

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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Chief Excise Tax Operations
SBSE Excise

Taxpayer's Name:
Taxpayer's Address:

Taxpayer's Identification No
Years Involved:
Date of Conference:

LEGEND:

Taxpayer =

Company X =

Non-terminal Storage Facility A =

Non-terminal Storage Facility B =

Dock Facility =

Unapproved Terminal =

Approved Refinery =

ISSUE:

Is Taxpayer liable for the tax imposed by § 4081 of the Internal Revenue Code on its removals and sales of gasoline blendstocks in 2004 and 2005 as described below?

FACTS:

Taxpayer is a taxable fuel registrant as defined in § 48.4081-1(b) of the Manufacturers and Retailers Excise Tax Regulations.

Taxpayer owned and operated Approved Refinery. Approved Refinery produced several taxable fuel products, including butane, that met the definition of gasoline blendstocks under § 48.4081-1(b)(1). Taxpayer transferred butane that was not used in the production of finished gasoline at Approved Refinery in bulk (pipeline) and nonbulk (truck and rail car) shipments to Unapproved Terminal, Non-terminal Storage Facility A, and Non-terminal Storage Facility B. Taxpayer transferred butane between the facilities, held the butane for sale at the facilities, and, when needed, transferred the butane back to Approved Refinery for use in the production of finished gasoline. Taxpayer also shipped butane to Dock Facility for loading onto vessels in connection with sales for export. Taxpayer sold the butane to both taxable fuel registrants and person that were not registrants.

Storage Agreements:Agreement with Unapproved Terminal

Company X is not a taxable fuel registrant. In 2004, Taxpayer entered into an exclusive terminaling agreement with Company X to lease two storage tanks at X's Unapproved Terminal, which comprised all of the butane storage at Unapproved Terminal. Taxpayer was the only position holder at Unapproved Terminal.

Taxpayer subleased a portion of the butane storage to three taxable fuel registrants, all of whom kept butane at Unapproved Terminal. The contracts between Taxpayer and Company X and the sublease contracts between Taxpayer and the three other taxable fuel registrants stated that all butane would be commingled in the tanks.

Agreement with Certain Non-Terminal Storage Facilities

In 2004, Taxpayer also used Non-terminal Storage Facilities A and B to store butane. The contracts with both storage facilities stated that all butane would be commingled in

large public underground caverns. All receipts and removals were nonbulk (by truck or rail car).

Removals and Sales:

The following statements generally apply to the fact patterns below.

Taxpayer represents that each time that it received a certificate described in § 48.4081-5, or a certificate described in § 48.4081-4(e), it had no reason to think any information in the certificate was false.

The term “a non-terminal storage facility” refers to either NTSF A or NTSF B.

Taxpayer represents that Dock Facility provides temporary bulk storage for butane that is to be transported by vessel, or for butane that was received by vessel and has yet to be transferred to a refinery, terminal, or non-terminal storage facility. Dock Facility does not have a rack, and thus is not a terminal. After arriving by pipeline from the refinery, the butane is loaded into a ship or barge via Dock Facility. If the ship or barge to be loaded is not yet at the dock, the butane is stored at Dock Facility until the vessel arrives and the butane can be put aboard.

In Unapproved Terminal, the non-terminal storage facilities, and other facilities where butane is commingled, Taxpayer and the other taxpayers have an agreed method for allocating the butane between them and ascertaining ownership of the butane. Further, Taxpayer is able to identify its taxed and its untaxed butane by a reasonable accounting method, such as a first-in, first-out method.

The discussion of the imposition of the tax at the Leaking Underground Storage Tank (LUST) Trust Fund financing rate of 0.1 cent per gallon applies only to sales or removals that occurred on or after October 1, 2005.

LAW:

Section 4081(a)(1)(A) of the Code imposes a tax on certain removals, entries, and sales of taxable fuel, including gasoline.

Under §§ 4081(a)(2)(A) and (B), the rate of the tax generally imposed by § 4081 on gasoline is 18.4 cents per gallon, which includes 0.1 cent per gallon (the Leaking Underground Storage Tank Trust Fund financing rate (LUST)).

Section 4081(e) states that if any person who paid the tax imposed by § 4081 with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by the person on such taxable fuel shall be allowed as a

refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

Section 48.4081-1(a) provides definitions for purposes section 4081, including definitions of “position holder,” “rack,” “refinery,” “taxable fuel,” and “terminal operator.”

Under § 48.4081-1(b), “bulk transfer” means any transfer of taxable fuel by pipeline or vessel.

Under § 48.4081-1(b), “bulk transfer/terminal system” means the taxable fuel distribution system consisting of refineries, pipelines, vessels, and terminals.

Under § 48.4081-1(b), “approved terminal or refinery” means a terminal or refinery that is operated, respectively, by a taxable fuel registrant that is a terminal operator, or by a taxable fuel registrant that is a refiner.

Under § 48.4081-1(b), “gasoline” means finished gasoline and gasoline blendstocks.

Under § 48.4081-1(b), “removal” generally means any physical transfer of taxable fuel, and any use of taxable fuel other than as a material in the production of taxable fuel or special fuels.

Under § 48.4081-1(b), “sale” means (1) the transfer of title to, or substantial incidents of ownership in, taxable fuel (other than taxable fuel in a terminal) to the buyer for a consideration, which may consist of money, services, or other property; or (2) the transfer of the inventory position in the taxable fuel in a terminal if the transferee becomes the position holder with respect to the taxable fuel.

Under § 48.4081-1(b), “taxable fuel registrant” means an enterer, industrial user, refiner, terminal operator, or throughputter that is registered as such under § 4101.

In § 48.4081-1(b), “terminal” generally is defined to mean a taxable fuel storage and distribution facility that is supplied by pipeline or vessel and from which taxable fuel may be removed at a rack.

Section 48.4081-1(c)(3)(B) generally includes butane in the definition of gasoline blendstocks.

Under § 48.4081-2(b), tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack. Under § 48.4081-2(c), the position holder with respect to the taxable fuel is liable for the tax.

Under § 48.4081-3(b), tax is imposed on the removal of gasoline from a refinery at the refinery rack and the refiner is liable for the tax.

Under § 48.4081-3(e), that tax is imposed on gasoline if: (i) it is removed by bulk transfer from a refinery or terminal, or entered by bulk transfer into the United States; (ii) no tax was imposed on the bulk removal from a refinery or unapproved terminal, or bulk entry into the United States under § 48.4081-3(b), (c), or (d); and (iii) upon removal from the pipeline or vessel, the gasoline is not received at an approved terminal or refinery, or at another pipeline or vessel. The owner of the gasoline is generally liable for this tax.

Under § 48.4081-3(f)(1), tax is imposed on the sale of gasoline within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on the gasoline under § 48.4081-2, or § 48.4081-3(b), (c), (d), or (e).

Under § 48.4081-3(f)(2), the tax imposed under § 48.4081-3(f)(1) does not apply to sales of gasoline for export where (i) the buyer's principal place of business is not within the United States; (ii) the sale of the fuel occurs as the fuel is delivered into a transport vessel; (iii) the vessel has a capacity of at least 20,000 barrels of fuel; (iv) the seller is a taxable fuel registrant and the exporter of record of the fuel; and (v) the fuel was exported in due course.

Section 48.4081-4 prescribes the conditions under which tax is not imposed on removals or entries of gasoline blendstocks that are not used to produce finished gasoline or that are received at an approved terminal or refinery.

Under § 48.4081-4(b)(1), tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks where the removal or entry is not connected to a sale if the person otherwise liable for tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2) (the enterer) is a taxable fuel registrant, and such person does not use the gasoline blendstocks to produce finished gasoline.

Under § 48.4081-4(b)(2), tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks where the removal or entry is connected to a sale if the person otherwise liable for the tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2) (the enterer) is a taxable fuel registrant, and at the time of the sale, such person has an unexpired certificate of the kind described in paragraph (e) of § 48.4081-4 from the buyer and has no reason to believe any information in the certificate is false.

Under § 48.4081-4(b)(3), if paragraph (b)(1) or (2) of § 48.4081-4 applies to the removal or entry of gasoline blendstocks, tax generally is imposed on any later sale of such blendstocks, unless, at the time of the sale, the seller has an unexpired certificate of the

kind described in paragraph (e) of § 48.4081-4 from its buyer, and has no reason to believe any information in the certificate is false.

Under § 48.4081-4(c), tax is not imposed under § 48.4081-2(b), §48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2), is a taxable fuel registrant, has an unexpired notification certificate (described in § 48.4081-5) from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false.

Section 48.4081-5 describes the requirements for the notification certificate to notify another person of the taxable fuel registrant's registration status.

Except for cases that are not relevant here, § 6430 prohibits refunds, credits, or payments under § 6416, 6420, 6421, or 6427 related to any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate.

Section (2)(a)(2) of Notice 2005-80, 2005-2 C.B. 953, states that tax generally is imposed at the LUST financing rate of 0.1 cent per gallon on removals, entries, and sales of gasoline that are described as exempt transactions in paragraphs (b) and (d) of § 48.4081-4.

ANALYSIS AND CONCLUSIONS:

A. Dock Facility

Taxpayer represents that Dock Facility provides temporary bulk storage for product that is to be transported by ship or barge, or product that was received by vessel and has yet to be transferred to a refinery, terminal or non-terminal storage facility. Dock Facility provides the means to load product into ships and barges. Dock Facility does not have a rack. After arriving by pipeline from the refinery, the butane is loaded into a ship or barge via Dock Facility. If the ship or barge to be loaded is not yet at the dock, the butane is stored at Dock Facility until the vessel arrives and the butane can be put aboard.

Section 48.4081-1(b) defines the bulk transfer/terminal system as the taxable fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Dock Facility is a distribution mechanism of the pipeline. Dock Facility receives and distributes only bulk shipments. As a conduit between vessels and transport portions of the pipeline, it constitutes a section of the pipeline and, accordingly, part of the bulk transfer/terminal system.

B. Tax Imposed at Leaking Underground Storage Tank (LUST) Trust Fund Financing Rate

Removals, entries, and sales of gasoline blendstocks that are described as exempt transactions in paragraphs (b) and (d) of § 48.4081-4 are subject to tax at the LUST financing rate. See Section (2)(a)(2) of Notice 2005-80. Thus, butane removals that are otherwise exempt under § 48.4081-4(b)(1) or § 48.4081-4(b)(2) are subject to tax at the LUST financing rate.

Accordingly, if butane is removed in connection with a sale that meets the requirements of § 48.4081-4(b)(2), tax will be imposed on the removal at the LUST Trust Fund financing rate. If there is no such removal in connection with a sale, tax will be imposed at the LUST Trust Fund financing rate on the last removal that meets the requirements of § 48.4081-4(b)(1) before the sale of the butane or use of the butane in the manufacture of a product other than finished gasoline. However, if § 48.4081-4(b)(1) applies to one or more removals of the butane and that butane is later sold to a buyer who does not provide a certificate of the kind described in § 48.4081-4(e), the sale of the butane is taxed under § 48.4081-4(b)(3) at a total rate of tax of 18.4 cents per gallon. No tax is imposed on transactions described in paragraphs (1) and (2) of § 48.4081-4(b) at the LUST Trust Fund financing rate if the exception provided by § 48.4081-4(c) applies to a subsequent receipt of the butane at a terminal or refinery.

C. Section 48.4081-4(c)

Under § 48.4081-4(c), tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false.

The language of § 48.4081-4(c) requires that the taxpayer be a taxable fuel registrant, and receive a notification certificate from the operator of the terminal or refinery where the blendstocks are received, in order to claim the exemption. It does not require that the taxpayer be the person that transfers the blendstocks to such terminal or refinery. Thus, for example, no tax is imposed under § 48.4081-3(b)(1)(ii) on the removal of a gasoline blendstock if Refiner A sells the blendstock to Wholesaler B that in turn delivers the blendstock to C's terminal, if all the other conditions of § 48.4081-4(c) are met.

D. Non-Terminal Storage Facilities

In § 48.4081-1(b), "terminal" generally means a taxable fuel storage and distribution facility that is supplied by pipeline or vessel and from which taxable fuel may be

removed at a rack. The non-terminal storage facilities described in this technical advice memorandum do not meet the definition of a terminal because they are not supplied by pipeline or vessel.

E. Movements of Butane

Taxpayer removed butane to terminal and non-terminal storage facilities, sold butane to taxable fuel registrants and non-registrants, and transferred butane back to Taxpayer's refineries for use in the production of finished gasoline. The following fact patterns present Taxpayer's removals and sales in alternative sequence, followed by the tax consequences of each fact pattern. Taxpayer's removals of butane from non-terminal storage facilities do not result in tax consequences under § 4081.

Bulk Removals from Approved Refinery

1. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer makes a bulk transfer of the butane from Unapproved Terminal to Dock Facility. Taxpayer sells the butane to a person that is not a taxable fuel registrant for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e). Section 48.4081-3(e)(1) imposes a tax on bulk transfers from a terminal or refinery (and on bulk entries into the United States) that are not received at an approved terminal or refinery, or at another pipeline or vessel, upon removal from the pipeline or vessel, if no tax was imposed on the removal from the terminal or refinery (or the entry) under paragraph (b), (c), or (d) of § 48.4081-3. Taxpayer removes the butane by bulk transfer from a refinery, no tax was imposed on such removal under paragraph (b), (c) or (d) of § 48.4081-3, and, upon removal, the taxable fuel is not received at an approved terminal or refinery. Thus, Taxpayer is liable for tax under § 48.4081-3(e)(1) on the bulk transfer of the butane.

Under § 48.4081-3(e)(2), the owner of the taxable fuel is liable for the tax unless the owner is a taxable fuel registrant, has an unexpired notification from the operator of the terminal or refinery where the taxable fuel is received (unless the fuel is received at another pipeline or vessel), and has no reason to believe that any information in the notification certificate is false. Here, Taxpayer is a taxable fuel registrant. However, Taxpayer does not receive a notification certificate from the operator of the terminal where the butane is received, as the terminal is not an approved terminal within the meaning of § 48.4081-1(b). Accordingly, under § 48.4081-3(e)(2), Taxpayer is liable for the tax imposed by § 48.4081-3(e)(1).

Taxpayer is not liable for tax on the bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e) because Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs as the fuel is delivered into a transport vessel. Accordingly, the butane is within the bulk transfer/terminal system when Taxpayer transfers it to the vessel for export in connection with a sale to a person who is not a taxable fuel registrant. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3. Although the sale is to a non-registrant and is within the bulk transfer/terminal system, tax has been imposed on the butane under paragraph (e) of § 48.4081-3. Accordingly, Taxpayer is not liable for tax on the sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

2. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer is the position holder of butane that it removes at the rack of Unapproved Terminal in connection with a sale to a customer for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer's removal of the butane at the rack of Unapproved Terminal is taxed under § 48.4081-2(b). Section 4081-4(b)(2) allows an exception for gasoline blendstocks removed in connection with a sale, if the person otherwise liable for tax (here Taxpayer, the position holder) is a taxable fuel registrant and, at the time of the sale, has an unexpired certificate of the kind specified in § 48.4081-4(e) from the buyer and has no reason to believe any information in the certificate is false. Taxpayer is a taxable fuel registrant; however, Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Accordingly, the § 48.4081-4(b)(2) exception does not apply. Under § 48.4081-2(c), Taxpayer, as the position holder, is liable for the tax imposed by § 48.4081-2(b).

Taxpayer is liable for tax on two events, one under § 48.4081-3(e) and one under § 48.4081-2(b), both at the rate of 18.4 cents per gallon.

3. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer is the position holder of butane that it removes at the rack from Unapproved Terminal and sells to a person that is a taxable fuel registrant. By the time of the removal, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is the position holder of butane removed at the rack from Unapproved Terminal and sold to a customer that is a taxable fuel registrant. Under § 48.4081-2(c)(1), Taxpayer, as the position holder, is liable for any tax imposed under § 48.4081-2(b). However, Taxpayer is a taxable fuel registrant and, by the time of sale, Taxpayer had received an annual certificate described in § 48.4081-4(e) from its customer stating that the butane will not be used to produce finished gasoline. Thus, the exception under § 48.4081-4(b)(2) applies and tax is not imposed (other than LUST) under § 48.4081-2(b) on the removal of the butane from the terminal rack at Unapproved Terminal. The status of Taxpayer's buyer as a taxable fuel registrant is irrelevant.

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Taxpayer also is liable for tax imposed on the removal of butane from the rack of Unapproved Terminal, at the Leaking Underground Storage Tank (LUST) Trust Fund financing rate of 0.1 cent per gallon.

4. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. As the butane is removed from Unapproved Terminal at the terminal rack, Taxpayer, who is the position holder of the fuel, sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer does not transfer the butane to a terminal or refinery.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer's removal of the butane at the rack of Unapproved Terminal is taxed under § 48.4081-2(b). As the position holder, Taxpayer is liable for the tax under § 48.4081-2(c). The exemption allowed by § 48.4081-4(b)(2) does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on two events, under § 48.4081-3(e) and § 48.4081-2(b), both at the rate of 18.4 cents per gallon.

5. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. As the butane is removed from Unapproved Terminal at the rack, Taxpayer sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer is the operator of a terminal or refinery to which it transfers the butane. Taxpayer receives a notification certificate described in § 48.4081-5 from the buyer, and has no reason to believe that any information in the certificate is false.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Under § 48.4081-2(b), tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack. Section 48.4081-4(c), however, states that tax is not imposed under § 48.4081-2(b) if the removed blendstocks are received at a terminal or refinery, and the person otherwise liable for tax under § 48.4081-2(c)(1), § 48.4081-3(b)(3), or § 48.4081-3(c)(2), is a taxable fuel registrant, has an unexpired notification certificate (described in § 48.4081-5) from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Here, the person otherwise liable for tax (Taxpayer, as the position holder at Unapproved Terminal) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Accordingly, the § 48.4081-4(c) exception applies and Taxpayer is not liable for tax on the removal of butane at the rack of Unapproved Terminal under § 48.4081-2(b).

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

6. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer sells the butane within Unapproved Terminal to a person that is a taxable fuel registrant and does not become the position holder with respect to the butane.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Under § 48.4081-1(b), a “sale” is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane; thus, the transaction does not meet the definition of a “sale” in § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

7. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. As the butane is removed from Unapproved Terminal across the rack, Taxpayer sells the butane to a person that is not a taxable fuel registrant. By the time of the removal, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer’s bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane at the rack of Unapproved Terminal because Taxpayer is a taxable fuel registrant and, by the time of the removal, Taxpayer had received an unexpired certificate described in § 48.4081-4(e) from the buyer and had no reason to believe any information in the certificate was false. Thus, the exemption provided in § 48.4081-4(b)(2) applies.

Taxpayer is liable for one taxable event under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on a second event, the removal of butane from the rack of Unapproved Terminal, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

8. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer makes a bulk transfer of the butane back to Approved Refinery for use by Taxpayer in the production of finished gasoline.

Taxpayer’s bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer transfers the butane in bulk back to Approved Refinery. Taxpayer is not liable for tax under § 48.4081-3(e) on this bulk transfer because the butane is received at an approved refinery.

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

9. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal and delivers it to Approved Refinery for use in the production of finished gasoline.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery upon removal from the pipeline or vessel. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax on the removal of butane from the rack of Unapproved Terminal under § 48.4081-2(b) because the butane is received at a refinery and Taxpayer, the operator of the refinery, is a taxable fuel registrant. Accordingly, the exemption provided in § 48.4081-4(c) applies.

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

10. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. As the butane is then removed from the non-terminal storage facility, Taxpayer sells the butane to a person that is a taxable fuel registrant. By the time of sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is liable for tax on the bulk transfer of butane from Approved Refinery to Unapproved Terminal under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Under § 48.4081-2(b), tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack. Section 48.4081-4(b)(1), however, provides an exception for blendstock removals not connected with a sale, if the person otherwise liable for tax (here Taxpayer) is a taxable fuel registrant, and that person does not use the gasoline blendstocks to produce finished gasoline. Those conditions are met here,

so Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of butane from Unapproved Terminal.

Taxpayer removes the butane from the non-terminal storage facility and sells the butane to customers that provide a § 48.4081-4(e) certificate by the time of the sale. Section 48.4081-4(b)(3) imposes a tax on sales after nonbulk removals to which paragraph (b)(1) or (b)(2) of § 48.4081-4 apply, unless, at the time of the sale, the seller has received an unexpired § 48.4081-4(e) certificate from the buyer and has no reason to believe any information in the certificate is false. Here, § 48.4081-4(b)(1) applies to the removal of the butane from the rack of Unapproved Terminal; however, Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. Accordingly, Taxpayer is not liable for tax under § 48.4081-4(b)(3).

Taxpayer is liable for one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

11. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery by Taxpayer to a non-terminal storage facility. As the butane is then removed from the non-terminal storage facility, Taxpayer sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer is the operator of a terminal or refinery to which it transfers the butane. Taxpayer receives the notification certificate described in § 48.4081-5 from the buyer and has no reason to believe that any information in the certificate is false.

Taxpayer's bulk transfer of butane from an approved refinery to an Unapproved Terminal is a taxable event under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery upon removal from the pipeline or vessel. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Under § 48.4081-2(b), tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack.

Section 48.4081-4(c), however, states that tax is not imposed on certain nonbulk removals and entries of gasoline blendstocks that are received at a terminal or refinery, if the person otherwise liable for tax (here, Taxpayer) is a taxable fuel registrant, has an unexpired notification certificate (described in § 48.4081-5) from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe any information in the certificate is false. Here, the butane was received at a terminal or refinery, Taxpayer is a taxable fuel registrant, Taxpayer received an unexpired notification certificate (described in § 48.4081-5) from the operator of the

terminal or refinery where the butane was received, and Taxpayer had no reason to believe that any information in the certificate was false. Accordingly, the § 48.4081-4(c) exception applies and Taxpayer is not liable for tax under § 48.4081-2(b).

Taxpayer is liable for tax on one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

12. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer sells the butane within the non-terminal storage facility to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer does not transfer the butane to a terminal or refinery.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant, and Taxpayer does not use the butane to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exception applies.

Under § 48.4081-4(b)(3), if paragraph (b)(1) or (2) of § 48.4081-4 applies to the removal or entry of gasoline blendstocks, tax generally is imposed on any later sale of such blendstocks, unless, at the time of the sale, the seller has an unexpired certificate of the kind described in paragraph (e) of § 48.4081-4 from its buyer, and has no reason to believe any information in the certificate is false. Here, § 48.4081-4(b)(1) exempts from tax the removal of the butane from the rack of Unapproved Terminal. Taxpayer's later sale within the non-terminal storage facility is taxed under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applied to an earlier removal of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on two events, under § 48.4081-3(e) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

13. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer sells the butane at the rack of the non-terminal storage facility to a person that is not a

taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant, and Taxpayer does not use the butane to produce finished gasoline. Thus, the § 48.4081-4(b)(1) exception applies.

Taxpayer is not liable for tax on the sale of the butane under § 48.4081-4(b)(3) because, by the time of the sale, Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer and had no reason to believe any information in the certificate was false.

Taxpayer is liable for tax on one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

14. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer is the position holder of butane removed at the rack from Unapproved Terminal and delivered to a non-terminal storage facility. Taxpayer transfers the butane back to Approved Refinery for use by Taxpayer in the production of finished gasoline.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery upon removal from the pipeline or vessel. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

The butane subsequently was transferred to an approved refinery. Accordingly, Taxpayer is not liable for tax under § 48.4081-2(b) for the removal of the butane at the rack of Unapproved Terminal because the exception provided under § 48.4081-4(c) applies.

Taxpayer is liable for tax on one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

15. Bulk transfer of butane owned by Taxpayer to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer transfers the butane in bulk from Unapproved Terminal to Dock Facility. Taxpayer sells the butane to a person that is not a taxable fuel registrant, for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on the bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e) because Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs as the fuel is delivered into a transport vessel. Thus, the butane is within the bulk transfer/terminal system when transferred to the vessel for export in connection with a sale to a person who is not a taxable fuel registrant. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3. Although the sale is to a non-registrant and is within the bulk transfer/terminal system, the butane has been taxed under paragraph (e) of § 48.4081-3. Accordingly, Taxpayer is not liable for tax on this sale under § 48.4081-3(f)(1).

Under § 48.4081-4(b)(3), tax is imposed on any sales after nonbulk removals to which paragraph (b)(1) or (b)(2) of § 48.4081-4 apply, unless, at the time of the sale, the seller has received an unexpired § 48.4081-4(e) certificate from the buyer and has no reason to believe any information in the certificate is false. Here, § 48.4081-4(b)(1) applies to the removal of the butane from the rack of Unapproved Terminal, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. Thus, Taxpayer is liable for tax on the sale under § 48.4081-4(b)(3).

Taxpayer is liable for tax on two events, under § 48.4081-3(e) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

16. Bulk transfer of butane owned by Taxpayer to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer then makes a nonbulk transfer from the non-terminal storage facility back to Unapproved Terminal. Taxpayer is the position holder of butane removed at the rack of Unapproved Terminal in connection with a sale to a person that is not a taxable fuel registrant, for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

No tax is imposed under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery by Taxpayer to non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exemption applies.

The removal of the butane from Unapproved Terminal in connection with the sale is taxed under § 48.4081-2(b). As the position holder, Taxpayer is liable for this tax under § 48.4081-2(c). The exemption from this tax allowed by § 48.4081-4(b)(2) does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale.

Further, Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Unapproved Terminal, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Thus, Taxpayer is liable for tax on three events, under § 48.4081-3(e) (for the receipt of the butane at the unapproved terminal), § 48.4081-2(b) (for the removal of the butane from the rack of Unapproved Terminal) and § 48.4081-4(b)(3) (for the sale of the butane, after the earlier removal of the butane was exempted from tax under § 48.4081-4(b)(1), to a person who does not provide a § 48.4081-4(e) certificate by the time of the sale), each at the rate of 18.4 cents per gallon.

17. Bulk transfer of butane owned by Taxpayer to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer then makes a nonbulk transfer from the non-terminal storage facility back to Unapproved Terminal. Taxpayer is the position holder of butane removed at the rack of Unapproved Terminal as the butane is sold to a person that is a taxable fuel registrant. By the time of sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Thus, the § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane from Unapproved Terminal in connection with the sale because the person otherwise liable for tax (here Taxpayer, as the position holder) is a taxable fuel registrant, and Taxpayer had received an unexpired certificate of the kind specified in § 48.4081-4(e) by the time of the sale and had no reason to believe any information in the certificate was false. Accordingly, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on a second event, the removal of butane from the rack of Unapproved Terminal in connection with the sale, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

18. Bulk transfer of butane owned by Taxpayer to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer from the non-terminal storage facility back to Unapproved Terminal. Taxpayer sells the butane within Unapproved Terminal to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer does not become the position holder with respect to the butane. The buyer does not transfer the butane to a terminal or refinery.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery by Taxpayer to non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Thus, the § 48.4081-4(b)(1) exemption applies.

Under § 48.4081-1(b), a “sale” is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane; thus, the transaction is not a “sale” as defined in § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Further, tax is not imposed on the sale under § 48.4081-4(b)(3). Section 48.4081-4(b)(1) applies to the removal of the butane from the rack of Unapproved Terminal for delivery to the non-terminal storage facility, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. However, the transaction is not a “sale” within the meaning of § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on the transaction under § 48.4081-4(b)(3).

Taxpayer is liable for tax on one event under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

19. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer then makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer sells the butane at the rack of Unapproved Terminal to a buyer that is not a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer’s bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed on such removal under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer’s removal of butane at the rack of Unapproved Terminal for delivery by Taxpayer to non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane from the rack of Unapproved Terminal in connection with the sale because the person otherwise liable for tax (here Taxpayer, as the position holder) is a taxable fuel registrant, and Taxpayer had received an unexpired certificate of the kind specified in § 48.4081-4(e) from the buyer by the time of the sale and had no reason to believe the information in the certificate was false. Thus, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is liable for tax on one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon. Further, Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal in connection with the sale, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

20. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for transfer to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer makes a bulk transfer of the butane back to Approved Refinery operated by Taxpayer for use in the production of finished gasoline.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is a taxed under § 48.4081-3(e)(1) because no tax was imposed on such removal under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

The removal of butane from the rack of Unapproved Terminal for transfer to a non-terminal storage facility is not taxed under § 48.4081-2(b). Section 48.4081-4(c) states, in part, that tax is not imposed under § 48.4081-2(b) (removal from a terminal rack) on the removal of gasoline blendstocks if the person otherwise liable for tax under § 48.4081-2(c)(1) (here Taxpayer, as the position holder) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Taxpayer is a taxable fuel registrant and the butane is received at a refinery operated by Taxpayer. The requirements of § 48.4081-4(c) are met and thus Taxpayer is not liable for tax under § 48.4081-2(b) on the nonbulk removal of butane from Unapproved Terminal.

Taxpayer is liable tax on one event, under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

21. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery by Taxpayer to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer removes butane at the rack of Unapproved Terminal and delivers it back to Approved Refinery for use in the production of finished gasoline.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed on such removal under

paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

Taxpayer is not liable for tax on either removal of butane from the rack of Unapproved Terminal under § 48.4081-2(b). Taxpayer is a taxable fuel registrant and the butane is subsequently received at a refinery operated by Taxpayer. The requirements of the § 48.4081-4(c) exemption are met and thus no tax is imposed on the removals under § 48.4081-2(b).

Taxpayer is liable for one taxable event under § 48.4081-3(e), at the rate of 18.4 cents per gallon.

22. Bulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery by Taxpayer to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. As the butane is removed from the rack of Unapproved Terminal, Taxpayer sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer does not transfer the butane to a terminal or refinery.

Taxpayer's bulk transfer of butane from Approved Refinery to Unapproved Terminal is taxed under § 48.4081-3(e)(1) because no tax was imposed on such removal under paragraphs (b), (c), or (d) of § 48.4081-3 and the butane is not received at an approved terminal or refinery. Taxpayer is liable for this tax under § 48.4081-3(e)(2) as the owner of the butane.

No tax is imposed under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Tax is imposed under § 48.4081-2(b) on the removal of butane from Unapproved Terminal in connection with a sale. The § 48.4081-4(b)(2) exception does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Taxpayer is liable for this tax under § 48.4081-2(c) as the position holder with respect to the butane.

Further, Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the first removal of butane from the rack of Unapproved Terminal, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on three events (two removals and one sale), under § 48.4081-3(e), § 48.4081-2(b), and § 4081-4(b)(3), each at the rate of 18.4 cents per gallon.

Nonbulk Removals from Approved Refinery

23. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer transfers the butane in bulk from Unapproved Terminal to Non-Terminal Storage Facility C (Dock Facility). Taxpayer sells the butane to a person that is not a taxable fuel registrant for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer's principal place of business is not within the United States. The sale occurs as the fuel is delivered into a transport vessel which has a capacity of at least 20,000 barrels of fuel. Taxpayer is the exporter of record of the fuel and the fuel is exported in due course. Taxpayer obtains proof of export from the buyer.

Under section 48.4081-3(b)(1)(ii), tax is imposed on the removal of taxable fuel from a refinery rack. Section 48.4081-4(b)(1), however, provides an exception for nonbulk blendstock removals not connected with a sale, if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3)) is a taxable fuel registrant, and that person does not use the gasoline blendstocks to produce finished gasoline. Those requirements are met here; thus, the § 48.4081-4(b)(1) exception applies and Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii).

Taxpayer is not liable for tax on the bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e) because Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs as the fuel is delivered into a transport vessel. Thus, the butane is within the bulk transfer/terminal system when transferred to the vessel for export in connection with a sale to a person who is not a taxable fuel registrant. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3. Here, the sale is within the bulk transfer/terminal system and is to a non-registrant, and the fuel is not taxed under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3.

However, § 48.4081-3(f)(2) creates an exception for sales of taxable fuel for export if (i) the buyer's principal place of business is not within the United States; (ii) the sale of the fuel occurs as the fuel is delivered into a transport vessel; (iii) the vessel has a capacity of at least 20,000 barrels of fuel; (iv) the seller is a taxable fuel registrant and the exporter of record of the fuel; and (v) the fuel was exported in due course. The sale here meets those requirements. Thus, the exception under § 48.4081-3(f)(2) applies and Taxpayer is not liable for tax on the sale under § 48.4081-3(f)(1).

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

24. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal in connection with a sale to a person that is not a taxable fuel registrant for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Thus, the § 48.4081-4(b)(1) exemption applies.

Taxpayer's removal of butane from Unapproved Terminal in connection with a sale is taxed under § 48.4081-2(b). The exemption under § 48.4081-4(b)(2) does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Taxpayer is liable for this tax under § 48.4081-2(c) as the position holder with respect to the butane.

Taxpayer is liable for tax on the sale of butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

25. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal in connection with a sale to a person that is a taxable fuel registrant. By the time of sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on its removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a

taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane from the rack of Unapproved Terminal in connection with the sale because the person otherwise liable for tax (here Taxpayer, as the position holder) is a taxable fuel registrant, and Taxpayer had received an unexpired certificate of the kind specified in § 48.4081-4(e) by the time of the sale. Accordingly, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

26. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal in connection with a sale to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the customer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) for Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer's removal of butane from Unapproved Terminal in connection with a sale is taxed under § 48.4081-2(b). The § 48.4081-4(b)(2) exemption does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Taxpayer is liable for this tax under § 48.4081-2(c) as the position holder with respect to the butane.

Taxpayer is liable for tax on the sale of butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

27. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer sells the butane within Unapproved Terminal to a person that is a taxable fuel registrant. The buyer does not become the position holder with respect to the butane. Taxpayer does not receive a certificate described in

§ 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Under § 48.4081-1(b), a "sale" is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane, thus, the transaction is not a "sale" as defined in § 48.4081-1(b). Further, Taxpayer transferred title to the butane to a person who is a taxable fuel registrant. Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Tax is not imposed on the sale of the butane under § 48.4081-4(b)(3). Here, § 48.4081-4(b)(1) applies to the removal of the butane from the rack of Approved Refinery for delivery to Unapproved Terminal, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. However, the transaction does not fall within the § 48.4081-1(b) definition of a sale because the buyers did not become position holders with respect to the butane. Thus, Taxpayer is not liable for tax on the sale of the butane under § 48.4081-4(b)(3).

Taxpayer is liable for tax on the removal of butane from the rack of Approved Refinery at the LUST Trust Fund financing rate of 0.1 cent per gallon.

28. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer removes the butane at the rack of Unapproved Terminal in connection with a sale to a person that is not a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane from the rack of Unapproved Terminal in connection with the sale because the person otherwise liable for tax (here Taxpayer, as the position holder) is a taxable fuel registrant, and Taxpayer had received an unexpired certificate of the kind specified

in § 48.4081-4(e) by the time of the sale. Thus, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

29. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer transfers the butane in bulk back to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery.

Taxpayer is not liable for tax for these removals.

30. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal and transfers the butane to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-2(b) imposes a tax on the removal of taxable fuel from a terminal rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) or § 48.4081-2(b) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3), and, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the butane is received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, no tax is imposed under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery, and Taxpayer is not liable for tax under § 48.4081-2(b) on the removal of butane from the rack of Unapproved Terminal.

Taxpayer is not liable for tax for these removals.

31. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal. Taxpayer makes a bulk transfer of the butane from Unapproved

Terminal to Dock Facility. Taxpayer sells the butane within Dock Facility to a person that is a taxable fuel registrant. Taxpayer does not receive an annual certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not taxed on Taxpayer's bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e). Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs within the Dock Facility. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3. Here, the sale is within the bulk transfer/terminal system; however, the buyer is a taxable fuel registrant. Accordingly, Taxpayer is not liable for tax on the sale under § 48.4081-3(f)(1).

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

32. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal and delivers it to a non-terminal storage facility. As Taxpayer removes the butane from the non-terminal storage facility, Taxpayer sells the butane to a person that is a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the gasoline blendstocks to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the

butane to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on the sale of butane under § 48.4081-4(b)(3) because Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

33. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. As Taxpayer removes the butane from the non-terminal storage facility, Taxpayer sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax on the sale of butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

34. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery by Taxpayer to a non-terminal storage facility. Taxpayer sells the butane within the non-terminal storage facility to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

35. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer sells the butane at the rack of the non-terminal storage facility to a person that is not a taxable fuel registrant. Further, Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is taxed on the sale of butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

36. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer sells the butane at the rack of the non-terminal storage facility to a person that is not a taxable fuel registrant. By the time of sale, Taxpayer receives an annual certificate described in §48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on the sale of butane under § 48.4081-4(b)(3) because Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

37. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer transfers the butane back to Approved Refinery for use by Taxpayer in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-2(b) imposes a tax on the removal of taxable fuel from a terminal rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) or § 48.4081-2(b) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3), and, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery, and Taxpayer is not liable for tax under § 48.4081-2(b) on the removal of butane from the rack of Unapproved Terminal.

Taxpayer is not liable for tax for these removals.

38. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer from the non-terminal storage facility back to Unapproved Terminal. As the butane is removed at the rack of Unapproved Terminal, Taxpayer sells the butane to a person that is a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on the removal of the butane from the rack of Unapproved Terminal in connection with the sale because the person otherwise liable for tax (here Taxpayer, as the position holder) is a taxable fuel registrant, and Taxpayer had received an unexpired certificate of the kind specified in § 48.4081-4(e) from the buyer by the time of the sale and has no reason to believe any information in the certificate is false. Accordingly, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal in connection with the sale, at the LUST Trust Fund financing rate of 0.1 cent per gallon.

39. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. As the butane is removed at the rack of Unapproved Terminal, Taxpayer sells the butane to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because

Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer's removal of butane from Unapproved Terminal in connection with a sale is taxed under § 48.4081-2(b). The § 48.4081-4(b)(2) exemption does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Taxpayer is liable for this tax under § 48.4081-2(c) as the position holder with respect to the butane.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

40. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer sells the butane within Unapproved Terminal to a person that is a taxable fuel registrant. The buyer does not become the position holder with respect to the butane. Taxpayer does not receive an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Under § 48.4081-1(b), a "sale" is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee

becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane, thus, the transaction is not a “sale” as defined in § 48.4081-1(b). Further, Taxpayer transferred title to the butane to a person who is a taxable fuel registrant. Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Tax is not imposed on the sale under § 48.4081-4(b)(3). Section 48.4081-4(b)(1) applies to the removal of the butane from the rack of Approved Refinery for delivery to the Unapproved Terminal, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. However, the transaction is not a “sale” within the meaning of § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on the sale under § 48.4081-4(b)(3).

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

41. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery by Taxpayer to non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. While the butane is in Unapproved Terminal, Taxpayer sells the butane to a person that is not a taxable fuel registrant and that does not become the position holder with respect to the butane. By the time of sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer’s removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer’s removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Under § 48.4081-1(b), a “sale” is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane, thus, the transaction is not a “sale” as defined in § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Tax is not imposed on the sale under § 48.4081-4(b)(3). Section 48.4081-4(b)(1) applies to the removal of the butane from the rack of Approved Refinery for delivery to the Unapproved Terminal. However, Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale. Further, the transaction is not a “sale” within the meaning of § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on the sale under § 48.4081-4(b)(3).

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

42. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is the position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer transfers the butane in bulk from Unapproved Terminal to Dock Facility. Taxpayer sells the butane to a person that is not a taxable fuel registrant for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer’s principal place of business is not within the United States. The sale occurs as the fuel is delivered into a transport vessel which has a capacity of at least 20,000 barrels of fuel. Taxpayer is the exporter of record of the fuel and the fuel is exported in due course. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer’s removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer’s removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the gasoline blendstocks to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on Taxpayer’s bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e). Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs as the fuel is delivered into a transport vessel. Thus, the butane is within the bulk transfer/terminal system when transferred to the vessel for export in connection with a sale to a person who is not a taxable fuel registrant. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3.

Here, the sale is within the bulk transfer/terminal system and is to a non-registrant, and the fuel is not taxed under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3.

However, § 48.4081-3(f)(2) creates an exception for sales of taxable fuel for export if (i) the buyer's principal place of business is not within the United States; (ii) the sale of the fuel occurs as the fuel is delivered into a transport vessel; (iii) the vessel has a capacity of at least 20,000 barrels of fuel; (iv) the seller is a taxable fuel registrant and the exporter of record of the fuel; and (v) the fuel was exported in due course. The sale here meets those requirements. Thus, the exception under § 48.4081-3(f)(2) applies and Taxpayer is not liable for tax on this sale under § 48.4081-3(f)(1).

Taxpayer is liable for tax on the sale under § 48.4081-4(b)(3), however, because § 48.4081-4(b)(1) applies to earlier removals of butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

43. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery by Taxpayer to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer is the position holder of butane removed at the rack of Unapproved Terminal in connection with a sale to a customer for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to Unapproved Terminal because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal in connection with the sale because Taxpayer had not received an unexpired certificate of the kind specified in § 48.4081-4(e) from the buyer by the time of the sale. Accordingly, the § 48.4081-4(b)(2) exemption does not apply.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

44. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer transfers the butane in bulk from Unapproved Terminal back to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-2(b) imposes a tax on the removal of taxable fuel from a terminal rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) or § 48.4081-2(b) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3), and, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery, and Taxpayer is not liable for tax under § 48.4081-2(b) on the removal of butane from the rack of Unapproved Terminal.

Taxpayer is not liable for tax for these removals.

45. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to Unapproved Terminal where Taxpayer is position holder. Taxpayer removes the butane at the rack of Unapproved Terminal for delivery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility back to Unapproved Terminal. Taxpayer is the position holder of butane removed at the rack from Unapproved Terminal for delivery to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-2(b) imposes a tax on the removal of taxable fuel from a terminal rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) or § 48.4081-2(b) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3), and, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal

or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery, and Taxpayer is not liable for tax under § 48.4081-2(b) on either of the two removals of butane from the rack of Unapproved Terminal.

Taxpayer is not liable for tax for these removals.

46. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer sells the butane to a person that is a taxable fuel registrant in connection with nonbulk removals from the non-terminal storage facility. By the time of removal, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the gasoline blendstocks to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on the sale of the butane under § 48.4081-4(b)(3) because the Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale and had no reason to believe any information in the certificate was false.

Taxpayer is liable for tax on the removal of butane from the rack of Approved Refinery at the LUST Trust Fund financing rate of 0.1 cent per gallon.

47. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer sells the butane to a person that is a taxable fuel registrant in connection with nonbulk removals from the non-terminal storage facility. Taxpayer receives the notification certificate described in § 48.4081-5 from the buyer. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the earlier removal of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

48. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer sells the butane within the non-terminal storage facility to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the gasoline blendstocks to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the earlier removals of the butane, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

49. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer sells the butane at the rack of the non-terminal storage facility to a buyer that is not a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. Accordingly, the § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on the sale of the butane under § 48.4081-4(b)(3) because the Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on the removal of butane from the rack of Approved Refinery at the LUST Trust Fund financing rate of 0.1 cent per gallon.

50. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer transfers the butane back to Approved Refinery operated by Taxpayer for use by Taxpayer in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery.

Taxpayer is not liable for tax for these removals.

51. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. While within Unapproved Terminal, Taxpayer sells butane to a person that is not a taxable fuel registrant. The buyer does not become the position holder with respect to the butane. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-3(b)(1)(ii) on the non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Under § 48.4081-1(b), a “sale” is defined with respect to taxable fuel in a terminal as the transfer of the inventory position in the taxable fuel in the terminal, if the transferee becomes the position holder with respect to the taxable fuel. Here, the buyer of the butane does not become the position holder with respect to the butane, thus, the transaction is not a “sale” as defined in § 48.4081-1(b). Accordingly, Taxpayer is not liable for tax on a sale within the bulk transfer/terminal system under § 48.4081-3(f)(1).

Taxpayer is not liable for tax on the sale of the butane under § 48.4081-4(b)(3) because the Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale and had no reason to believe any information in the certificate was false. Further, the transaction does not fall within the definition of a sale in § 48.4081-1(b) because the buyers did not become position holders with respect to the butane

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

52. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. Taxpayer transfers the butane in bulk from Unapproved Terminal to Dock Facility. Butane is removed from Dock Facility

in connection with a sale to a person that is not a taxable fuel registrant for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. The buyer's principal place of business is not within the United States. The sale occurs as the fuel is delivered into a transport vessel which has a capacity of at least 20,000 barrels of fuel. Taxpayer is the exporter of record of the fuel and the fuel is exported in due course. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to a non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax on Taxpayer's bulk transfer of butane from Unapproved Terminal to Dock Facility under § 48.4081-3(e). Dock Facility is a distribution mechanism of the pipeline and part of the bulk transfer/terminal system.

The sale occurs as the fuel is delivered into a transport vessel. Thus, the butane is within the bulk transfer/terminal system when transferred to the vessel for export in connection with a sale to a person who is not a taxable fuel registrant. Section 48.4081-3(f)(1) imposes tax on the sale of taxable fuel within the bulk transfer/terminal system if the sale is to a person that is not a taxable fuel registrant and tax has not been imposed on such taxable fuel under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3. Here, the sale is within the bulk transfer/terminal system and is to a non-registrant, and the fuel is not taxed under § 48.4081-2, or paragraph (b), (c), (d), or (e) of § 48.4081-3.

However, § 48.4081-3(f)(2) creates an exception for sales of taxable fuel for export if (i) the buyer's principal place of business is not within the United States; (ii) the sale of the fuel occurs as the fuel is delivered into a transport vessel; (iii) the vessel has a capacity of at least 20,000 barrels of fuel; (iv) the seller is a taxable fuel registrant and the exporter of record of the fuel; and (v) the fuel was exported in due course. The sale here meets those requirements. Thus, the exception under § 48.4081-3(f)(2) applies and Taxpayer is not liable for tax on this sale under § 48.4081-3(f)(1).

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

53. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. Taxpayer is the position holder of

butane removed at the rack from Unapproved Terminal and, in connection with the removal, sold to a customer for export. Taxpayer does not receive an annual certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to a non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer's removal of butane from Unapproved Terminal in connection with a sale is taxed under § 48.4081-2(b). The § 48.4081-4(b)(2) exemption does not apply because Taxpayer had not received a § 48.4081-4(e) certificate from the buyer by the time of the sale. Taxpayer is liable for this tax under § 48.4081-2(c) as the position holder with respect to the butane.

Taxpayer is liable for tax on the sale of the butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and § 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

54. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. Taxpayer transfers the butane in bulk back to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery.

Taxpayer is not liable for tax for these removals.

55. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. Taxpayer is the position holder of

butane removed at the rack from Unapproved Terminal for delivery to Approved Refinery for use in the production of finished gasoline.

Section 48.4081-3(b)(1)(ii) imposes a tax on the removal of taxable fuel from a refinery rack. Section 48.4081-2(b) imposes a tax on the removal of taxable fuel from a terminal rack. However, § 48.4081-4(c) provides that tax is not imposed under § 48.4081-3(b)(1)(ii) or § 48.4081-2(b) on the removal of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax (here Taxpayer, as the refiner, under § 48.4081-3(b)(3), and, as the position holder, under § 48.4081-2(c)) is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blendstocks are received, and has no reason to believe that any information in the certificate is false. Those requirements are met here; thus, Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on the removal of butane from rack of Approved Refinery, and Taxpayer is not liable for tax under § 48.4081-2(b) on either of the two removals of butane from the rack of Unapproved Terminal.

Taxpayer is not liable for tax for these removals.

56. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer is the owner of butane removed at the rack from the non-terminal storage facility. Taxpayer then sells the butane to a customer for export. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale. Taxpayer obtains proof of export from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to a non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax on the sale of butane under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on one event, under § 48.4081-4(b)(3), at the rate of 18.4 cents per gallon.

57. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. As the butane is removed from the rack of Unapproved Terminal, Taxpayer sells the butane to a person that is a taxable fuel registrant. By the time of the sale, Taxpayer receives an annual certificate described in § 48.4081-4(e) from the buyer.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to a non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is not liable for tax (other than LUST) under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal in connection with the sale because Taxpayer had received an unexpired certificate of the kind specified in § 48.4081-4(e) by the time of the sale and had no reason to believe any information in the certificate was false. Thus, the § 48.4081-4(b)(2) exemption applies.

Taxpayer is not liable for tax on the sale under § 48.4081-4(b)(3) because Taxpayer had received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale.

Taxpayer is liable for tax on the removal of butane from the rack of Unapproved Terminal at the LUST Trust Fund financing rate of 0.1 cent per gallon.

58. Nonbulk transfer of butane owned by Taxpayer from Approved Refinery to a non-terminal storage facility. Taxpayer makes a nonbulk transfer of the butane from the non-terminal storage facility to Unapproved Terminal. Taxpayer is the position holder of butane that it removes at the rack from Unapproved Terminal and sells to a person that is a taxable fuel registrant. Taxpayer does not receive a certificate described in § 48.4081-4(e) from the buyer by the time of the sale, and the buyer does not transfer the butane to a terminal or refinery.

Taxpayer is not liable for tax under § 48.4081-3(b)(1)(ii) on Taxpayer's removal of butane at the rack of Approved Refinery for delivery to a non-terminal storage facility because Taxpayer is a taxable fuel registrant and does not use the butane to produce finished gasoline. The § 48.4081-4(b)(1) exemption applies.

Taxpayer is liable for tax under § 48.4081-2(b) on Taxpayer's removal of butane at the rack of Unapproved Terminal in connection with the sale because Taxpayer had not received an unexpired certificate of the kind specified in § 48.4081-4(e) by the time of the sale. Accordingly, the § 48.4081-4(b)(2) exemption does not apply.

Taxpayer is liable for tax on the sale of butane is taxed under § 48.4081-4(b)(3) because § 48.4081-4(b)(1) applies to the removal of butane from the rack of Approved Refinery, and Taxpayer had not received an unexpired § 48.4081-4(e) certificate from the buyer by the time of the sale of the butane.

Taxpayer is liable for tax on two events, under § 48.4081-2(b) and 48.4081-4(b)(3), both at the rate of 18.4 cents per gallon.

F. Credits and payments

Taxpayer uses taxed butane in the production of finished gasoline at the Approved Refinery. Taxpayer sells the finished gasoline along with other finished gasoline in the normal course Taxpayer's of business.

If anyone pays tax on the finished gasoline, Taxpayer may not claim a § 4081(e) refund with respect to any taxed butane that is part of the finished gasoline because a prior tax was not paid with respect to "such" taxable fuel (that is, the finished gasoline).

Under § 34(a), a taxpayer is allowed a refundable income tax credit for the taxable year in an amount generally equal to the sum of the amounts payable to the taxpayer under §§ 6420, 6421 and 6427.

Section 6421(a) generally provides that if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under § 4081.

Section 6421(e)(2) defines the term "off-highway business use" to include any use by a person in a trade or business of such person or in an activity of such person described in § 212 (relating to production of income) otherwise than as a fuel in certain highway vehicles.

Section 6430 generally prohibits (with exceptions not relevant here) refunds, credits, or payments under § 6416, 6420, 6421, or 6427 related to any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate on taxable fuel.

The use of butane in the production of finished gasoline is an off-highway business use within the meaning of paragraphs (a) and (e)(2) of § 6421. Taxpayer may claim an income tax credit under § 34(a), in an amount equal to the amount determined by multiplying the number of taxed gallons of butane used in the production of finished gasoline by the rate at which tax was imposed (other than LUST tax) on such butane under section 4081.

CAVEAT:

A copy of this technical advice memorandum is to be given to the taxpayer(s). Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.