

INTERNAL REVENUE SERVICE

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December 28, 2000

Attention: [REDACTED]

Dear [REDACTED]

I am responding to your July 26, 2000, inquiry on behalf of your constituent, [REDACTED] of [REDACTED], recently forwarded to this office. [REDACTED] is concerned that diesel fuel used in recreational motorboats is free of federal excise tax while gasoline used in recreational motorboats is subject to a federal tax of \$0.184 per gallon.

The change [REDACTED] asks for requires legislative action. The Internal Revenue Code imposes a tax on certain removals, entries, and sales of diesel fuel and gasoline. (Section 4081). However, the Code does not impose a tax on diesel fuel that, among other conditions, is dyed according to Treasury regulations. [Section 4082(a)]. If a person uses undyed diesel fuel for a nontaxable use (e.g., in a boat), a credit or refund of the tax is available.

A person can get a credit or refund for gasoline used for most off-highway business purposes but the tax on gasoline used in recreational motorboats is not available for a credit or refund. [Section 6421(e)(2)(B)]. The Aquatic Resources Trust Fund (ARTF), which consists of a Sport Fish Restoration Account and a Boat Safety Account receives the tax on gasoline used in recreational motorboats and uses these funds to:

- Support boating safety programs.
- Support recreational boating safety services provided by the U.S. Coast Guard.
- Support marine and freshwater sport fishing projects.
- Improve access to recreational boating waters.

- Provide aquatic resources education programs.

I hope this information is helpful to you in responding to your constituent. If you have any questions, please contact me or [REDACTED]

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Richard A. Kocak
Chief, Branch 8