52#TD9602*.

Part Three.

Quarterly Filing Information

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12.

Filing Form 720

Use Form 720 to report and pay the excise taxes previously discussed in this publication. File Form 720 for each calendar quarter until you file a final Form 720. For information on filing Form 720 electronically, visit the IRS *e-file* website at *IRS.gov/eFile*.

You may be required to file your returns on a monthly or semimonthly basis instead of quarterly if you don't make deposits as required (see *Payment of Taxes*, later) or are liable for the excise tax on taxable fuels and meet certain conditions.

Form 720 has three parts and three schedules.

- Part I consists of excise taxes generally required to be deposited (see *Payment of Taxes*, later).
- Part II consists of excise taxes that aren't required to be deposited.
- Part III is used to figure your tax liability for the quarter and the amount of any balance due or overpayment.
- **Schedule A**, Excise Tax Liability, is used to record your net tax liability for each semimonthly period in a quarter. Complete it if you have an entry in Part I.
- **Schedule C**, Claims, is used to make claims. However, Schedule C can only be used if you are reporting a liability in Part I or Part II.
- **Schedule T**, Two-Party Exchange Information Reporting, is used to report certain exchanges of taxable fuel before or in connection with the removal at the terminal rack.

Attachments to Form 720. You may have to attach the following forms.

- Form 6197 for the gas guzzler tax.
- Form 6627 for environmental taxes.

Form 720-X. This form is used to make adjustments to Forms 720 filed in prior quarters. You can file Form 720-X by itself or, if it shows a decrease in tax, you can attach it to Form 720. See Form 720-X for more information.

Conditions to allowance. For tax decreases, the claimant must check the appropriate box on Form 720-X stating that:

1. For adjustments of communications or air transportation taxes, the claimant has:
   a. Repaid the tax to the person from whom it was collected, or
   b. Obtained the consent of that person to the allowance of the adjustment.
2. For other adjustments, the claimant has:
   a. Not included the tax in the price of the article and not collected the tax from the purchaser,
   b. Repaid the tax to the ultimate purchaser, or
   c. Attached the written consent of the ultimate purchaser to the allowance of the adjustment.

However, the conditions listed under (2) don't apply to environmental taxes, the ship passenger tax, obligations not in registered form, foreign insurance taxes, fuels used on inland waterways, cellulosic or second generation biofuel sold as but not used as fuel, biodiesel sold as fuel but not used as fuel, and certain fuel taxes if the tax was based on use (for example, dyed diesel fuel used in trains, LPG, and CNG).

Final return. File a final return if:

- You go out of business, or
- You won't owe excise taxes that are reportable on Form 720 in future quarters.

Due dates. Form 720 must be filed by the following due dates.

Quarter Covered	Due Dates
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

If any due date falls on a Saturday, Sunday, or legal holiday, you can file the return on the next business day.

One-time filing. If you import a gas guzzling automobile, you may be eligible to make a one-time filing using your SSN if you:

- Don't import gas guzzling automobiles in the course of your trade or business, and
- Aren't required to file Form 720 reporting other excise taxes for the calendar quarter, except for a one-time filing.

If you meet both requirements above, see *Gas guzzler tax (IRS No. 40)* in the Instructions for Form 720 for how to file and pay the tax.

Payment voucher. Form 720-V, Payment Voucher, must be included with Form 720 if you have a balance due on line 10 of Form 720 and you are making your payment by check or money order.

13.

Payment of Taxes

Generally, semimonthly deposits of excise taxes are required. A semimonthly period is the first 15 days of a month (the first semimonthly period) or the 16th through the last day of a month (the second semimonthly period).

However, no deposit is required for the situations listed below; the taxes are payable with Form 720.

- The net liability for taxes listed in Part I (Form 720) doesn't exceed $2,500 for the quarter.
- The gas guzzler tax is being paid on a one-time filing.
- The liability is for taxes listed in Part II (Form 720), except for the floor stocks tax which generally requires a single deposit.

How To Make Deposits

Electronic deposit requirement. You must use electronic funds transfer to make excise tax deposits. Generally, electronic funds transfers are made using the EFTPS. If you don't want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make deposits on your behalf. Also, you may arrange for your financial institution to submit a same-day wire payment on your behalf.

EFTPS is a free service provided by the Department of Treasury. Services provided by your tax professional, financial institution, payroll service, or other third party may have a fee. To get more information about EFTPS or to enroll in EFTPS, visit *www.eftps.gov* or call 1-800-555-4477. Additional information about EFTPS is also available in Publication 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

Depositing on time. For EFTPS deposits to be on time, you must submit the transaction at least 1 day before the date the deposit is due (by 8:00 p.m. Eastern time).

Same-day wire payment option. If you fail to submit a deposit transaction on EFTPS by 8:00 p.m. Eastern time the day before the date a deposit is due, you can still make your deposit on time by using the Federal Tax Collection Service (FTCS). To use the same-day wire payment method, you will need to make arrangements with your financial institution ahead of time. Please check with your financial institution regarding availability, deadlines, and costs. Your financial institution may charge you a fee for payments made this way. To learn more about the information you will need to provide your financial institution to make a same-day wire payment, visit *IRS.gov/Payments* and click on *Same-day wire.*

TIP *You will automatically be enrolled in EFTPS when you apply for an EIN. You will receive a separate mailing containing instructions for activating your EFTPS enrollment after you receive your EIN.*

When To Make Deposits

There are two methods for determining deposits: the regular method and the alternative method.

The regular method applies to all taxes in Part I of Form 720 except for communications and air transportation taxes if deposits are based on amounts billed or tickets sold, rather than on amounts actually collected. See *Alternative method* below.

If you are depositing more than one tax under a method, combine all the taxes under the method and make one deposit for the semimonthly period.

Regular method. The deposit of tax for a semimonthly period is due by the 14th day following that period. Generally, this is the 29th day of a month for the first semimonthly period and the 14th day of the following month for the second semimonthly period. If the 14th or the 29th day falls on a Saturday, Sunday, or legal holiday, you must make the deposit by the immediately preceding day that isn't a Saturday, Sunday, or legal holiday.

Alternative method (IRS Nos. 22, 26, 27, and 28). Deposits of communications and air transportation taxes may be based on taxes included in amounts billed or tickets sold during a semimonthly period instead of on taxes actually collected during the period. Under the alternative method, the tax included in amounts billed or tickets sold during a semimonthly period is considered collected during the first 7 days of the second following semimonthly period. The deposit of tax is due by the third banking day after the seventh day of that period.

For an example of the alternative method, see the Instructions for Form 720.

To use the alternative method, you must keep a separate account of the tax included in amounts billed or tickets sold during the month and report on Form 720 the tax included in amounts billed or tickets sold and not the amount of tax that is actually collected. For example, amounts billed in December, January, and February are considered collected during January, February, and March and are reported on Form 720 as the tax for the first quarter of the calendar year.

The separate account for each month must reflect:

1. All items of tax included in amounts billed or tickets sold during the month, and
2. Other items of adjustment relating to tax for prior months (within the statute of limitations on credits or refunds).

The separate account for any month can't include an adjustment resulting from a refusal to pay or inability to collect unless the refusal has been reported to the IRS. See *Uncollected Tax Report* in chapter 4.

The net amount of tax that is considered collected during the semimonthly period must be either:

- The net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month, or
- One-half of the net amount of tax reflected in the separate account for the preceding month.

Special rule for deposits of taxes in September. See the Instructions for Form 720 for a special rule on deposits made in September.

Amount of Deposits

Deposits for a semimonthly period generally must be at least 95% of the net tax liability for that period unless the safe harbor rule (discussed later) applies. Generally, you don't have to make a deposit for a period in which you incurred no tax liability.

Net tax liability. Your net tax liability is your tax liability for the period minus any claims on Schedule C (Form 720) for the period. You may figure your net tax liability for a semimonthly period by dividing your net liability incurred during the calendar month by two. If you use this method, you must use it for all semimonthly periods in the calendar quarter.

CAUTION *Don't reduce your liability by any amounts from Form 720-X.*

Safe Harbor Rule

The safe harbor rule applies separately to deposits under the regular method and the alternative method. Persons who filed Form 720 for the look-back quarter (the second calendar quarter preceding the current quarter) are considered to meet the semimonthly deposit requirement if the deposit for each semimonthly period in the current quarter is at least 1/6 (16.67%) of the net tax liability reported for the look-back quarter.

For the semimonthly period for which the additional deposit is required, the additional deposit must be at least 11/90 (12.23%), 10/90 (11.12%) for non-EFTPS, of the net tax liability reported for the look-back quarter. Also, the total deposit for that semimonthly period must be at least 1/6 (16.67%) of the net tax liability reported for the look-back quarter.

Exceptions. The safe harbor rule doesn't apply to:

- The first and second quarters beginning on or after the effective date of an increase in the rate of tax unless the deposit of taxes for each semimonthly period in the calendar quarter is at least 1/6 (16.67%) of the tax liability you would have had for the look-back quarter if the increased rate of tax had been in effect for that look-back quarter,
- Any quarter if liability includes any tax not in effect throughout the look-back quarter, or
- For deposits under the alternative method, any quarter if liability includes any tax not in effect throughout the look-back quarter and the month preceding the look-back quarter.

Requirements to be met. For the safe harbor rule to apply, you must:

- Make each deposit timely at an authorized financial institution, and
- Pay any underpayment for the current quarter by the due date of the return.

CAUTION *The IRS may withdraw the right to make deposits of tax using the safe harbor rule from any person not complying with these rules.*

Tax rate increases. You must modify the safe harbor rule if there has been an increase in the rate of tax. You must figure your tax liability in the look-back quarter as if the increased rate had been in effect. To qualify for the safe harbor rule, your deposits can't be less than 1/6 of the refigured tax liability.

14. Penalties and Interest

Penalties and interest may result from any of the following acts.

- Failing to collect and pay over tax as the collecting agent (see *Trust fund recovery penalty*, later).
- Failing to keep adequate records.
- Failing to file returns.
- Failing to pay taxes.
- Filing returns late.
- Filing false or fraudulent returns.
- Paying taxes late.
- Failing to make deposits.
- Depositing taxes late.
- Making false statements relating to tax.
- Failing to register.
- Misrepresenting that tax is excluded from the price of an article.

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Failure to register. The penalty for failure to register if you are required to register, unless due to reasonable cause, is $10,000 for the initial failure, and then $1,000 each day thereafter you fail to register.

Claims. There are criminal penalties for false or fraudulent claims. In addition, any person who files a refund claim, discussed earlier, for an excessive amount (without reasonable cause) may have to pay a penalty. An excessive amount is the amount claimed that is more than the allowable amount. The penalty is the greater of two times the excessive amount or $10.

Trust fund recovery penalty. If you provide taxable communications, air transportation services, or indoor tanning services, you have to collect excise taxes (as discussed earlier) from those persons who pay you for those services. You must pay over these taxes to the U.S. Government.

If you willfully fail to collect or pay over these taxes, or if you evade or defeat them in any way, the trust fund recovery penalty may apply. Willfully means voluntarily, consciously, and intentionally. The trust fund recovery penalty equals 100% of the taxes not collected or not paid over to the U.S. Government.

The trust fund recovery penalty may be imposed on any person responsible for collecting, accounting for, and paying over these taxes. If this person knows that these required actions aren't taking place for whatever reason, the person is acting willfully. Paying other expenses of the business instead of paying the taxes is willful behavior.

A responsible person can be an officer or employee of a corporation, a partner or employee of a partnership, or any other person who had responsibility for certain aspects of the business and financial affairs of the employer (or business). This may include accountants, trustees in bankruptcy, members of a board, banks, insurance companies, or sureties. The responsible person could even be another corporation—in other words, anyone who has the duty and the ability to direct, account for, or pay over the money. Having signature power on the business checking account could be a significant factor in determining responsibility.

15.

Examination and Appeal Procedures

If your excise tax return is examined and you disagree with the findings, you can get information about audit and appeal procedures from Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund. An unagreed case involving an excise tax covered in this publication differs from other tax cases in that you can only contest it in court after payment of the tax by filing suit for a refund in the United States District Court or the United States Court of Federal Claims.

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16.

Rulings Program

The IRS has a program for assisting taxpayers who have technical problems with tax laws and regulations. The IRS will answer inquiries from individuals and organizations about the tax effect of their acts or transactions. The National Office of the IRS issues rulings on those matters.

A ruling is a written statement to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. There are also determination letters issued by IRS directors and information letters issued by IRS directors or the National Office.

There is a fee for most types of determination letters and rulings. For complete information on the rulings program, see the first Internal Revenue Bulletin published each year.

17.

How To Get Tax Help

If you have questions about a tax issue, need help preparing your tax return, or want to download free publications, forms, or instructions, go to IRS.gov and find resources that can help you right away.

Preparing and filing your tax return. After receiving your wage and earning statements (Form W-2, W-2G, 1099-R, 1099-MISC) from all employers and interest and dividend statements from banks (Forms 1099), you can find free options to prepare and file your return on IRS.gov or in your local community if you qualify.

The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and limited-English-speaking taxpayers who need help preparing their own tax returns. .The Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older. TCE volunteers specialize in answering questions about pensions and retirement-related issues unique to seniors.

You can go to IRS.gov to see your options for preparing and filing your return which include the following.

- **Free File.** Go to *IRS.gov/FreeFile* to see if you qualify to use brand-name software to prepare and e-file your federal tax return for free.
- **VITA.** Go to *IRS.gov/VITA*, download the free IRS2Go app, or call 1-800-906-9887 to find the nearest VITA location for free tax preparation.
- **TCE.** Go to *IRS.gov/TCE*, download the free IRS2Go app, or call 1-888-227-7669 to find the nearest TCE location for free tax preparation.
- **Employers can register to use Business Services Online.** The SSA offers online service for fast, free, and secure online W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Forms W-2, Wage and Tax Statement, and Forms W-2c, Corrected Income and Tax Statement. Employers can go to *SSA.gov/employer* for more information.

Getting answers to your tax law questions. On IRS.gov get answers to your tax questions anytime, anywhere.

- Go to *IRS.gov/Help* for a variety of tools that will help you get answers to some of the most common tax questions.
- *IRS.gov/ITA* for the Interactive Tax Assistant, a tool that will ask you questions on a number of tax law topics and provide answers. You can print the entire interview and the final response for your records.
- Go to *IRS.gov/Forms* to search for our forms, instructions, and publications. You will find details on 2019 tax changes and hundreds of interactive links to help you find answers to your questions.
- You may be able to access tax law information in your electronic filing software.

Tax reform. Tax reform legislation affects individuals, businesses, and tax-exempt and government entities. Go to *IRS.gov/TaxReform* for information and updates on how this legislation affects your taxes.

IRS social media. Go to *IRS.gov/SocialMedia* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are paramount. We use these tools to share public information with you. **Don't** post your social security number or other confidential information on social media sites. Always protect your identity when using any social networking site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL.

- *Youtube.com/irsvideos*.
- *Youtube.com/irsvideosmultilingua*.
- *Youtube.com/irsvideosASL*.

Watching IRS Videos. The IRS Video portal *(IRSVideos.gov)* contains video and audio presentations for individuals, small businesses, and tax professionals.

Getting tax information in other languages. For taxpayers whose native language isn't English, we have the following resources available. Taxpayers can find information on IRS.gov in the following languages.

- *Spanish* (*IRS.gov/Spanish*).
- *Chinese* (*IRS.gov/Chinese*).
- *Korean* (*IRS.gov/Korean*).
- *Russian* (*IRS.gov/Russian*).
- *Vietnamese* (*IRS.gov/Vietnamese*).

The IRS Taxpayer Assistance Centers (TACs) provide over-the-phone interpreter service in over 170 languages, and the service is available free to taxpayers.

Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print all the forms and publications you may need. You can also download and view popular tax publications and instructions (including the 1040 or 1040-SR instructions) on mobile devices as an eBook at no charge at *IRS.gov/eBooks*. Or, you can go to *IRS.gov/OrderForms* to place an order and have them mailed to you within 10 business days.

Access your online account (Individual taxpayers only). Go to *IRS.gov/Account* to securely access information about your federal tax account.

- View the amount you owe, pay online or set up an online payment agreement.
- Access your tax records online.
- Review the past 24 months of your payment history.
- Go to *IRS.gov/SecureAccess* to review the required identity authentication process.

Using direct deposit. The fastest way to receive a tax refund is by combining direct deposit and IRS *e-file*. Direct deposit securely and electronically transfers your refund directly into your financial account. Eight in 10 taxpayers use direct deposit to receive their refund. The IRS issues more than 90% of refunds in less than 21 days.

Getting a transcript or copy of a return. The quickest way to get a copy of your tax transcript is to go to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a copy of your transcript. If you prefer, you can order your transcript by calling 800–908–9946.

Using online tools to help prepare your return. Go to *IRS.gov/Tools* for the following.

- The *Earned Income Tax Credit Assistant* (*IRS.gov/EITCAssistant*) determines if you're eligible for the EIC.
- The *Online EIN Application* (*IRS.gov/EIN*) helps you get an employer identification number.
- The *Tax Withholding Estimator* (*IRS.gov/W4App*) makes it easier for everyone to pay the correct amount of tax during the year. The Estimator replaces the Withholding Calculator. The redesigned tool is a convenient, online way to check and tailor your withholding. It's more user-friendly for taxpayers, including retirees and self-employed individuals. The new and improved features include the following.
  - Easy to understand language;
  - The ability to switch between screens, correct previous entries, and skip screens that don't apply;
  - Tips and links to help you determine if you qualify for tax credits and deductions;
  - A progress tracker;
  - A self-employment tax feature; and
  - Automatic calculation of taxable social security benefits.
- The *First Time Homebuyer Credit Account Look-up* (*IRS.gov/HomeBuyer*) tool provides information on your repayments and account balance.
- The *Sales Tax Deduction Calculator* (*IRS.gov/SalesTax*) figures the amount you can claim if you itemize deductions on Schedule A (Form 1040 or 1040-SR), choose not to claim state and local income taxes, and you didn't save your receipts showing the sales tax you paid.

Resolving tax-related identity theft issues.

- The IRS doesn't initiate contact with taxpayers by email or telephone to request personal or financial information. This includes any type of electronic communication, such as text messages and social media channels.
- Go to *IRS.gov/IDProtection* for information.
- If your SSN has been lost or stolen or you suspect you're a victim of tax-related identity theft, visit *IRS.gov/IdentityTheft* to learn what steps you should take.

Checking on the status of a refund.

- Go to *IRS.gov/Refunds*.
- The IRS can't issue refunds before mid-February 2020 for returns that properly claimed the EIC or the ACTC. This applies to the entire refund, not just the portion associated with these credits.
- Download the official IRS2Go app to your mobile device to check your refund status.
- Call the automated refund hotline at 1-800-829-1954.

Making a tax payment. The IRS uses the latest encryption technology to ensure your electronic payments are safe and secure. You can make electronic payments online, by phone, and from a mobile device using the IRS2Go app. Paying electronically is quick, easy, and faster than mailing in a check or money order. Go to *IRS.gov/Payments* to make a payment using any of the following options.

- *IRS Direct Pay*: Pay your individual tax bill or estimated tax payment directly from your checking or savings account at no cost to you.
- *Debit or Credit Card:* Choose an approved payment processor to pay online, by phone, and by mobile device.
- *Electronic Funds Withdrawal:* Offered only when filing your federal taxes using tax preparation software or through a tax professional.
- *Electronic Federal Tax Payment System:* Best option for businesses. Enrollment is required.
- *Check or money order:* Mail your payment to the address listed on the notice or instructions.
- *Cash:* You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire:* You may be able to do a same-day wire from your financial institution. Contact your financial institution for availability, cost, and cut-off times.

What if I can't pay now? Go to *IRS.gov/Payments* for more information.

- Apply for an *online payment agreement* (*IRS.gov/OPA*) to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Checking the status of an amended return. Go to *IRS.gov/WMAR* to track the status of Form 1040-X amended returns. Please note that it can take up to 3 weeks from the date you mailed your amended return for it to show up in our system and processing it can take up to 16 weeks.

Understanding an IRS notice or letter. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS Tax Assistance Center (TAC). Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC, check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on "Local Offices."

The Taxpayer Advocate Service (TAS) Is Here To Help You

What is TAS?

TAS is an ***independent*** organization within the Internal Revenue Service that helps taxpayers and protects taxpayer rights. Our job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

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How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to *TaxpayerAdvocate.IRS.gov* to help you understand *what these rights mean to you* and how they apply. These are **your** rights. Know them. Use them.

What Can the TAS Do For You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call us at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, please report it to us at *IRS.gov/SAMS*.

TAS also has a website, *Tax Reform Changes*, which shows you how the new tax law may change your future tax filings and helps you plan for these changes. The information is categorized by tax topic in the order of the IRS Form 1040 or 1040-SR. Go to *TaxChanges.us* for more information.

TAS to Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, clinics can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee. To find a clinic near you, visit *IRS.gov/LITC* or see IRS Publication 4134, *Low Income Taxpayer Clinic List*.

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18.

Appendix

This appendix contains models of the certificates, waivers, reports, and statements discussed in Part One.

Model Certificate A

STATEMENT OF SUBSEQUENT SELLER

1. _____

_____
Name, address, and employer identification number of seller in subsequent sale

2. _____

_____
Name, address, and employer identification number of the buyer in subsequent sale

3. _____
Date and location of subsequent sale

4. _____
Volume and type of taxable fuel sold

The undersigned seller ("Seller") has received the copy of the first taxpayer's report provided with this statement in connection with Seller's purchase of the taxable fuel described in this statement.

Under penalties of perjury, Seller declares that Seller has examined this statement, including any accompanying schedules and statements, and, to the best of Seller's knowledge and belief, they are true, correct and complete.

_____
Signature and date signed

_____
Printed or typed name of person signing this report

_____
Title—

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Model Certificate B

FIRST TAXPAYER'S REPORT

1. _____

   _____

   First Taxpayer's name, address and employer identification number

2. _____

   _____

   Name, address, and employer identification number of the buyer of the taxable fuel subject to tax

3. _____

   Date and location of removal, entry, or sale

4. _____

   Volume and type of taxable fuel removed, entered or sold

5. Check type of taxable event:

   _____ Removal from refinery

   _____ Entry into United States

   _____ Bulk transfer from terminal by unregistered position holder

   _____ Bulk transfer not received at an approved terminal

   _____ Sale within the bulk transfer/terminal system

   _____ Removal at the terminal rack

   _____ Removal or sale by the blender

6. _____

   Amount of federal excise tax paid on account of the removal, entry, or sale

The undersigned taxpayer ("Taxpayer") hasn't received, and won't claim, a credit with respect to, or a refund of, the tax on the taxable fuel to which this form relates.

Under penalties of perjury, Taxpayer declares that Taxpayer has examined this statement, including any accompanying schedules and statements, and to the best of Taxpayer's knowledge and belief, they are true, correct and complete.

_____

Signature and date signed

_____

Printed or typed name of person signing this report

_____

Title

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Model Certificate C

NOTIFICATION CERTIFICATE OF TAXABLE FUEL REGISTRANT

_____

_____

Name, address, and employer identification number of person receiving certificate

The undersigned taxable registrant ("Registrant") hereby certifies under penalties of perjury that Registrant is registered by the Internal Revenue Service with registration number _____ and that Registrant's registration hasn't been revoked or suspended by the Internal Revenue Service.

Registrant understands that the fraudulent use of this certificate may subject Registrant and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Registrant

_____

Employer identification number

_____

Address of Registrant

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Model Certificate D

CERTIFICATE OF PERSON BUYING GASOLINE BLENDSTOCKS FOR USE OTHER THAN IN THE PRODUCTION OF FINISHED GASOLINE

(To support tax-free sales (other than LUST) under section 4081 of the Internal Revenue Code.)

_____

_____

Name, address, and employer identification number of seller

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The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

The gasoline blendstocks to which this certificate relates won't be used to produce finished gasoline.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here ___ and enter:

1. Invoice or delivery ticket number
2. _____ (number of gallons) of _____ (type of gasoline blendstocks)

If this is a certificate covering all purchases under a specified account or order number, check here ___ and enter:

1. Effective date _____
2. Expiration date _____

(period not to exceed 1 year after the effective date)

3. Type (or types) of gasoline blendstocks _____
4. Buyer's account or order number _____

Buyer won't claim a credit or refund under section 6427(h) of the Internal Revenue Code for any gasoline blendstocks covered by this certificate.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer resells the gasoline blendstocks to which this certificate relates, Buyer will be liable for tax unless Buyer obtains a certificate from the purchaser stating that the gasoline blendstocks won't be used to produce finished gasoline and otherwise complies with the conditions of §48.4081-4(b)(3) of the Manufacturers and Retailers Excise Tax Regulations.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer hasn't been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service hasn't notified Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells gasoline blendstocks tax free.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

Model Certificate G

CERTIFICATE OF REGISTERED FEEDSTOCK USER

(To support tax-free removals and entries (other than LUST) of kerosene under section 4082 of the Internal Revenue Code.)

_____ (Buyer) certifies the following under penalties of perjury:
Name of buyer

Buyer is a registered feedstock user with registration number _____ . Buyer's registration hasn't been revoked or suspended.

The kerosene to which this certificate applies will be used by Buyer for a feedstock purpose.

This certificate applies to _____ percent of Buyer's purchases from _____ (name, address, and employer identification number of seller) as follows (complete as applicable):

1. A single purchase on invoice or delivery ticket number _____ .

2. All purchases between _____ (effective date) and _____ (expiration date) (period not to exceed one year after the effective date) under account or order number(s) _____ . If this certificate applies only to Buyer's purchases for certain locations, check here _____ and list the locations.

_____

_____

_____

If Buyer sells the kerosene to which this certificate relates, Buyer will be liable for tax on that sale.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer violates the terms of this certificate, the Internal Revenue Service may revoke the Buyer's registration.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

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Model Certificate J

CERTIFICATE OF PERSON BUYING COMPRESSED NATURAL GAS (CNG) FOR A NONTAXABLE USE

(To support tax-free sales of CNG under section 4041 of the Internal Revenue Code.)

_____

_____

Name, address, and employer identification number of seller

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_____ ("Buyer") certifies the following under penalties of perjury:

Name of buyer

The CNG to which this certificate relates will be used in a nontaxable use.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here ___ and enter:

1. Invoice or delivery ticket number _____

2. _____ (Gasoline gallon equivalents)

If this is a certificate covering all purchases under a specified account or order number, check here ___ and enter:

1. Effective date _____
2. Expiration date _____

   (period not to exceed 1 year after the effective date)
3. Buyer's account or order number _____

Buyer won't claim a credit or refund under section 6427 of the Internal Revenue Code for any CNG to which this certificate relates.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer hasn't been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service hasn't notified Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells CNG tax free.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Certificate K

CERTIFICATE OF PERSON BUYING KEROSENE FOR USE IN AVIATION FOR COMMERCIAL AVIATION OR NONTAXABLE USE

(To support operator liability for tax on removals of kerosene for use in aviation directly into the fuel tank of an aircraft in commercial aviation pursuant to § 4081 of the Internal Revenue Code or to support a tax rate of zero under § 4041(c) pursuant to §§4041(c) and 4082.)

DRAFT AS OF March 3, 2020

Name, address, and employer identification number of position holder

The undersigned aircraft operator ("Buyer") hereby certifies the following under the penalties of perjury:

The kerosene for use in aviation to which this certificate relates is purchased (check one): ___ for use on a farm for farming purposes; ___ for use in foreign trade (reciprocal benefits required for foreign registered airlines); ___ for use in certain helicopter and fixed-wing air ambulance uses; ___ for use other than as a fuel in the propulsion engine of an aircraft; ___ for the exclusive use of a qualified blood collector organization; ___ for the exclusive use of a nonprofit educational organization; ___ for the exclusive use of a state; ___ for use in an aircraft owned by an aircraft museum; ___ for use in military aircraft; or ___ for use in commercial aviation (other than foreign trade).

With respect to kerosene for use in aviation purchased after June 30, 2005, for use in commercial aviation (other than foreign trade), Buyer's registration number is_____. Buyer's registration hasn't been suspended or revoked by the Internal Revenue Service.

This certificate applies to the following (complete as applicable):

_____ This is a single purchase certificate:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

_____ This is a certificate covering all purchases under a specified account or order number:

1. Effective date ____
2. Expiration date ____ (period not to exceed 1 year after the effective date)
3. Buyer's account number _____

Buyer agrees to provide the person liable for tax with a new certificate if any information in this certificate changes.

If the kerosene for use in aviation to which this certificate relates is being bought for use in commercial aviation (other than foreign trade), Buyer is liable for tax on its use of the fuel and will pay that tax to the government.

If Buyer sells or uses the kerosene for use in aviation to which this certificate relates for a use other than the use stated above, Buyer will be liable for tax.

Buyer understands that it must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

Buyer hasn't been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

The fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Waiver L

WAIVER FOR USE BY ULTIMATE PURCHASERS OF KEROSENE FOR CERTAIN USES IN AVIATION

(To support vendor's claim for a credit or payment under § 6427(l)(4)(C)(i) of the Internal Revenue Code.)

_____

_____

Name, Address, and Employer Identification Number of Ultimate Vendor

DRAFT AS OF March 3, 2020

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under penalties of perjury:

A. The kerosene to which this waiver relates is purchased for — (check one):

1. ☐ Use on a farm for farming purposes,
2. ☐ Use in foreign trade (reciprocal benefits required for foreign registered airlines),
3. ☐ Use in certain helicopter and fixed-wing air ambulance uses,
4. ☐ The exclusive use of a qualified blood collector organization,
5. ☐ The exclusive use of a nonprofit educational organization,
6. ☐ Use in an aircraft owned by an aircraft museum,
7. ☐ Use in military aircraft, or
8. ☐ Use in commercial aviation (other than foreign trade).

B. This waiver applies to the following (complete as applicable):

_____ This is a single purchase waiver:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

_____ This is a waiver covering all purchases under a specified account or order number:

1. Effective date _____
2. Expiration date _____ (period not to exceed 1 year after the effective date)
3. Buyer's account number _____

Buyer will provide a new waiver to the vendor if any information in this waiver changes.

If Buyer uses the kerosene for use in aviation to which this waiver relates for a use other than the use stated above, Buyer will be liable for tax.

Buyer understands that by signing this waiver, Buyer gives up its right to claim any credit or payment for the kerosene for use in aviation used in a nontaxable use.

Buyer acknowledges that it hasn't and won't claim any credit or payment for the kerosene for use in aviation to which this waiver relates.

Buyer understands that the fraudulent use of this waiver may subject Buyer and all parties making such fraudulent use of this waiver to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Certificate M

CERTIFICATE FOR STATE USE OR NONPROFIT EDUCATIONAL ORGANIZATION USE

(To support vendor's claim for a credit or payment under § 6416(a)(4) of the Internal Revenue Code.)

DRAFT AS OF March 3, 2020

Name, address, and employer identification number of ultimate vendor

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under the penalties of perjury:

Buyer will use the gasoline or aviation gasoline to which this certificate relates (check one):

_____ For the exclusive use of a state or local government; or

_____ For the exclusive use of a nonprofit educational organization.

This certificate applies to the following (complete as applicable):

_____ This is a single purchase certificate:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

_____ This is a certificate covering all purchases under a specified account or order number:

1. Effective date _____
2. Expiration date_____ (period not to exceed 1 year after the effective date)
3. Buyer's account number_____

Buyer will provide a new certificate to the vendor if any information in this certificate changes.

Buyer understands that by signing this certificate, Buyer gives up its right to claim any credit or payment for the gasoline or aviation gasoline to which this certificate relates.

Buyer acknowledges that it hasn't and won't claim any credit or payment for the gasoline or aviation gasoline to which this certificate relates.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing

Title of person signing

Name of Buyer

Employer identification number

Address of Buyer

Signature and date signed

Model Waiver N

WAIVER FOR USE BY ULTIMATE PURCHASERS OF DIESEL FUEL OR KEROSENE USED IN INTERCITY BUS TRANSPORTATION

(To support vendor's claim for a credit or payment under § 6427 of the Internal Revenue Code.)

_____

_____

_____

Name, address, and employer identification number of ultimate vendor

DRAFT AS OF March 3, 2020

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under the penalties of perjury:

The diesel fuel or kerosene to which this waiver relates is purchased for use in intercity bus transportation.

This waiver applies to the following (complete as applicable):

____ This is a single purchase waiver:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

____ This is a waiver covering all purchases under a specified account or order number:

1. Effective date _____
2. Expiration date _____ (period not to exceed 1 year after the effective date)
3. Buyer's account number _____

Buyer will provide a new waiver to the vendor if any information in this waiver changes.

If Buyer uses the diesel fuel or kerosene to which this waiver relates for a use other than in intercity bus transportation, Buyer will be liable for tax.

Buyer understands that by signing this waiver, Buyer gives up its right to claim any credit or payment for the diesel fuel or kerosene used in intercity bus transportation.

Buyer acknowledges that it hasn't and won't claim any credit or payment for the diesel fuel or kerosene to which this waiver relates.

Buyer understands that the fraudulent use of this waiver may subject Buyer and all parties making such fraudulent use of this waiver to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Certificate O

CERTIFICATE FOR BIODIESEL

Certificate Identification Number: _____

(To support a claim related to biodiesel or a biodiesel mixture under section 6426 of the Internal Revenue Code.)

The undersigned biodiesel producer ("Producer") hereby certifies the following under penalties of perjury:

1. _____

_____

Producer's name, address, and employer identification number (EIN)

2. _____

_____

Name, address, and EIN of person buying the biodiesel from Producer

3. _____

Date and location of sale to buyer

4. This certificate applies to _____gallons of biodiesel.

5. Producer certifies that the biodiesel to which this certificate relates is:

____ % Agri-biodiesel (derived solely from virgin oils)

____ % Biodiesel other than agri-biodiesel

This certificate applies to the following sale:

____ Invoice or delivery ticket number

____ Total number of gallons of biodiesel sold under that invoice or delivery ticket number (including biodiesel not covered by this certificate)

____ Total number of certificates issued for that invoice or delivery ticket number

6. _____

_____

Name, address, and employer identification number of reseller to whom certificate is issued (only in the case of certificates reissued to a reseller after the return of the original certificate)

7. _____ Original Certificate Identification Number (only in the case of certificates reissued to a reseller after return of the original certificate).

Producer is registered as a biodiesel producer with registration number _____.
Producer's registration hasn't been suspended or revoked by the Internal Revenue Service.

Producer certifies that the biodiesel to which this certificate relates in monoalkyl esters of long chain fatty acids derived from plant or animal matter that meets the requirements of the American Society of Testing and Materials D6751 and the registration requirements for fuels and fuel additives established by EPA under section 211 of the Clean Air Act (42 U.S.C. 7545).

Producer understands that the fraudulent use of this certificate may subject Producer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

DRAFT AS OF March 3, 2020

Model Certificate P

CERTIFICATE OF STATE USE

(To support vendor's claim for credit or payment under section 6427 of the Internal Revenue Code.)

_____

_____

DRAFT AS OF March 3, 2020

Name, Address, and Employer Identification Number of Vendor

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

A. Buyer will use the diesel fuel or kerosene to which this certificate relates for the exclusive use of a state or local government, or the District of Columbia.

B. This certificate applies to the following (complete as applicable):

1. If this is a single purchase certificate, check here ☐ and enter:

   a. Invoice or delivery ticket number _____

   b. Number of gallons _____

2. If this is a certificate covering all purchases under a specified account or order number, check here ☐ and enter:

   a. Effective date _____

   b. Expiration date _____
   (period not to exceed 1 year after effective date)

   c. Buyer's account or order number _____

- Buyer will provide a new certificate to the vendor if any information in this certificate changes.
- If Buyer uses the diesel fuel or kerosene to which this certificate relates for a purpose other than stated in the certificate, Buyer will be liable for any tax.
- Buyer acknowledges that it hasn't and won't claim any credit or payment for the diesel fuel or kerosene to which this certificate relates.
- Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Name of Buyer

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

Model Certificate Q

CERTIFICATE OF ULTIMATE PURCHASER OF KEROSENE FOR USE IN NONEXEMPT, NONCOMMERCIAL AVIATION

(To support vendor's claim for credit or payment under section 6427(l)(4)(C)(ii) of the Internal Revenue Code.)

DRAFT AS OF March 3, 2020

Name, Address, and Employer Identification Number of Ultimate Vendor

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under penalties of perjury:

A. The kerosene to which this certificate relates is purchased for a nonexempt use in noncommercial aviation.

B. This certificate applies to the following (complete as applicable):

1. If this is a single purchase certificate, check here ☐ and enter:

   a. Invoice or delivery ticket number

   b. Number of gallons

2. This is a certificate covering all purchases under a specified account or order number:

   a. Effective date

   b. Expiration date
      (period not to exceed 1 year after effective date)

   c. Buyer's account number

- Buyer will provide a new certificate to the vendor if any information in this certificate changes.
- If Buyer uses the kerosene to which this certificate relates for a use other than the nontaxable use stated above, Buyer will be liable for tax.
- Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing

Title of person signing

Name of Buyer

Employer identification number

Address of Buyer

Signature and date signed

Model Certificate R

CERTIFICATE OF BUYER OF TAXABLE FUEL FOR USE BY A STATE OR NONPROFIT EDUCATIONAL ORGANIZATION

(To support credit card issuer's claim for credit, refund, or payment under section 6416(a)(4)(B) or section 6427(l)(5)(D) of the Internal Revenue Code.)

DRAFT AS OF March 3, 2020

_____

_____

Name, Address, and Employer Identification Number of Credit Card Issuer.

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under penalties of perjury:

A. Buyer will use the taxable fuel to which this certificate relates for the exclusive use of a state; or

B. Buyer will use the gasoline to which this certificate relates for the exclusive use of a nonprofit educational organization.

C. This certificate applies to all purchases made with the credit card identified below during the period specified:

   a. Effective date of certificate

   b. Expiration date of certificate
      (period not to exceed 2 years after effective date)

   c. Buyer's account number

- Buyer will provide a new certificate to the credit card issuer if any information in this certificate changes.
- Buyer understands that by signing this certificate, Buyer gives up its right to claim a credit or payment for the taxable fuel purchased with the credit card to which this certificate relates.
- Buyer acknowledges that it hasn't and won't claim any credit or payment for the taxable fuel purchased with the credit card to which this certificate relates.
- Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Statement S

STATEMENT OF BIODIESEL RESELLER

(To support a claim related to biodiesel or a biodiesel mixture under section 6426 of the Internal Revenue Code.)

The undersigned biodiesel producer ("Reseller") hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Reseller's name, address, and employer identification number (EIN)

2. _____

_____

_____

Name, address, and EIN of Reseller's buyer

3. _____

Date and location of sale to buyer

4. Volume of biodiesel sold_____

5. Certificate Identification Number on the Certificate for Biodiesel

Reseller has bought the biodiesel described in the accompanying Certificate for Biodiesel and Reseller has no reason to believe that any information in the certificate is false.

Reseller hasn't been notified by the Internal Revenue Service that its right to provide a certificate or statement has been withdrawn.

Reseller understands that the fraudulent use of this statement may subject Reseller and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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