

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

ADMINISTRATIVE

REG-108706-25, page 1508.

These proposed regulations relate to user fees for the three-part Special Enrollment Examination individuals may take to be granted the status of enrolled agent under section 10.4(a) of Circular 230. In accordance with OMB Circular A-25, the user fee is decreased from \$99 to \$66 per part and is in addition to an amount payable directly to a third-party contractor.

T.D. 10045, page 1491.

These interim final regulations relate to user fees for the three-part Special Enrollment Examination individuals may take to be granted the status of enrolled agent under section 10.4(a) of Circular 230. In accordance with OMB Circular A-25, the user fee is decreased from \$99 to \$66 per part and is in addition to an amount payable directly to a third-party contractor. The text of these interim final regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject.

EMPLOYEE PLANS

Notice 2026-27, page 1502.

This notice specifies updated static mortality tables to be used for defined benefit pension plans under § 430(h)(3)(A) of the Code and section 303(h)(3)(A) of ERISA. This notice also specifies a mortality table for use in determining minimum present value under § 417(e)(3) of the Code and section 205(g)(3) of ERISA for distributions with annuity starting

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dates that occur during stability periods beginning in the 2027 calendar year.

EXCISE TAX

REG-119294-25, page 1509.

This document contains proposed regulations regarding the payment provision for previously taxed dyed fuel enacted by the One, Big, Beautiful Bill Act. Specifically, these proposed regulations provide guidance as to the taxpayers that may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of the temporary regulations published simultaneously to the proposed regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the proposed rules section in this issue of the Federal Register. These proposed regulations affect taxpayers that withdraw previously taxed dyed fuel from a terminal.

T.D. 10047, page 1494.

This document contains temporary regulations regarding the payment provision for previously taxed dyed fuel enacted by the One, Big, Beautiful Bill Act. Specifically, these temporary regulations provide guidance as to the taxpayers that may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the proposed rules section in this issue of the Federal Register. These temporary regulations affect taxpayers that withdraw previously taxed dyed fuel from a terminal.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

Part I

26 CFR § 300.4: Enrolled agent special enrollment examination fee

TD 10045

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 300

Enrolled Agent Special Enrollment Examination User Fee Update

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Interim Final Rule.

SUMMARY: This document contains interim final regulations relating to the imposition of user fees for the special enrollment examination for enrolled agents (EA SEE). These regulations reduce the user fee for each part of the EA SEE from \$99 per part to \$66 per part. The Independent Offices Appropriation Act of 1952 authorizes the charging of user fees. The text of these interim final regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in this issue in the Proposed Rules section of this edition of the *Federal Register*.

DATES: *Effective date:* These regulations are effective on April 20, 2026.

Applicability date: For date of applicability, see §300.4(d) of these interim final regulations.

FOR FURTHER INFORMATION CONTACT: Concerning the interim final regulations, Sean Dix at (202) 317-6845; concerning cost methodology, CFO Cost and User Fees at (202) 317-6400 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Authority

This document contains interim final amendments to 26 CFR part 300 regarding user fees for the EA SEE.

The Independent Offices Appropriation Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget Circular A-25, 58 FR 38142 (July 15, 1993) (OMB Circular A-25).

Under OMB Circular A-25, Federal agencies that provide services that confer benefits on identifiable recipients are to establish user fees that recover the full cost of providing the service. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. In general, a user fee should be set at an amount that allows the agency to recover the direct and indirect costs of providing the service, unless the Office of Management and Budget (OMB) grants an exception. OMB Circular A-25 provides that agencies are to review user fees biennially and update them as necessary.

Background

A. Enrolled Agents and the Special Enrollment Examinations

Section 330 of Title 31 of the United States Code authorizes the Secretary of the Treasury or the Secretary's delegate (Secretary) to regulate the practice of representatives before the Department of the Treasury (Treasury Department) and to require that an individual seeking to practice demonstrate the necessary qualifications, competency, and good character and reputation. The rules governing practice before the IRS are published in 31 CFR, Subtitle A, part 10, and reprinted as Treasury Department Circular No. 230 (Circular 230).

Section 10.4(a) of Circular 230 authorizes the IRS to grant status as enrolled agents to individuals who demonstrate special competence in tax matters by passing a written examination, the EA SEE, and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230.

The EA SEE is comprised of three parts, and an applicant generally must pass all three parts within three years to be granted enrolled agent status through written examination. The EA SEE testing period generally begins on May 1 each year and ends the last day of the following February. The EA SEE is not offered during March and April when it is updated to reflect recent changes in the relevant law. More information on the EA SEE, including content, scoring, and how to register, can be found on the IRS website at <https://www.irs.gov/tax-professionals/enrolled-agents>. Since 2006, the IRS has engaged the services of a third-party contractor to develop and administer the EA SEE. The IRS Return Preparer Office (RPO) oversees the development and administration of the EA SEE. As of January 31, 2026, there were 75,304 enrolled agents.

B. The EA SEE User Fee

Section 10.4(a) of Circular 230 provides that the IRS will grant enrolled agent status to an applicant who, among other things, demonstrates special competence in tax matters by written examination. The EA SEE is the written examination by which applicants can demonstrate special competence in tax matters, and an applicant must pass all three parts of the EA SEE to be granted enrolled agent status through written examination. The IRS confers a benefit on individuals who take the EA SEE beyond those that accrue to the general public by providing them with an opportunity to demonstrate special competence in tax matters by passing a written examination and thereby satisfy one of the requirements for becoming an enrolled agent under section 10.4(a) of Circular 230. Because the EA SEE is a service that provides a special benefit to

test takers, the IRS charges a user fee to take the examination.

Final regulations (TD 9962) published in the *Federal Register* (87 FR 11295-02) on March 1, 2022, established the current \$99 user fee (per part) of the EA SEE. At that time the Treasury Department and the IRS determined that a \$99 user fee per part would recover the full direct and indirect costs the government would incur to oversee the EA SEE. The 2023 biennial review determined the full cost of the EA SEE was \$121 per part. The IRS requested and obtained a waiver from OMB to postpone this increase to the EA SEE user fee until the 2025 biennial review. As a result, the user fee is currently still \$99 per part. The contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2025 to February 2026 testing period, the contractor's fee was \$168 for each part of the EA SEE. This contract expired at the end of the February 2026 testing period and a new contract was obtained, subject to public procurement procedures. For the May 2026 to February 2027 testing period, the contractor's fee is \$251 for each part of the EA SEE.

As required by OMB Circular A-25, in 2025 the IRS conducted a biennial review of the EA SEE user fee and calculated its costs for overseeing the examination. As a result of the review, the IRS determined that its full cost for overseeing the EA SEE is now \$66 per part. Therefore, these regulations decrease the amount of the user fee for taking the EA SEE from \$99 per part to \$66 per part. This amount is in addition to the amount payable directly to the third-party contractor for each part. The IRS does not intend to subsidize any of the cost of making the EA SEE available to examinees and is not applying for an exception to the full-cost requirement in OMB Circular A-25.

The decrease in the user fee is primarily attributable to a change in timekeeping methodology, which resulted in a smaller estimated expense for administering the EA SEE program. Additionally, there has been an increase in the number of exam takers, further distributing the fixed costs related to administering the exam. The proposed user fee accounts for the time and personnel necessary to oversee the development and administration of the EA SEE

and to ensure that the contractor complies with the terms of its contract. The IRS's oversight costs include costs associated with: (1) review and approval of materials used by the contractor in developing the EA SEE; (2) review of surveys of existing enrolled agents, which help to determine the topics to be covered in the EA SEE; (3) composition of potential EA SEE questions in coordination with the contractor's external tax law experts; and (4) analysis of the answers and raw scores of a testing population to determine a passing score.

In addition, IRS personnel ensure the contractor's compliance with its contract by reviewing the work of the contractor using an annual Work Breakdown Structure—a project management tool—and reviewing and verifying that the contractor is in compliance with a Quality Assurance Plan measuring customer satisfaction and accuracy. The IRS incurs additional costs associated with enforcing compliance with the Treasury contractor personnel security and training policies, Federal Information Security Modernization Act (FISMA), Section 508 of the Rehabilitation Act of 1973 and other laws, regulations and policies in the scope of the EA SEE contract; monitoring the contractor's help desk; and the resolution of test-related issues such as cheating incidents, appeals regarding test scores, refund requests, and customer service complaints that are not resolved by the contractor.

The government is authorized to charge an EA SEE user fee under the IOAA because, in exchange for the fee, it provides a service by developing and administering the EA SEE, which allows individuals to become enrolled agents and gain the ability to practice before the IRS under Circular 230. OMB Circular A-25 states that user fees should be collected in advance of or simultaneously with the provision of a service. The EA SEE user fee is collected when potential enrolled agents apply to take the examination during the examination season, which begins annually in May.

Explanation of Provisions

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of overseeing the EA SEE. The Federal Accounting Standards

Advisory Board (FASAB) is the body that establishes GAAP that apply for Federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), which is available at https://files.fasab.gov/pdf/files/2025_FASAB_Handbook.pdf. The Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Standards and Concepts*. SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of Federal programs, and the methodology below is in accordance with SFFAS No. 4.

1. Cost Estimation of Direct Labor

The IRS uses various cost-measurement techniques to estimate the cost attributable to the program. These techniques include using various timekeeping systems to measure the time required to accomplish activities, or using information provided by subject-matter experts on the time devoted to a program. To determine the labor and benefits cost attributable to oversight of the EA SEE, the IRS estimated the number of full-time employees required to conduct activities related to the costs of overseeing the EA SEE. The number of full-time employees is based on both current employment numbers and future hiring estimates. Other direct costs associated with overseeing the EA SEE include travel, training, and supplies. When the indirect cost of a service or activity is not specifically identified from the cost accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost.

2. Overhead

Overhead is an indirect cost of operating an organization that is not specifically identifiable with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity. These costs can include:

- General management and administration

- Rent, security, utilities and maintenance
- Procurement and contracting
- Financial management and accounting
- Information technology
- Research, analytical and statistical

To calculate the overhead allocable to a service, the IRS applies an overhead rate to the identified direct labor and benefits and other direct costs. The overhead rate is the ratio of the IRS’s indirect labor, benefits, and non-labor costs of business divisions that do not interact with taxpayers

to the labor and benefits costs of business divisions that interact with taxpayers. The IRS calculates an overhead rate annually. For the FY 2025 user fee review, an overhead rate of 62.92 percent was used.

3. Calculation of EA SEE User FEE

The IRS used projections for FYs 2026 through 2028 to determine the direct and indirect costs associated with overseeing the EA SEE that are includible in the EA SEE user fee calculation. Direct costs are incurred by the RPO and include staffing

and contract-related costs for activities, processes, and procedures related to overseeing the EA SEE.

The labor and benefits for the work performed related to overseeing the EA SEE is projected to be \$3,505,101 in total over FYs 2026 through 2028. In addition to labor and benefits and overhead expenses, the IRS projects incurring travel, training, and supplies costs of \$16,182.82 in each of FYs 2026 through 2028. The total labor and benefits, travel, training, and supplies, and overhead expenses projected are shown below:

Expense	FY 2026	FY 2027	FY 2028	Total
Labor and benefits	\$1,136,817.91	\$1,168,080.40	\$1,200,202.61	\$3,505,101
Travel, training, and supplies	\$16,182.82	\$16,182.82	\$16,182.82	\$48,548
Overhead (62.92 percent)	\$715,286.00	\$734,956.00	\$755,167.00	\$2,205,409

The total cost for FYs 2026 through 2028 are therefore projected to be \$5,759,058. The number of examination parts provided during FYs 2022, 2023, and 2024 were 27,313; 29,797; 29,584, respectively. The total number of examination parts provided during the three years was 86,694. The IRS used this historical three-year volume to estimate the number of examination parts it expects to provide in FYs 2026, 2027, and 2028. Dividing this total cost by the projected examinations for FYs 2026 through 2028 results in a cost per examination of \$66 as shown below:

Total Costs	\$5,759,058
Number of Applications	÷ 86,694
Cost Per Application	<u>\$66.43</u>

Taking into account the full amount of these costs, the amount of the EA SEE user fee per part is \$66.

As noted in section B, the contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2026 to February 2027, May 2027 to February 2028, May 2028 to February 2029 testing periods, the contractor’s fee is \$251 for each part of the EA SEE. For the May 2029 to February 2030 testing period, the contractor’s fee is \$211 for each part of the EA SEE. The fee charged by the

contractor is fixed by the current contract terms and therefore cannot be reduced or renegotiated at this time. The contract was subject to public procurement procedures, and there were no tenders that were more competitive. The contract will expire on February 28, 2030. The fee charged by the contractor may change when the contract expires. Any future contract will be subject to the public procurement procedures.

Special Analyses

I. Regulatory Planning and Review

These interim final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and OMB regarding review of tax regulations.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these interim final regulations will not have a significant economic impact on a substantial number of small entities. The EA SEE user fee primarily affects individuals who take the EA SEE. Only individuals, not businesses, can be enrolled agents. Thus, the economic

impact of these regulations on any small entity would be a result of an individual enrolled agent owning a small entity or a small entity employing an enrolled agent who must take the EA SEE. The Treasury Department and the IRS estimate that an average of 28,898 EA SEE examination parts will be taken by individuals annually. Therefore, a substantial number of small entities is not likely to be affected. Additionally, the economic impact on those entities is not significant. These regulations will establish a \$66 fee per examination part (plus \$251 payable directly to the third-party contractor), and will not have a significant economic impact on a small entity. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for

inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These interim final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Good Cause

The annual EA SEE testing period for May 2026-February 2027 will begin shortly. It would be unnecessary and contrary to the public interest for the IRS to continue to charge the current, higher user fee pending public comment after the IRS has determined pursuant to the biennial review conducted under OMB Circular A-25 that the EA SEE user fee should be reduced going forward. To enable the reduced fee amount to be in effect for the upcoming EA SEE test period beginning in May 2026, the Treasury Department and the IRS find that there is good cause to dispense with (1) notice and public comment pursuant to 5 U.S.C. 553(b) and (c) and (2) a delayed effective date pursuant to 5 U.S.C. 553(d). The Treasury Department and the IRS will consider public comments submitted in response to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section of this issue of the *Federal Register* and will promulgate a final rule after considering those comments.

VI. Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, this Treasury decision has been

submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Sean Dix, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Estate taxes, Excise taxes, Fees, Gift taxes, Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 300 as follows:

PART 300—USER FEES

Paragraph 1. The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

§300.4 Enrolled agent special enrollment examination fee.

* * * * *

(b) *Fee.* The fee for taking the enrolled agent special enrollment examination is \$66 per part, which is the cost to the government for overseeing the development and administration of the examination and is in addition to the fees charged by the administrator of the examination.

* * * * *

(d) *Applicability date.* This section applies to registrations for the enrolled agent special enrollment examination that occur on or after April 20, 2026.

Frank J. Bisignano,
Chief Executive Officer.

Approved: March 30, 2026.

Kenneth J. Kies,
Assistant Secretary of the Treasury
(Tax Policy).

(Filed by the Office of the Federal Register April 17, 2026, 8:45 a.m., and published in the issue of the Federal Register for April 20, 2026, 91 FR 20899)

26 CFR 48.6435-1T: Dyed Fuel Refund

TD 10047 DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 48

Section 6435 Payments; Refunds for Previously Taxed Dyed Fuel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations regarding the statutory provision providing for payments to taxpayers with respect to certain previously taxed dyed fuel. Specifically, these temporary regulations provide guidance delineating which taxpayers may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the proposed rules section in this issue of the *Federal Register*. These temporary regulations affect taxpayers that withdraw previously taxed dyed fuel from a terminal.

DATES: *Effective date:* These temporary regulations are effective on May 1,

2026. The temporary regulations under § 48.6435-1T expire on the earlier of May 1, 2029 or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Applicability date: These temporary regulations apply to removals of eligible dyed fuel occurring on or after December 31, 2025.

FOR FURTHER INFORMATION CONTACT: Concerning these temporary regulations, Danielle Mayfield or Andrew Clark of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax) at (202) 317-6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) under section 6435 of the Internal Revenue Code (Code) relating to the determination of payments regarding dyed diesel fuel or dyed kerosene with respect to which excise tax under section 4081 of the Code was paid (regulations). The regulations are issued under the authority granted by sections 6435(a), 6001, and 7805(a) of the Code.

Section 6435(a) requires that a person claiming a payment under section 6435 establish to the satisfaction of the Secretary of the Treasury or the Secretary's delegate (Secretary) that such person meets the requirements under section 6435(b).

Section 6001 authorizes the Secretary to prescribe regulations related to record-keeping, statements, and returns.

Section 7805(a) authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

Background

I. Overview

This document amends the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) to add temporary regulations providing rules relating to

claims for payment under section 6435 regarding previously taxed dyed fuel. For the reasons discussed in Part IV of this Background, the temporary regulations limit the claimants under section 6435 to taxpayers that paid to the IRS the prior fuel excise tax under section 4081 with respect to the dyed fuel.

In accordance with section 7805(e) (1), concurrent with the publication of this Treasury Decision, the Department of the Treasury (Treasury Department) and the IRS are publishing in the Proposed Rules section of this issue of the **Federal Register** a notice of proposed rulemaking (REG-119294-25) containing proposed regulations under section 6435 at proposed § 48.6435-1, the text of which is identical to the text of § 48.6435-1T of the temporary regulations.

Interested persons are directed to the **ADDRESSES** and **Comments and Requests for a Public Hearing** sections of the preamble to REG-119294-25 for information on submitting public comments or requesting a public hearing on the proposed regulations.

II. Federal Fuel Excise Taxes

Section 4081(a) imposes an excise tax (section 4081 tax) on certain removals, entries, and sales of taxable fuel, including diesel fuel and kerosene. Section 4081(a) (2) prescribes the tax rate for the section 4081 tax. Section 4081(a)(2)(A)(iii) prescribes a general tax rate of 24.3 cents per gallon for diesel fuel or kerosene. In addition to that tax rate, section 4081(a) (2)(B) prescribes a tax rate of 0.1 cent per gallon, referred to as the Leaking Underground Storage Tank Trust Fund financing rate (LUST tax).

Under section 4082(a), diesel fuel and kerosene are exempt from the section 4081 tax if the fuel: (i) is destined for a nontaxable use (as defined in section 4082(b)); (ii) is indelibly dyed by mechanical injection in accordance with Treasury regulations; and (iii) meets any marking requirements prescribed in Treasury regulations. Section 4082(f)(1) provides that the exemption in section 4082(a) generally does not apply to the LUST tax.

Section 48.4082-1 and Notice 2005-80, 2005-2 C.B. 953, provide rules and

conditions for the exemption provided by section 4082(a) to apply to the removal, entry, or sale of any diesel fuel or kerosene.

III. Section 6435

Section 70525(a) of Public Law 119-21, 139 Stat. 282 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), added section 6435 to allow recovery of the amount of the section 4081 tax paid with respect to diesel fuel or kerosene that later qualifies as exempt from section 4081 tax under section 4082(a).

Section 6435 allows a person that establishes to the satisfaction of the Secretary that the person removed eligible indelibly dyed diesel fuel or kerosene (eligible dyed fuel) from a terminal to claim a payment (without interest) equal to the amount of the section 4081 tax previously paid with respect to such dyed fuel. Eligible dyed fuel is diesel fuel or kerosene: (i) with respect to which tax under section 4081 was previously paid (and not credited or refunded); and (ii) that is exempt from the section 4081 tax under section 4082(a). See section 6435(a) and (b). Section 6435 is effective for eligible dyed fuel removed on or after December 31, 2025. See section 70525(c) of the OBBBA.

Section 6430 provides that no refunds, credits, or payments shall be made under subchapter B of chapter 65 for any LUST tax imposed except with respect to fuels as otherwise provided by section 6430. Section 70525(b)(2) of the OBBBA amended section 6430 to except from the general rule fuels which are removed as eligible dyed fuel under section 6435. Therefore, payments under section 6435 may include the LUST tax.

IV. Announcement 2026-1

Announcement 2026-1, 2026-4 I.R.B. 402 (released December 22, 2025), requested that taxpayers hold any section 6435 claims until the Treasury Department and the IRS issue guidance related to section 6435 and the process for requesting a refund. The announcement explained that, although section 6435 is functionally similar to other rules providing for payments to taxpayers with respect to previ-

ously paid excise tax, section 6435 lacks a directive to treat the payments as if they constitute refunds of overpayments of the underlying tax. Compare section 6435 with sections 6420(e)(1), 6421(g)(1), and 6427(j)(1) of the Code. Further, the OBBBA does not provide a specific appropriation for section 6435 payments. The only appropriation for paying section 6435 claims is the general refund appropriation, which is available only to the extent of an overpayment under section 6402, which requires the claimant to be the same person that paid the section 4081 tax to which the claim relates. See 31 U.S.C. 1324(b)(1) (disbursement may be made from the refund appropriation for “refunds to the limit of liability of an individual tax account”); section 6402 (permitting a refund of an overpayment “on the part of the person who made the overpayment”). Thus, absent a statutory change, the Treasury Department and the IRS lack the authority to pay section 6435 claims to anyone other than the person that paid the section 4081 tax with respect to the eligible dyed fuel to which the claim relates.

These temporary regulations, and the cross-referenced proposed regulations, are the forthcoming guidance referenced in Announcement 2026-1.

Explanation of Provisions

I. Overview

These temporary regulations, § 48.6435-1T, provide rules to determine eligibility for a refund under section 6435 with respect to eligible dyed fuel (section 6435 refund) and rules for filing a claim for a section 6435 refund (section 6435 claim).

II. General Rules

A. Overview

Section 48.6435-1T(b) provides definitions of terms used for purposes of section 6435 and § 48.6435-1T. Section 48.6435-1T(c) provides that a person that satisfies the requirements of paragraphs (d) through (g) of that section with respect to eligible dyed fuel may receive a payment under section 6435 that is a refund

of an overpayment of the section 4081 tax previously paid. Section 48.6435-1T(d) provides conditions that must be satisfied for a section 6435 refund to be allowed to the person that paid the section 4081 tax and incorporates and clarifies the rules in section 6435(b). Section 48.6435-1T(e) provides reporting requirements taxpayers must satisfy to make a section 6435 claim. Section 48.6435-1T(f) provides rules regarding the form and content of a section 6435 claim. Section 48.6435-1T(g) provides the claim period for section 6435 refunds.

B. Definitions

The terms defined in § 48.6435-1T(b) include “approved terminal,” “eligible dyed fuel,” and “section 6435 refund.” To maintain consistency with existing fuel excise tax regulations, the term “approved terminal” has the same meaning as in § 48.4081-1(b).

C. Refund to Taxpayer

Section 48.6435-1T(c) provides that the payment under section 6435 of the amount equal to the section 4081 tax paid to the IRS is the refund (without interest) of an overpayment to the taxpayer that paid the section 4081 tax with respect to the eligible dyed fuel. Section 48.6435-1T(c) incorporates and clarifies the rules in section 6435(a). Section 48.6435-1T(d) makes clear that only a taxpayer that removes the eligible dyed fuel from a terminal and also previously paid the section 4081 tax with respect to that fuel can receive a refund described in § 48.6435-1T(c).

As explained below, to the extent the claimant previously paid the section 4081 tax, the payment described in section 6435 represents a refund of an overpayment. Under section 6402(a), “[i]n the case of any overpayment,” the IRS “may credit the amount of such overpayment . . . against any liability in respect of an Internal Revenue tax on the part of the person who made the overpayment and shall . . . refund any balance to such person.” For a taxpayer to receive a credit or refund, there must first be an overpayment. An overpayment is “any payment in excess of that which is properly due.” *Jones v.*

Liberty Glass Co., 332 U.S. 524, 531 (1947). An overpayment is determined by comparing the amount by which a taxpayer’s payments exceed the amount of tax properly due. For example, a taxpayer that pays \$5,000 towards a taxable period or event but owes \$4,000 in tax liability for such taxable period or event has an overpayment of \$1,000. Section 6402(a) also limits to whom a credit or refund can be made by providing that only “the person who made the overpayment,” that is, the taxpayer subject to the tax and to whom the payments are attributed, is entitled to receive a credit or refund of an overpayment. *Roman v. United States*, 61 F.4th 1366, 1370 (Fed. Cir. 2023); *JetPay Corp. v. United States*, 26 F.4th 239, 242 (5th Cir. 2022); *Jewell v. United States*, 548 F.3d 1168, 1172 (8th Cir. 2008); *DeNiro v. United States*, 561 F.2d 653 (6th Cir. 1977).

Section 4081(a)(1)(A) generally imposes an excise tax on the removal of taxable fuel (defined in section 4083(a) to include diesel fuel and kerosene) from any refinery or terminal; the entry of taxable fuel into the United States for consumption, use, or warehousing; and the sale of taxable fuel to an unregistered person. In certain circumstances, diesel fuel or kerosene with respect to which tax has previously been imposed may be transported outside the bulk transfer/terminal system and later entered into a terminal that is part of the system. That fuel would also generally be subject to a second instance of the section 4081 tax upon removal from such terminal. In other words, the section 4081 tax may be imposed with respect to fuel more than once. Section 4081(e) and § 48.4081-7 provide a refund mechanism that allows the person that pays the second instance of section 4081 tax to claim a refund in the amount of the second tax paid (without interest). However, if the fuel removed from the terminal is destined for a nontaxable use and dyed pursuant to the provisions of section 4082(a), then the second removal is exempt from section 4081 tax. Section 4081(e) does not apply to such a removal because there is no second instance of section 4081 tax.

Prior to the enactment of section 6435, there was no mechanism allowing a taxpayer to claim a refund when dyed fuel removed from a terminal was previously

taxed under section 4081. Section 6435(a) creates such a mechanism by providing for a payment in the amount of the section 4081 tax previously paid (and not credited or refunded) with respect to eligible dyed fuel. However, as explained in Part IV of the Background section, section 6435 does not include language deeming such a payment as a refund of an overpayment of tax and lacks a specific appropriation for section 6435 payments.

The Treasury Department and the IRS view the general appropriation for refunds of Internal Revenue collections in 31 U.S.C. 1324(b) as appropriating funding for section 6435 payments to the extent that the taxpayer claiming the section 6435 payment is the same taxpayer that paid the section 4081 tax with respect to the diesel fuel or kerosene. Accordingly, these regulations provide that if the same taxpayer that paid the section 4081 tax with respect to the diesel fuel or kerosene subsequently removes that fuel from an approved terminal as eligible dyed fuel, such taxpayer can seek a refund under section 6435 of the section 4081 tax it paid. Construing the payment described in section 6435(a) as a refund of an overpayment on the part of the same taxpayer that paid the section 4081 tax to the IRS with respect to the diesel fuel or kerosene is consistent with the Supreme Court's explanation of how to determine an overpayment in *Jones v. Liberty Glass*. Accordingly, under section 6435 when a person removes from a terminal eligible dyed fuel with respect to which the person had previously paid section 4081 tax, that person has made an overpayment because, as a result of section 6435, the person has paid more section 4081 tax than is due.

These regulations are also consistent with section 6402(a)'s requirement that only "the person who made the overpayment" is entitled to receive a credit or refund of that overpayment. Reading section 6435 in conjunction with section 6402(a), section 6435(a) requires that the payment be made to the same taxpayer that paid the section 4081 tax with respect to diesel fuel or kerosene and later removes the fuel as dyed for nontaxable use. Thus, under these regulations, the taxpayer entitled to payment under section 6435 is "the person who made the overpayment."

D. Reporting Requirements

The rules in § 48.6435-1T(e) closely follow existing reporting requirements under § 48.4081-7(c) applicable to section 4081(e) claims with which taxpayers are already familiar. Under § 48.6435-1T(e) (1), a taxpayer must file a section 6435 taxpayer's report with its section 6435 refund claim. Section 48.6435-1T(e)(2) provides a model report. This model report differs in a few respects from the first taxpayer's report used for section 4081(e) claims as provided in § 48.4081-7(c)(2). The model report requires a taxpayer to declare that, except for the section 6435 claim to which the report relates, the taxpayer has not received, and will not claim, a credit with respect to, or a refund of, the tax with respect to the diesel fuel or kerosene to which the report relates. The model report also differs by identifying and revoking any prior first taxpayer report filed pursuant to § 48.4081-7(c) by the taxpayer with respect to the fuel that is the subject of the section 6435 taxpayer's report.

This approach is expected to reduce the burden on taxpayers. It also avoids duplicate reporting for many taxpayers that also file a first taxpayer's report with their Form 720, *Quarterly Federal Excise Tax Return*, in accordance with § 48.4081-7(c). A taxpayer may not know after paying section 4081 tax with respect to a particular volume of fuel whether it will sell the fuel as undyed fuel such that there may be a second tax imposed under section 4081 (which may result in a section 4081(e) refund), or whether it will later remove the fuel as eligible dyed fuel (which may result in a section 6435 refund). As such, a section 6435 taxpayer's report will only be filed once, when a taxpayer makes a section 6435 claim, and need not be filed with the taxpayer's Form 720 to which the section 4081 tax relates. Such a report will also allow a taxpayer to automatically revoke any first taxpayer's report with respect to the same fuel.

E. Form and Content of Claim

Section 48.6435-1T(f)(1) provides that a taxpayer must submit a section 6435 claim on Form 8849, *Claim for Refund of Excise Taxes*. In addition to the section 6435 taxpayer's report, the Form

8849 must include a completed Schedule 5 (Form 8849), *Section 4081(e) and 6435 Claims*. A taxpayer cannot make a section 6435 claim on the same Form 8849 as any other claims. For example, if a taxpayer also wishes to make section 4081(e) claims, the taxpayer must submit a separate Form 8849, and include a separate Schedule 5 (Form 8849), for those section 4081(e) claims. Section 48.6435-1T(f)(2) provides the information that must be included in a section 6435 claim.

F. Time for Filing Claim

Section 48.6435-1T(g) provides that the time for filing a section 6435 claim begins after the removal of the eligible dyed fuel and lasts until the end of the period prescribed by section 6511 of the Code for filing a refund claim for the section 4081 tax paid with respect to the fuel.

Applicability Date

The temporary regulations under § 48.6435-1T apply to removals of eligible dyed fuel occurring on or after December 31, 2025. See section 7805(b)(2). The temporary regulations under § 48.6435-1T expire on the earlier of May 1, 2029, or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Special Analyses

I. Good Cause

Section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. Subchapter II) provides that advance notice and the opportunity for public comment are not required with respect to a rulemaking when an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

The Treasury Department and the IRS find that good cause exists for making these temporary regulations immediately effective without notice and com-

ment because failure to do so would be impracticable and contrary to the public interest.

Section 6435 became effective on December 31, 2025, less than six months after it was enacted as part of the OBBBA on July 4, 2025. In addition to the implementation of this new dyed fuel payment provision, the OBBBA contained sweeping changes to the tax code, with extensive modifications and additions to provisions administered by the IRS, necessitating guidance-drafting and administrative responsibilities across the organization. Given the legal complexity and administration challenges presented by section 6435, discussed below, it is critical to provide taxpayers and the IRS with certainty as soon as possible regarding the rules governing eligibility for, and the procedures for claiming, a payment under section 6435.

Section 6435 is a complex provision that presented interpretation challenges. Specifically, the OBBBA does not direct that these payments be treated as refunds of overpayments of tax, nor does it provide a specific appropriation for payments. Accordingly, the Treasury Department and the IRS were required to determine if and how section 6435 could be implemented consistent with both Congressional intent and the lack of a specific appropriation to make the payments contemplated by section 6435 and then develop appropriate procedures that taxpayers can easily follow to claim section 6435 payments.

As noted, section 6435 became effective on December 31, 2025, and taxpayers are seeking certainty as to whether and how to file claims. It is important to provide that certainty by the issuance of these temporary regulations so that taxpayers understand the procedures they need to follow in order for the IRS to be able to process claims under section 6435 and the limitations on the IRS's ability to pay those claims. In addition, given that these regulations limit the scope of eligible claimants under section 6435 to taxpayers that paid the underlying section 4081 tax, taxpayers also need certainty as soon as possible to enable them to structure their business arrangements in a manner that results in eligibility for the section 6435 payment.

The guidance in these regulations also preserves government resources by discouraging taxpayers from filing claims that the IRS lacks the legal authority to pay. Issuing this guidance quickly also protects the Federal fisc as a delay in guidance would increase the likelihood of unappropriated funds being disbursed.

Following notice-and-comment procedures would delay when taxpayers receive the certainty provided by the rules and procedures in these temporary regulations. Issuing immediately effective regulations avoids wasting resources and ensures eligible taxpayers can claim section 6435 refunds as enacted by the OBBBA to the extent appropriations are authorized by 31 U.S.C. 1324(b). Having immediately effective regulations also provides the IRS certainty as to appropriations boundaries regarding section 6435 refunds and enables the IRS to process claims without waiting for notice-and-comment regulations or risking uneven implementation.

Because of the limited time to provide the requisite certainty to taxpayers and the IRS without unduly delaying the ability of eligible taxpayers to file claims that the IRS is authorized to pay, it was impracticable to conduct notice-and-comment procedures. The limited time available to prepare these regulations is an important factor in finding good cause. *See Petry v. Block*, 737 F.2d 1193 (D.C. Cir. 1984). Accordingly, it is in the public interest to both provide these temporary regulations without following notice-and-comment procedures and to make them effective immediately.

Comments are being solicited in the cross-referenced notice of proposed rulemaking that is in the proposed rules section in this issue of the **Federal Register**. Any comments will be considered before final regulations are issued.

II. Regulatory Planning and Review

These temporary regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

These temporary regulations set forth intended collections of information to be provided to the IRS with Form 8849 and Schedule 5 (Form 8849).

The collections of information associated with these temporary regulations include reporting and recordkeeping requirements that are necessary to ensure that a taxpayer qualifies for a section 6435 refund. The collections will be used by the IRS for tax compliance purposes and by taxpayers to establish eligibility for a section 6435 refund.

The reporting requirements include reporting related to claiming a section 6435 refund, including the execution and filing of reports as detailed in § 48.6435-1T(e). The recordkeeping requirements include that a taxpayer keep records to establish its eligibility for and the amount of a section 6435 claim. The burden for these requirements is included with Form 8849 and its instructions and with Schedule 5 (Form 8849) and its instructions. These forms and form instructions are already approved under OMB control number 1545-1420.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

IV. Regulatory Flexibility Act

For applicability of the Regulatory Flexibility Act, please refer to the cross-referenced notice of proposed rulemaking (REG-119294-25) published elsewhere in this issue of the **Federal Register**.

Pursuant to section 7805(f), these temporary regulations will be submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on their impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). These temporary regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These temporary regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as a non-major rule as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

Guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publish-

ing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these temporary regulations are Danielle Mayfield and Andrew Clark of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and record-keeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 48 as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding an entry for § 48.6435-1T in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
* * * * *

Section 48.6435-1T also issued under 26 U.S.C. 6435(a) and 6001.

Par. 2. Section 48.6435-1T is added to read as follows:

§ 48.6435-1T Dyed fuel refund.

(a) *Overview.* This section provides guidance related to section 6435 of the Internal Revenue Code (Code), including definitions, rules, conditions, filing instructions, and reporting requirements governing claims. Paragraph (h) of this section provides an example illustrating the provisions of this section.

(b) *Definitions.* For purposes of section 6435 and this § 48.6435-1T:

(1) *Approved terminal.* The term *approved terminal* has the same meaning as provided in § 48.4081-1(b).

(2) *Eligible dyed fuel.* The term *eligible dyed fuel* means diesel fuel or ker-

osene with respect to which a tax under section 4081 of the Code (section 4081 tax) was previously paid (and not credited or refunded), and that is exempt from taxation under section 4082(a) of the Code.

(3) *Section 6435 refund.* The term *section 6435 refund* means a payment made under section 6435(a) to the person that paid the section 4081 tax to the Internal Revenue Service (IRS) with respect to eligible dyed fuel. Under paragraph (c) of this section, such a payment is a refund of an overpayment (without interest) under section 6402 to the taxpayer equal to the amount of section 4081 tax previously paid by the taxpayer with respect to such fuel.

(c) *Refund of overpayment.* If a person satisfies the requirements of paragraphs (d) through (g) of this section with respect to eligible dyed fuel, then pursuant to section 6435, an amount equal to the section 4081 tax paid to the IRS (including any tax paid at the Leaking Underground Storage Tank Trust Fund financing rate (LUST tax) under section 4081(a)(2)(B)) with respect to such fuel is allowed as a refund (without interest) to such person as an overpayment of such tax under section 6402.

(d) *Conditions to allowance of refund.* A claim for refund is allowed under section 6435 and this § 48.6435-1T only if each of the following conditions is satisfied:

(1) Section 4081 tax was imposed with respect to diesel fuel or kerosene;

(2) The taxpayer was liable for and paid such tax to the IRS and the tax has not been credited or refunded;

(3) The taxpayer removes from an approved terminal the diesel fuel or kerosene, which has been dyed as provided in section 4082(a); and

(4) The taxpayer meets the reporting requirements of paragraph (e) of this section.

(e) *Reporting requirements--(1) In general.* A taxpayer must file a report with respect to the tax described in paragraph (d)(2) of this section that is in substantially the same form as the model report provided in paragraph (e)(2) of this section (or such other model report as the Commissioner of Internal Revenue (Commissioner) may prescribe) and contains all information necessary to complete such

report (section 6435 taxpayer's report). A section 6435 taxpayer's report must be filed with the section 6435 claim to which

it relates (or at such other time, or in such other manner, as prescribed by the Commissioner).

(2) *Model section 6435 taxpayer's report.*

Section 6435 Taxpayer's Report

1. _____

Taxpayer's name, address, and employer identification number

2. _____
Date and location of taxable event

3. _____
Volume and type of taxable fuel

4. Check type of taxable event:

____ Removal at the terminal rack

____ Entry into United States

____ Other: _____
Description

5. _____
Amount of federal excise tax paid on the taxable event

6. [] Check the box if Taxpayer previously filed a First Taxpayer's Report under § 48.4081-7 relating to the same fuel described in this statement.

Year and quarter First Taxpayer's Report filed

Taxpayer hereby revokes such report with respect to the fuel described in this statement.

Except for the section 6435 claim to which this report relates, the undersigned taxpayer (the "Taxpayer") has not received, and will not claim, a credit with respect to, or a refund of, the tax 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, such statements are true, correct, and complete.

Signature and date signed

Printed or typed name of person signing this report

Title

(f) *Filing instructions for a section 6435 claim*--(1) *Form of claim*. A taxpayer must submit a section 6435 claim on Form 8849, *Claim for Refund of Excise Taxes*, that includes the section 6435 taxpayer's report and a completed Schedule 5 (Form 8849), *Section 4081(e) and 6435 Claims*, or any successor form(s). Both the Form 8849 and the included Schedule 5 (Form 8849) must include all information and documentation required by the forms, form instructions, and this section. A taxpayer cannot make a section 6435 claim on the same Form 8849 as any other claims besides another section 6435 claim. Therefore, no other schedules or types of claims may be included with the Form 8849 on which a section 6435 claim is made. For example, if a taxpayer making a section 6435 claim also wishes to make section 4081(e) claims, the taxpayer must submit a separate Form 8849, and include a separate Schedule 5 (Form 8849), for those section 4081(e) claims.

(2) *Content of claim*. A section 6435 claim must contain the following information with respect to the eligible dyed fuel covered by the claim:

(i) Volume and type of fuel removed.

(ii) Date of removal of fuel.

(iii) Amount of section 4081 tax previously paid with respect to such fuel.

(iv) The section 6435 taxpayer's report that relates to such fuel.

(g) *Time for filing claim*. A section 6435 claim may be filed any time after the removal of the eligible dyed fuel and before the end of the period prescribed by section 6511 of the Code for the filing of

a claim for a refund of an overpayment of the section 4081 tax paid with respect to such fuel.

(h) *Example*. The following example illustrates the provisions of this section: On June 25, 2026, X, a taxable fuel registrant, removes 10,000 gallons of undyed diesel fuel from an approved terminal at the rack. The diesel fuel is then transported to and entered into a second approved terminal via tank trucks. X, as the position holder of the diesel fuel at the time of this first removal, is liable for the \$2,440 section 4081 tax imposed on the removal, which includes the LUST tax. On July 31, 2026, X timely files its Form 720 for the quarterly tax period ending June 30, 2026, on which it reports the section 4081 tax imposed on the removal, and pays the section 4081 tax to the IRS. Pursuant to § 48.4081-7(c)(3), X also files a first taxpayer's report with its Form 720 with respect to the removal of the 10,000 gallons of diesel fuel. On August 10, 2026, X dyes 5,000 gallons of the diesel fuel and removes the dyed diesel fuel from the second approved terminal. The dyed diesel fuel is intended for use on a farm, which is a nontaxable use. After X has removed the dyed diesel fuel from the second approved terminal, X files a Form 8849 that only covers a section 6435 claim, and includes a completed Schedule 5 (Form 8849) and the required section 6435 taxpayer's report, to claim a refund in the amount of the \$1,220 section 4081 tax paid with respect to such fuel. X's section 6435 taxpayer's report uses the model report provided in paragraph (e)

(2) of this section. X checks the box in line 6 of its section 6435 taxpayer's report and identifies the corresponding first taxpayer's report it filed for the quarterly tax period ending June 30, 2026, thereby revoking the first taxpayer's report to the extent of the 5,000 gallons of dyed diesel fuel. Because X has met the conditions under paragraph (d) of this section and filed a claim for refund in accordance with paragraph (f) of this section, X is allowed a refund of the section 4081 tax (including the LUST tax) that it paid to the IRS on the June 25, 2026, removal of the 5,000 gallons of diesel fuel that it later reentered, dyed, and removed.

(i) *Applicability date*. This section applies to removals of eligible dyed fuel occurring on or after December 31, 2025.

(j) *Expiration date*. This section expires on the earlier of May 1, 2029, or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Frank J. Bisignano,
Chief Executive Officer.

Approved: April 6, 2026.

Kenneth J. Kies,
Assistant Secretary of the Treasury
(Tax Policy).

(Filed by the Office of the Federal Register April 30, 2026, 8:45 a.m., and published in the issue of the Federal Register for May 1, 2026, 91 FR 23363)

Part III

Updated Static Mortality Tables for Defined Benefit Pension Plans for 2027

Notice 2026-27

PURPOSE

This notice specifies updated static mortality tables to be used for defined benefit pension plans under § 430(h)(3)(A) of the Internal Revenue Code (Code) and section 303(h)(3)(A) of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended (ERISA). These updated static mortality tables, which are being issued pursuant to the regulations under § 430(h)(3)(A) of the Code, apply for purposes of calculating the funding target and other items for valuation dates occurring during the 2027 calendar year.

This notice also includes a modified unisex version of the mortality tables for use in determining minimum present value under § 417(e)(3) and section 205(g)(3) of ERISA for distributions with annuity starting dates that occur during stability periods beginning in the 2027 calendar year.

BACKGROUND

Mortality Tables for Purposes of § 430

Section 412 of the Code provides minimum funding requirements that generally apply for defined benefit plans. Pursuant to § 412(a)(2), § 430 sets forth the minimum funding requirements that apply to a defined benefit plan (other than a multiemployer plan described in § 414(f) or a CSEC plan described in § 414(y)). Section 430(a) defines the minimum required contribution for such a plan by reference to the plan's funding target for the plan year. Under § 430(d)(1), a plan's funding target for a plan year generally is the present value of all benefits accrued or earned

under the plan as of the first day of that plan year.

Section 430(h)(3) provides rules regarding the mortality tables that generally are used under § 430. Under § 430(h)(3)(A), except as provided in § 430(h)(3)(C) or (D), the Secretary is to prescribe by regulation mortality tables to be used in determining any present value or making any computation under § 430.¹ Those tables are to be based on the actual experience of pension plans and projected trends in that experience. In accordance with that standard, the Department of the Treasury and the Internal Revenue Service issued § 1.430(h)(3)-1 to provide base mortality tables and mortality improvement rates that apply for valuation dates occurring on or after January 1, 2024.

Section 1.430(h)(3)-1(a)(1) permits the projection of mortality improvement to be applied in either of two ways: through use of generational mortality tables or through use of static mortality tables (available only to small plans described in § 1.430(h)-1(c)(1)(ii)) that are updated annually to reflect expected improvements in mortality. Note 1 to § 1.430(h)(3)-1(c)(1)(iv) states that the static mortality tables for valuation dates occurring in calendar years starting with 2025 will be published in the Internal Revenue Bulletin.

Application of § 430 Mortality Tables to Other Funding Rules

Section 431 provides the minimum funding standards for multiemployer plans that are subject to § 412. Section 431(c)(6)(D)(iv) provides that the Secretary may by regulation prescribe mortality tables to be used in determining current liability for purposes of § 431(c)(6)(B). Section 1.431(c)(6)-1 provides that the same mortality assumptions that apply for purposes of § 430(h)(3)(A) and § 1.430(h)(3)-1(a)(2) are used to determine a multiemployer plan's current liability for purposes of applying the full-funding rules of § 431(c)(6). For this purpose, either the

generational mortality tables or the static mortality tables are permitted to be used without regard to whether the plan is a small plan.

Section 433 provides the minimum funding standards for CSEC plans. Section 433(h)(3)(B)(i) provides that the Secretary may by regulation prescribe mortality tables to be used in determining current liability for purposes of § 433(c)(7)(C). Section 1.433(h)(3)-1(a) provides that the mortality tables described in § 430(h)(3)(A) are to be used to determine current liability under § 433(c)(7)(C). For this purpose, either the generational mortality tables or the static mortality tables are permitted to be used without regard to whether the plan is a small plan.

Application of Mortality Tables for Minimum Present Value Requirements under § 417(e)(3)

Section 417(e)(3) generally provides that the present value of certain accelerated forms of benefit under a qualified pension plan (including single-sum distributions) must not be less than the present value of the accrued benefit using applicable interest rates and the applicable mortality table. Section 417(e)(3)(B) defines the term "applicable mortality table" as the mortality table specified for the plan year under § 430(h)(3)(A) (without regard to § 430(h)(3)(C) or (D)), modified as appropriate by the Secretary. Under § 1.417(e)-1(d)(2)(i), the applicable mortality table for a calendar year is the mortality table that is prescribed by the Commissioner in guidance published in the Internal Revenue Bulletin.

Rev. Rul. 2007-67, 2007-2 CB 1047, provides that, except as otherwise stated in future guidance, the applicable mortality table under § 417(e)(3) is a static mortality table set forth in published guidance that is developed based on a fixed blend of 50 percent of the static male combined mortality rates and 50 percent of the static female combined mortality rates used

¹ Section 430(h)(3)(C) provides that, upon request by a plan sponsor and approval by the Secretary, substitute mortality tables that meet the applicable requirements may be used in lieu of the standard mortality tables provided under § 430(h)(3)(A). Section 430(h)(3)(D) provides for the use of separate mortality tables with respect to certain individuals who are entitled to benefits on account of disability.

under § 1.430(h)(3)-1. Rev. Rul. 2007-67 also provides that the applicable mortality table for a calendar year applies to distributions with annuity starting dates that occur during stability periods that begin during that calendar year.

STATIC MORTALITY TABLES FOR 2027

The static mortality tables that apply under § 430(h)(3)(A) for valuation dates occurring during 2027 are set forth in the appendix to this notice. The mortality rates

in these tables have been developed using the methodology set forth in § 1.430(h)(3)-1(c), the base mortality rates set forth in § 1.430(h)(3)-1(d), and the mortality improvement rates that are incorporated by reference under § 1.430(h)(3)-1(b)(1)(iv)(A).

The static mortality table that applies under § 417(e)(3) for distributions with annuity starting dates occurring during stability periods beginning in 2027 is set forth in the appendix to this notice in the column labeled “Unisex.” The mortality rates in this table are derived from the

mortality tables specified under § 430(h)(3)(A) for 2027 in accordance with the procedures set forth in Rev. Rul. 2007-67.

Drafting Information

The principal author of this notice is Arslan Malik of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Arslan Malik at (202) 317-6700 (not a toll-free number).

APPENDIX

Mortality Tables for 2027

**Valuation Dates Occurring During 2027 and
Distributions Subject to § 417(e)(3) with Annuity Starting Dates During
Stability Periods Beginning in 2027**

Age	430(h)(3)(A) Static Tables		
	Males	Females	Unisex
0	0.00348	0.00299	0.00324
1	0.00024	0.00021	0.00023
2	0.00016	0.00013	0.00015
3	0.00012	0.00010	0.00011
4	0.00010	0.00007	0.00009
5	0.00009	0.00007	0.00008
6	0.00008	0.00006	0.00007
7	0.00007	0.00006	0.00007
8	0.00006	0.00005	0.00006
9	0.00005	0.00005	0.00005
10	0.00005	0.00005	0.00005
11	0.00005	0.00005	0.00005
12	0.00008	0.00006	0.00007
13	0.00010	0.00007	0.00009
14	0.00013	0.00008	0.00011
15	0.00017	0.00008	0.00013
16	0.00021	0.00009	0.00015
17	0.00024	0.00009	0.00017
18	0.00028	0.00009	0.00019
19	0.00033	0.00010	0.00022
20	0.00035	0.00010	0.00023
21	0.00036	0.00010	0.00023
22	0.00036	0.00011	0.00024
23	0.00037	0.00012	0.00025
24	0.00038	0.00013	0.00026
25	0.00039	0.00014	0.00027
26	0.00040	0.00014	0.00027
27	0.00042	0.00015	0.00029
28	0.00043	0.00016	0.00030
29	0.00045	0.00016	0.00031
30	0.00048	0.00018	0.00033
31	0.00049	0.00019	0.00034
32	0.00052	0.00020	0.00036
33	0.00055	0.00022	0.00039

430(h)(3)(A) Static Tables			
Age	Males	Females	Unisex
34	0.00057	0.00023	0.00040
35	0.00060	0.00025	0.00043
36	0.00063	0.00028	0.00046
37	0.00065	0.00030	0.00048
38	0.00068	0.00032	0.00050
39	0.00071	0.00034	0.00053
40	0.00072	0.00036	0.00054
41	0.00073	0.00038	0.00056
42	0.00075	0.00040	0.00058
43	0.00077	0.00042	0.00060
44	0.00079	0.00044	0.00062
45	0.00081	0.00047	0.00064
46	0.00086	0.00050	0.00068
47	0.00090	0.00054	0.00072
48	0.00095	0.00058	0.00077
49	0.00102	0.00062	0.00082
50	0.00110	0.00069	0.00090
51	0.00121	0.00078	0.00100
52	0.00134	0.00088	0.00111
53	0.00150	0.00099	0.00125
54	0.00169	0.00112	0.00141
55	0.00200	0.00135	0.00168
56	0.00247	0.00166	0.00207
57	0.00289	0.00190	0.00240
58	0.00336	0.00220	0.00278
59	0.00388	0.00253	0.00321
60	0.00447	0.00292	0.00370
61	0.00511	0.00336	0.00424
62	0.00600	0.00400	0.00500
63	0.00687	0.00467	0.00577
64	0.00756	0.00524	0.00640
65	0.00841	0.00605	0.00723
66	0.00934	0.00691	0.00813
67	0.01030	0.00767	0.00899
68	0.01135	0.00851	0.00993
69	0.01253	0.00945	0.01099
70	0.01387	0.01057	0.01222
71	0.01539	0.01189	0.01364
72	0.01709	0.01336	0.01523
73	0.01903	0.01504	0.01704

430(h)(3)(A) Static Tables			
Age	Males	Females	Unisex
74	0.02124	0.01701	0.01913
75	0.02377	0.01929	0.02153
76	0.02666	0.02188	0.02427
77	0.02997	0.02481	0.02739
78	0.03380	0.02811	0.03096
79	0.03821	0.03179	0.03500
80	0.04339	0.03628	0.03984
81	0.04892	0.04061	0.04477
82	0.05518	0.04542	0.05030
83	0.06224	0.05081	0.05653
84	0.07026	0.05688	0.06357
85	0.07945	0.06376	0.07161
86	0.08986	0.07172	0.08079
87	0.10157	0.08080	0.09119
88	0.11468	0.09121	0.10295
89	0.12914	0.10288	0.11601
90	0.14488	0.11589	0.13039
91	0.16147	0.12933	0.14540
92	0.17846	0.14336	0.16091
93	0.19580	0.15794	0.17687
94	0.21320	0.17284	0.19302
95	0.23056	0.18815	0.20936
96	0.24888	0.20450	0.22669
97	0.26748	0.22151	0.24450
98	0.28640	0.23930	0.26285
99	0.30578	0.25773	0.28176
100	0.32531	0.27674	0.30103
101	0.34486	0.29618	0.32052
102	0.36407	0.31568	0.33988
103	0.38291	0.33516	0.35904
104	0.40141	0.35455	0.37798
105	0.41901	0.37374	0.39638
106	0.43621	0.39250	0.41436
107	0.45247	0.41085	0.43166
108	0.46810	0.42839	0.44825
109	0.48303	0.44520	0.46412
110	0.49240	0.46130	0.47685
111	0.49374	0.47665	0.48520
112	0.49512	0.49112	0.49312
113	0.49651	0.49731	0.49691

430(h)(3)(A) Static Tables			
Age	Males	Females	Unisex
114	0.49795	0.49840	0.49818
115	0.49930	0.49950	0.49940
116	0.49960	0.49975	0.49968
117	0.49980	0.49985	0.49983
118	0.49985	0.50000	0.49993
119	0.50000	0.50000	0.50000
120	1.00000	1.00000	1.00000

Part IV

Notice of Proposed Rulemaking

Enrolled Agent Special Enrollment Examination User Fee Update

REG-108706-25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this issue of the *Federal Register*, the Department of the Treasury (Treasury Department) and the IRS are issuing interim final regulations that amend the current regulations to reduce the user fee for each part of the special enrollment examinations for enrolled agents (EA SEE) from \$99 per part to \$66 per part.

DATES: Electronic or written comments and requests for a public hearing must be received by May 20, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-108706-25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Treasury Department and the IRS will publish for public availability any comments submitted to the IRS’s public docket. Send paper submissions to: CC:PA:01:PR (REG-108706-25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed

regulations, Sean Dix at (202) 317-6845; concerning cost methodology, CFO Cost and User Fees at (202) 317-6400; concerning submissions of comments or requests for a public hearing, the Publications and Regulations Section at (202) 317-6901 (not toll-free numbers) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Interim final regulations in the Rules and Regulations section of this issue of the *Federal Register* amend regulations under 26 CFR part 300 setting a user fee for the special enrollment examinations for enrolled agents. The Independent Offices Appropriation Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget Circular A-25, 58 FR 38142 (July 15, 1993).

The text of the interim final regulations also serves as the text of these proposed regulations. The preamble to the interim final regulations explains the interim final regulations and these proposed regulations.

Special Analyses

I. Regulatory Planning and Review

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby

certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The EA SEE user fee primarily affects individuals who take the EA SEE. Only individuals, not businesses, can be enrolled agents. Thus, the economic impact of these regulations on any small entity would be a result of an individual enrolled agent owning a small entity or a small entity employing an enrolled agent who must take the EA SEE. The Treasury Department and the IRS estimate that an average of 28,898 EA SEE examination parts will be taken by individuals annually. Therefore, a substantial number of small entities is not likely to be affected. Additionally, the economic impact on those entities is not significant. These regulations will establish a \$66 fee per examination part (plus \$251 payable directly to the third-party contractor) and will not have a significant economic impact on a small entity. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local gov-

ernments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These interim final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Consideration will be given to comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available at <https://www.regulations.gov> or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the *Federal Register*.

Drafting Information

The principal author of these regulations is Sean Dix, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Estate taxes, Excise taxes, Fees, Gift taxes, Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 300 as follows:

PART 300—USER FEES

Paragraph 1. The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

§300.4 Enrolled agent special enrollment examination fee.

(b) [The text of proposed § 300.4(b) is the same as the text of § 300.4(b) in the interim final rule published elsewhere in this issue of the *Federal Register*].

(d) [The text of proposed § 300.4(d) is the same as the text of § 300.4(d) in the interim final rule published elsewhere in this issue of the *Federal Register*].

Frank J. Bisignano,
Chief Executive Officer.

(Filed by the Office of the Federal Register April 17, 2026, 8:45 a.m., and published in the issue of the Federal Register for April 20, 2026, 91 FR 20968)

Notice of Proposed Rulemaking

Section 6435 Payments; Refunds for Previously Taxed Dyed Fuel

REG-119294-25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this issue of the **Fed-**

eral Register are temporary regulations regarding the statutory provision providing for payments to taxpayers with respect to certain previously taxed dyed fuel. Specifically, the temporary regulations provide guidance as to the taxpayers that may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of those regulations also serves as the text of these proposed regulations. These proposed regulations would affect taxpayers that withdraw previously taxed dyed fuel from a terminal.

DATES: Written or electronic comments and requests for a public hearing must be received by June 30, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-119294-25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS’s public docket on <https://www.regulations.gov>. Send paper submissions to: CC:PA:01:PR (REG-119294-25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. A plain language summary of the proposed regulations will be made available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Danielle Mayfield or Andrew Clark of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax) at (202) 317-6855 (not a toll-free number); concerning submissions of comments or requests for a public hearing, Publications and Regulations Section at (202) 317-6901 (not a toll-free number) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) under section 6435 of the Internal Revenue Code (Code) relating to the determination of payments regarding dyed diesel fuel or dyed kerosene with respect to which excise tax under section 4081 of the Code was paid (proposed regulations). The proposed regulations would be issued under the authority granted by sections 6435(a), 6001, and 7805(a) of the Code.

Section 6435(a) requires that a person claiming a payment under section 6435 establish to the satisfaction of the Secretary of the Treasury or the Secretary's delegate (Secretary) that such person meets the requirements under section 6435(b).

Section 6001 authorizes the Secretary to prescribe regulations related to recordkeeping, statements, and returns.

Section 7805(a) authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** add § 48.6435-1T to the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48). The temporary regulations relate to the statutory provision providing for payments to taxpayers with respect to certain previously taxed dyed fuel. Specifically, the temporary regulations provide guidance as to the taxpayers that may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Proposed Applicability Date

Proposed § 48.6435-1 would apply to removals of eligible dyed fuel occurring

on or after December 31, 2025. See section 7805(b)(2).

Special Analyses

I. Regulatory Planning and Review

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

These proposed regulations set forth intended collections of information to be provided to the IRS with Form 8849, *Claim for Refund of Excise Taxes*, and Schedule 5 (Form 8849), *Section 4081(e) and 6435 Claims*.

The collections of information in these proposed regulations would include reporting and recordkeeping requirements that are necessary to ensure that a taxpayer qualifies for a section 6435 refund. The collections would be used by the IRS for tax compliance purposes and by taxpayers to establish eligibility for a section 6435 refund.

The reporting requirements would include reporting related to claiming a section 6435 refund, including the execution and filing of reports as detailed in proposed § 48.6435-1(e). The recordkeeping requirements would include that a taxpayer keep records to establish its eligibility for and the amount of a section 6435 claim. The burden for these requirements is included with Form 8849 and its instructions and with Schedule 5 (Form 8849) and its instructions. These forms and form

instructions are already approved under OMB control number 1545-1420.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

These proposed regulations would not change or create new collection requirements beyond the requirements that are being reviewed and approved by OMB under the temporary regulations.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act.

As discussed in Announcement 2026-1, 2026-4 I.R.B. 402 (released December 22, 2025), absent a statutory change, the Treasury Department and the IRS lack the authority to pay section 6435 claims to anyone other than the person that paid the section 4081 tax to the IRS with respect to the eligible dyed fuel to which the claim relates. Section 6435 allows a person that establishes to the satisfaction of the Secretary that the person removed eligible indelibly dyed diesel fuel or kerosene (eligible dyed fuel) from a terminal to claim a payment (without interest) equal to the amount of the section 4081 tax previously paid with respect to such dyed fuel. The proposed regulations would provide needed guidance for such taxpayers on eligibility and filing procedures for making a section 6435 claim. These proposed regulations would establish reporting procedures, including a model report, that allow the IRS to verify a taxpayer's entitlement to a payment under section 6435 as contemplated by the statute. Accordingly, the Treasury Department and the IRS intend that the proposed rules provide clarity for taxpayers on the availability and claim procedures for a payment under section 6435.

These proposed regulations would affect a narrow subset of businesses within the fuel industry: taxpayers remov-

ing dyed fuel from an approved terminal with respect to which they previously paid tax. Because section 6435 first went into effect on December 31, 2025, no historical data is available on the number or size of section 6435 claimants. While there is uncertainty as to the exact number of small businesses within this group, such taxpayers are necessarily a subset of taxpayers filing Form 720 with respect to certain taxes paid on diesel fuel and kerosene. From 2021 to 2024, more than 85 percent of such identifiable Form 720 filers were businesses with total positive incomes of at least \$25 million, and more than two-thirds were businesses with total assets of at least \$25 million. Moreover, under section 4081(e), the most analogous existing provision, the vast majority of taxpayers the IRS can identify have total positive incomes and assets of at least \$100 million. This data is constrained by issues matching between databases, but the IRS has no reason to believe it is skewed. As such, of the relatively few taxpayers affected by section 6435, nearly all can be expected to be predominantly large, sophisticated businesses in the fuel industry.

Even if a substantial number of small entities are affected, the economic impact of these proposed regulations on small entities is not likely to be significant. The proposed regulations would provide taxpayers with guidance regarding the eligibility and filing requirements for section 6435, including the reporting requirements. As explained in the PRA section, the reporting and recordkeeping obligations imposed by these proposed regulations would include filing a report to make a claim. It is estimated that fewer than 60 taxpayers will prepare one or more of such reports annually and that each report will take no more than one hour to complete.

Accordingly, the Secretary of the Treasury certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The Treasury Department and the IRS specifically invite comments from any party, particularly affected small entities, on the accuracy of this certification.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Adminis-

tration for comment on its impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). These proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed rules do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request for comments on all aspects of the proposed regulations. Any comments will be made available at <https://www.regulations.gov> or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. If a public hearing is scheduled, a notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

Guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these proposed regulations are Danielle Mayfield and Andrew Clark of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and record-keeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 48 as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding an entry for § 48.6435-1 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
* * * * *

Section 48.6435-1 also issued under 26 U.S.C. 6435(a) and 6001.

Par. 2. Add § 48.6435-1 to subpart O to read as follows:

§ 48.6435-1 Dyed fuel refund.

[The text of proposed § 48.6435-1 is the same as the text of § 48.6435-1T in the temporary rule published elsewhere in this issue of the **Federal Register**].

Frank J. Bisignano,
Chief Executive Officer.

(Filed by the Office of the Federal Register April 30, 2026, 8:45 a.m., and published in the issue of the Federal Register for May 1, 2026, 91 FR 23380)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

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