

**Internal Revenue Service, Treasury****§ 48.4081-8**

(v) *Sale to multiple buyers.* If the first taxpayer's report relates to taxable fuel divided among more than one buyer, multiple copies of the first taxpayer's report must be made at the stage that the taxable fuel is divided and each buyer must be given a copy of the report.

(d) *Form and content of claim—(1) In general.* The following rules apply to claims for refund under section 4081(e):

(i) The claim must be made by the person that paid the second tax to the government and must include all the information described in paragraph (d)(2) of this section.

(ii) The claim must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions on the form. The form should be marked *Section 4081(e) Claim* at the top. Section 4081(e) claims must not be included with a claim for a refund under any other provision of the Internal Revenue Code.

(2) *Information to be included in the claim.* Each claim for a refund under section 4081(e) must contain the following information with respect to the taxable fuel covered by the claim:

(i) Volume and type of taxable fuel.

(ii) Date on which the claimant incurred the tax liability to which this claim relates (the second tax).

(iii) Amount of second tax that claimant paid to the government and a statement that claimant has not included the amount of this tax in the sales price of the taxable fuel to which this claim relates and has not collected that amount from the person that bought the taxable fuel from claimant.

(iv) Name, address, and employer identification number of the person that paid the first tax to the government.

(v) A copy of the first taxpayer's report that relates to the taxable fuel covered by the claim.

(vi) If the taxable fuel covered by the claim was bought other than from the first taxpayer, a copy of the statement of subsequent seller that the claimant received with respect to that taxable fuel.

(e) *Time for filing claim.* A claim for refund under section 4081(e) may be filed any time after the claimant has filed the return of the second tax and

before the end of the period prescribed by section 6511 for the filing of a claim for a refund.

(f) *Examples.* The following examples illustrate the provisions of this section.

*Example 1.* (i) A is a taxable fuel registrant that owns 10,000 gallons of gasoline, and on April 5, 1996, is transporting the gasoline by barge on a waterway in the United States. That day, A sells the gasoline to B, a person that is not a taxable fuel registrant. A is liable for tax on the sale under § 48.4081-3(f). A pays this tax to the government and attaches to its return of the gasoline tax for the 2nd quarter of 1996 the first taxpayer's report described in paragraph (e) of this section. A also gives a copy of this report to B.

(ii) On April 9, 1996, B sells the gasoline to C, a taxable fuel registrant. B also gives C a copy of the first taxpayer's report and the statement of subsequent seller (required under paragraph (c)(4) of this section). On April 14, 1996, the gasoline is removed from a terminal at the rack. C is the position holder of the gasoline at the time of the removal and thus is liable for tax on the removal under § 48.4081-2(c)(1). C pays this tax to the government.

(iii) After C has filed a return of the second tax and before the end of the period prescribed by section 6511 for filing a claim for a refund, C files a claim for a refund of the second tax. The claim is in the form prescribed in paragraph (d)(2) of this section. C includes with its claim a copy of the first taxpayer's report and statement of subsequent seller. Because the conditions to allowance of a refund under paragraph (b) of this section have been met, C is allowed a refund of the second tax.

*Example 2.* The facts are the same as in *Example 1* except that A does not pay the tax to the government. Because the first tax was not paid to the government as required by paragraph (b)(1) of this section, the conditions to allowance of a refund under paragraph (b) of this section have not been met. Therefore, C is not allowed a refund of the second tax.

(g) *Effective date.* This section is effective in the case of taxable fuel with respect to which the first tax is imposed after September 30, 1995.

[T.D. 8421, 57 FR 32424, July 22, 1992, as amended by T.D. 8609, 60 FR 40086, Aug. 7, 1995; T.D. 8659, 61 FR 10457, Mar. 14, 1996; T.D. 8879, 65 FR 17157, Mar. 31, 2000]

**§ 48.4081-8 Taxable fuel; measurement.**

(a) *In general.* Volumes of taxable fuel may be measured on the basis of actual

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volumetric gallons or gallons adjusted to 60 degrees Fahrenheit.

(b) *Effective date.* This section is applicable January 1, 1994.

[66 FR 27597, May 18, 2001]

**§ 48.4082-1 Diesel fuel and kerosene; exemption for dyed fuel.**

(a) *Exemption.* Tax is not imposed by section 4081 on the removal, entry, or sale of any diesel fuel or kerosene if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3) The diesel fuel or kerosene satisfies the dyeing and marking requirements of paragraphs (b), (c), and (d) of this section.

(b) *Dyeing requirements.* Diesel fuel or kerosene satisfies the dyeing requirement of this paragraph (b) only if the diesel fuel or kerosene contains—

(1) The dye Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel or kerosene; or

(2) Any dye of a type and in a concentration that has been approved by the Commissioner.

(c) *Marking requirements.* [Reserved]

(d) [Reserved]. For further guidance, see § 48.4082-1T(d).

(e) *Effective date.*—(1) Except as provided in paragraph (e)(2) of this section, this section is applicable March 14, 1996.

(2) [Reserved] For further guidance, see § 48.4082-1T(e)(2).

[T.D. 8659, 61 FR 10457, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17157, Mar. 31, 2000; T.D. 9199, 70 FR 21333, Apr. 26, 2005]

**§ 48.4082-1T Diesel fuel and kerosene; exemption for dyed fuel (temporary).**

(a) through (c) [Reserved]. For further guidance, see § 48.4082-1(a) through (c).

(d) *Time and method for adding dye.*—

(1) *In general.* Except as provided by paragraph (d)(6) of this section, diesel fuel or kerosene satisfies the dyeing requirements of this paragraph (d) only if the dye required by § 48.4082-1(b) is combined with the diesel fuel or ker-

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osene by means of a mechanical injection system that is approved by the Commissioner for use at the facility where the dyeing occurs. Application for approval must be made in the form and manner required by the Commissioner. Rules similar to the rules of § 48.4101-1(g) apply to the Commissioner's action on the applications.

(2) *Mechanical injection system; requirements.* The Commissioner will approve a mechanical injection system only if—

(i) The system has features that automatically inject an amount of dye that satisfies the concentration requirements of § 48.4082-1(b) into diesel fuel or kerosene as the diesel fuel or kerosene is delivered from the bulk transfer/terminal system into the transport compartment of a truck, trailer, railroad car, or other means of nonbulk transfer;

(ii) The system has calibrated devices that accurately measure and record the amount of dye and the amount of diesel fuel and kerosene that is dispensed for each removal;

(iii) The system has automatic shut-off devices that prevent the removal of more than 100 gallons of undyed diesel fuel or kerosene in the case of a system malfunction;

(iv) The system is secured by either—

(A) Unbroken seals that are issued, installed, and maintained by the terminal operator and secure the measurement devices, shut-off devices, and other access points to the injection system; or

(B) A secured container that controls access to the measurement devices, shut-off devices, and other access points and is secured by an unbroken seal issued, installed, and maintained by the terminal operator;

(v) Each seal securing the system bears a unique identifying number or code and is produced in a manner that provides adequate assurance against duplication; and

(vi) The operator of the facility has written procedures in place for complying with its duty, described in paragraph (d)(4) of this section, to maintain the system's security standards.

(3) *Mechanical injection system; basis for approval.* In determining whether to approve a mechanical injection system,