

**INTERNAL REVENUE SERVICE**

September 9, 2002

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CONEX-145347-02  
CC:PSI:B8

[REDACTED]

Dear [REDACTED]:

I am responding to [REDACTED] August 6, 2002 inquiry on your behalf about the application of the tax and refund provisions relating to diesel fuel carried by the [REDACTED]. [REDACTED] of my staff contacted you about the changes in your situation since you wrote to [REDACTED]. You told her you no longer receive taxed diesel fuel and, therefore, do not need the refund assistance you requested. I am glad your issue has been resolved. However, I am providing a description of current law to clarify how the current tax and refund provisions apply to the [REDACTED] situation.

The law imposes tax on all removals of undyed diesel fuel from the bulk transfer/terminal system. [Section 4081(a) of the Internal Revenue Code (the Code)]. This system consists of refineries, pipelines, vessels, and terminals. Normally, diesel fuel is removed from the system only once. In the case of the [REDACTED], however, we understand that distribution by pipeline is interrupted in [REDACTED] and diesel fuel must be removed from the pipeline, transported by truck or train, and put back into the pipeline for further transportation to a terminal in the [REDACTED] area. Tax is imposed on the undyed diesel fuel when it is removed from the [REDACTED] and again when it is removed from the system a second time at the [REDACTED] terminal. However, if the diesel fuel is dyed when it is removed from the [REDACTED] and remains dyed when it is removed at the [REDACTED] terminal, tax is not imposed on either removal. If the diesel fuel is undyed when it is removed from the [REDACTED] and later dyed at the [REDACTED] terminal, tax is imposed on removal from the [REDACTED] only.

If two taxes are paid on the same diesel fuel, then a refund of the second tax is allowed to the person who paid it to the government. Thus, when undyed diesel fuel is removed from the [REDACTED] and from the [REDACTED] terminal, a refund would be allowed to the person who paid the tax on the fuel removed from the [REDACTED] terminal. However, if there is no second tax, such as in the case of diesel fuel dyed at the [REDACTED] terminal, then no refund is allowed. [Section 4081(e) of the Code].

If taxed diesel fuel is used in a nontaxable use, then a refund or credit is allowed to the ultimate purchaser of the diesel fuel or to the registered ultimate vendor in the case of sales to a state and local government or for farming use. [Section 6427(l) of the Code].

I hope this information is helpful. If you have any questions, please contact [REDACTED] of my staff, [REDACTED] at (202) 622-3130.

Sincerely,  
Heather C. Maloy  
Associate Chief Counsel  
(Passthroughs and Special Industries)

cc: [REDACTED]