Department of the Treasury

Internal Revenue Service

Publication 510
(Rev. April 2005)
Cat. No. 15014I

Excise Taxes for 2005

Contents

Get forms and other information faster and easier by:

Internet • www.irs.gov

FAX • 703–368–9694 (from your fax machine)

What's New

Use of international air travel facilities. The tax on use of international air travel facilities has increased for amounts paid during 2005 to:

- $14.10 per person for flights that begin or end in the United States or
- $7.00 per person for domestic segments that begin or end in Alaska or Hawaii (applies only to departures).

Domestic segment tax. For amounts paid for each domestic segment of taxable transportation of persons by air, the domestic segment tax is $3.20 per segment for transportation that begins in 2005.

Imported products table. The imported products table has been deleted from Appendix A of Pub. 510. It can be found in Regulations section 52.4682-3(f)(6).

Communication and air transportation taxes—uncollected tax report. Instructions have been added regarding the separate report that is required to be filed by collecting agents of communications services and air transportation taxes if the person from whom the facilities or services tax (the tax) is required to be collected (the taxpayer) refuses to pay the tax, or it is impossible for the collecting agent to collect the tax. See *Uncollected Tax Report* on page 5.

Sonar devices suitable for finding fish. The tax on sonar devices has been repealed. See *Sports Fishing Equipment* on page 22.

Fishing tackle boxes. The rate of tax on fishing tackle boxes has been decreased to 3% of the sales price and appears on its own line on Form 720 as IRS No. 114. See *Sports Fishing Equipment* on page 22.

Bows. The tax on bows has been revised to include quivers, broadheads, and points. See *Bows, Quivers, Broadheads, and Points* on page 23.

Arrow shafts and arrow components. Effective after March 31, 2005, there is a new tax on arrow shafts at $.39 per arrow shaft; and the tax on arrow components is repealed. See *Arrow Shafts* on page 23.

Taxable tires. Highway-type tires is renamed taxable tires and the computation of the tax has changed. The rate is $.0945 ($.04725 for biasply or super singles) for each 10 pounds of the maximum rated load capacity over 3,500 pounds. See *Taxable Tires* on page 24.

Vaccines. Hepatitis A and influenza have been added to the list of taxable vaccines. See *Vaccines* on page 25.

Retail tax on heavy trucks, trailers, and tractors. Four classifications of truck body types have been designated as meeting the suitable for use standard and will be excluded from the retail tax. See *Gross vehicle weight* on page 25.

Fuel Taxes. See *Fuel Taxes* on page 9 for fuel tax changes.

Important Reminders

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Introduction

This publication covers the excise taxes for which you may be liable during 2005. It covers the excise taxes reported on Form 720. It also provides information on wagering activities reported on Forms 11-C and 730.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can email us at ***taxforms@irs.gov**. Please put "Publications Comment" on the subject line.

You can write to us at the following address:

Internal Revenue Service
TE/GE and Specialty Forms and Publications Branch
SE:W:CAR:MP:T:T
1111 Constitution Ave. NW, IR-6406
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Useful Items

You may want to see:

Publication

- ❑ **378** Fuel Tax Credits and Refunds
- ❑ **509** Tax Calendars for 2005

Form (and Instructions)

- ❑ **11-C** Occupational Tax and Registration Return for Wagering
- ❑ **637** Application for Registration (For Certain Excise Tax Activities)
- ❑ **720** Quarterly Federal Excise Tax Return
- ❑ **720X** Amended Quarterly Federal Excise Tax Return
- ❑ **730** Monthly Tax Return for Wagers
- ❑ **1363** Export Exemption Certificate
- ❑ **2290** Heavy Highway Vehicle Use Tax Return
- ❑ **2290-SP** Declaracion del Impuesto sobre el Uso de Vehiculos Pesados en las Carreteras
- ❑ **2290-FR** Declaration d'Impot sur L'utilisation des Vehicules Lourds sur les Routes.
- ❑ **4136** Credit for Federal Tax Paid on Fuels
- ❑ **6197** Gas Guzzler Tax
- ❑ **6478** Credit for Alcohol Used as Fuel
- ❑ **6627** Environmental Taxes
- ❑ **8849** Claim for Refund of Excise Taxes, and Schedules 1-3, 5, and 6
- ❑ **8864 (new)** Biodiesel Fuels Credit

Information Returns

- **Form 720-TO,** Terminal Operator Report
- **Form 720-CS,** Carrier Summary Report

Notices

- Notice 2005-4. You can find Notice 2005-4 on page 289 of Internal Revenue Bulletin 2005-2 at *www.irs.gov/pub/irs-irbs/irb05-02.pdf*.
- Notice 2005-24. You can find Notice 2005-24 on page 757 of Internal Revenue Bulletin 2005-12 at *www.irs.gov/pub/irs-irbs/irb05-12.pdf*.

See *How To Get Tax Help* near the end of this publication for information about getting publications and forms.

Excise Taxes Not Covered

In addition to the taxes discussed in this publication, you may have to report certain other excise taxes.

For tax forms relating to alcohol and tobacco, visit the Alcohol and Tobacco Bureau of Trade website at *www.ttb.gov*.

Form 2290: Heavy Highway Vehicle Use Tax Return

You report the federal excise tax on the use of certain trucks, truck tractors, and buses on public highways on Form 2290. The tax applies to highway motor vehicles with a taxable gross weight of 55,000 pounds or more. Vans, pickup trucks, panel trucks, and similar trucks generally are not subject to this tax.

Note. A Spanish version of Form 2290 and its instructions (Form 2290-SP) are also available. New for July 2005, a French version of Form 2290 and its instructions (Form 2290-FR) will be available.

A public highway is any road in the United States that is not a private roadway. This includes federal, state, county, and city roads.

Canadian and Mexican heavy vehicles operated on U.S. highways may be subject to this tax. For more information, see the Instructions for Form 2290.

Registration of vehicles. Generally, you must prove that you paid your federal highway use tax to register your taxable vehicle with your state motor vehicle department or to enter the United States in a Canadian or Mexican registered taxable vehicle. Generally, a copy of Schedule 1 of Form 2290, stamped after payment and returned to you by the IRS, is acceptable proof of payment.

Note. If you have questions on Form 2290, see *How To Get Tax Help* later, or you can call the Form 2290 call site at 1-866-699-4096 (toll free) from the United States and 1-859-669-5733 (not toll free) from Canada and Mexico. The hours of service are 8:00 a.m. to 6:00 p.m., EST.

Registration for Certain Activities

You must register for certain excise tax activities, such as a blending of gasoline, diesel fuel, or kerosene outside the bulk transfer/terminal system. See the instructions for Form 637 for the list of activities for which you must register. Also see *Registration Requirements* under *Fuel Taxes* for information on registration for activities related to fuel. Each business unit that has, or is required to have, a separate employer identification number must register.

To apply for registration, complete Form 637 and provide the information requested in its instructions. If your application is approved, you will receive a *Letter of Registration* showing the activities for which you are registered, the effective date of the registration, and your registration number. A copy of Form 637 is not a *Letter of Registration*.

Environmental Taxes

Environmental taxes are imposed on the sale or use of **ozone-depleting chemicals (ODCs)** and imported products containing or manufactured with these chemicals. In addition, a floor stocks tax is imposed on ODCs held on January 1 by any person (other than the manufacturer or importer of the ODCs) for sale or for use in further manufacture.

Figure the environmental tax on Form 6627. Enter the tax on the appropriate lines of Form 720 and attach Form 6627 to Form 720.

For environmental tax purposes, **United States** includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the continental shelf areas (applying the principles of section 638 of the Internal Revenue Code), and foreign trade zones. No one is exempt from the environmental taxes, including the federal government, state and local governments, Indian tribal governments, and nonprofit educational organizations.

ODCs

For a list of the taxable ODCs and tax rates, see the Form 6627 instructions.

Taxable Event

Tax is imposed on an ODC when it is first used or sold by its manufacturer or importer. The manufacturer or importer is liable for the tax.

Use of ODCs. You use an ODC if you put it into service in a trade or business or for the production of income. Also, an ODC is used if you use it in the making of an article, including incorporation into the article, chemical transformation, or release into the air. The loss, destruction, packaging, repackaging, or warehousing of ODCs is not a use of the ODC.

The creation of a mixture containing an ODC is treated as the use of that ODC. An ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Generally, tax is imposed when the mixture is created and not on its sale or use. However, you can choose to have the tax imposed on its sale or use by checking the appropriate box in Part I of Form 6627. You can revoke this choice only with IRS consent.

The creation of a mixture for export or for use as a feedstock is not a taxable use of the ODCs contained in the mixture.

Exceptions. The following may be exempt from the tax on ODCs.

- Metered-dose inhalers.
- Recycled ODCs.
- Exported ODCs.
- ODCs used as feedstock.

Metered-dose inhalers. There is no tax on ODCs used or sold for use as propellants in metered-dose inhalers. For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form set forth in section 52.4682-2(d)(5) of the regulations. The certificate may be included as part of the sales documentation. Keep the certificate with your records.

Recycled ODCs. There is no tax on any ODC diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process). There is no tax on recycled Halon-1301 or recycled Halon-2402 imported from a country that has signed the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol).

The Montreal Protocol is administered by the United Nations (U.N.). To determine if a country has signed the Montreal Protocol, contact the U.N. The Internet address is *http://untreaty.un.org*.

Exported ODCs. Generally, there is no tax on ODCs sold for export if certain requirements are met. For a sale to be nontaxable, you and the purchaser must be registered. See Form 637, Application for Registration (for Certain Excise Tax Activities). Also, you must obtain from the purchaser an exemption certificate that you rely on in good faith. Keep the certificate with your records. The certificate must be in substantially the form set forth in section 52.4682-5(d)(3) of the regulations. The tax benefit of this exemption is limited. For more information, see section 52.4682-5 of the regulations.

ODCs used as feedstock. There is no tax on ODCs sold for use or used as a feedstock. An ODC is used as a feedstock only if the ODC is entirely consumed in the manufacture of another chemical. The transformation of an ODC into one or more new compounds qualifies as use as a feedstock, but use of an ODC in a mixture does not qualify.

For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form set forth in section 52.4682-2(d)(2) of the regulations. Keep the certificate with your records.

Credits or Refunds

A credit or refund (without interest) of tax paid on ODCs may be claimed if a taxed ODC is :

- Used as a propellant in a metered-dose inhaler, then the person who used the ODC as a propellant may file a claim.
- Exported, then the manufacturer may file a claim.
- Used as a feedstock, then the person who used the ODC may file a claim.

For information on how to file for credits or refunds, see the *Instructions for Form 720 or Form 8849.*

Conditions to allowance for ODCs exported. To claim a credit or refund for ODCs that are exported, you must have repaid or agreed to repay the tax to the exporter, or obtained the exporter's written consent to allowance of the credit or refund. You must also have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

Imported Taxable Products

An imported product containing or manufactured with ODCs is subject to tax if it is entered into the United States for consumption, use, or warehousing and is listed in the Imported Products Table. The Imported Products Table is listed in Regulations section 52.4682-3(f)(6).

The tax is based on the weight of the ODCs used in the manufacture of the product. Use the following methods to figure the ODC weight.

- The actual (exact) weight of each ODC used as a material in manufacturing the product.
- If the actual weight cannot be determined, the ODC weight listed for the product in the Imported Products Table.

However, if you cannot determine the actual weight and the table does not list an ODC weight for the product, the rate of tax is 1% of the entry value of the product.

Taxable Event

Tax is imposed on an imported taxable product when the product is first sold or used by its importer. The importer is liable for the tax.

Use of imported products. You use an imported product if you put it into service in a trade or business or for the production of income or use it in the making of an article, including incorporation into the article. The loss, destruction, packaging, repackaging, warehousing, or repair of an imported product is not a use of that product.

Entry as use. The importer may choose to treat the entry of a product into the United States as the use of the product. Tax is imposed on the date of entry instead of when the product is sold or used. The choice applies to all imported taxable products that you own and have not used when you make the choice and all later entries. Make the choice by checking the box in Part II of Form 6627. The choice is effective as of the beginning of the calendar quarter to which the Form 6627 applies. You can revoke this choice only with IRS consent.

Sale of article incorporating imported product. The importer may treat the sale of an article manufactured or assembled in the United States as the first sale or use of an imported taxable product incorporated in that article if both the following apply.

- The importer has consistently treated the sale of similar items as the first sale or use of similar taxable imported products.
- The importer has not chosen to treat entry into the United States as use of the product.

Imported Products Table

The table lists all the products that are subject to the tax on imported taxable products and specifies the ODC weight (discussed later) of each product.

Each listing in the table identifies a product by name and includes only products that are described by that name. Most listings identify a product by both name and Harmonized Tariff Schedule (HTS) heading. In those cases, a product is included in that listing only if the product is described by that name and the rate of duty on the product is determined by reference to that HTS heading. A product is included in the listing even if it is manufactured with or contains a different ODC than the one specified in the table.

Part II of the table lists electronic items that are not included within any other list in the table. An imported product is included in this list only if the product meets one of the following tests.

- It is an electronic component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits.
- It contains components described in (1), which account for more than 15% of the cost of the product.

These components do not include passive electrical devices, such as resistors and capacitors. Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic item are not themselves included in the listing for electronic items.

Rules for listing products. Products are listed in the table according to the following rules.

1. A product is listed in *Part I* of the table if it is a mixture containing ODCs.
2. A product is listed in *Part II* of the table if the Commissioner has determined that the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.
3. A product is listed in *Part III* of the table if the Commissioner has determined that the product meets both the following tests.
   a. It is not an imported taxable product.
   b. It would otherwise be included within a list in Part II of the table.

For example, floppy disk drive units are listed in Part III because they are not imported taxable products and would have been included in the Part II list for electronic items not specifically identified, but for their listing in Part III.

ODC weight. The Table ODC weight of a product is the weight, determined by the Commissioner, of the ODCs used as materials in the manufacture of the product under the predominant method of manufacturing. The ODC weight is listed in Part II in pounds per single unit of product unless otherwise specified.

Modifying the table. A manufacturer or importer of a product may request the IRS add a product and its ODC weight to the table. They also may request the IRS remove a product from the table, or change or specify the ODC weight of a product. To request a modification, see Regulations section 52.4682-3(g) for the mailing address and information that must be included in the request.

Floor Stocks Tax

Tax is imposed on any ODC held (other than by the manufacturer or importer of the ODC) on January 1 for sale or use in further manufacturing. The person holding title (as determined under local law) to the ODC is liable for the tax, whether or not delivery has been made.

These chemicals are taxable without regard to the type or size of storage container in which the ODCs are held. The tax may apply to an ODC whether it is in a 14-ounce can or a 30-pound tank.

You are liable for the floor stocks tax if you hold any of the following on January 1.

1. At least 400 pounds of ODCs other than halons or methyl chloroform,
2. At least 50 pounds of halons, or
3. At least 1,000 pounds of methyl chloroform.

If you are liable for the tax, prepare an inventory on January 1 of the taxable ODCs held on that date for sale or for use in further manufacturing. You must pay this floor stocks tax by June 30 of each year. Report the tax on Form 6627 and Part II of Form 720 for the second calendar quarter.

For the tax rates, see the Form 6627 instructions.

ODCs not subject to floor stocks tax. The floor stocks tax is not imposed on any of the following ODCs.

1. ODCs mixed with other ingredients that contribute to achieving the purpose for which the mixture will be used, unless the mixture contains only ODCs and one or more stabilizers.
2. ODCs contained in a manufactured article in which the ODCs will be used for their intended purpose without being released from the article.
3. ODCs that have been reclaimed or recycled.
4. ODCs sold in a qualifying sale for:
   a. Use as a feedstock,
   b. Export, or
   c. Use as a propellant in a metered-dose inhaler.

Communications and Air Transportation Taxes

Excise taxes are imposed on amounts paid for certain facilities and services. If you receive any payment on which tax is imposed, you are required to collect the tax, file returns, and pay the tax over to the government.

If you fail to collect and pay over the taxes, you may be liable for the trust fund recovery penalty. See *Penalties and Interest,* later.

Uncollected Tax Report

A separate report is required to be filed by collecting agents of communications services and air transportation taxes if the person from whom the facilities or services tax (the tax) is required to be collected (the taxpayer) refuses to pay the tax, or it is impossible for the collecting agent to collect the tax. The report must contain the following information: the name and address of the taxpayer, the type of facility provided or service rendered, the amount paid for the facility or service (the amount on which the tax is based), and the date paid.

Regular method taxpayers. For regular method taxpayers, the report must be filed by the due date of the Form 720 on which the tax would have been reported.

Alternative method taxpayers. For alternative method taxpayers, the report must be filed by the due date of the Form 720 that includes an adjustment to the separate account for the uncollected tax. See *Alternative method* on page 30.

Where to file. Do not file the uncollected tax report with Form 720. Instead, mail the report to:

Internal Revenue Service
Collected Excise Tax Coordinator
S:C:CP:RC:Ex
1111 Constitution Avenue NW, IR-2016
Washington, DC 20224

Communications Tax

A 3% tax is imposed on amounts paid for all the following communications services.

- Local telephone service.
- Toll telephone service.
- Teletypewriter exchange service.

Local telephone service. This includes access to a local telephone system and the privilege of telephonic quality communication with most people who are part of the system. Local telephone service also includes any facility or services provided in connection with this service. The tax applies to lease payments for certain customer premises equipment (CPE) even though the lessor does not also provide access to a local telecommunications system.

Private communication service. Private communication service is not local telephone service. Private communication service includes accessory-type services provided in connection with a Centrex, PBX, or other similar system for dual use accessory equipment. However, the charge for the service must be stated separately from the charge for the basic system, and the accessory must function, in whole or in part, in connection with intercommunication among the subscriber's stations.

Toll telephone service. This includes a telephonic quality communication for which a toll is charged that varies with the distance and elapsed transmission time of each communication. The toll must be paid within the United States. It also includes (a) a telephonic quality communication for which a toll is charged that varies only with elapsed transmission time and (b) a long distance service that entitles the subscriber to make unlimited calls (sometimes limited as to the maximum number of hours) within a certain area for a periodic charge.

Teletypewriter exchange service. This includes access from a teletypewriter or other data station to a teletypewriter exchange system and the privilege of intercommunication by that station with most persons having teletypewriter or other data stations in the same exchange system.

Figuring the tax. The tax is based on the sum of all charges for local or toll telephone service included in the bill. However, if the bill groups individual items for billing and tax purposes, the tax is based on the sum of the individual items within that group. The tax on the remaining items not included in any group is based on the charge for each item separately. Do not include in the tax base state or local sales or use taxes that are separately stated on the taxpayer's bill.

If the tax on toll telephone service is paid by inserting coins in **coin-operated telephones**, figure the tax to the nearest multiple of 5 cents. When the tax is midway between 5-cent multiples, the next higher multiple applies.

Prepaid telephone cards. A prepaid telephone card is any card or any other similar arrangement that allows its holder to get local or toll telephone service and pay for those services in advance. The tax is imposed when the card is transferred by a telecommunications carrier to any person who is not a telecommunications carrier. The face amount of the card is the amount paid for communications services. If the face amount is not a dollar amount, see section 49.4251-4 of the regulations.

Exemptions

Payments for certain services or payments from certain users are exempt from the communications tax.

Installation charges. The tax does not apply to payments received for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment. However, the tax does apply to payments for the repair or replacement of those items incidental to ordinary maintenance.

Answering services. The tax does not apply to amounts paid for a private line, an answering service, and a one-way paging or message service if they do not provide access to a local telephone system and the privilege of telephonic communication as part of the local telephone system.

Mobile radio telephone service. The tax does not apply to payments for a two-way radio service that does not provide access to a local telephone system.

Coin-operated telephones. The tax for local telephone service does not apply to payments made for services by inserting coins in public coin-operated telephones. The tax for toll telephone service also does not apply if the charge is less than 25 cents. But the tax applies if the coin-operated telephone service is furnished for a guaranteed amount. Figure the tax on the amount paid under the guarantee plus any fixed monthly or other periodic charge.

Telephone-operated security systems. The tax does not apply to amounts paid for telephones used only to originate calls to a limited number of telephone stations for security entry into a building. In addition, the tax does not apply to any amounts paid for rented communication equipment used in the security system.

News services. The tax on toll telephone service and teletypewriter exchange service does not apply to charges for the following news services.

- Services dealing exclusively with the collection or dissemination of news for or through the public press or radio or television broadcasting.
- Services used exclusively in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press.

This exemption applies to payments received for messages from one member of the news media to another member (or to or from their bona fide correspondents). For the exemption to apply, the charge for these services must be billed in writing to the person paying for the service and that person must certify in writing that the services are used for an exempt purpose.

Services not exempted. The tax applies to amounts paid by members of the news media for local telephone service. Toll telephone service in connection with celebrities or special guests on talk shows is subject to the tax.

Common carriers and communications companies. The tax on toll telephone service does not apply to **WATS** (wide area telephone service) used by common carriers, telephone and telegraph companies, or radio broadcasting stations or networks in their business. A common carrier is one holding itself out to the public as engaged in the business of transportation of persons or property for compensation and offering its services to the public generally.

Military personnel serving in a combat zone. The tax on toll telephone services does not apply to telephone calls originating in a combat zone that are made by members of the U.S. Armed Forces serving there if the person receiving payment for the call receives a properly executed exemption certificate. The signed and dated exemption certificate must contain all the following information.

- The name of the member of the U.S. Armed Forces performing services in the combat zone who originated the call.
- The toll charges, point of origin, and name of carrier.
- A statement that the charges are exempt from tax under section 4253(d) of the Internal Revenue Code.
- The name and address of the telephone subscriber.

This exemption also applies to members of the Armed Forces serving in a qualified hazardous duty area. A qualified hazardous duty area includes an area only while the special pay provision is in effect for that area.

For information about areas designated a combat zone or qualified hazardous duty area, see Publication 3, Armed Forces' Tax Guide.

International organizations and the American Red Cross. The tax does not apply to communication services furnished to an international organization or to the American National Red Cross.

Nonprofit hospitals. The tax does not apply to telephone services furnished to income tax-exempt nonprofit hospitals for their use. Also, the tax does not apply to amounts paid by these hospitals to provide local telephone service in the homes of their personnel who must be reached during their off-duty hours.

Nonprofit educational organizations. The tax does not apply to payments received for services and facilities furnished to a nonprofit educational organization for its use. A nonprofit educational organization is one that satisfies all the following requirements.

- It normally maintains a regular faculty and curriculum.
- It normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.
- It is exempt from income tax under section 501(a) of the Internal Revenue Code.

This includes a school operated by an organization exempt under section 501(c)(3) of the Internal Revenue Code if the school meets the above qualifications.

Federal, state, and local government. The tax does not apply to communication services provided to the government of the United States, the government of any state or its political subdivisions, the District of Columbia, or the United Nations. Treat an **Indian tribal government** as a state for the exemption from the communications tax only if the services involve the exercise of an essential tribal government function.

Exemption certificate. Any form of exemption certificate will be acceptable if it includes all the information required by the Internal Revenue Code and Regulations. See Regulations section 49.4253-11. File the certificate with the provider of the communication services.

The following users that are exempt from the communications tax do not have to file an annual exemption certificate **after** they have filed the initial certificate to claim an exemption from the communications tax.

- The American National Red Cross and other international organizations.
- Nonprofit hospitals.
- Nonprofit educational organizations.
- State and local governments.

The federal government does not have to file any exemption certificate.

All other organizations must furnish exemption certificates when required.

Credits or Refunds

If tax is collected and paid over for certain services or users exempt from the communications tax:

1. The collector may claim a credit or refund if it has:
   a. Repaid the tax to the person from whom the tax was collected, or
   b. Obtained the consent of that person to the allowance of the credit or refund, **or**
2. The person who paid the tax may claim a refund.

For information about credits or refunds, see the *Instructions for Form 720 or Form 8849.*

Air Transportation Taxes

Taxes are imposed on amounts paid for all the following services.

- Transportation of persons by air.
- Use of international air travel facilities.
- Transportation of property by air.

Transportation of Persons by Air

The tax on transportation of persons by air is made up of the following two parts.

- The percentage tax.
- The domestic-segment tax.

Percentage tax. A tax of 7.5% applies to amounts paid for taxable transportation of persons by air. Amounts paid for transportation include charges for layover or waiting time and movement of aircraft in deadhead service.

Mileage awards. The percentage tax may apply to an amount paid (in cash or in kind) to an air carrier (or any related person) for the right to provide mileage awards for, or other reductions in the cost of, any transportation of persons by air. For example, this applies to mileage awards purchased by credit card companies, telephone companies, restaurants, hotels, and other businesses.

Generally, the percentage tax does not apply to amounts paid for mileage awards where the mileage awards cannot, under any circumstances, be redeemed for air transportation that is subject to the tax. Until regulations are issued, the following rules apply to mileage awards.

- Amounts paid for mileage awards that cannot be redeemed for taxable transportation beginning and ending in the United States are not subject to the tax. For this rule, mileage awards issued by a foreign air carrier are considered to be usable only on that foreign air carrier and thus not redeemable for taxable transportation beginning and ending in the United States. Therefore, amounts paid to a foreign air carrier for mileage awards are not subject to the tax.
- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are not subject to the tax to the extent those miles will be awarded in connection with the purchase of taxable transportation.
- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are subject to the tax to the extent those miles will not be awarded in connection with the purchase of taxable transportation.

Domestic-segment tax. The domestic-segment tax is a flat dollar amount for each segment of taxable transportation for which an amount is paid. However, see *Rural airports,* later. A **segment** is a single takeoff and a single landing. The domestic-segment tax is $3.20 per segment that begins during 2005.

Example. In January 2005, Frank Jones pays $264.40 to a commercial airline for a flight in January from Washington to Chicago with an intermediate stop in Cleveland. The flight comprises two segments. The price includes the $240 fare and $24.40 excise tax [($240 × 7.5%) + (2 × $3.20)] for which Frank is liable. The airline collects the tax from Frank and pays it over to the government.

Charter flights. If an aircraft is chartered, the domestic-segment tax for each segment of taxable transportation is figured by multiplying the tax by the number of passengers transported on the aircraft.

Example. In March 2005, Tim Clark pays $1,119.80 to an air charter service to carry 7 employees from Washington to Detroit with an intermediate stop in Pittsburgh. The flight comprises two segments. The price includes the $1,000 charter payment and $119.80 excise tax [($1,000 × 7.5%) + (2 × $3.20 × 7 passengers)] for which Tim is liable. The charter service collects the tax from Tim and pays it over to the government.

Rural airports. The domestic-segment tax does not apply to a segment to or from a rural airport. An airport is a rural airport for a calendar year if it satisfies both the following requirements.

1. Fewer than 100,000 commercial passengers departed from the airport during the second preceding calendar year.
2. Either of the following statements is true.

a. The airport is not located within 75 miles of another airport from which 100,000 or more commercial passengers departed during the second preceding calendar year.

b. The airport was receiving essential air service subsidies as of August 5, 1997.

An updated list of rural airports can be found on the Department of Transportation website at *http://ostpxweb.dot.gov/aviation/domav/ruralair.pdf*.

Taxable transportation. Taxable transportation is transportation by air that meets either of the following tests.

- It begins and ends either in the United States or at any place in Canada or Mexico not more than 225 miles from the nearest point on the continental United States boundary (this is the **225-mile zone**).
- It is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if it is not a part of uninterrupted international air transportation, discussed later.

Round trip. A round trip is considered two separate trips. The first trip is from the point of departure to the destination. The second trip is the return trip from that destination.

Uninterrupted international air transportation. This means transportation entirely by air that does not begin and end in the United States or in the 225-mile zone if there is not more than a 12-hour scheduled interval between arrival and departure at any station in the United States. For a special rule that applies to military personnel, see *Exemptions* later.

Transportation between the continental U.S. and Alaska or Hawaii. This transportation is partially exempt from the tax on transportation of persons by air. The tax does not apply to the part of the trip between the point at which the route of transportation leaves or enters the continental United States (or a port or station in the 225-mile zone) and the point at which it enters or leaves Hawaii or Alaska. Leaving or entering occurs when the route of the transportation passes over either the United States border or a point 3 nautical miles (3.45 statute miles) from low tide on the coast line, or when it leaves a port or station in the 225-mile zone. Therefore, this transportation is subject to the percentage tax on the part of the trip in U.S. airspace, the domestic-segment tax for each domestic segment, and the tax on the use of international air travel facilities, discussed later.

Transportation within Alaska or Hawaii. The tax on transportation of persons by air applies to the entire fare paid in the case of flights between any of the Hawaiian Islands, and between any ports or stations in the Aleutian Islands or other ports or stations elsewhere in Alaska. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on the direct line of transportation between the ports or stations is more than 225 miles from the United States (Hawaii or Alaska).

Package tours. The air transportation taxes apply to "complimentary" air transportation furnished solely to participants in package holiday tours. The amount paid for these package tours includes a charge for air transportation even though it may be advertised as "free." This rule also applies to the tax on the use of international air travel facilities, discussed later.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person receiving the payment collects the tax, files the returns, and pays the tax over to the government. However, if payment is made outside the United States for a prepaid order, exchange order, or similar order, the person furnishing the initial transportation provided for under that order must collect the tax.

A **travel agency** that is an independent broker and sells tours on aircraft that it charters must collect the transportation tax, file the returns, and pay the tax over to the government. However, a travel agency that sells tours as the agent of an airline must collect the tax and remit it to the airline for the filing of returns and for the payment of the tax over to the government.

The fact that the aircraft does not use public or commercial airports in taking off and landing has no effect on the tax. But see *Certain helicopter uses,* later.

For taxable transportation that begins and ends in the United States, the tax applies regardless of whether the payment is made in or outside the United States.

If the tax is not paid when payment for the transportation is made, the air carrier providing the initial segment of the transportation that begins or ends in the United States becomes liable for the tax.

Exemptions. The tax on transportation of persons by air does not apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

Military personnel on international trips. When traveling in uniform at their own expense, United States military personnel on authorized leave are deemed to be traveling in **uninterrupted international air transportation** (defined earlier) even if the scheduled interval between arrival and departure at any station in the United States is actually more than 12 hours. However, such personnel must buy their tickets within 12 hours after landing at the first domestic airport and accept the first available accommodation of the type called for by their tickets. The trip must begin or end outside the United States and the 225-mile zone.

Certain helicopter uses. The tax does not apply to air transportation by helicopter if the helicopter is used for any of the following purposes.

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
3. Providing emergency medical services.

However, during a use described in items (1) and (2), the tax applies if the helicopter takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

Fixed-wing air ambulance. The tax does not apply to air transportation by fixed-wing aircraft if used for emergency medical services. The aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

Skydiving. The tax does not apply to any air transportation exclusively for the purpose of skydiving.

Bonus tickets. The tax does not apply to free bonus tickets issued by an airline company to its customers who have satisfied all requirements to qualify for the bonus tickets. However, the tax applies to amounts paid by customers for advance bonus tickets when customers have traveled insufficient mileage to fully qualify for the free advance bonus tickets.

Use of International Air Travel Facilities

A $14.10 tax per person is imposed on amounts paid during 2005 (whether in or outside the United States) for international flights that begin **or** end in the United States. However, for a domestic segment that begins or ends in Alaska or Hawaii, a $7.00 tax per person applies only to departures. This tax does not apply if all the transportation is subject to the percentage tax, discussed earlier.

Transportation of Property by Air

A tax of 6.25% is imposed on amounts paid (whether in or outside the United States) for transportation of property by air. The fact that the aircraft may not use public or commercial airports in taking off and landing has no effect on the tax. The tax applies only to amounts paid to a person engaged in the business of transporting property by air for hire.

The tax applies only to transportation (including layover time and movement of aircraft in deadhead service) that **begins and ends** in the United States. Thus, the tax does not apply to transportation of property by air that begins or ends outside the United States.

Exemptions. The tax on transportation of property by air does not apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

Cropdusting and firefighting service. The tax does not apply to amounts paid for cropdusting or aerial firefighting service.

Exportation. The tax does not apply to payments for transportation of property by air in the course of exportation (including to United States possessions) by continuous movement, as evidenced by the execution of Form 1363, Export Exemption Certificate. See Form 1363 for more details.

Certain helicopter and fixed-wing air ambulance uses. The tax does not apply to amounts paid for the use of helicopters in con-

struction to set heating and air conditioning units on roofs of buildings, to dismantle tower cranes, and to aid in construction of power lines and ski lifts.

The tax also does not apply to air transportation by helicopter or fixed-wing aircraft for the purpose of providing emergency medical services. The fixed-wing aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

Skydiving. The tax does not apply to any air transportation exclusively for the purpose of skydiving.

Excess baggage. The tax does not apply to excess baggage accompanying a passenger on an aircraft operated on an established line.

Alaska and Hawaii. For transportation of property to and from Alaska and Hawaii, the tax in general does not apply to the portion of the transportation that is entirely outside the continental United States (or the 225-mile zone if the aircraft departs from or arrives at an airport in the 225-mile zone). But the tax applies to flights between ports or stations in Alaska and the Aleutian Islands, as well as between ports or stations in Hawaii. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on a line drawn from where the route of transportation leaves the United States (Alaska) to where it reenters the United States (Alaska) is more than 225 miles from the United States.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person engaged in the business of transporting property by air for hire receives the payment, collects the tax, files the returns, and pays the tax over to the government.

If tax is not paid when a payment is made outside the United States, the person furnishing the last segment of taxable transportation collects the tax from the person to whom the property is delivered in the United States.

Special Rules on Transportation Taxes

In certain circumstances, special rules apply to the taxes on transportation of persons and property by air.

Aircraft used by affiliated corporations. The taxes do not apply to payments received by one member of an affiliated group of corporations from another member for services furnished in connection with the use of an aircraft. However, the aircraft must be owned or leased by a member of the affiliated group and cannot be available for hire by a nonmember of the affiliated group. Determine whether an aircraft is available for hire by a nonmember of an affiliated group on a flight-by-flight basis.

For this rule, an affiliated group of corporations is any group of corporations connected with a common parent corporation through 80% or more of stock ownership.

Small aircraft. The taxes do not apply to transportation furnished by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less. However, the taxes do apply if the aircraft is operated on an established line. “Operated on an established line” means the aircraft operates with some degree of regularity between definite points.

Consider an aircraft to be operated on an established line if it is operated on a charter basis between two cities also served by that carrier on a regularly scheduled basis.

Mixed load of persons and property. If a single amount is paid for air transportation of persons and property, the payment must be allocated between the amount subject to the tax on transportation of persons and the amount subject to the tax on transportation of property. The allocation must be reasonable and supported by adequate records.

Credits or Refunds

If tax is collected and paid over for air transportation that is not taxable air transportation, the collector may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the tax may claim a refund. For information on how to file for credits or refunds, see the *Instructions for Form 720 or Form 8849.*

Fuel Taxes

Excise taxes are imposed on all the following fuels.

- Gasoline, including aviation gasoline and gasoline blendstocks.
- Diesel fuel.
- Kerosene.
- Aviation-grade kerosene.
- Special motor fuels (including LPG).
- Compressed natural gas.
- Fuels used in commercial transportation on inland waterways.

Items To Note

The American Jobs Creation Act of 2004 (the Act), Public Law 108-357, made changes affecting fuel taxes. The following is a brief review of some of these changes.

Biodiesel mixtures. As under previous law, persons who blend biodiesel with undyed diesel fuel to produce a biodiesel mixture outside the bulk transfer/terminal system must pay the diesel fuel tax on the volume of biodiesel in the mixture. See Form 720 to report this tax. You also must be registered with the IRS as a blender. See Form 637. See Pub. 378 for information on the new biodiesel mixture credit.

Alcohol fuel mixtures. Persons who blend alcohol with gasoline to produce an alcohol fuel mixture outside the bulk transfer/terminal system must pay the gasoline tax on the volume of alcohol in the mixture. See Form 720 to report this tax. You also must be registered with the IRS as a blender. See Form 637. See Pub. 378 for information on the new alcohol fuel mixture credit.

Aviation-grade kerosene. Aviation-grade kerosene is taxed and the tax on aviation fuel has been eliminated. The tax rates are the same.

Diesel fuel and kerosene, use in certain intercity and local buses. The use of dyed diesel fuel used in certain intercity and local buses has been repealed; dyed diesel fuel cannot be used in these buses. A claim can be made if diesel fuel or kerosene is used for this purpose.

Gasoline. The definition of gasoline has been revised.

Transmix. The definition of diesel fuel has been revised to include transmix.

Two-party exchanges. In a two-party exchange, the delivering person will not be liable for the tax on removal of taxable fuel from any terminal if certain conditions are met. See *Two-party exchanges* later.

Exemption for bulk transfers to registered terminals or refineries of taxable fuel. Pipeline or vessel operators must be registered for the exemption from the tax on removal or entry of taxable fuel by bulk transfer by pipeline or vessel to a terminal or refinery to apply.

Dyed fuel. The penalty for dyed fuel sold or used in a taxable use has been revised.

Floor stocks, aviation-grade kerosene. See Form 720 and its instructions for information on the aviation-grade kerosene floor stocks tax.

Appendix A. All model certificates and waivers are now in Appendix A. Model certificates E, F, H, and I have been deleted. Model certificates A and B have been reversed. Model certificates and waivers K through P have been added.

Credits and refunds. The Act made many changes affecting fuel tax claims. The claims are described in detail in Pub. 378, Form 8849, and Schedule C (Form 720). The certificates and waivers necessary for many of the claims are included in *Appendix A* in Pub. 510 and the Appendix in Pub. 378. The following is a brief list of some of the claims.

- Biodiesel mixtures.
- Alcohol fuel mixtures.
- Aviation-grade kerosene sold for use on a farm or for use by state and local governments; claims can only be made by the registered ultimate vendor.
- Aviation-grade kerosene sold for nontaxable uses (other than use on a farm or use by state and local governments); claims can be made by the registered ultimate vendor or ultimate purchaser.
- Gasoline and aviation gasoline sold to state and local governments and nonprofit educational organizations; claims can be made by the registered ultimate vendor or ultimate purchaser.
- Undyed diesel fuel or undyed kerosene sold for use in certain intercity and local buses; claims can be made by the registered ultimate vendor or ultimate purchaser.

Gasoline wholesale distributors. Refunds to gasoline wholesale distributors have been eliminated for fuel sold after December 31, 2004. Schedule 4 (Form 8849) will not be revised and cannot be used for fuel sold after December 31, 2004.

Definitions

The following terms are used throughout the discussion of fuel taxes. Other terms are defined in the discussion of the specific fuels to which they pertain.

Agri-biodiesel. Agri-biodiesel means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

Approved terminal or refinery. This is a terminal operated by a registrant that is a terminal operator or a refinery operated by a registrant that is a refiner.

Biodiesel. Biodiesel means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency (EPA) under section 211 of the Clean Air Act, and the requirements of the American Society of Testing Materials D6751.

Blended taxable fuel. This means any taxable fuel produced outside the bulk transfer/terminal system by mixing taxable fuel on which excise tax has been imposed and any other liquid on which excise tax has not been imposed. This does not include a mixture removed or sold during the calendar quarter if all such mixtures removed or sold by the blender contain less than 400 gallons of a liquid on which the tax has not been imposed.

Blender. This is the person that produces blended taxable fuel. However, if an untaxed liquid is sold as taxed taxable fuel and that untaxed liquid is used to produce blended taxable fuel, the person that sold the untaxed liquid is jointly and severally liable for the tax imposed on the blender's sale or removal of the blended taxable fuel.

Bulk transfer. This is the transfer of taxable fuel by pipeline or vessel.

Bulk transfer/terminal system. This is the taxable fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in the supply tank of any engine, or in any tank car, railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

Enterer. This is the importer of record for the taxable fuel. However, if the importer of record is acting as an agent, such as a customs broker, the person for whom the agent is acting is the enterer. If there is no importer of record, the owner at the time of entry into the United States is the enterer.

Entry. Taxable fuel is entered into the United States when it is brought into the United States and applicable customs law requires that it be entered for consumption, use, or warehousing. This does not apply to fuel brought into Puerto Rico (which is part of the U.S. customs territory), but does apply to fuel brought into the United States from Puerto Rico.

Measurement of taxable fuel. Volumes of taxable fuel can be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit.

Pipeline operator. This is the person that operates a pipeline within the bulk transfer/terminal system.

Position holder. This is the person that holds the inventory position in the taxable fuel in the terminal, as reflected in the records of the terminal operator. You hold the inventory position when you have a contractual agreement with the terminal operator for the use of the storage facilities and terminaling services for the taxable fuel. A terminal operator that owns taxable fuel in its terminal is a position holder.

Rack. This is a mechanism capable of delivering fuel into a means of transport other than a pipeline or vessel.

Refiner. This is any person that owns, operates, or otherwise controls a refinery.

Refinery. This is a facility used to produce taxable fuel and from which taxable fuel may be removed by pipeline, by vessel, or at a rack. However, this term does not include a facility

where only blended fuel, and no other type of fuel, is produced. For this purpose, blended fuel is any mixture that would be blended taxable fuel if produced outside the bulk transfer/terminal system.

Registrant. This is a taxable fuel registrant (see *Registration Requirements,* later).

Removal. This is any physical transfer of taxable fuel. It also means any use of taxable fuel other than as a material in the production of taxable or special fuels. However, taxable fuel is not removed when it evaporates or is otherwise lost or destroyed.

Sale. For taxable fuel not in a terminal, this is the transfer of title to, or substantial incidents of ownership in, taxable fuel to the buyer for money, services, or other property. For taxable fuel in a terminal, this is the transfer of the inventory position if the transferee becomes the position holder for that taxable fuel.

State. This includes any state, any of its political subdivisions, the District of Columbia, and the American Red Cross. An Indian tribal government is treated as a state only if transactions involve the exercise of an essential tribal government function.

Taxable fuel. This means gasoline, diesel fuel, or kerosene.

Terminal. This is a storage and distribution facility supplied by pipeline or vessel, and from which taxable fuel may be removed at a rack. It does not include a facility at which gasoline blendstocks are used in the manufacture of products other than finished gasoline if no gasoline is removed from the facility. A terminal does not include any facility where finished gasoline, diesel fuel, or kerosene is stored if the facility is operated by a registrant and all such taxable fuel stored at the facility has been previously taxed upon removal from a refinery or terminal.

Terminal operator. This is any person that owns, operates, or otherwise controls a terminal.

Throughputter. This is any person that is a position holder or that owns taxable fuel within the bulk transfer/terminal system (other than in a terminal).

Vessel operator. This is the person that operates a vessel within the bulk transfer/terminal system. However, vessel does not include a deep draft ocean-going vessel.

Information Returns

Form 720-TO and Form 720-CS are information returns used to report monthly receipts and disbursements of liquid products. A liquid product is any liquid transported into storage at a terminal or delivered out of a terminal. For a list of products, see the product code table in the Instructions for Forms 720-TO and 720-CS.

The returns are due the last day of the month following the month in which the transaction occurs. These returns can be filed on paper or electronically. For information on filing electronically, see Publication 3536, *Motor Fuel Excise Tax EDI Guide*. Pub. 3536 is only available on the IRS website.

Form 720-TO. This information return is used by terminal operators to report receipts and disbursements of all liquid products to and from all approved terminals. Each terminal operator must file a separate form for each approved terminal.

Form 720-CS. This information return must be filed by bulk transport carriers (barges, vessels, and pipelines) who receive liquid product from an approved terminal or deliver liquid product to an approved terminal.

Registration Requirements

The following discussion applies to excise tax registration requirements for activities relating to fuels only. See Form 637 for other persons who must register and for more information about registration.

Persons that must register. You must be registered if you are any of the following persons.

- A blender.
- An enterer.
- A pipeline operator.
- A position holder.
- A refiner.
- A terminal operator.
- A vessel operator.
- Train operators who uses dyed diesel fuel in their trains and they incur liability for tax at the train rate.
- Full rate buyers of aviation-grade kerosene in connection with a removal from a terminal (other than removal directly into the fuel tank of an aircraft).
- Producers or importers of alcohol, biodiesel, and agri-biodiesel.

Persons that may register. You may, but are not required to, register if you are any of the following persons.

- A feedstock user.
- An industrial user.
- A throughputter that is not a position holder.
- An ultimate vendor.

Ultimate vendors do not need to be registered to buy or sell fuel. However, they must be registered to file claims for certain sales of fuel.

Taxable fuel registrant. This is an enterer, an industrial user, a refiner, a terminal operator, or a throughputter who received a *Letter of Registration* under the excise tax registration provisions and whose registration has not been revoked or suspended. The term **registrant** as used in the discussions of these fuels means a taxable fuel registrant.

Additional information. See the Form 637 instructions for the information you must submit when you apply for registration.

Failure to register. The penalty for failure to register if you are required to register, unless due to reasonable cause, is increased to $10,000 for the initial failure, and then $1,000 each day thereafter you fail to register.

Refunds of Second Tax

If the tax is paid on more than one taxable event for a taxable fuel under section 4081, the person paying the "second tax" may claim a refund (without interest) of that tax if certain conditions and reporting requirements are met. No credit against any tax is allowed for this tax. For information about taxable events, see the discussions under *Gasoline, Diesel Fuel and Kerosene, and Aviation-Grade Kerosene* later.

Conditions to allowance of refund. A claim for refund of the tax is allowed only if all the following conditions are met.

1. A tax on the fuel was paid to the government and not credited or refunded (the "first tax").
2. After the first tax was imposed, another tax was imposed on the same fuel and was paid to the government (the "second tax").
3. The person that paid the second tax filed a timely claim for refund containing the information required (see *Refund claim,* later).
4. The person that paid the first tax has met the reporting requirements, discussed next.

Reporting requirements. Generally, the person that paid the first tax must file a "First Taxpayer's Report" with its Form 720 for the quarter to which the report relates. A model first taxpayer's report is shown in *Appendix A* as *Model Certificate B*. The report must contain all information needed to complete the model.

By the due date for filing the Form 720, you must also send a separate copy of the report to the following address.

Internal Revenue Service Center
Cincinnati, OH 45999-0555

Write "EXCISE – FIRST TAXPAYER'S REPORT" across the top of that copy.

Optional reporting. A first taxpayer's report is not required for the tax imposed on any of the following taxable events.

- Removal at a terminal rack.
- Nonbulk entries into the United States.
- Removals or sales by blenders.

However, if the person liable for the tax expects that another tax will be imposed on that fuel, that person should (but is not required to) file a first taxpayer's report.

Providing information. The first taxpayer must give a copy of the report to the buyer of the fuel within the bulk transfer/terminal system or to the owner of the fuel immediately before the first tax was imposed, if the first taxpayer is not the owner at that time. If an optional report is filed, a copy should (but is not required to) be given to the buyer or owner.

A person that receives a copy of the first taxpayer's report and later sells the fuel within the bulk transfer/terminal system must give the copy and a "Statement of Subsequent Seller" to the buyer. If the later sale is outside the bulk transfer/terminal system and that person expects that another tax will be imposed, that person should (but is not required to) give the copy and the statement to the buyer. A model state-

ment of subsequent seller is shown in *Appendix A* as *Model Certificate A*. The statement must contain all information necessary to complete the model.

If the first taxpayer's report relates to fuel sold to more than one buyer, copies of that report must be made when the fuel is divided. Each buyer must be given a copy of the report.

Refund claim. You must have filed Form 720 and paid the second tax before you file for a refund of that tax. You must make your claim for refund on Form 8849. Complete Schedule 5 (Form 8849) and attach it to your Form 8849. Do not include this claim with a claim under another tax provision. You must not have included the second tax in the price of the fuel and must not have collected it from the purchaser. You must submit the following information with your claim.

- A copy of the first taxpayer's report (discussed earlier).
- A copy of the statement of subsequent seller if the fuel was bought from someone other than the first taxpayer.

Gasoline

The definition of gasoline has been revised. The reduced rates of tax that applied to gasohol and gasoline sold for the production of gasohol have been repealed.

Gasoline. Gasoline means all products commonly or commercially known or sold as gasoline with an octane rating of 75 or more that are suitable for use as a motor fuel. Gasoline includes any gasoline blend other than:

- Qualified ethanol and methanol fuel (at least 85 percent of the blend consists of alcohol produced from coal, including peat),
- Partially exempt ethanol and methanol fuel (at least 85 percent of the blend consists of alcohol produced from natural gas), or
- Denatured alcohol.

Gasoline also includes gasoline blendstocks, discussed in later, and any product commonly used as an additive in gasoline (other than alcohol).

Aviation gasoline. This means all special grades of gasoline suitable for use in aviation reciprocating engines and covered by ASTM specification D 910 or military specification MIL-G-5572.

Taxable Events

The tax on gasoline is $.184 per gallon. The tax on aviation gasoline is $.194 per gallon. Tax is imposed on the removal, entry, or sale of gasoline. Each of these events is discussed later. However, see the special rules that apply to gasoline blendstocks, later.

If the tax is paid on the gasoline in more than one event, a refund may be allowed for the "second" tax paid. See *Refunds of Second Tax,* earlier.

Removal from terminal. All removals of gasoline at a terminal rack are taxable. The position holder for that gasoline is liable for the tax.

Two-party exchanges. In a two-party exchange, the receiving person, not the delivering person, is liable for the tax imposed on the removal of taxable fuel from the terminal at the terminal rack. A two-party exchange means a transaction (other than a sale) where the delivering person and receiving person are both taxable fuel registrants and all of the following apply.

- The transaction includes a transfer from the delivering person, who holds the inventory position for the taxable fuel in the terminal as reflected in the records of the terminal operator.
- The exchange transaction occurs before or at the same time as completion of removal across the rack by the receiving person.
- The terminal operator in its records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction on Form 720-TO.
- The transaction is subject to a written contract.

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the position holder (including the receiving person in a two-party exchange) is a person other than the terminal operator and is not a registrant.

However, a terminal operator meeting all the following conditions at the time of the removal will not be liable for the tax.

- The terminal operator is a registrant.
- The terminal operator has an unexpired notification certificate (discussed later) from the position holder.
- The terminal operator has no reason to believe any information on the certificate is false.

Removal from refinery. The removal of gasoline from a refinery is taxable if the removal meets either of the following conditions.

- It is made by bulk transfer and the refiner, the owner of the gasoline immediately before the removal, or the operator of the pipeline or vessel is not a registrant.
- It is made at the refinery rack.

The refiner is liable for the tax.

Exception. The tax does not apply to a removal of gasoline at the refinery rack if all the following requirements are met.

- The gasoline is removed from an approved refinery not served by pipeline (other than for receiving crude oil) or vessel.
- The gasoline is received at a facility operated by a registrant and located within the bulk transfer/terminal system.
- The removal from the refinery is by railcar.
- The same person operates the refinery and the facility at which the gasoline is received.

Entry into the United States. The entry of gasoline into the United States is taxable if the entry meets either of the following conditions.

- It is made by bulk transfer and the enterer or the operator of the pipeline or vessel is not a registrant.
- It is not made by bulk transfer.

The enterer is liable for the tax.

Removal from a terminal by unregistered position holder or unregistered pipeline or vessel operator. The removal by bulk transfer of gasoline from a terminal is taxable if the position holder for the gasoline or the operator of the pipeline or vessel is not a registrant. The position holder is liable for the tax. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator. However, see *Terminal operator's liability* under *Removal from terminal,* earlier, for an exception.

Bulk transfers not received at approved terminal or refinery. The removal by bulk transfer of gasoline from a terminal or refinery, or the entry of gasoline by bulk transfer into the United States, is taxable if the following conditions apply.

1. No tax was previously imposed (as discussed earlier) on any of the following events.
   a. The removal from the refinery.
   b. The entry into the United States.
   c. The removal from a terminal by an unregistered position holder.
2. 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 when it is removed from the pipeline or vessel is liable for the tax. However, an owner meeting all the following conditions at the time of the removal will not be liable for the tax.

- The owner is a registrant.
- The owner has an unexpired notification certificate (discussed later) from the operator of the terminal or refinery where the gasoline is received.
- The owner has no reason to believe any information on the certificate is false.

The operator of the facility where the gasoline is received is liable for the tax if the owner meets these conditions. The operator is jointly and severally liable if the owner does not meet these conditions.

Sales to unregistered person. The sale of gasoline located within the bulk transfer/terminal system to a person that is not a registrant is taxable if tax was not previously imposed under any of the events discussed earlier.

The seller is liable for the tax. However, a seller meeting all the following conditions at the time of the sale will not be liable for the tax.

- The seller is a registrant.
- The seller has an unexpired notification certificate (discussed later) from the buyer.
- The seller has no reason to believe any information on the certificate is false.

The buyer of the gasoline is liable for the tax if the seller meets these conditions. The buyer is jointly and severally liable if the seller does not meet these conditions.

Exception. The tax does not apply to a sale if all of the following apply.

- The buyer's principal place of business is not in the United States.
- The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel.
- The seller is a registrant and the exporter of record.
- The fuel was exported.

Removal or sale of blended gasoline. The removal or sale of blended gasoline by the blender is taxable. See *Blended taxable fuel* under *Definitions,* earlier.

The blender is liable for the tax. The tax is figured on the number of gallons not previously subject to the tax on gasoline.

Persons who blend alcohol with gasoline to produce an alcohol fuel mixture outside the bulk transfer/terminal system must pay must pay the gasoline tax on the volume of alcohol in the mixture. See Form 720 to report this tax. You also must be registered with the IRS as a blender. See Form 637.

However, if an untaxed liquid is sold as taxed taxable fuel and that untaxed liquid is used to produce blended taxable fuel, the person that sold the untaxed liquid is jointly and severally liable for the tax imposed on the blender's sale or removal of the blended taxable fuel.

Notification certificate. The notification certificate is used to notify a person of the registration status of the registrant. A copy of the registrant's letter of registration cannot be used as a notification certificate. A model notification certificate is shown in *Appendix A* as *Model Certificate C*. A notification certificate must contain all information necessary to complete the model.

The certificate may be included as part of any business records normally used for a sale. A certificate expires on the earlier of the date the registrant provides a new certificate, or the date the recipient of the certificate is notified that the registrant's registration has been revoked or suspended. The registrant must provide a new certificate if any information on a certificate has changed.

Additional persons liable. When the person liable for the tax willfully fails to pay the tax, joint and several liability for the tax is imposed on:

- Any officer, employee, or agent of the person who is under a duty to ensure the payment of the tax and who willfully fails to perform that duty, or
- Anyone who willfully causes the person to fail to pay the tax.

Gasoline Blendstocks

Gasoline includes gasoline blendstocks. The previous discussions apply to these blendstocks. However, if certain conditions are met, the removal, entry, or sale of gasoline blendstocks is not taxable. Generally, this applies if the gasoline blendstock is not used to produce finished gasoline or is received at an approved terminal or refinery.

Blendstocks. The following are gasoline blendstocks.

- Alkylate.
- Butane.
- Butene.
- Catalytically cracked gasoline.
- Coker gasoline.
- Ethyl tertiary butyl ether (ETBE).
- Hexane.
- Hydrocrackate.
- Isomerate.
- Methyl tertiary butyl ether (MTBE).
- Mixed xylene (not including any separated isomer of xylene).
- Natural gasoline.
- Pentane.
- Pentane mixture.
- Polymer gasoline.
- Raffinate.
- Reformate.
- Straight-run gasoline.
- Straight-run naphtha.
- Tertiary amyl methyl ether (TAME).
- Tertiary butyl alcohol (gasoline grade) (TBA).
- Thermally cracked gasoline.
- Toluene.

However, gasoline blendstocks do not include any product that cannot be used without further processing in the production of finished gasoline.

Not used to produce finished gasoline. Gasoline blendstocks not used to produce finished gasoline are not taxable if the following conditions are met.

Removals and entries not connected to sale. Nonbulk removals and entries are not taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) is a registrant.

Removals and entries connected to sale. Nonbulk removals and entries are not taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) is a registrant, and at the time of the sale, meets the following requirements.

- The person has an unexpired certificate (discussed later) from the buyer.
- The person has no reason to believe any information in the certificate is false.

Sales after removal or entry. The sale of a gasoline blendstock that was not subject to tax on its nonbulk removal or entry, as discussed earlier, is taxable. The seller is liable for the tax. However, the sale is not taxable if, at the time of the sale, the seller meets the following requirements.

- The seller has an unexpired certificate (discussed next) from the buyer.
- The seller has no reason to believe any information in the certificate is false.

Certificate of buyer. The certificate from the buyer certifies the gasoline blendstocks will not be used to produce finished gasoline. The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in *Appendix A* as *Model Certificate D*. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.
- The date a new certificate is provided to the seller.
- The date the seller is notified the buyer's right to provide a certificate has been withdrawn.

The buyer must provide a new certificate if any information on a certificate has changed.

The IRS may withdraw the buyer's right to provide a certificate if that buyer uses the gasoline blendstocks in the production of finished gasoline or resells the blendstocks without getting a certificate from its buyer.

Received at approved terminal or refinery. The nonbulk removal or entry of gasoline blendstocks received at an approved terminal or refinery is not taxable if the person otherwise liable for the tax (position holder, refiner, or enterer) meets all the following requirements.

- The person is a registrant.
- The person has an unexpired notification certificate (discussed earlier) from the operator of the terminal or refinery where the gasoline blendstocks are received.
- The person has no reason to believe any information on the certificate is false.

Bulk transfers to registered industrial user. The removal of gasoline blendstocks from a pipeline or vessel is not taxable if the blendstocks are received by a registrant that is an industrial user. An **industrial user** is any person that receives gasoline blendstocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

Credits or Refunds

A credit or refund of the gasoline tax (without interest) may be allowable if gasoline is, by any person:

- Exported,
- Used in a boat engaged in commercial fishing,
- Used in military aircraft,
- Used in foreign trade,
- Sold to a state, political subdivision of a state, or the District of Columbia for its exclusive use (see Claims by registered ultimate vendors),
- Sold to a nonprofit educational organization for its exclusive use, as discussed earlier under *Communications Tax,* (see Claims by registered ultimate vendors),
- Sold to the United Nations for its official use, or
- Used or sold in the production of special motor fuels (defined later).

Refunds to gasoline wholesale distributors have been eliminated for fuel sold after December 31, 2004. Schedule 4 (Form 8849) will not be revised and cannot be used for fuel sold after December 31, 2004.

Claims by persons who paid the tax to the government. A credit or refund is allowable to the person that paid the tax to the government if the gasoline was sold to the ultimate purchaser (including an exporter) by either that person or by a retailer for a purpose listed earlier. By signing the claim, the person that paid the tax certifies that it:

1. Has obtained one of the three items below.
   a. Proof of exportation.
   b. A certificate of ultimate purchaser.
   c. A certificate of ultimate vendor.
2. Has met any of the following conditions.
   a. Has neither included the tax in the price of the gasoline nor collected the tax from the buyer.
   b. Has repaid, or agreed to repay, the tax to the ultimate vendor of the gasoline.
   c. Has gotten the written consent of the ultimate vendor to the allowance of the credit or refund.

Claims by ultimate purchasers and registered ultimate vendors. A claim may be made by an ultimate purchaser of taxed gasoline used for a nontaxable use. A claim may be made by a registered ultimate vendor for sales to a state or local government for its exclusive use or to a nonprofit educational organization for its exclusive use if the ultimate purchaser waives its right to the claim. For more information, see Publication 378.

Diesel Fuel and Kerosene

Generally, diesel fuel and kerosene are taxed in the same manner as gasoline (discussed earlier).

Dyed diesel fuel and dyed kerosene cannot be used in certain intercity and local buses. All removals of diesel fuel or kerosene at a terminal rack are taxable at $.244 per gallon.

Diesel fuel means:

- Any liquid that without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle or train,
- Transmix, and
- Diesel fuel blendstocks (when identified by the IRS).

A liquid is suitable for this use if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train. A liquid may possess this practical and commercial fitness even though the specified use is not the predominant use of the liquid. However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train. Diesel fuel does not include gasoline, kerosene, excluded liquid, No. 5 and No. 6 fuel oils covered by ASTM specification D 396, or F-76 (Fuel Naval Distillate) covered by military specification MIL-F-16884.

An **excluded liquid** is either of the following.

1. A liquid that contains less than 4% normal paraffins.
2. A liquid with all the following properties.
   a. Distillation range of 125 degrees Fahrenheit or less.
   b. Sulfur content of 10 ppm or less.
   c. Minimum color of +27 Saybolt.

Transmix means a by-product of refined products created by the mixing of different specification products during pipeline transportation.

Kerosene. This means any of the following liquids.

- One of the two grades of kerosene (No. 1-K and No. 2-K) covered by ASTM specification D 3699.
- Kerosene-type jet fuel covered by ASTM specification D 1655 or military specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8). See *Aviation-Grade Kerosene* later.

However, kerosene does not include excluded liquid, discussed earlier.

Kerosene also includes any liquid that would be described above but for the presence of a dye of the type used to dye kerosene for a nontaxable use.

Diesel-powered highway vehicle. This is any self-propelled vehicle designed to carry a load over public highways (whether or not also designed to perform other functions) and propelled by a diesel-powered engine. Generally, do not consider as diesel-powered highway vehicles specially designed mobile machinery for nontransportation functions and vehicles specially designed for off-highway transportation. For more information about these vehicles and for information about vehicles not considered highway vehicles, see Publication 378.

Diesel-powered train. This is any diesel-powered equipment or machinery that rides on rails. The term includes a locomotive, work train, switching engine, and track maintenance machine.

Taxable Events

The tax on diesel fuel and kerosene is $.244 per gallon. It is imposed on the removal, entry, or sale of diesel fuel and kerosene. Each of these events is discussed later. The tax does not apply to dyed diesel fuel or dyed kerosene, discussed later.

If the tax is paid on the diesel fuel or kerosene in more than one event, a refund may be allowed for the “second” tax paid. See *Refunds of Second Tax,* earlier.

Use in certain intercity and local buses. Dyed diesel fuel and dyed kerosene cannot be used in certain intercity and local buses. A claim for $.17 per gallon may be made by the ultimate vendor (under certain conditions) or the ultimate purchaser for undyed diesel fuel or undyed kerosene sold for use in certain intercity or local buses. An intercity or local bus is a bus engaged in furnishing (for compensation) passenger land transportation available to the general public. The bus must be engaged in one of the following activities.

- Scheduled transportation along regular routes regardless of the size of the bus.
- Nonscheduled transportation if the seating capacity of the bus is at least 20 adults (not including the driver).

A bus is available to the general public if the bus is available for hire to more than a limited number of persons, groups, or organizations.

Removal from terminal. All removals of diesel fuel or kerosene at a terminal rack are taxable. The position holder for that fuel is liable for the tax.

Two-party exchanges. In a two-party exchange, the receiving person, not the delivering person, is liable for the tax imposed on the removal of taxable fuel from the terminal at the terminal rack. A two-party exchange means a transaction (other than a sale) where the delivering person and receiving person are both taxable fuel registrants and all of the following apply.

- The transaction includes a transfer from the delivering person, who holds the inventory position for the taxable fuel in the terminal as reflected in the records of the terminal operator.
- The exchange transaction occurs before or at the same time as completion of removal across the rack by the receiving person.

- The terminal operator in its records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction on Form 720-TO.
- The transaction is subject to a written contract.

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that diesel fuel or kerosene is dyed (discussed later).

The terminal operator is jointly and severally liable for the tax if the position holder (including the receiving person in a two-party exchange) is a person other than the terminal operator and is not a registrant. However, a terminal operator will not be liable for the tax in this situation if, at the time of the removal, the following conditions are met.

- The terminal operator is a registrant.
- The terminal operator has an unexpired notification certificate (discussed under *Gasoline*) from the position holder.
- The terminal operator has no reason to believe any information on the certificate is false.

Removal from refinery. The removal of diesel fuel or kerosene from a refinery is taxable if the removal meets either of the following conditions.

- It is made by bulk transfer and the refiner, the owner of the fuel immediately before the removal, or the operator of the pipeline or vessel is not a registrant.
- It is made at the refinery rack.

The refiner is liable for the tax.

Exception. The tax does not apply to a removal of diesel fuel or kerosene at the refinery rack if all the following conditions are met.

1. The diesel fuel or kerosene is removed from an approved refinery not served by pipeline (other than for receiving crude oil) or vessel.
2. The diesel fuel or kerosene is received at a facility operated by a registrant and located within the bulk transfer/terminal system.
3. The removal from the refinery is by:
   a. Railcar and the same person operates the refinery and the facility at which the diesel fuel or kerosene is received, or
   b. For diesel fuel only, a trailer or semi-trailer used exclusively to transport the diesel fuel from a refinery (described in (1)) to a facility (described in (2)) less than 20 miles from the refinery.

Entry into the United States. The entry of diesel fuel or kerosene into the United States is taxable if the entry meets either of the following conditions.

- It is made by bulk transfer and the enterer or the operator of the pipeline or vessel is not a registrant.
- It is not made by bulk transfer.

The enterer is liable for the tax.

Removal from a terminal by unregistered position holder or unregistered pipeline or vessel operator. The removal by bulk transfer of diesel fuel or kerosene from a terminal is taxable if the position holder for that fuel or the operator of the pipeline or vessel is not a registrant. The position holder is liable for the tax. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator. However, see *Terminal operator's liability* under *Removal from terminal,* earlier, for an exception.

Bulk transfers not received at approved terminal or refinery. The removal by bulk transfer of diesel fuel or kerosene from a terminal or refinery or the entry of diesel fuel or kerosene by bulk transfer into the United States is taxable if the following conditions apply.

1. No tax was previously imposed (as discussed earlier) on any of the following events.
   a. The removal from the refinery.
   b. The entry into the United States.
   c. The removal from a terminal by an unregistered position holder.
2. Upon removal from the pipeline or vessel, the diesel fuel or kerosene is not received at an approved terminal or refinery (or at another pipeline or vessel).

The owner of the diesel fuel or kerosene when it is removed from the pipeline or vessel is liable for the tax. However, an owner meeting all the following conditions at the time of the removal will not be liable for the tax.

- The owner is a registrant.
- The owner has an unexpired notification certificate (discussed under *Gasoline*) from the operator of the terminal or refinery where the diesel fuel or kerosene is received.
- The owner has no reason to believe any information on the certificate is false.

The operator of the facility where the diesel fuel or kerosene is received is liable for the tax if the owner meets these conditions. The operator is jointly and severally liable if the owner does not meet these conditions.

Sales to unregistered person. The sale of diesel fuel or kerosene located within the bulk transfer/terminal system to a person that is not a registrant is taxable if tax was not previously imposed under any of the events discussed earlier.

The seller is liable for the tax. However, a seller meeting all the following conditions at the time of the sale will not be liable for the tax.

- The seller is a registrant.
- The seller has an unexpired notification certificate (discussed under *Gasoline*) from the buyer.
- The seller has no reason to believe any information on the certificate is false.

The buyer of the diesel fuel or kerosene is liable for the tax if the seller meets these conditions. The buyer is jointly and severally liable if the seller does not meet these conditions.

Exception. The tax does not apply to a sale if all of the following apply.

- The buyer's principal place of business is not in the United States.
- The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel.
- The seller is a registrant and the exporter of record.
- The fuel was exported.

Removal or sale of blended diesel fuel or kerosene. The removal or sale of blended diesel fuel or blended kerosene by the blender is taxable. Blended taxable fuel produced using biodiesel is subject to the tax. See *Blended taxable fuel* under *Definitions*, earlier.

The blender is liable for the tax. The tax is figured on the number of gallons not previously subject to the tax.

Persons who blend biodiesel with undyed diesel fuel to produce a biodiesel mixture outside the bulk transfer terminal system must pay must pay the diesel fuel tax on the volume of biodiesel in the mixture. Generally, the biodiesel mixture must be diesel fuel (defined earlier). See Form 720 to report this tax. You also must be registered with the IRS as a blender. See Form 637.

However, if an untaxed liquid is sold as taxed taxable fuel and that untaxed liquid is used to produce blended taxable fuel, the person that sold the untaxed liquid is jointly and severally liable for the tax imposed on the blender's sale or removal of the blended taxable fuel.

Additional persons liable. When the person liable for the tax willfully fails to pay the tax, joint and several liability for the tax is imposed on:

- Any officer, employee, or agent of the person who is under a duty to ensure the payment of the tax and who willfully fails to perform that duty, or
- Anyone who willfully causes the person to fail to pay the tax.

Exemptions

The excise tax on diesel fuel or kerosene is not imposed and the dyeing requirements do not have to be met if the rules related to the following exemptions are met.

- Sale or use in certain areas of Alaska.
- Kerosene used for feedstock purposes.

Sale or use in certain areas of Alaska. The excise tax is not imposed on the removal, entry, or sale of diesel fuel or kerosene in Alaska for ultimate sale or use in an exempt area of Alaska. The removal or entry of any diesel fuel or ker-

osene is not taxable if all the following requirements are satisfied.

1. The person otherwise liable for the tax (position holder, refiner, or enterer):
   a. Is a registrant,
   b. Can show satisfactory evidence of the nontaxable nature of the transaction, and
   c. Has no reason to believe the evidence is false.
2. In the case of a removal from a terminal, the terminal is an approved terminal.
3. The owner of the fuel immediately after the removal or entry holds the fuel for its own use in a nontaxable use (discussed later) or is a qualified dealer.

A **qualified dealer** is any person that holds a qualified dealer license from the state of Alaska or has been registered by the IRS as a qualified retailer. **Satisfactory evidence** may include copies of qualified dealer licenses or exemption certificates obtained for state tax purposes.

Later sales. The excise tax applies to diesel fuel or kerosene sold by a qualified dealer after the removal or entry. The tax is imposed at the time of the sale and the qualified dealer is liable for the tax. However, the sale is not taxable if all the following requirements are met.

- The fuel is sold in an exempt area of Alaska.
- The buyer buys the fuel for its own use in a nontaxable use or is a qualified dealer.
- The seller can show satisfactory evidence of the nontaxable nature of the transaction and has no reason to believe the evidence is false.

Kerosene used for feedstock purposes. The excise tax on kerosene is not imposed on the removal or entry of kerosene if all the following conditions are met.

1. The person otherwise liable for tax (position holder, refiner, or enterer) is a registrant.
2. In the case of a removal from a terminal, the terminal is an approved terminal.
3. Either:
   a. The person otherwise liable for tax uses the kerosene for a feedstock purpose, or
   b. The kerosene is sold for use by the buyer for a feedstock purpose and, at the time of the sale, the person otherwise liable for tax has an unexpired certificate (described later) from the buyer and has no reason to believe any information on the certificate is false.

Kerosene is used for a **feedstock purpose** when it is used for nonfuel purposes in the manufacture or production of any substance other than gasoline, diesel fuel, or special fuels. For example, kerosene is used for a feedstock purpose when it is used as an ingredient in the production of paint, but is not used for a feedstock purpose when it is used to power machinery at a factory where paint is produced. A **feedstock user** is a person that uses kerosene for a feedstock purpose. A **registered feedstock user** is a person that has been registered by the IRS as a feedstock user. See *Registration Requirements*, earlier.

Later sales. The excise tax applies to kerosene sold for use by the buyer for a feedstock purpose (item (3)(b)) if the buyer in that sale later sells the kerosene. The tax is imposed at the time of the later sale and that seller is liable for the tax.

Certificate. The certificate from the buyer certifies the buyer is a registered feedstock user and the kerosene will be used by the buyer for a feedstock purpose. The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in *Appendix A* as *Model Certificate G*. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (not earlier than the date signed) of the certificate.
- The date the seller is provided a new certificate or notice that the current certificate is invalid.
- The date the seller is notified the buyer's registration has been revoked or suspended.

The buyer must provide a new certificate if any information on a certificate has changed.

Credits or Refunds

A credit or refund is allowable to the ultimate purchaser or registered ultimate vendor for the tax on undyed diesel fuel or undyed kerosene used for a nontaxable use. See Publication 378.

Dyed Diesel Fuel and Dyed Kerosene

The excise tax is not imposed on the removal, entry, or sale of diesel fuel or kerosene if all the following tests are met.

- The person otherwise liable for tax (for example, the position holder) is a registrant.
- In the case of a removal from a terminal, the terminal is an approved terminal.
- The diesel fuel or kerosene satisfies the dyeing requirements (described next).

Dyeing requirements. Diesel fuel or kerosene satisfies the dyeing requirements only if it satisfies one of the following requirements.

- It contains 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 fuel.
- It contains any dye of a type and in a concentration that has been approved by the Commissioner.

Notice required. A legible and conspicuous notice stating either: ***DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*** or ***DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*** must be:

1. Provided by the terminal operator to any person that receives dyed diesel fuel or dyed kerosene at a terminal rack of that operator, and
2. Posted by a seller on any retail pump or other delivery facility where it sells dyed diesel fuel or dyed kerosene for use by its buyer.

The notice under item (1) must be provided by the time of the removal and must appear on all shipping papers, bills of lading, and similar documents accompanying the removal of the fuel.

Any seller that fails to post the required notice under item (2) is presumed to know that the fuel will be used for a taxable use (a use other than a nontaxable use listed later). That seller is subject to the penalty described next.

Penalty. A penalty is imposed on a person if any of the following situations apply.

1. Any dyed fuel is sold or held for sale by the person for a use the person knows or has reason to know is not a nontaxable use of the fuel.
2. Any dyed fuel is held for use or used by the person for a use other than a nontaxable use and the person knew, or had reason to know, that the fuel was dyed.
3. The person willfully alters, chemically or otherwise, or attempts to so alter, the strength or composition of any dye in dyed fuel.
4. The person has knowledge that a dyed fuel which has been altered, as described in (3) above, sells or holds for sale such fuel for any use for which the person knows or has reason to know is not a nontaxable use of the fuel.

The penalty is the greater of $1,000 or $10 per gallon of the dyed diesel fuel or dyed kerosene involved. After the first violation, the $1,000 portion of the penalty increases depending on the number of violations.

This penalty is in addition to any tax imposed on the fuel.

If the penalty is imposed, each officer, employee, or agent of a business entity who willfully participated in any act giving rise to the penalty is jointly and severally liable with that entity for the penalty.

There is no administrative appeal or review allowed for the third and subsequent penalty imposed by section 6715 on any person for penalties imposed after October 22, 2004, except for:

- Fraud or a mistake in the chemical analysis or
- Mathematical calculation of the penalty.

If you are liable for the penalty, you may also be liable for the back-up tax, discussed later. However, the penalty applies only to dyed diesel fuel and dyed kerosene, while the back-up tax may apply to other fuels. The penalty may apply if the fuel is held for sale or use for a taxable use while the back-up tax does not apply unless the fuel is delivered into a fuel supply tank.

Exception to penalty. The penalty under item (3) will not apply in any of the following situations.

- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with any undyed liquid and the resulting product meets the dyeing requirements.
- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with any other liquid (other than diesel fuel or kerosene) that contains the type and amount of dye required to meet the dyeing requirements.
- The alteration or attempted alteration occurs in an exempt area of Alaska. See *Sale or use in Alaska,* earlier.
- Diesel fuel or kerosene meeting the dyeing requirements (described earlier) is blended with diesel fuel or kerosene not meeting the dyeing requirements and the blending occurs as part of a nontaxable use (other than export), discussed later.

Back-Up Tax

Tax is imposed on the delivery of any of the following into the fuel supply tank of a diesel-powered highway vehicle or train.

- Any dyed diesel fuel or dyed kerosene for other than a nontaxable use.
- Any undyed diesel fuel or undyed kerosene on which a credit or refund (for fuel used for a nontaxable purpose) has been allowed.
- Any liquid other than gasoline, diesel fuel, or kerosene.

Generally, this back-up tax is imposed at a rate of $.244 per gallon. However, see Form 720 for the diesel-powered train rate.

Liability for tax. Generally, the operator of the vehicle or train into which the fuel is delivered is liable for the tax. In addition, the seller of the diesel fuel or kerosene is jointly and severally liable for the tax if the seller knows or has reason to know that the fuel will be used for other than a nontaxable use. Generally, a seller of diesel fuel or kerosene is not liable for tax on fuel delivered into the fuel supply tank of a train. However, the person that delivers the fuel into the fuel supply tank of a train, rather than the train operator, is liable for the tax if, at the time of delivery, the deliverer and the train operator are both registered by the IRS as train operators and a written agreement between them requires the deliverer to pay the tax.

Exemptions from the back-up tax. The back-up tax does not apply to a delivery of diesel fuel or kerosene for uses (1) through (8) listed under *Nontaxable Uses,* next.

In addition, since the back-up tax is imposed only on the delivery into the fuel supply tank of a diesel-powered vehicle or train, the tax does not apply to diesel fuel or kerosene used as heating oil or in stationary engines.

Nontaxable Uses

The following are nontaxable uses of diesel fuel and kerosene.

1. Use on a farm for farming purposes (discussed later).
2. Exclusive use by a state (defined earlier under *Definitions*).
3. Use in a vehicle owned by an aircraft museum.
4. Use in a school bus (discussed later).
5. Use in a qualified local bus (discussed later).
6. Use in a highway vehicle that:
   a. Is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country, and
   b. Is used in the operator's trade or business or for the production of income.
7. Exclusive use by a nonprofit educational organization, as discussed earlier under *Communications Tax.*
8. Use in a highway vehicle owned by the United States that is not used on a highway.
9. Exported.
10. Use other than as a fuel in a propulsion engine of a diesel-powered highway vehicle (such as home heating oil).
11. Use as a fuel in a propulsion engine of a diesel-powered train (subject to back-up tax, discussed earlier).

Used on a farm for farming purposes. Diesel fuel or kerosene is used on a farm for farming purposes only if used in carrying on a trade or business of farming, on a farm in the United States, and for farming purposes.

Farm. A farm includes livestock, dairy, fish, poultry, fruit, fur-bearing animals, and truck farms, orchards, plantations, ranches, nurseries, ranges, and feedyards for fattening cattle. It also includes structures such as greenhouses used primarily for raising agricultural or horticultural commodities. A fish farm is an area where fish are grown or raised—not merely caught or harvested.

Farming purposes. Diesel fuel or kerosene is used on a farm for farming purposes if it is bought by the owner, tenant, or operator of the farm and used for any of the following purposes.

1. To cultivate the soil, or to raise or harvest any agricultural or horticultural commodity.
2. To raise, shear, feed, care for, train or manage livestock, bees, poultry, fur-bearing animals, or wildlife.
3. To operate, manage, conserve, improve, or maintain your farm and its tools and equipment.
4. To handle, dry, pack, grade, or store any raw agricultural or horticultural commodity (as provided below).
5. To plant, cultivate, care for, or cut trees or to prepare (other than sawing logs into lumber, chipping, or other milling) trees for market, but only if the planting, etc., is incidental to your farming operations (as provided below).

Diesel fuel or kerosene is treated as used on a farm for farming purposes if it is bought by a person other than the owner, tenant, or operator of the farm and used on the farm for any of the purposes in item (1) or (2).

Item (4) applies only if more than one-half of the commodity so treated during the tax year was produced on the farm. Commodity refers to a single raw product. For example, apples would be one commodity and peaches another. The more-than-one-half test applies separately to each commodity.

Item (5) applies if the operations are minor in nature when compared to the total farming operations.

Not used for farming purposes. Diesel fuel or kerosene is not used for farming purposes if it is used in any of the following ways.

- Off the farm, such as on the highway or in noncommercial aviation, even if the fuel is used in transporting livestock, feed, crops, or equipment.
- For personal use, such as mowing the lawn.
- In processing, packaging, freezing, or canning operations.
- In processing crude gum into gum spirits of turpentine or gum resin or in processing maple sap into maple syrup or maple sugar.

Buses. Diesel fuel or kerosene used in a school bus or in a qualified local bus is used for a nontaxable use and is not subject to excise tax.

School bus. A school bus is a bus engaged in the transportation of students and employees of schools. A school is an educational organization with a regular faculty and curriculum and a regularly enrolled body of students who attend the place where the educational activities occur.

Qualified local bus. A qualified local bus is a bus meeting all the following tests.

- It is engaged in furnishing (for compensation) intracity passenger land transportation available to the general public.
- It operates along scheduled, regular routes.
- It has a seating capacity of at least 20 adults (excluding the driver).
- It is under contract with (or receiving more than a nominal subsidy from) any state or local government to furnish that transportation.

Intracity passenger land transportation means land transportation of passengers between

points located within the same metropolitan area. It includes transportation along routes that cross state, city, or county boundaries if the routes remain within the metropolitan area.

A bus is under contract with a state or local government only if the contract imposes a bona fide obligation on the bus operator to furnish the transportation. A subsidy is more than nominal if it is reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used in buses on subsidized routes.

A company that operates its buses along subsidized and unsubsidized intracity routes may consider its buses qualified local buses only when the buses are used on the subsidized intracity routes.

Aviation-Grade Kerosene

Effective January 1, 2005, the tax on the sale of aviation fuel by the producer is repealed.

Tax-free removals of undyed aviation-grade kerosene, if the Secretary determined that such kerosene was destined for use as a fuel in an aircraft, are repealed effective January 1, 2005.

Aviation-Grade Kerosene

This is kerosene-type jet fuel covered by ASTM specification D 1655 or military specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

Taxable Events

Aviation-grade kerosene is taxed as a taxable fuel. The rate of tax on removal, entry, or sale of aviation-grade kerosene at the terminal rack is $.219 per gallon unless a reduced rate applies. See *Commercial Aviation; Liability of Commercial Aircraft Operators for Tax* below. The position holder is liable for the tax.

Removal from terminal. All removals of aviation-grade kerosene at a terminal rack are taxable. The position holder for that fuel is liable for the tax.

Two-party exchanges. In a two-party exchange, the receiving person, not the delivering person, is liable for the tax imposed on the removal of taxable fuel from the terminal at the terminal rack. A two-party exchange means a transaction (other than a sale) where the delivering person and receiving person are both taxable fuel registrants and all of the following apply.

- The transaction includes a transfer from the delivering person, who holds the inventory position for the taxable fuel in the terminal as reflected in the records of the terminal operator.
- The exchange transaction occurs before or at the same time as completion of removal across the rack by the receiving person.
- The terminal operator in its records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction on Form 720-TO.
- The transaction is subject to a written contract.

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the position holder (including the receiving person in a two-party exchange) is a person other than the terminal operator and is not a registrant. However, a terminal operator will not be liable for the tax in this situation if, at the time of the removal, the following conditions are met.

- The terminal operator is a registrant.
- The terminal operator has an unexpired notification certificate (discussed under *Gasoline*) from the position holder.
- The terminal operator has no reason to believe any information on the certificate is false.

Removal from refinery. The removal of aviation-grade kerosene from a refinery is taxable if the removal meets either of the following conditions.

- It is made by bulk transfer and the refiner, the owner of the fuel immediately before the removal, or the operator of the pipeline or vessel is not a registrant.
- It is made at the refinery rack.

The refiner is liable for the tax.

Exception. The tax does not apply to a removal of aviation-grade kerosene at the refinery rack if all the following conditions are met.

1. The aviation-grade kerosene is removed from an approved refinery not served by pipeline (other than for receiving crude oil) or vessel.
2. The aviation-grade kerosene is received at a facility operated by a registrant and located within the bulk transfer/terminal system.
3. The removal from the refinery is by railcar and the same person operates the refinery and the facility at which the aviation-grade kerosene is received.

Entry into the United States. The entry of aviation-grade kerosene into the United States is taxable if the entry meets either of the following conditions.

- It is made by bulk transfer and the enterer or the operator of the pipeline or vessel is not a registrant.
- It is not made by bulk transfer.

The enterer is liable for the tax.

Removal from a terminal by unregistered position holder or unregistered pipeline or vessel operator. The removal by bulk transfer of aviation-grade kerosene from a terminal is taxable if the position holder for the aviation-grade kerosene or the operator of the pipeline or vessel is not a registrant. The position holder is liable for the tax. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator. However, see *Terminal operator's liability* under *Removal from terminal,* earlier, for an exception.

Bulk transfers not received at approved terminal or refinery. The removal by bulk transfer of aviation-grade kerosene from a terminal or refinery or the entry of aviation-grade kerosene by bulk transfer into the United States is taxable if the following conditions apply.

1. No tax was previously imposed (as discussed earlier) on any of the following events.
   a. The removal from the refinery.
   b. The entry into the United States.
   c. The removal from a terminal by an unregistered position holder.
2. Upon removal from the pipeline or vessel, the aviation-grade kerosene is not received at an approved terminal or refinery (or at another pipeline or vessel).

The owner of the aviation-grade kerosene when it is removed from the pipeline or vessel is liable for the tax. However, an owner meeting all the following conditions at the time of the removal will not be liable for the tax.

- The owner is a registrant.
- The owner has an unexpired notification certificate (discussed under *Gasoline*) from the operator of the terminal or refinery where the aviation-grade kerosene is received.
- The owner has no reason to believe any information on the certificate is false.

The operator of the facility where the aviation-grade kerosene is received is liable for the tax if the owner meets these conditions. The operator is jointly and severally liable if the owner does not meet these conditions.

Sales to unregistered person. The sale of aviation-grade kerosene located within the bulk transfer/terminal system to a person that is not a registrant is taxable if tax was not previously imposed under any of the events discussed earlier.

The seller is liable for the tax. However, a seller meeting all the following conditions at the time of the sale will not be liable for the tax.

- The seller is a registrant.
- The seller has an unexpired notification certificate (discussed under *Gasoline*) from the buyer.
- The seller has no reason to believe any information on the certificate is false.

The buyer of the aviation-grade kerosene is liable for the tax if the seller meets these conditions. The buyer is jointly and severally liable if the seller does not meet these conditions.

Exception. The tax does not apply to a sale if all of the following apply.

- The buyer's principal place of business is not in the United States.
- The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel.

- The seller is a registrant and the exporter of record.
- The fuel was exported.

Commercial Aviation; Liability of Commercial Aircraft Operators for Tax

The position holder is liable for tax with respect to removals of taxable fuel from a terminal at the rack. However, the position holder is not liable for tax on the removal of aviation-grade kerosene from a terminal at the terminal rack if the kerosene is removed directly into the fuel tank of an aircraft for use in commercial aviation. In this case, the operator of the aircraft in commercial aviation is liable for the tax on the removal of aviation-grade kerosene at the rate of $.044 per gallon if position holder:

- Is a taxable fuel registrant,
- Has an unexpired certificate (a model certificate is shown in *Appendix A* as *Model Certificate K*) from the operator of the aircraft, and
- Has no reason to believe any of the information in the certificate is false.

Beginning July 1, 2005, each commercial aircraft operator (other than one engaged exclusively in foreign trade) must be registered by the IRS as a condition of providing the certificate that the aviation-grade kerosene will be used in commercial aviation.

Commercial aviation. Commercial aviation is any use of an aircraft in the business of transporting persons or property by air for pay. However, commercial aviation does not include any of the following uses.

- Any use of an aircraft that has a maximum certificated takeoff weight of 6,000 pounds or less, unless the aircraft is operated on an established line. For more information, see *Small aircraft* under *Special Rules on Transportation Taxes*, earlier.
- Any use exclusively for the purpose of skydiving.
- Any use of an aircraft owned or leased by a member of an affiliated group and unavailable for hire by nonmembers. For more information, see *Aircraft used by affiliated corporations* under *Special Rules on Transportation Taxes*, earlier.

Certain refueler trucks, tankers, and tank wagons treated as terminals. For purposes of the tax imposed on aviation-grade kerosene removed directly into the fuel tank of an aircraft for use in commercial aviation, certain refueler trucks, tankers, and tank wagons are treated as part of a terminal if the following conditions are met.

- Such terminal is located within a secured area of an airport (defined below).
- Any aviation-grade kerosene which is loaded in a refueler truck, tanker, or tank wagon at a terminal is for delivery into aircraft at the airport in which the terminal is located.
- Except in special cases identified by the Secretary in regulations, no vehicle registered for highway use is loaded with aviation-grade kerosene at such terminal.
- The refueler truck, tanker, or tank wagon meets the following requirements:

1. Has storage tanks, hose, and coupling equipment designed and used for fueling aircraft,
2. Is not registered for highway use, and
3. Is operated by the terminal operator or a person that makes a daily accounting to the terminal operator of each delivery of fuel from the refueler truck, tanker, or tank wagon. Information reporting will be required by terminal operators regarding this provision. Until the format of this information reporting is issued, taxpayers are required to retain records regarding the daily accounting, but are not required to report such information.

Terminal located within a secured area of an airport. The conference report to the Act provides an initial list of qualifying terminals and the airports at which they are located. The conference report also provides that this list is subject to the Secretary's verification. This notice adopts the list in the conference report except for the following airport terminals, which the Commissioner has determined are not located within a secure area of the airport they serve:

- San Jose Municipal Airport, T-77-CA-4650,
- John Wayne Airport/Orange County, T-33-CA-4772, and
- Eppley Airfield, T-47-NE-3608

This list refers to fueling operations regarding the federal excise tax on aviation-grade kerosene, and has nothing to do with the general security of airports either included or not included on the list.

Exceptions

The rate on aviation-grade kerosene is zero if it is removed from any refinery or terminal directly into the fuel tank of an aircraft for a nontaxable use and the position holder:

- Is a taxable fuel registrant,
- Has an unexpired certificate (see *Model Certificate K*) from the operator of the aircraft, and
- Has no reason to believe any of the information in the certificate is false.

The exemptions are listed under *Nontaxable uses of aviation-grade kerosene* below.

Certificate, Commercial Aviation and Nontaxable Uses

A certificate is required from the buyer of aviation-grade:

- To support aircraft operator liability for tax on removal of aviation-grade kerosene directly into the fuel tank of an aircraft in commercial aviation or
- For nontaxable uses (listed below).

Certificate. The certificate may be included as part of any business records normally used for a sale. See *Model Certificate K*.

A certificate expires on the earliest of the following dates.

- The date one year after the effective date (not earlier than the date signed) of the certificate.
- The date the buyer provides the seller a new certificate or notice that the current certificate is invalid.
- The date the IRS or the buyer notifies the seller that the buyer's right to provide a certificate has been withdrawn.

The buyer must provide a new certificate if any information on a certificate has changed.

The IRS may withdraw the buyer's right to provide a certificate if the buyer uses the aviation-grade kerosene to which a certificate relates other than as stated in the certificate

Nontaxable uses of aviation-grade kerosene.

- Use on a farm for farming purposes, as discussed earlier under *Diesel Fuel and Kerosene.*
- Use in foreign trade (reciprocal benefits required for foreign airlines).
- Use in certain helicopter and fixed-wing air ambulance uses.
- Exclusive use by a state, as defined earlier under *Definitions.*
- Exclusive use by a nonprofit educational organization, as discussed earlier under *Communications Tax.*
- Use in an aircraft or vehicle owned by an aircraft museum.
- Use in military aircraft.

Back-up Tax

Tax is imposed on aviation-grade kerosene:

1. Sold by any person to an owner, lessee, or operator of an aircraft for use in such aircraft or
2. Used by any in an aircraft unless there was a taxable sale of the aviation-grade kerosene under (1) above.

Generally, this back-up tax is imposed at a rate of $.219 per gallon. The back-up tax does not apply if the aviation-grade kerosene was taxed under section 4081 and that tax was not credited or refunded.

Aviation-grade kerosene used in a diesel-powered highway vehicle. Tax is imposed on the delivery of aviation-grade kerosene into the fuel supply tank of a diesel-powered highway vehicle on which a credit or refund (for aviation-grade kerosene used for a nontaxable purpose) has been allowed. This back-up tax is imposed at a rate of $.244 per gallon.

Credits or Refunds

A claim may be made by the ultimate purchaser for taxed aviation-grade kerosene used for a nontaxable use or for use in a commercial aviation. A claim may be made by a registered ultimate vendor for certain sales. For more information, see Publication 378.

Special Motor Fuels

Special motor fuel means any liquid fuel including liquefied petroleum gas, liquefied natural gas, benzol, benzene, and naptha. However, gasoline, diesel fuel, kerosene, gas oil, and fuel oil do not qualify as special motor fuel.

Qualified methanol and ethanol fuels. A special rate applies to these fuels. Qualified ethanol and methanol means any liquid at least 85 percent of which consists of alcohol produced from coal, including peat.

Partially exempt methanol and ethanol fuels. A special rate applies to these fuels. Partially exempt ethanol and methanol means any liquid at least 85 percent of which consists of alcohol produced from natural gas.

Motor vehicle. For the purpose of applying the tax on the delivery of special motor fuels, motor vehicles include all types of vehicles, whether or not registered (or required to be registered) for highway use, that have both the following characteristics.

- They are propelled by a motor.
- They are designed for carrying or towing loads from one place to another, regardless of the type of material or load carried or towed.

Motor vehicles do **not** include any vehicle that moves exclusively on rails, or any of the following items: farm tractors, trench diggers, power shovels, bulldozers, road graders, road rollers, and similar equipment that does not carry or tow a load.

Taxable Event

Tax is imposed on the delivery of special motor fuels into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat. However, there is no tax on the delivery if tax was imposed under the bulk sales rule, discussed later, or the delivery is for a nontaxable use, listed later. If the delivery is in connection with a sale, the seller is liable for the tax. If it is not in connection with a sale, the operator of the vehicle or boat is liable for the tax.

Liquefied petroleum gas (LPG). Tax is imposed on the delivery of LPG into the fuel supply tank of certain vehicles and must be reported on Form 720. A credit or refund may be allowable for taxed LPG used for certain nontaxable uses. See Pub. 378.

Bulk sales. Tax is imposed on the sale of special motor fuels that is not in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller stating the entire quantity of the fuel covered by the sale is for other than a nontaxable use, listed later. The seller is liable for this tax.

Tax rate. The special motor fuels tax rate depends on the type of fuel involved. The tax rate for LPG is shown on Form 720 (IRS No. 61). The tax rates for all other special motor fuels are shown in the Form 720 instructions for other fuels (IRS No. 79).

Nontaxable Uses

The following are nontaxable uses of special motor fuels.

- In an off-highway business use (discussed later).
- Use in a boat engaged in commercial fishing.
- Use on a farm for farming purposes, as discussed earlier under *Diesel Fuel and Kerosene.*
- Exclusive use by a state, as defined earlier under *Definitions*.
- By nonprofit educational organizations for their exclusive use, as discussed earlier under *Communications Tax.*
- Official use by the United Nations.
- Use in a vehicle owned by an aircraft museum.
- Use in any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation.

Off-highway business use. This is use in a highway vehicle that is not registered (or required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income. It also includes use in a vehicle owned by the United States that is not used on a highway.

Compressed Natural Gas

Taxable Event

Tax is imposed on the delivery of compressed natural gas (CNG) into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat. See Form 720 for the tax rate. However, there is no tax on the delivery if tax was imposed under the bulk sales rule discussed next, or the delivery is for a nontaxable use, listed later. If the delivery is in connection with a sale, the seller is liable for the tax. If it is not in connection with a sale, the operator of the boat or vehicle is liable for the tax.

Bulk sales. Tax is imposed on the sale of CNG that is not in connection with delivery into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if the buyer furnishes a written statement to the seller that the entire quantity of the CNG covered by the sale is for use as a fuel in a motor vehicle or motorboat and the seller has given the buyer a written acknowledgement of receipt of the statement. The seller of the CNG is liable for the tax.

Motor vehicle. For this purpose, motor vehicle has the same meaning as given under *Special Motor Fuels,* earlier.

Nontaxable Uses

The following are nontaxable uses of CNG.

- In an off-highway business use, as discussed earlier under *Special Motor Fuels*.
- Use in a boat engaged in commercial fishing.
- Use in a school bus or qualified local bus, as discussed earlier under *Diesel Fuel and Kerosene.*
- Use on a farm for farming purposes, as discussed earlier under *Diesel Fuel and Kerosene.*
- Exclusive use by a state, as defined earlier under *Definitions*.
- By nonprofit educational organizations for their exclusive use, as discussed earlier under *Communications Tax.*
- Official use by the United Nations.
- Use in a vehicle owned by an aircraft museum.
- Use in any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation.

There is no tax on a delivery in connection with a sale of CNG only if, by the time of sale, the seller meets both the following conditions.

- The seller has an unexpired certificate from the buyer.
- The seller has no reason to believe any information in the certificate is false.

Certificate. The certificate from the buyer certifies the CNG will be used in a nontaxable use (listed earlier). The certificate may be included as part of any business records normally used for a sale. A model certificate is shown in *Appendix A* as *Model Certificate J*. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates.

- The date 1 year after the effective date (which may be no earlier than the date signed) of the certificate.
- The date a new certificate is provided to the seller.
- The date the seller is notified the buyer's right to provide a certificate has been withdrawn.

Fuels Used on Inland Waterways

Tax applies to liquid fuel used in the propulsion system of commercial transportation vessels while traveling on certain inland and intracoastal waterways. The tax generally applies to all types of vessels, including ships, barges, and tugboats.

Inland and intracoastal waterways. Inland and intracoastal waterways on which fuel consumption is subject to tax are specified in section 206 of the Inland Waterways Revenue Act of 1978, as amended. See section 48.4042-1(g) of the regulations for a list of these waterways.

Commercial waterway transportation. Commercial waterway transportation is the use of a vessel on inland or intracoastal waterways for either of the following purposes.

- The use is in the business of transporting property for compensation or hire.
- The use is in transporting property in the business of the owner, lessee, or operator of the vessel, whether or not a fee is charged.

The operation of all vessels meeting either of these requirements is commercial waterway transportation regardless of whether the vessel is actually transporting property on a particular voyage. (However, see *Exemptions*, later.) The tax is imposed on fuel consumed in vessels while engaged in any of the following activities.

- Moving without cargo.
- Awaiting passage through locks.
- Moving to or from a repair facility.
- Dislodging vessels grounded on a sand bar.
- Fleeting barges into a single tow.
- Maneuvering around loading and unloading docks.

Liquid fuel. Liquid fuel includes diesel fuel, Bunker C residual fuel oil, special motor fuel, and gasoline. The tax is imposed on liquid fuel actually consumed by a vessel's propulsion engine and not on the unconsumed fuel in a vessel's tank.

Dual use of liquid fuels. The tax applies to all taxable liquid used as a fuel in the propulsion of the vessel, regardless of whether the engine (or other propulsion system) is used for another purpose. The tax applies to all liquid fuel consumed by the propulsion engine even if it operates special equipment by means of a power take-off or power transfer. For example, the fuel used in the engine both to operate an alternator, generator, or pumps and to propel the vessel is taxable.

The tax does not apply to fuel consumed in engines not used to propel the vessel.

If you draw liquid fuel from the same tank to operate both a propulsion engine and a nonpropulsion engine, determine the fuel used in the nonpropulsion engine and exclude that fuel from the tax. IRS will accept a reasonable estimate of the fuel based on your operating experience, but you must keep records to support your allocation.

Voyages crossing boundaries of the specified waterways. The tax applies to fuel consumed by a vessel crossing the boundaries of the specified waterways only to the extent of fuel consumed for propulsion while on those waterways. Generally, the operator may figure the fuel so used during a particular voyage by multiplying total fuel consumed in the propulsion engine by a fraction. The numerator of the fraction is the time spent operating on the specified waterways and the denominator is the total time spent on the voyage. This calculation cannot be used where it is found to be unreasonable.

Taxable event. Tax is imposed on liquid fuel used in the propulsion system of a vessel. See Form 720 for the tax rate.

The person who operates (or whose employees operate) the vessel in which the fuel is consumed is liable for the tax. If a vessel owner (or lessee) contracts with an independent contractor to operate the vessel, the independent contractor is the person liable for tax, regardless of who purchases the fuel. The tax is paid with Form 720. No tax deposits are required.

Exemptions. Certain types of commercial waterway transportation are excluded from the tax.

Fishing vessels. Fuel is not taxable when used by a fishing vessel while traveling to a fishing site, while engaged in fishing, or while returning from the fishing site with its catch. A vessel is not transporting property in the business of the owner, lessee, or operator by merely transporting fish or other aquatic animal life caught on the voyage.

However, the tax does apply to fuel used by a commercial vessel along the specified waterways while traveling to pick up aquatic animal life caught by another vessel and while transporting the catch of that other vessel.

Deep-draft ocean-going vessels. Fuel is not taxable when used by a vessel designed primarily for use on the high seas if it has a draft of more than 12 feet on the voyage. For each voyage, figure the draft when the vessel has its greatest load of cargo and fuel. A voyage is a round trip. If a vessel has a draft of more than 12 feet on at least one way of the voyage, the vessel satisfies the 12-foot draft requirement for the entire voyage.

Passenger vessels. Fuel is not taxable when used by vessels primarily for the transportation of persons. The tax does not apply to fuel used in commercial passenger vessels while being operated as passenger vessels, even if such vessels also transport property. Nor does it apply to ferryboats carrying passengers and their cars.

Ocean-going barges. Fuel is not taxable when used in tugs to move LASH and SEABEE ocean-going barges released by their ocean-going carriers solely to pick up or deliver international cargoes.

However, it is taxable when any of the following conditions apply.

- One or more of the barges in the tow is not a LASH barge, SEABEE barge, or other ocean-going barge carried aboard an ocean-going vessel.
- One or more of the barges is not on an international voyage.
- Part of the cargo carried is not being transported internationally.

State or local governments. No tax is imposed on the fuel used in a vessel operated by a state or local government in transporting property on official business. The ultimate use of the cargo must be for a function ordinarily carried out by governmental units. An Indian tribal government is treated as a state only if the fuel is used in the exercise of an essential tribal government function.

All operators of vessels used in commercial waterway transportation who acquire liquid fuel must keep adequate records of all fuel used for taxable purposes. Operators who are seeking an exclusion from the tax must keep records that will support any exclusion claimed.

Your records should include all of the following information.

- The acquisition date and quantity of fuel delivered into storage tanks or the tanks on your vessel.
- The identification number or name of each vessel using the fuel.
- The departure time, departure point, route traveled, destination, and arrival time for each vessel.

If you claim an exemption from the tax, include in your records the following additional information as it pertains to you.

- The draft of the vessel on each voyage.
- The type of vessel in which you used the fuel.
- The ultimate use of the cargo (for vessels operated by state or local governments).

Alcohol Sold as Fuel But Not Used as Fuel

If you sell or use alcohol (either mixed or straight) as a fuel, you may be eligible for an income tax credit. Use Form 6478 to figure the credit. For more information about this credit, see Pub. 378.

If the credit was claimed (either as an excise tax credit or income tax credit) or a refund was claimed, you are liable for an excise tax if you did any of the following: used the mixture or straight alcohol other than as a fuel, separated the alcohol from a mixture, or mixed the straight alcohol.

Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

Biodiesel Sold as Fuel But Not Used as Fuel

If you sell or use biodiesel (either mixed or straight) as a fuel, you may be eligible for an income tax credit. Use Form 8864 to figure the credit. For more information about this credit, see Pub. 378.

If the credit was claimed (either as an excise tax credit or income tax credit) or a refund was claimed, you are liable for an excise tax if you did any of the following: used the mixture or straight biodiesel other than as a fuel, separated the biodiesel from a mixture, or mixed the straight biodiesel.

Report the tax on Form 720. The rate of tax depends on the applicable rate used to figure the credit. No deposits are required.

Manufacturers Taxes

The following discussion of manufacturers taxes applies to the tax on the following items.

- Sport fishing equipment.
- Bows, quivers, broadheads, and points.
- Arrow components, effective before April 1, 2005.
- Arrow shafts, effective after March 31, 2005.
- Coal.
- Taxable tires.
- Gas guzzler automobiles.
- Vaccines.

Manufacturer. The term "manufacturer" includes a producer or importer. A manufacturer is any person who produces a taxable article from new or raw material, or from scrap, salvage, or junk material, by processing or changing the form of an article or by combining or assembling two or more articles. If you furnish the materials and keep title to those materials and to the finished article, you are considered the manufacturer even though another person actually manufactures the taxable article.

A manufacturer who sells a taxable article in knockdown (unassembled) condition is liable for the tax. The person who buys these component parts and assembles a taxable article may also be liable for tax as a further manufacturer depending on the labor, material, and overhead required to assemble the completed article if the article is assembled for business use.

Importer. An importer is a person who brings a taxable article into the United States, or withdraws a taxable article from a customs bonded warehouse for sale or use in the United States.

Sale. A sale is the transfer of the title to, or the substantial incidents of ownership in, an article to a buyer for consideration which may consist of money, services, or other things.

Use considered sale. A manufacturer who uses a taxable article is liable for the tax in the same manner as if it were sold.

Lease considered sale. The lease of an article (including any renewal or extension of the lease) by the manufacturer is generally considered a taxable sale. However, for the gas guzzler tax, only the first lease (excluding any renewal or extension) of the automobile by the manufacturer is considered a sale.

Manufacturers taxes based on sales price. The manufacturers taxes imposed on the sale of sport fishing equipment, electric outboard motors, and bows are based on the sale price of the article. The taxes imposed on coal are based either on the sale price or the weight.

The price for which an article is sold includes the total consideration paid for the article, whether that consideration is in the form of money, services, or other things. However, you include certain charges made when a taxable article is sold and you exclude others. To figure the price on which you base the tax, use the following rules.

1. **Include** both the following charges in the price.
   a. Any charge for coverings or containers (regardless of their nature).
   b. Any charge incident to placing the article in a condition packed ready for shipment.
2. **Exclude** all the following amounts from the price.
   a. The manufacturers excise tax, whether or not it is stated as a separate charge.
   b. The transportation charges pursuant to the sale. (The cost of transportation of goods to a warehouse before their bona fide sale is not excludable.)
   c. Delivery, insurance, installation, retail dealer preparation charges, and other charges you incur in placing the article in the hands of the purchaser under a bona fide sale.
   d. Discounts, rebates, and similar allowances actually granted to the purchaser.
   e. Local advertising charges. A charge made separately when the article is sold and that qualifies as a charge for "local advertising" may, within certain limits, be excluded from the sale price.
   f. Charges for warranty paid at the purchaser's option. However, a charge for a warranty of an article that the manufacturer requires the purchaser to pay to obtain the article is included in the sale price on which the tax is figured.

Bonus goods. Allocate the sale price if you give free nontaxable goods with the purchase of taxable merchandise. Figure the tax only on the sale price attributable to the taxable articles.

Example. A manufacturer sells a quantity of taxable articles and gives the purchaser certain nontaxable articles as a bonus. The sale price of the shipment is $1,500. The normal sale price is $2,000: $1,500 for the taxable articles and $500 for the nontaxable articles. Since the taxable items represent 75% of the normal sale price, the tax is based on 75% of the actual sale price, or $1,125 (75% of $1,500). The remaining $375 is allocated to the nontaxable articles.

Taxable Event

Tax attaches when the title to the article sold passes from the manufacturer to the buyer. When the title passes depends on the intention of the parties as gathered from the contract of sale. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale occurs determine when title passes.

If the taxable article is used by the manufacturer, the tax attaches at the time use begins.

The manufacturer is liable for the tax.

Partial payments. The tax applies to each partial payment received when taxable articles are:

- Leased,
- Sold conditionally,
- Sold on installment with chattel mortgage, or
- Sold on installment with title to pass in the future.

To figure the tax, multiply the partial payment by the tax rate in effect at the time of the payment.

Exemptions

The following sales by the manufacturer are exempt from the manufacturers tax.

- Sale of an article to a state or local government for the exclusive use of the state or local government. (This exemption does not apply to the taxes on coal, gas guzzlers, and vaccines.) State is defined in *Definitions* under *Fuel Taxes*, earlier.
- Sale of an article to a nonprofit educational organization for its exclusive use. (This exemption does not apply to the taxes on coal, gas guzzlers, and vaccines.) Nonprofit educational organization is defined under *Communications Tax*.
- Sale of an article for use by the purchaser as supplies for vessels. (This exemption does not apply to the taxes on coal and vaccines.) Supplies for vessels means ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or any foreign nation, vessels employed in the fisheries or whaling business, or vessels actually engaged in foreign trade.
- Sale of an article for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by the second purchaser for further manufacture. (This exemption does not apply to the tax on coal.) Use for further manufacture means use in the manufacture or production of an article subject to the manufacturers excise taxes. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and sold them.
- Sale of an article for export or for resale by the purchaser to a second purchaser for export. The article may be exported to a foreign country or to a possession of the United States. (A vaccine shipped to a possession of the United States is not considered to be exported.) If an article is sold tax free for export and the manufacturer does not receive proof of export, described later, the manufacturer is liable for the tax.
- Sales of articles of native Indian handicraft, such as bows and arrow shafts, manufactured by Indians on reservations, in Indian schools, or under U.S. jurisdiction in Alaska.

Requirements for Exempt Sales

The following requirements must be met for a sale to be exempt from the manufacturers tax.

Registration requirements. The manufacturer, first purchaser, and second purchaser in the case of resales must be registered. See the Form 637 instructions for more information.

Exceptions to registration requirements. Registration is not required for any of the following.

- State or local governments.
- Foreign purchasers of articles sold or resold for export.
- The United States.
- Parties to a sale of supplies for vessels and aircraft.

Certification requirement. If the purchaser is required to be registered, the purchaser must give the manufacturer its registration number and certify the exempt purpose for which the article will be used. The information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with the sale.

For a sale to a state or local government, an exemption certificate must be signed by an officer or employee authorized by the state or local government. See section 48.4221-5(c) of the regulations for the certificate requirements.

For sales for use as supplies for vessels and aircraft, if the manufacturer and purchaser are not registered, the owner or agent of the vessel must provide an exemption certificate to the manufacturer before or at the time of sale. See section 48.4221-4(d) of the regulations for the certificate requirements.

Proof of export requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof of exportation. See section 48.4221-3(d) of the regulations for evidence that qualifies as proof of exportation.

Proof of resale for further manufacture requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof that the article has been resold for use in further manufacture. See section 48.4221-2(c) of the regulations for evidence that qualifies as proof of resale.

Information to be furnished to purchaser. The manufacturer must indicate to the purchaser that the articles normally would be subject to tax and are being sold tax free for an exempt purpose because the purchaser has provided the required certificate.

Credits or Refunds

The manufacturer may be eligible to obtain a credit or refund of the manufacturers tax for certain uses, sales, exports, and price readjustments. The claim must set forth in detail the facts upon which the claim is based.

Uses, sales, and exports. A credit or refund (without interest) of the manufacturers taxes may be allowable if a tax-paid article is, by any person:

- Exported,
- Used or sold for use as supplies for vessels (except for coal and vaccines),
- Sold to a state or local government for its exclusive use (except for coal, gas guzzlers, and vaccines),
- Sold to a nonprofit educational organization for its exclusive use (except for coal, gas guzzlers, and vaccines), or
- Used for further manufacture of another article subject to the manufacturers taxes (except for coal).

Export. If a tax-paid article is exported, the exporter or shipper may claim a credit or refund if the manufacturer waives its right to claim the credit or refund. In the case of a tax-paid article used to make another taxable article, the subsequent manufacturer may claim the credit or refund.

Price readjustments. In addition, a credit or refund (without interest) may be allowable for a tax-paid article for which the price is readjusted by reason of return or repossession of the article or a bona fide discount, rebate, or allowance for taxes based on price.

Conditions to allowance. To claim a credit or refund in the case of export, supplies for vessels, or sales to a state or local government or nonprofit educational organization, the person who paid the tax must certify on the claim that one of the following applies and that the claimant has the required supporting information.

- The claimant sold the article at a tax-excluded price.
- The person has repaid, or agreed to repay, the tax to the ultimate vendor of the article.
- The person has obtained the written consent of the ultimate vendor to make the claim.

The ultimate vendor generally is the seller making the sale that gives rise to the overpayment of tax.

Claim for further manufacture. To claim a credit or refund for further manufacture, the claimant must include a statement that contains the following.

- The name and address of the manufacturer and the date of payment.
- An identification of the article for which the credit or refund is claimed.
- The amount of tax paid on the article and the date on which it was paid.
- Information indicating that the article was used as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the manufacturer, or was sold on or in connection with, or with the sale of a second article manufactured or produced by the manufacturer.
- An identification of the second article.

For claims by the exporter or shipper, the claim must contain the proof of export and a statement signed by the person that paid the tax waiving the right to claim a credit or refund. The statement must include the amount of tax paid, the date of payment, and the office to which it was paid.

Claim for price readjustment. To claim a credit or refund for a price readjustment, the person who paid the tax must include with the claim, a statement that contains the following.

- A description of the circumstances that gave rise to the price readjustment.
- An identification of the article whose price was readjusted.
- The price at which the article was sold.
- The amount of tax paid on the article and the date on which it was paid.
- The name and address of the purchaser.
- The amount repaid to the purchaser or credited to the purchaser's account.

Sport Fishing Equipment

The tax on sonar devices suitable for finding fish has been repealed, effective after December 31, 2004. The tax on fishing tackle boxes is now 3%, effective beginning January 1, 2005.

A tax of 10% of the sale price is imposed on many articles of sport fishing equipment sold by the manufacturer. This includes any parts or accessories sold on or in connection with the sale of those articles.

Pay this tax with Form 720. No tax deposits are required.

Sport fishing equipment includes all the following items.

1. Fishing rods and poles (and component parts), fishing reels, fly fishing lines, and other fishing lines not over 130 pounds test, fishing spears, spear guns, and spear tips.
2. Items of terminal tackle, including leaders, artificial lures, artificial baits, artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels (but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in (1)).
3. The following items of fishing supplies and accessories: fish stringers, creels, bags, baskets, and other containers designed to hold fish, portable bait containers, fishing vests, landing nets, gaff hooks, fishing hook disgorgers, and dressing for fishing lines and artificial flies.
4. Fishing tip-ups and tilts.
5. Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers.

See Revenue Ruling 88-52 in Cumulative Bulletin 1988-1 for a more complete description of the items of taxable equipment.

Fishing tackle boxes. The tax on fishing tackle boxes is 3% of the sales price. The tax is paid by the manufacturer, producer, or importer.

Electric outboard boat motors. A tax of 3% of the sale price is imposed on the sale by the manufacturer of electric outboard motors. This includes any parts or accessories sold on or in connection with the sale of those articles.

Certain equipment resale. The tax on the sale of sport fishing equipment is imposed a second time under the following circumstances. If the manufacturer sells a taxable article to any person, the manufacturer is liable for the tax. If the purchaser or any other person then sells it to a person who is related (discussed next) to the manufacturer, that related person is liable for a second tax on any subsequent sale of the article. The second tax, however, is not imposed if the constructive sale price rules under section 4216(b) of the Internal Revenue Code apply to the sale by the manufacturer.

If the second tax is imposed, a credit for tax previously paid by the manufacturer is available provided the related person can document the tax paid. The documentation requirement is generally satisfied only through submission of copies of actual records of the person that previously paid the tax.

Related person. For the tax on sport fishing equipment, a person is a related person of the manufacturer if that person and the manufacturer have a relationship described in section 465(b)(3)(C) of the Internal Revenue Code.

Bows, Quivers, Broadheads, and Points

The tax on bows has been revised to include quivers, broadheads, and points. Points are included with the tax on bows effective after March 31, 2005.

The tax on bows is 11% (.11) of the sales price. The tax is paid by the manufacturer, producer, or importer. It applies to bows having a peak draw weight of 30 pounds or more. The tax is also imposed on the sale of any part or accessory suitable for inclusion in or attachment to a taxable bow and any quiver, broadhead, or point suitable for use with arrows described below.

Pay this tax with Form 720. No tax deposit is required.

Arrow Shafts

The tax on arrow components has been repealed, replaced by a tax on arrow shafts, effective after March 31, 2005.

The tax on arrow shafts is $.39 per arrow shaft. The tax is paid by the manufacturer, producer, or importer of any arrow shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly meets either of the following conditions.

- It measures 18 inches or more in overall length.
- It measures less than 18 inches in overall length but is suitable for use with a taxable bow, described earlier.

The arrow shaft tax is effective for sales after March 31, 2005. See the January 2005 revision of Form 720 for the arrow component tax that was in effect prior to April 1, 2005. Pay this tax with Form 720. No tax deposit is required.

The tax on arrow shafts is subject to an annual inflation adjustment for any calendar year beginning after 2005.

Coal

A tax is imposed on the first sale of coal mined in the United States. The producer of the coal is liable for the tax. The **producer** is the person who has vested ownership of the coal under state law immediately after the coal is severed from the ground. Determine vested ownership without regard to any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. A producer includes any person who extracts coal from coal waste refuse piles (or from the silt waste product that results from the wet washing of coal).

The tax is not imposed on coal extracted from a riverbed by dredging if it can be shown that the coal has been taxed previously.

Tax rates. The tax on underground-mined coal is the lower of:

- $1.10 a ton, or
- 4.4% of the sale price.

The tax on surface-mined coal is the lower of:

- 55 cents a ton, or
- 4.4% of the sale price.

Coal will be taxed at the 4.4% rate if the selling price is less than $25 a ton for underground-mined coal and less than $12.50 a ton for surface-mined coal. Apply the tax proportionately if a sale or use includes a portion of a ton.

Example. If you sell 21,000 pounds (10.5 tons) of coal from an underground mine for $525, the price per ton is $50. The tax is $1.10 × 10.5 tons ($11.55).

Coal production. Coal is produced from surface mines if all geological matter (trees, earth, rock) above the coal is removed before the coal is mined. Treat coal removed by auger and coal reclaimed from coal waste refuse piles as produced from a surface mine.

Treat coal as produced from an underground mine when the coal is not produced from a surface mine. In some cases, a single mine may yield coal from both surface mining and underground mining. Determine if the coal is from a surface mine or an underground mine for each ton of coal produced and not on a mine-by-mine basis.

Determining tonnage or selling price. The producer pays the tax on coal at the time of sale or use. In figuring the selling price for applying the tax, the point of sale is f.o.b. (free on board) mine or f.o.b. cleaning plant if you clean the coal before selling it. This applies even if you sell the coal for a delivered price. The f.o.b. mine or f.o.b. cleaning plant is the point at which you figure the number of tons sold for applying the applicable tonnage rate, and the point at which you figure the sale price for applying the 4.4% rate.

The tax applies to the full amount of coal sold. However, the IRS allows a calculated reduction of the taxable weight of the coal for the weight of the moisture in excess of the coal's inherent moisture content. Include in the sale price any additional charge for a freeze-conditioning additive in figuring the tax.

Do not include in the sales price the excise tax imposed on coal.

Coal used by the producer. The tax on coal applies if the coal is used by the producer in other than a mining process. A mining process means the same for this purpose as for percentage depletion. For example, the tax does not apply if, before selling the coal, you break it, clean it, size it, or apply any other process considered mining under the rules for depletion. In this case, the tax applies only when you sell the coal. The tax does not apply to coal used as fuel in the coal drying process since it is considered to be used in a mining process. However, the tax does apply when you use the coal as fuel or as an ingredient in making coke since the coal is not used in a mining process.

You must use a constructive sale price to figure the tax under the 4.4% rate if you use the coal in other than a mining process. Base your constructive sale price on sales of a like kind and grade of coal by you or other producers made f.o.b. mine or cleaning plant. Normally, you use the same constructive price used to figure your percentage depletion deduction.

Blending. If you blend surface-mined coal with underground-mined coal during the cleaning process, you must figure the excise tax on the sale of the blended, cleaned coal. Figure the tax separately for each type of coal in the blend. Base the tax on the amount of each type in the blend if you can determine the proportion of each type of coal contained in the final blend. Base the tax on the ratio of each type originally put into the cleaning process if you cannot determine the proportion of each type of coal in the blend. However, the tax is limited to 4.4% of the sale price per ton of the blended coal.

Exemption from tax. The tax does not apply to sales of lignite and imported coal. The only other exemption from the tax on the sale of coal is for coal exported as discussed next.

Exported. The tax does not apply to the sale of coal if the coal is in the stream of export when sold by the producer and the coal is actually exported.

Coal is in the stream of export when sold by the producer if the sale is a step in the exportation of the coal to its ultimate destination in a foreign country. For example, coal is in the stream of export when:

1. The coal is loaded on an export vessel and title is transferred from the producer to a foreign purchaser, or
2. The producer sells the coal to an export broker in the United States under terms of a contract showing that the coal is to be shipped to a foreign country.

Proof of export includes any of the following items.

- A copy of the export bill of lading issued by the delivering carrier.

- A certificate signed by the export carrier's agent or representative showing actual exportation of the coal.
- A certificate of landing signed by a customs officer of the foreign country to which the coal is exported.
- If the foreign country does not have a customs administrator, a statement of the foreign consignee showing receipt of the coal.

Taxable Tires

Highway-type tires is renamed taxable tires and the computation of the tax has changed.

A tax is imposed on taxable tires sold by the manufacturer, producer, or importer at the rate of $.0945 ($.04725 in the case of a biasply tire or super single tire) for each 10 pounds of the maximum rated load capacity over 3,500 pounds.

A **taxable tire** is any tire of the type used on highway vehicles if wholly or partially made of rubber and if marked according to federal regulations for highway use. A biasply tire is a pneumatic tire on which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread. A super single tire is a tire greater than 13 inches in cross section width designed to replace 2 tires in a dual fitment.

Special rule, manufacturer's retail stores. The excise tax on taxable tires is imposed at the time the taxable tires are delivered to the manufacturer-owned retail stores, not at the time of sale.

Tires on imported articles. The importer of an article equipped with taxable tires is treated as the manufacturer of the tires and is liable for the taxable tire excise tax when the article is sold (except in the case of an automobile bus chassis or body with tires).

Tires exempt from tax. The tax on taxable tires does not apply to the following items.

- Recapped or retreaded tires if the tires have been sold previously in the United States and were taxable tires at the time of sale.
- Tire carcasses not suitable for commercial use.
- Tires for use on qualifying intercity, local, and school buses. For tax-free treatment, the registration requirements discussed earlier under *Requirements for Exempt Sales* apply.
- Tires sold for the exclusive use of the Department of Defense or the Coast Guard.
- Tires of a type used exclusively on mobile machinery. The effective date is for tires sold after October 22, 2004. See *Vehicles not considered highway vehicles* on page 25 for the definition of mobile machinery.

Qualifying intercity or local bus. This is any bus used mainly (more than 50%) to transport the general public for a fee and that either operates on a schedule along regular routes or seats at least 20 adults (excluding the driver).

Qualifying school bus. This is any bus substantially all the use (85% or more) of which is to transport students and employees of schools.

Credit or refund. A credit or refund (without interest) is allowable on tax-paid tires if the tires have been:

- Exported,
- Sold to a state or local government for its exclusive use,
- Sold to a nonprofit educational organization for its exclusive use, as discussed earlier under *Communications Tax*,
- Used or sold for use as supplies for vessels, or
- Sold in connection with certain intercity, local, or school buses.

Also, a credit or refund (without interest) is allowable on tax-paid tires sold by any person on, or in connection with, any other article that is sold or used in an activity listed above or with a bus chassis or body.

The person who paid the tax is eligible to make the claim.

Gas Guzzler Tax

Tax is imposed on the sale by the manufacturer of automobiles of a model type that has a fuel economy standard as measured by the Environmental Protection Agency (EPA) of less than 22.5 miles per gallon. If you import an automobile for personal use, you may be liable for this tax. Figure the tax on Form 6197, as discussed later. The tax rate is based on fuel economy rating. The tax rates for the gas guzzler tax are shown on Form 6197.

A person that lengthens an existing automobile (for example, to make a stretch limousine) is the manufacturer of an automobile.

Automobiles. An automobile is any four-wheeled vehicle that is:

- Rated at an unloaded gross vehicle weight of 6,000 pounds or less,
- Propelled by an engine powered by gasoline or diesel fuel, and
- Intended for use mainly on public streets, roads, and highways.

Limousines. The tax generally applies to limousines (including stretch limousines) regardless of their weight.

Vehicles not subject to tax. For the gas guzzler tax, the following vehicles are not considered automobiles.

1. Vehicles operated exclusively on a rail or rails.
2. Vehicles sold for use and used primarily:
   a. As ambulances or combination ambulance-hearses,
   b. For police or other law enforcement purposes by federal, state, or local governments, or
   c. For firefighting purposes.
3. Vehicles treated under 49 USC 32901 (1978) as non-passenger automobiles. This includes limousines manufactured primarily to transport more than 10 persons.

The manufacturer can sell a vehicle described in item (2) tax free only when the sale is made directly to a purchaser for the described emergency use and the manufacturer and purchaser (other than a state or local government) are registered.

Treat an Indian tribal government as a state only if the police or other law enforcement purposes are an essential tribal government function.

Model type. Model type is a particular class of automobile as determined by EPA regulations.

Fuel economy. Fuel economy is the average number of miles an automobile travels on a gallon of gasoline (or diesel fuel) rounded to the nearest 0.1 mile as figured by the EPA.

Imported automobiles. The tax also applies to automobiles that do not have a prototype-based fuel economy rating assigned by the EPA. An automobile imported into the United States without a certificate of conformity to United States emission standards and which has no assigned fuel economy rating must be either:

- Converted by installation of emission controls to conform in all material respects to an automobile already certified for sale in the United States, or
- Modified by installation of emission control components and individually tested to demonstrate emission compliance.

An imported automobile that has been converted to conform to an automobile already certified for sale in the United States may use the fuel economy rating assigned to that certified automobile.

A fuel economy rating is not generally available for modified imported automobiles because the EPA does not require a highway fuel economy test on them. A separate highway fuel economy test would be required to devise a fuel economy rating (otherwise the automobile is presumed to fall within the lowest fuel economy rating category).

For more information about fuel economy ratings for imported automobiles, see Revenue Ruling 86-20 and Revenue Procedure 86-9 in Cumulative Bulletin 1986-1, and Revenue Procedure 87-10 in Cumulative Bulletin 1987-1.

Exemptions. No one is exempt from the gas guzzler tax, including the federal government, state and local governments, and nonprofit educational organizations. However, see *Vehicles not subject to tax,* earlier.

Form 6197. Use Form 6197 to figure your tax liability for each quarter. Attach Form 6197 to your Form 720 for the quarter. See the instructions for Form 6197 for more information and the one-time filing rules.

Credit or refund. If the manufacturer paid the tax on a vehicle that is used or resold for an emergency use (see item (2) under *Vehicles not subject to tax*), the manufacturer can claim a

credit or refund. For information about how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

Vaccines

Influenza has been added to the list of taxable vaccines. The effective date is for sales or uses after June 30, 2005. For sales made on or before July 1, 2005, and delivered after July 1, 2005, the delivery date is considered the sale date.

Hepatitis A has been added to the list of taxable vaccines. The effective date is for sales or uses after November 30, 2004. For sales made on or before December 1, 2004, and delivered after December 1, 2004, the delivery date is considered the sale date.

Tax is imposed on certain vaccines sold by the manufacturer in the United States. A taxable vaccine means any of the following vaccines.

- Any vaccine containing diphtheria toxoid.
- Any vaccine containing tetanus toxoid.
- Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.
- Any vaccine containing polio virus.
- Any vaccine against measles.
- Any vaccine against mumps.
- Any vaccine against rubella.
- Any vaccine against hepatitis A (effective after November 30, 2004).
- Any vaccine against hepatitis B.
- Any vaccine against chicken pox.
- Any vaccine against rotavirus gastroenteritis.
- Any conjugate vaccine against streptococcus pneumoniae.
- Any HIB vaccine.
- Any trivalent vaccine against influenza (effective after June 30, 2005).

The tax is 75 cents per dose of each taxable vaccine. The tax per dose on a vaccine that contains more than one taxable vaccine is 75 cents times the number of taxable vaccines.

Taxable use. Any manufacturer (including a governmental entity) that uses a taxable vaccine before it is sold will be liable for the tax in the same manner as if the vaccine was sold by the manufacturer.

Credit or refund. A credit or refund (without interest) is available if the vaccine is:

- Returned to the person who paid the tax (other than for resale), or
- Destroyed.

The claim for a credit or refund must be filed within 6 months after the vaccine is returned or destroyed.

Conditions to allowance. To claim a credit or refund, the person who paid the tax must have repaid or agreed to repay the tax to the ultimate purchaser of the vaccine or obtained the consent of such purchaser to allowance of the credit or refund.

Retail Tax on Heavy Trucks, Trailers, and Tractors

Four classifications of truck body types have been designated as meeting the suitable for use standard and will be excluded from the retail tax. See Gross vehicle weight below.

A tax of 12% of the sales price is imposed on the first retail sale of the following articles, including related parts and accessories sold on or in connection with, or with the sale of, the articles.

- Truck chassis and bodies.
- Truck trailer and semitrailer chassis and bodies.
- Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A truck is a highway vehicle primarily designed to transport its load on the same chassis as the engine, even if it is equipped to tow a vehicle, such as a trailer or semitrailer.

A tractor is a highway vehicle primarily designed to tow a vehicle, such as a trailer or semitrailer, but does not carry cargo on the same chassis as the engine.

A sale of a truck, truck trailer, or semitrailer is considered a sale of a chassis and a body.

The seller is liable for the tax.

Chassis or body. A chassis or body is taxable only if you sell it for use as a component part of a highway vehicle that is a truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles are not considered highway vehicles for purposes of the retail tax.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle is not a highway vehicle if all the following apply.
   a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.
   b. The chassis has been specially designed to serve only as a mobile carriage and mount for the machinery or equipment, whether or not the machinery or equipment is in operation.
   c. The chassis could not, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
2. **Vehicles specially designed for off-highway transportation.** A vehicle is not treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicles's capability to transport a load over a public highway is substantially limited or impaired.
   To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It does not matter that the vehicle can carry heavier loads off highway than it is allowed to carry over the highway.
3. **Nontransportation trailers and semitrailers.** A trailer or semi-trailer is not treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for carrying on a nontransportation function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation is not a highway vehicle.

Gross vehicle weight. The tax does not apply to truck chassis and bodies suitable for use with a vehicle that has a gross vehicle weight of 33,000 pounds or less. It also does not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. Tractors (and truck chassis completed as tractors) are subject to tax without regard to gross vehicle weight.

The following four classifications of truck body types meet the **suitable for use standard** and will be excluded from the retail excise tax.

- Platform truck bodies 21 feet or less in length.
- Dry freight and refrigerated truck van bodies 24 feet or less in length.
- Dump truck bodies with load capacities of eight cubic yards or less.
- Refuse packer truck bodies with load capacities of 20 cubic yards or less.

These four classifications are effective for sales on or after April 4, 2005. For more information, see Rev. Proc. 2005-19, which is on page 832 of Internal Revenue Bulletin 2005-14 at *www.irs.gov/pub/irs-irbs/irb05-14.pdf*.

The gross vehicle weight means the maximum total weight of a loaded vehicle. Generally, this maximum total weight is the gross vehicle weight rating provided by the manufacturer or determined by the seller of the completed article. The seller's gross vehicle weight rating is determined solely on the basis of the strength of the chassis frame and the axle capacity and placement. The seller may not take into account any readily attachable components (such as tires or rim assemblies) in determining the gross vehicle weight. See Regulations section 145.4051-1(e)(3) for more information.

Parts or accessories. The tax applies to parts or accessories sold on or in connection with, or with the sale of, a taxable article. For example, if at the time of the sale by the retailer, the part or accessory has been ordered from the retailer, the part or accessory will be considered as sold in connection with the sale of the vehicle. The tax applies in this case whether or not the retailer bills the parts or accessories separately.

If the retailer sells a taxable chassis, body, or tractor without parts or accessories considered essential for the operation or appearance of the taxable article, the sale of the parts or accessories by the retailer to the purchaser is considered made in connection with the sale of the taxable article even though they are shipped separately, at the same time, or on a different date. The tax applies unless there is evidence to the contrary. For example, if a retailer sells to any person a chassis and the bumpers for the chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to the parts or accessories regardless of the method of billing or the time at which the shipments were made. The tax does not apply to parts and accessories that are spares or replacements.

Separate purchase. The tax generally applies to the price of a part or accessory and its installation if the following conditions are met.

- The owner, lessee, or operator of any vehicle that contains a taxable article installs any part or accessory on the vehicle.
- The installation occurs within 6 months after the vehicle is first placed in service.

The owners of the trade or business installing the parts or accessories are secondarily liable for the tax.

A vehicle is placed in service on the date the owner takes actual possession of the vehicle. This date is established by a signed delivery ticket or other comparable document indicating delivery to and acceptance by the owner.

The tax does not apply if the installed part or accessory is a replacement part or accessory. The tax also does not apply if the total price of the parts and accessories, including installation charges, during the 6-month period is **$1,000 or less.** However, if the total price is **more than $1,000,** the tax applies to the cost of all parts and accessories (and installation charges) during that period.

Example. You bought a taxable vehicle and placed it in service on April 8. On May 3, you bought and installed parts and accessories at a cost of $850. On July 15, you bought and installed parts and accessories for $300. Tax of $138 (12% of $1,150) applies on July 15. Also, tax will apply to any costs of additional parts and accessories installed on the vehicle before October 8.

First retail sale defined. The sale of an article is treated as the first retail sale, and the seller will be liable for the tax imposed on the sale unless one of the following exceptions applies.

- There has been a prior taxable sale, lease, or use of the article (however, see *Tax on resale of tax-paid trailers and semitrailers*, later).
- The sale qualifies as a tax-free sale under section 4221 of the Internal Revenue Code (see *Sales exempt from tax,* later).
- The seller in good faith accepts from the purchaser a statement signed under penalties of perjury and executed in good faith that the purchaser intends to resell the article or lease it on a long-term basis. There is no registration requirement.

Leases. A long-term lease (a lease with a term of 1 year or more, taking into account options to renew) before a first retail sale is treated as a taxable sale. The tax is imposed on the lessor at the time of the lease.

A short-term lease (a lease with a term of less than 1 year, taking into account options to renew) before a first retail sale is treated as a taxable use. The tax is imposed on the lessor at the time of the lease.

Exported vehicle. A vehicle exported before its first retail sale, used in a foreign country, and then returned to the United States, is subject to the retail tax on its first retail sale after importation.

Tax on resale of tax-paid trailers and semitrailers. The tax applies to a trailer or semitrailer resold within 6 months after having been sold in a taxable sale. The seller liable for the tax on the resale can claim a credit equal to the tax paid on the prior taxable sale. The credit cannot exceed the tax on the resale. See section 145.4052-1(a)(4) of the regulations for information on the conditions to allowance for the credit.

Use treated as sale. If any person uses a taxable article before the first retail sale of the article, that person is liable for the tax as if the article had been sold at retail by that person. Figure the tax on the price at which similar articles are sold in the ordinary course of trade by retailers. The tax attaches when the use begins.

If the seller of an article **regularly** sells the articles at retail in arm's-length transactions, figure the tax on its use on the lowest established retail price for the articles in effect at the time of the taxable use.

If the seller of an article does **not** regularly sell the articles at retail in arm's-length transactions, a constructive price on which the tax is figured will be determined by the IRS after considering the selling practices and price structures of sellers of similar articles.

If a seller of an article incurs liability for tax on the use of the article and later sells or leases the article in a transaction that otherwise would be taxable, liability for tax is not incurred on the later sale or lease.

Presumptive retail sales price. There are rules to ensure that the tax base of transactions considered to be taxable sales includes either an actual or presumed markup percentage. If the person liable for tax is the vehicle's manufacturer, producer, or importer, the following discussions show how you figure the presumptive retail sales price depending on the type of transaction and the persons involved in the transaction. *Table 1* outlines the appropriate tax base calculation for various transactions.

The **presumed markup percentage** to be used for trucks and truck-tractors is 4%. But for

Table 1. **Tax Base**

IF the transaction is a...	THEN figuring the base by using the...
Sale by the manufacturer, producer, importer, or related person	Sales price plus (presumed markup percentage × sales price)
Sale by the dealer	Total consideration paid for the item including any charges incident to placing it in a condition ready for use
Long-term lease by the manufacturer, producer, importer, or related person	Constructive sales price plus (presumed markup percentage × constructive sales price)
Short-term lease by the manufacturer, producer, importer, or related person	Constructive sales price at which such or similar articles are sold
Short-term lease by a lessor other than the manufacturer, producer, importer, or related person	Price for which the article was sold to the lessor plus the cost of parts and accessories installed by the lessor plus a presumed markup percentage
Short-term lease where the articles are regularly sold at arm's length	Lowest established retail price in effect at the time of the taxable use

truck trailers and semitrailers and remanufactured trucks and tractors, the presumed markup percentage is zero.

Sale. For a taxable sale by a manufacturer, producer, importer, or related person, you generally figure the tax on a tax base of the sales price plus an amount equal to the presumed markup percentage times that sales price.

Long-term lease. In the case of a long-term lease by a manufacturer, producer, importer, or related person, figure the tax on a tax base of the constructive sales price plus an amount equal to the presumed markup percentage times the constructive sales price.

Short-term lease. When a manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a constructive sales price at which those or similar articles generally are sold in the ordinary course of trade by retailers.

But if the lessor in this situation regularly sells articles at retail in arm's-length transactions, figure the tax on the lowest established retail price in effect at the time of the taxable use.

If a person other than the manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a tax base of the price for which the article was sold to the lessor plus the cost of parts and accessories installed by the lessor and a presumed markup percentage.

Related person. A related person is any member of the same controlled group as the manufacturer, producer, or importer. Do not treat as a related person a person that sells the articles through a permanent retail establishment in the normal course of being a retailer if that person has records to prove the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

General rule for sales by dealers to the consumer. For a taxable sale, other than a long-term lease, by a person other than a manufacturer, producer, importer, or related person, your tax base is the retail sales price as discussed next under *Determination of tax base.*

When you sell an article to the consumer, generally you do not add a presumed markup to the tax base. However, you do add a markup if all the following apply.

- You do not perform any significant activities relating to the processing of the sale of a taxable article.
- The main reason for processing the sale through you is to avoid or evade the presumed markup.
- You do not have records proving that the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

In these situations, your tax base is the sales price plus an amount equal to the presumed markup percentage times that selling price.

Determination of tax base. These rules apply to both normal retail sales price and presumptive retail sales price computations. To arrive at the tax base, the price is the total consideration paid (including trade-in allowance) for the item and includes any charge incident to placing the article in a condition ready for use. However, see *Presumptive retail sales price,* earlier.

Exclusions from tax base. Exclude from the tax base the retail excise tax imposed on the sale. Exclude any state or local retail sales tax if stated as a separate charge from the price whether the sales tax is imposed on the seller or purchaser. Also exclude the value of any used component of the article furnished by the first user of the article.

Exclude charges for transportation, delivery, insurance, and installation (other than installation charges for parts and accessories, discussed earlier) and other expenses incurred in connection with the delivery of an article to a purchaser. These expenses are those incurred in delivery from the retail dealer to the customer. In the case of delivery directly from the manufacturer to the dealer's customer, include the transportation and delivery charges to the extent the charges do not exceed what it would have cost to ship the article to the dealer.

Exclude amounts charged for machinery or equipment that does not contribute to the highway transportation function of the vehicle, provided those charges are supported by adequate records. For example, for an industrial vacuum loader vehicle, exclude amounts charged for the vacuum pump and hose, filter system, material separator, silencer or muffler, control cabinet, and ladder. Similarly, for a sewer cleaning vehicle, exclude amounts charged for the high pressure water pump, hose components, and the vacuum pipe.

Sales not at arm's length. For any taxable article sold (not at arm's length) at less than the fair market price, figure the excise tax on the price for which similar articles are sold at retail in the ordinary course of trade.

A sale is not at arm's length if either of the following apply.

- One of the parties is controlled (in law or in fact) by the other or there is common control, whether or not the control is actually exercised to influence the sales price.
- The sale is made under special arrangements between a seller and a purchaser.

Installment sales. If the first retail sale is an installment sale, or other form of sale in which the sales price is paid in installments, tax liability arises at the time of the sale. The tax is figured on the entire sales price. No part of the tax is deferred because the sales price is paid in installments.

Repairs and modifications. The tax does not apply to the sale or use of an article that has been repaired or modified unless the cost of the repairs and modifications is more than 75% of the retail price of a comparable new article. This includes modifications that change the transportation function of an article or restore a wrecked article to a functional condition. However, this exception generally does not apply to an article that was not subject to the tax when it was new.

Further manufacture. The tax does not apply to the use by a person of a taxable article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by that person. Do not treat a person as engaged in the manufacture of any article merely because that person combines the article with any of the following items.

- Coupling device (including any fifth wheel).
- Wrecker crane.
- Loading and unloading equipment (including any crane, hoist, winch, or power liftgate).
- Aerial ladder or tower.
- Ice and snow control equipment.
- Earth moving, excavation, and construction equipment.
- Spreader.
- Sleeper cab.
- Cab shield.
- Wood or metal floor.

Combining an article with an item in this list does not give rise to taxability. However, see *Parts or accessories*, discussed earlier.

Articles exempt from tax. The tax on heavy trucks, trailers, and tractors does not apply to sales of the articles described in the following discussions.

Rail trailers and rail vans. This is any chassis or body of a trailer or semitrailer designed for use both as a highway vehicle and a railroad car (including any parts and accessories designed primarily for use on and in connection with it). Do not treat a piggyback trailer or semitrailer as designed for use as a railroad car.

Parts and accessories. This is any part or accessory sold separately from the truck or trailer, except as described earlier under *Parts or accessories* and *Separate purchase.*

Trash containers. This is any box, container, receptacle, bin, or similar article that meets all the following conditions.

- It is designed to be used as a trash container.
- It is not designed to carry freight other than trash.
- It is not designed to be permanently mounted on or affixed to a truck chassis or body.

House trailers. This is any house trailer (regardless of size) suitable for use in connection with either passenger automobiles or trucks.

Camper coaches or bodies for self-propelled mobile homes. This is any article designed to be mounted or placed on trucks, truck chassis, or automobile chassis and to be used primarily as living quarters or camping accommodations. Further, the tax does not apply to chassis specifically designed and constructed to accommodate and transport self-propelled mobile home bodies. If a chassis is not specifically designed and constructed to accommodate and transport self-propelled mobile home bodies, the chassis is subject to tax unless the chassis is

suitable for use with a vehicle that has a gross vehicle weight of 33,000 pounds or less.

Farm feed, seed, and fertilizer equipment. This is any body primarily designed to process or prepare, haul, spread, load, or unload feed, seed, or fertilizer to or on farms. This exemption applies only to the farm equipment body (and parts and accessories) and not to the chassis upon which the farm equipment is mounted.

Ambulances and hearses. This is any ambulance, hearse, or combination ambulance-hearse.

Truck-tractors. This is any truck-tractor specifically designed for use in shifting semitrailers in and around freight yards and freight terminals.

Concrete mixers. This is any article designed to be placed or mounted on a truck, truck trailer, or semitrailer chassis to be used to process or prepare concrete. This exemption does not apply to the chassis on which the article is mounted.

Sales exempt from tax. The following sales are ordinarily exempt from tax.

- Sales to a state or local government for its exclusive use.
- Sales to Indian tribal governments, but only if the transaction involves the exercise of an essential tribal government function.
- Sales to a nonprofit educational organization for its exclusive use.
- Sales for use by the purchaser for further manufacture of other taxable articles (see below).
- Sales for export or for resale by the purchaser to a second purchaser for export.
- Sales to the United Nations for official use.

Registration requirement. In general, the seller and buyer must be registered for a sale to be tax free. See the Form 637 instructions for more information. Certain registration exceptions apply in the case of sales to state and local governments and to foreign purchasers for export.

Further manufacture. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and sold them.

Credits and refunds. A credit or refund (without interest) of the tax on heavy vehicles may be allowable if the tax has been paid with respect to an article and, before any other use, such article is used by any person as a component part of another taxable article manufactured or produced. The person using the article as a component part is eligible for the credit or refund.

A credit or refund is allowable if, before any other use, an article is, by any person:

- Exported,
- Used or sold for use as supplies for vessels,
- Sold to a state or local government for its exclusive use, or
- Sold to a nonprofit educational organization for its exclusive use.

A credit or refund is also allowable if there is a price readjustment by reason of the return or repossession of an article or by reason of a bona fide discount, rebate, or allowance.

See also *Conditions to allowance* under *Manufacturers Taxes*, earlier.

Tire credit. A credit is allowed against the tax on heavy vehicles if taxable tires are sold on or in connection with the sale of the article. The credit is equal to the manufacturers excise tax imposed on the taxable tires (discussed earlier). This is the section 4051(d) taxable tire credit and is claimed on line 15a of Schedule C (Form 720) for the same quarter for which the tax on the heavy vehicle is reported.

Ship Passenger Tax

A tax of $3 per passenger is imposed on certain ship voyages, as explained later under *Taxable situations.* The tax is imposed only once for each passenger, either at the time of first embarkation or disembarkation in the United States.

The person providing the voyage (the operator of the vessel) is liable for the tax.

Voyage. A voyage is the vessel's journey that includes the outward and homeward trips or passages. The voyage starts when the vessel begins to load passengers and continues until the vessel has completed at least one outward and one homeward passage. The tax may be imposed even if a passenger does not make both an outward and a homeward passage as long as the voyage begins or ends in the United States.

Passenger. A passenger is an individual carried on the vessel other than the Master or a crew member or other individual engaged in the business of the vessel or its owners.

Example 1. John Smith works as a guest lecturer. The cruise line hired him for the benefit of the passengers. Therefore, he is engaged in the business of the vessel and is not a passenger.

Example 2. Marian Green is a travel agent. She is taking the cruise as a promotional trip to determine if she wants to offer it to her clients. She is a passenger.

Taxable situations. There are two taxable situations. The first situation involves voyages on commercial passenger vessels extending over one or more nights. A voyage extends over one or more nights if it extends for more than 24 hours. A passenger vessel is any vessel with stateroom or berth accommodations for more than 16 passengers.

The second situation involves voyages on a commercial vessel transporting passengers engaged in gambling on the vessel beyond the territorial waters of the United States. Territorial waters of the United States are those waters within the international boundary line between the United States and any contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. If passengers participate as players in any policy game or other lottery, or any other game of chance for money or other thing of value that the owner or operator of the vessel (or their employee, agent, or franchisee) conducts, sponsors, or operates, the voyage is subject to the ship passenger tax. The tax applies regardless of the duration of the voyage. A casual, friendly game of chance with other passengers that is not conducted, sponsored, or operated by the owner or operator is not gambling for determining if the voyage is subject to the ship passenger tax.

Exemptions. The tax does not apply when a vessel is on a voyage of less than 12 hours between 2 points in the United States or if a vessel is owned or operated by a state or local government.

Foreign Insurance Taxes

Tax is imposed on insurance policies issued by foreign insurers. Any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit they are made, signed, issued, or sold, is liable for the tax.

The following tax rates apply to each dollar (or fraction thereof) of the premium paid.

1. Casualty insurance and indemnity, fidelity, and surety bonds: 4 cents (for example, on a premium payment of $10.10, the tax is 44 cents).
2. Life, sickness, and accident insurance, and annuity contracts: 1 cent (for example, on a premium payment of $10.10, the tax is 11 cents).
3. Reinsurance policies covering any of the taxable contracts described in items (1) and (2): 1 cent.

However, the tax does not apply to casualty insurance premiums paid to foreign insurers for coverage of export goods in transit to foreign destinations.

Premium. Premium means the agreed price or consideration for assuming and carrying the risk or obligation. It includes any additional charge or assessment payable under the contract, whether in one sum or installments. If premiums are refunded, claim the tax paid on those premiums as an overpayment against tax due on other premiums paid or file a claim for refund.

When liability attaches. The liability for this tax attaches when the premium payment is transferred to the foreign insurer or reinsurer (including transfers to any bank, trust fund, or similar recipient designated by the foreign insurer or reinsurer) or to any nonresident agent, solicitor, or broker. A person can pay the tax before the liability attaches if the person keeps records consistent with that practice.

Who must file. The person who pays the premium to the foreign insurer (or to any nonresident person such as a foreign broker) must pay the tax and file the return. Otherwise, any person who issued or sold the policy, or who is insured

under the policy, is required to pay the tax and file the return.

The person liable for this tax must keep accurate records that identify each policy or instrument subject to tax. These records must clearly establish the type of policy or instrument, the gross premium paid, the identity of the insured and insurer, and the total premium charged. If the premium is to be paid in installments, the records must also establish the amount and anniversary date of each installment.

The records must be kept at the place of business or other convenient location for at least 3 years after the later of the date any part of the tax became due, or the date any part of the tax was paid. During this period, the records must be readily accessible to the IRS.

The person having control or possession of a policy or instrument subject to this tax must keep the policy for at least 3 years after the date any part of the tax on it was paid.

Treaty-based positions under IRC 6114. You may have to file an annual report disclosing the amount of premiums exempt from United States excise tax as a result of the application of a treaty with the United States that overrides (or otherwise modifies) any provision of the Internal Revenue Code.

Attach any disclosure statement to the first quarter Form 720. You may be able to use Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), as a disclosure statement. See the Form 720 instructions for how and where to file.

See Revenue Procedure 92-14 in Cumulative Bulletin 1992-1 for procedures you can use to claim a refund of this tax under certain U.S. treaties.

Obligations Not in Registered Form

Tax is imposed on any person who issues a registration-required obligation not in registered form. The tax is:

- 1% of the principal of the obligation, multiplied by
- The number of calendar years (or portions of calendar years) during the period starting on the date the obligation was issued and ending on the date it matures.

A **registration-required obligation** is any obligation other than one that meets any of the following conditions.

1. It is issued by a natural person.
2. It is not of a type offered to the public.
3. It has a maturity (at issue) of not more than one year.
4. It can only be issued to a foreign person.

For item (4), if the obligation is not in registered form, the interest on the obligation must be payable only outside the United States and its possessions. Also, the obligation must state on its face that any U.S. person who holds it shall be subject to limits under the U.S. income tax laws.

Filing Form 720

Use Form 720 to report and pay the excise taxes previously discussed in this publication. File Form 720 for each calendar quarter until you file a **final** Form 720.

You may be required to file your returns on a monthly or semimonthly basis instead of quarterly if you do not make deposits as required (see *Payment of Taxes,* later) or are liable for the excise tax on taxable fuels and meet certain conditions.

Form 720 has 3 parts.

- Part I consists of excise taxes generally required to be deposited (see *Payment of Taxes,* later).
- Part II consists of excise taxes that are **not** required to be deposited.
- Part III is used to figure your tax liability for the quarter and the amount of any balance due or overpayment.
- **Schedule A**, Excise Tax Liability, is used to record your net tax liability for each semimonthly period in a quarter. Complete it if you have an entry in Part I.
- **Schedule C**, Claims, is used to make claims. However, Schedule C can only be used if you are reporting a liability in Part I or Part II.

Attachments to Form 720. You may have to attach the following forms.

- Form 6197 for the gas guzzler tax.
- Form 6627 for environmental taxes.

Form 720X. This form is used to make adjustments to liability reported on Forms 720 filed in prior quarters. You can file Form 720X by itself or, if it shows a decrease in tax, you can attach it to Form 720. See the form and its instructions for more information.

Conditions to allowance. For tax decreases, the claimant must check the appropriate box on Form 720X stating that:

1. For adjustments of communications or air transportation taxes, the claimant has:
   a. Repaid the tax to the person from whom it was collected, or
   b. Obtained the consent of that person to the allowance of the adjustment.
2. For other adjustments, the claimant has:
   a. Not included the tax in the price of the article and not collected the tax from the purchaser,
   b. Repaid the tax to the ultimate purchaser, or
   c. Attached the written consent of the ultimate purchaser to the allowance of the adjustment.

However, the conditions listed under (2) do not apply to environmental taxes, the ship passenger tax, obligations not in registered form, foreign insurance taxes, fuels used on inland waterways, alcohol sold as fuel but not used as fuel, biodiesel sold as fuel but not used as fuel, and certain fuel taxes if the tax was based on use (for example, dyed diesel fuel used in trains, LPG, and CNG).

Employer identification number. If you file Form 720, you need an employer identification number (EIN), unless you are a one-time filer (discussed later). If you do not have an EIN, you may apply for one online. Go to the IRS website at *www.irs.gov/businesses/small* and click on the "Employer ID Numbers (EINs)" link. You may also apply for an EIN by telephone by calling 1-800-829-4933, or you can fax or mail Form SS-4, Application for Employer Identification Number, to the IRS.

Final return. File a final return if either of the following apply to you.

- You go out of business.
- You will not owe excise taxes that are reportable on Form 720 in future quarters.

Due dates. Form 720 must be filed by the following due dates.

Quarter Covered	Due Dates
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

If any due date falls on a Saturday, Sunday, or legal holiday, you can file the return on the next business day.

One-time filing. See the Instructions for Form 720 for information on eligibility to make a one-time filing of Form 720 for the gas guzzler tax.

Payment voucher. Form 720-V, Payment Voucher, must be included with Form 720 and your payment if you have a balance due on line 10 of Form 720.

Payment of Taxes

Generally, semimonthly deposits of excise taxes are required. A **semimonthly period** is the first 15 days of a month (the first semimonthly period) or the 16th through the last day of a month (the second semimonthly period).

However, no deposit is required for the situations listed below; the taxes are payable with Form 720.

- The net liability for taxes listed in Part I (Form 720) does not exceed $2,500 for the quarter.
- The gas guzzler tax is being paid on a one-time filing.
- The liability is for taxes listed in Part II (Form 720), except for the floor stocks tax, that generally requires a single deposit.

How To Make Deposits

To avoid a penalty, make your deposits timely and do not mail your deposits directly to the IRS. Records of your deposits will be sent to the IRS for crediting to your accounts.

Electronic deposit requirement. You must make electronic deposits of all depository taxes (such as deposits for employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2005 if:

- The total deposits of such taxes in 2003 exceeded $200,000 or
- You were required to use EFTPS in 2004.

If you are required to use EFTPS and use Form 8109, Federal Tax Deposit Coupon, instead, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, visit the EFTPS website at *www.eftps.gov*, or call 1-800-555-4477. Also see Publication 966, Electronic Choices for Paying ALL Your Federal Taxes.

Depositing on time. For EFTPS deposits to be on time, you must initiate the transaction at least one business day before the date the deposit is due.

Federal Tax Deposit Coupons. If you are not making deposits by EFTPS, use Form 8109 to make the deposits at an authorized financial institution. See the instructions in the coupon book for additional information. If you do not have a coupon book, call 1-800-829-4933.

TIP *You will automatically be enrolled in EFTPS when you apply for an EIN. You will receive a separate mailing containing instructions for activating your EFTPS enrollment after you receive your EIN. You will still have the option to use FTD coupons, but see* **Electronic deposit requirement** *earlier.*

When To Make Deposits

There are two methods for determining deposits: the regular method and the alternative method.

The regular method applies to all taxes in Part I of Form 720 except for communications and air transportation taxes if deposits are based on amounts billed or tickets sold, rather than on amounts actually collected. See *Alternative method* below.

If you are depositing more than one tax under a method, combine all the taxes under the method and make one deposit for the semimonthly period.

Regular method. The deposit of tax for a semimonthly period is due by the 14th day following that period. Generally, this is the 29th day of a month for the first semimonthly period and the 14th day of the following month for the second semimonthly period. If the 14th or the 29th day falls on a Saturday, Sunday, or legal holiday, you **must** make the deposit by the immediately **preceding** day that is not a Saturday, Sunday, or legal holiday.

Alternative method (IRS Nos. 22, 26, 27, and 28). Deposits of communications and air transportation taxes may be based on taxes included in amounts billed or tickets sold during a semimonthly period instead of on taxes actually collected during the period. Under the alternative method, the tax included in amounts billed or tickets sold during a semimonthly period is considered collected during the first 7 days of the second following semimonthly period. The deposit of tax is due by the 3rd banking day after the 7th day of that period.

Example. The tax included in amounts billed or tickets sold for the period June 16-30, 2005, is considered collected from July 16-22, 2005, and must be deposited by July 27, 2005.

To use the alternative method, you must keep a separate account of the tax included in amounts billed or tickets sold during the month and report on Form 720 the tax included in amounts billed or tickets sold and not the amount of tax that is actually collected. For example, amounts billed in December, January, and February are considered collected during January, February, and March and are reported on Form 720 as the tax for the 1st quarter of the calendar year.

The separate account for any month cannot include an adjustment resulting from a refusal to pay or inability to collect unless the refusal has been reported to the IRS. See *Uncollected Tax Report* on page 5.

The net amount of tax that is considered collected during the semimonthly period must be either:

- The net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or
- One-half of the net amount of tax reflected in the separate account for the preceding month.

Special rule for deposits of taxes in September 2005. If you are required to make deposits, see the chart below. The special rule does not apply to taxes not required to be deposited (see *Payment of Taxes* earlier). See Regulations section 40.6302(c)-2 for rules to figure the net tax liability for the deposits due in September.

Additional deposit of taxes in September 2005

Type of Tax	For the Period Beginning on	Ending on	Due Date
Regular method taxes			
EFTPS[1]	Sept. 16	Sept. 26	Sept. 29
Non-EFTPS	Sept. 16	Sept. 25	Sept. 28
Alternative method taxes (IRS Nos. 22, 26, 27, and 28) (based on amounts billed)			
EFTPS[1]	Sept. 1	Sept. 11	Sept. 29
Non-EFTPS	Sept. 1	Sept. 10	Sept. 28

[1]See **Electronic deposit requirement** earlier.

Amount of Deposits

Deposits for a semimonthly period generally must be at least 95 percent of the net tax liability for that period unless the safe harbor rule (discussed later) applies. Generally, you do not have to make a deposit for a period in which you incurred no tax liability.

Net tax liability. Your net tax liability is your tax liability for the period minus any claims on Schedule C (Form 720) for the period. You may figure your net tax liability for a semimonthly period by dividing your net liability incurred during the calendar month by two. If you use this method, you must use it for all semimonthly periods in the calendar quarter.

CAUTION *Do not reduce your liability by any amounts from Form 720X.*

Safe Harbor Rule

The **safe harbor rule** applies separately to deposits under the regular method and the alternative method. Persons who filed Form 720 for the look-back quarter (the 2nd calendar quarter preceding the current quarter) are considered to meet the semimonthly deposit requirement if the deposit for each semimonthly period in the current quarter is at least 1/6 (16.67%) of the net tax liability reported for the look-back quarter.

For the semimonthly period for which the additional deposit is required, the additional deposit must be at least 11/90 (12.23%), 10/90 (11.12%) for non-EFTPS, of the net tax liability reported for the look-back quarter. Also, the total deposit for that semimonthly period must be at least 1/6 (16.67%) of the net tax liability reported for the look-back quarter.

Exceptions. The safe harbor rule does not apply to:

- The 1st and 2nd quarters beginning on or after the effective date of an increase in the rate of tax unless the deposit of taxes for each semimonthly period in the calendar quarter is at least 1/6 (16.67%) of the tax liability you would have had for the look-back quarter if the increased rate of tax had been in effect for that look-back quarter,
- Any quarter if liability includes any tax not in effect throughout the look-back quarter, or
- For deposits under the alternative method, any quarter if liability includes any tax not in effect throughout the look-back quarter and the month preceding the look-back quarter.

Requirements to be met. For the safe harbor rule to apply, you must:

- Make each deposit timely at an authorized financial institution and
- Pay any underpayment for the current quarter by the due date of the return.

CAUTION *The IRS may withdraw the right to make deposits of tax using the safe harbor rule from any person not complying with these rules.*

Tax rate increases. You must modify the safe harbor rule if there has been an increase in the rate of tax. You must figure your tax liability in the look-back quarter as if the increased rate had been in effect. To qualify for the safe harbor rule, your deposits cannot be less than 1/6 of the refigured tax liability.

Tax on Wagering

The following two taxes are imposed on wagering activities.

- Occupational tax. You must pay the occupational tax if you accept taxable wagers for yourself or another person. See *Form 11-C,* later, for more information.
- Wagering tax. You must pay the tax on wagering if you are in the business of accepting taxable wagers or running a wagering pool or lottery. You must also pay the tax on wagering if you have not properly registered the name and address of your principal on Form 11-C. See *Form 730,* later, for more information.

Exempt organizations. Organizations exempt from income tax under section 501 or 521 of the Internal Revenue Code are **not** exempt from the tax on wagering or the occupational tax. However, see *Lottery,* later, for an exception.

Confidentiality. No Treasury Department employee may disclose any information that you supply in relation to the wagering taxes, unless necessary to administer or enforce the Internal Revenue laws.

Definitions

The following definitions apply to Form 11-C and Form 730.

Principal. A principal is a person who is in the business of accepting wagers for his or her own account. This is the person who makes a profit or risks loss depending on the outcome of the event or contest for which the wager is accepted.

Agent. This is the agent of the principal who accepts wagers for the principal.

Wagers. Wagers include any wager:

- Made on a sports event or a contest with a person in the business of accepting wagers,
- Placed in a wagering pool on a sports event or contest, if the pool is conducted for profit, or
- Placed in a lottery conducted for profit.

Sports event. A sports event includes every type of amateur, scholastic, or professional sports competition, such as:

Auto racing	Baseball	Basketball
Billiards	Bowling	Boxing
Cards	Checkers	Cricket
Croquet	Dog racing	Football
Golf	Gymnastics	Hockey
Horse racing	Lacrosse	Rugby
Soccer	Squash	Tennis
Track	Tug of war	Wrestling

Contest. A contest is any competition involving speed, skill, endurance, popularity, politics, strength, or appearance, such as the following.

- Elections.
- The outcome of nominating conventions.
- Dance marathons.
- Log-rolling contests.
- Wood-chopping contests.
- Weightlifting contests.
- Beauty contests.
- Spelling bees.

Wagering pool. A wagering pool conducted for profit includes any method or scheme for giving prizes to one or more winning bettors based on the outcome of a sports event, a contest, or a combination or series of these events or contests if the wagering pool is managed and conducted for the purpose of making a profit. A wagering pool or lottery may be conducted for profit even if a direct profit does not occur. If you operate the wagering pool or lottery with the expectation of a profit in the form of increased sales, attendance, or other indirect benefits, you conduct it for profit.

Lottery. This includes the numbers game, policy, punch boards, and similar types of wagering. In general, a lottery conducted for profit includes any method or scheme for the distribution of prizes among persons who have paid or promised to pay for a chance to win the prizes. The winning prizes are usually determined by the drawing of numbers, symbols, or tickets from a wheel or other container or by the outcome of a given event.

It does not include either of the following kinds of events.

1. Games of a type in which usually the wagers are placed, winners are determined, and the prizes are distributed in the presence of everyone who placed a wager.
2. Drawings conducted by a tax-exempt organization, if the net proceeds of the drawing do not benefit a private shareholder or individual.

Card games, roulette games, dice games, bingo, keno, and gambling wheels usually fall within exception (1) above.

Form 11-C

You use Form 11-C to **register** with the IRS certain information on wagering activity and to **pay** the occupational tax on wagering. Your canceled check is proof of registration and payment.

Who must file. You must file Form 11-C if you are a principal or an agent, defined earlier.

When to file. You must file your first Form 11-C before you begin accepting wagers. After that, file a renewal return by July 1 for each year that you accept wagers. You may also be required to file a first return for a new entity created when certain changes in ownership or control occur. In addition, you are required to file a supplemental registration when certain events occur. See the Form 11-C instructions.

Information required. Follow the instructions on the back of the form. All filers must have an employer identification number (EIN). You cannot use your social security number. If you do not have an EIN, you may apply for one online. Go to the IRS website at *www.irs.gov/businesses/small* and click on the "Employer ID Numbers (EINs)" link. You may also apply for an EIN by telephone by calling 1-800-829-4933, or you can fax or mail Form SS-4, Application for Employer Identification Number, to the IRS.

If you are a principal, you must show the number of agents that accept wagers for you and their names, addresses, and EINs. If you engage a new agent after filing Form 11-C, you must file a supplemental registration showing this information within 10 days after you engage the agent.

Agents must show the name, address, and EIN of each of their principals. If you are engaged by a new principal after having filed a Form 11-C, you must file a supplemental registration within 10 days after being engaged by the new principal. If you do not provide the required information about the principal, you will be liable for the excise tax on wagers you accept as if you were the principal.

Example. Ken operates a numbers game and engages 10 people to receive wagers from the public on his behalf. Ken also employs a secretary and a bookkeeper. Ken and each of the 10 agents are liable for the tax. They must each file Form 11-C. The secretary and the bookkeeper are not liable for the tax unless they also accept wagers for Ken.

On Ken's Form 11-C, he lists all required information (name, address, and EIN) for each of his ten agents as well as himself. He does not list his secretary or bookkeeper.

Each of the 10 agents file Form 11-C showing his or her name, address, and EIN, as well as Ken's.

Figuring the tax. The following tax must be paid annually for every year in which taxable wagers are accepted.

- $50 if all wagers accepted are authorized under the laws of the state in which accepted.
- $500 for all other wagers.

The tax year begins on July 1. If you start accepting wagers after July 31, the tax is prorated for the first year. The prorated amounts are shown in the table in the Form 11-C instructions.

Refund. A refund for an overpayment of the occupational tax may be claimed on Form 8849 using Schedule 6. See the Form 8849 instructions for details.

Form 730

Form 730 is used for figuring the tax on wagers. The wagering tax applies to the wagers (as defined earlier), regardless of the outcome of the individual wagers.

The tax applies only to a wager that meets either of the following conditions.

- It is accepted in the United States.
- It is placed by a person who is in the United States with a U.S. citizen or resident, or in a wagering pool or lottery conducted by a U.S. citizen or resident.

Wagers made within the United States are taxable regardless of the citizenship or place of residence of the parties to the wager.

Laid-off wagers. Persons accepting more wagers than they are willing to carry may lay off a portion of the wagers with another person to avoid the risk of loss. If you accept a wager taken initially by someone else (other than an agent acting for you) include the wager in your gross receipts. If you accept a wager and lay off all or part of it with a person who is liable for the tax, you may be entitled to a credit or refund, discussed later.

Excluded wagers. Tax is not imposed on any of the following.

- Parimutuel wagering, including horse racing, dog racing, and jai alai when licensed under state law.
- Coin-operated devices such as pinball machines.
- Sweepstakes, wagering pools, or lotteries that are conducted by an agency of a state if the wager is placed with the state agency or its authorized agents or employees.

Figuring the tax. The amount of the wager is the amount risked by the bettor, including any fee or charge incident to placing the wager. It is not the amount that the bettor stands to win.

The tax is 2% of the wager if it is not authorized under the laws of the state in which accepted. If the wager is authorized, the rate is 0.25% of the wager.

When to file. Once you have filed Form 730 reporting tax, file a return for each subsequent month whether or not you have taxable wagers to report. File Form 730 for each month by the last day of the following month. If you have none to report, write "0" in the last box of the dollar amount column. If you stop accepting wagers permanently, check the final return box on the form.

Credit or refund. A credit or refund may be claimed for an overpayment of the wagering tax or for the amount of tax imposed on a wager that is laid off with another person who is liable for the tax on the amount laid off. Claim a credit on line 5 of Form 730 or file a claim for refund on Form 8849 using Schedule 6. No credit or refund will be allowed unless the timely filed claim has the required statements, certificates, and consents attached. For more information, see the instructions for Form 730 and Form 8849.

Conditions to allowance. One of the following statements must be attached to the claim for credit or refund.

- The tax has not been collected from the person who placed the wager.
- The tax has been repaid to that person.
- The written consent of that person to make the claim has been obtained.

If the claim is for a laid-off wager accepted by the claimant, the statement must be attached for both the person who placed the laid-off wager and the person who placed the original wager.

Each person liable for the wagering tax must keep records to reflect each day's operations. Your records should include the following information.

- The gross amount of all wagers accepted.
- The gross amount of each class or type of wager accepted on each event, contest, or other wagering medium.
- The gross amount of any wagers laid off with other persons and the name, address, and registration number of each person with whom you placed the laid-off wagers.

For more information on records, see sections 44.4403-1 and 44.6001-1 of the regulations.

Penalties and Interest

Penalties and interest may result from any of the following acts.

- Failing to collect and pay over tax as the collecting agent (see *Trust fund recovery penalty*, next).
- Failing to keep adequate records.
- Failing to file returns.
- Failing to pay taxes.
- Filing returns late.
- Filing false or fraudulent returns.
- Paying taxes late.
- Failing to make deposits.
- Depositing taxes late.
- Making false statements relating to tax.
- Failing to register.
- Misrepresenting that tax is excluded from the price of an article.

Failure to register. The penalty for failure to register if you are required to register, unless due to reasonable cause, is increased to $10,000 for the initial failure, and then $1,000 each day thereafter you fail to register.

Trust fund recovery penalty. If you provide taxable communications or air transportation services, you have to collect excise taxes (as discussed earlier) from those persons who pay you for those services. You must pay over these taxes to the U.S. Government.

If you willfully fail to collect or pay over these taxes, or if you evade or defeat them in any way, the trust fund recovery penalty may apply. Willfully means voluntarily, consciously, and intentionally. The trust fund recovery penalty equals 100% of the taxes not collected or not paid over to the U.S. Government.

The trust fund recovery penalty may be imposed on any person responsible for collecting, accounting for, and paying over these taxes. If this person knows that these required actions are not taking place for whatever reason, the person is acting willfully. Paying other expenses of the business instead of paying the taxes is willful behavior.

A responsible person can be an officer or employee of a corporation, a partner or employee of a partnership, or any other person who had responsibility for certain aspects of the business and financial affairs of the employer (or business). This may include accountants, trustees in bankruptcy, members of a board, banks, insurance companies, or sureties. The responsible person could even be another corporation—in other words, anyone who has the duty and the ability to direct, account for, or pay over the money. Having signature power on the business checking account could be a significant factor in determining responsibility.

Examination and Appeal Procedures

If your excise tax return is examined and you disagree with the findings, you can get information about audit and appeal procedures from Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund. An unagreed case involving an excise tax covered in this publication differs from other tax cases in that you can only contest it in court after payment of the tax by filing suit for a refund in the United States District Court or the United States Court of Federal Claims.

Rulings Program

The IRS has a program for assisting taxpayers who have technical problems with tax laws and regulations. The IRS will answer inquiries from individuals and organizations about the tax effect of their acts or transactions. The National Office of the IRS issues rulings on those matters.

A ruling is a written statement to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. There are also determination letters issued by IRS directors and information letters issued by IRS directors or the National Office.

There is a fee for most types of determination letters and rulings. For complete details of the rulings program, see Rev. Proc. 2005-1. You can find Rev. Proc. 2005-1 on page 1 of Internal Revenue Bulletin 2005-01 at *www.irs.gov/pub/irs-irbs/irb05-01.pdf*.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get more information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate toll free at 1-877-777-4778.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call 1-800-829-4059 if you are a TTY/TDD user.
- Visit the website at *www.irs.gov/advocate*.

For more information, see Publication 1546, The Taxpayer Advocate Service of the IRS.

Free tax services. To find out what services are available, get Publication 910, Guide to Free Tax Services. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.

Internet. You can access the IRS website 24 hours a day, 7 days a week at *www.irs.gov* to:

- Download forms, instructions, and publications.
- Order IRS products online.
- See answers to frequently asked tax questions.
- Search publications online by topic or keyword.
- Send us comments or request help by email.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.

Fax. You can get over 100 of the most requested forms and instructions 24 hours a day, 7 days a week, by fax. Just call 703-368-9694 from your fax machine. Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you. For help with transmission problems, call 703-487-4608. Long-distance charges may apply.

Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-4933. For questions on Form 2290, call the Form 2290 call site at 1-866-699-4096 (toll free) from the United States and 1-859-669-5733 (not toll free) from Canada and Mexico. The hours of service are 8:00 a.m. to 6:00 p.m., EST.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov or look in the phone book under “United States Government, Internal Revenue Service.”
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax or account questions or to order forms and publications.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to sometimes listen in on or record telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD-ROM or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- *Services.* You can walk in to your local Taxpayer Assistance Center every business day to ask tax questions or get help with a tax problem. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. You can set up an appointment by calling your local Center and, at the prompt, leaving a message requesting Everyday Tax Solutions help. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go to www.irs.gov or look in the phone book under “United States Government, Internal Revenue Service.”

Mail. You can send your order for forms, instructions, and publications to the National Distribution Center and receive a response within 10 workdays after your request is received. Use the address below.

National Distribution Center
P.O. Box 8903
Bloomington, IL 61702-8903

CD-ROM for tax products. You can order IRS Publication 1796, Federal Tax Products on CD-ROM, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms and instructions.
- Frequently requested tax forms that may be filled in electronically, printed out for submission, and saved for recordkeeping.
- Internal Revenue Bulletins.

Buy the CD-ROM from National Technical Information Service (NTIS) on the Internet at www.irs.gov/cdorders for $22 (no handling fee) or call 1-877-233-6767 toll free to buy the CD-ROM for $22 (plus a $5 handling fee). The first release is available in early January and the final release is available in late February.

CD-ROM for small businesses. IRS Publication 3207, Small Business Resource Guide, is a must for every small business owner or any taxpayer about to start a business. This handy, interactive CD contains all the business tax forms, instructions, and publications needed to successfully manage a business. In addition, the CD provides an abundance of other helpful information, such as how to prepare a business plan, finding financing for your business, and much more. The design of the CD makes finding information easy and quick and incorporates file formats and browsers that can be run on virtually any desktop or laptop computer.

It is available in early April. You can get a free copy by calling 1-800-829-3676 or by visiting the website at *www.irs.gov/smallbiz*.

Appendix A

This appendix contains models of the certificates, reports, and statements discussed earlier under Fuel Taxes

Model Certificate A

STATEMENT OF SUBSEQUENT SELLER

1. _____

_____

Name, address, and employer identification number of seller in subsequent sale

2. _____

_____

Name, address, and employer identification number of the buyer in subsequent sale

3. _____

Date and location of subsequent sale

4. _____

Volume and type of taxable fuel sold

The undersigned seller ("Seller") has received the copy of the first taxpayer's report provided with this statement in connection with Seller's purchase of the taxable fuel described in this statement.

Under penalties of perjury, Seller declares that Seller has examined this statement, including any accompanying schedules and statements, and, to the best of Seller's knowledge and belief, they are true, correct and complete.

_____

Signature and date signed

_____

Printed or typed name of person signing this report

_____

Title

Model Certificate B

FIRST TAXPAYER'S REPORT

1. _____

   _____
   First Taxpayer's name, address and employer identification number

2. _____

   _____
   Name, address, and employer identification number of the buyer of the taxable fuel subject to tax

3. _____
   Date and location of removal, entry, or sale

4. _____
   Volume and type of taxable fuel removed, entered or sold

5. Check type of taxable event:

   _____ Removal from refinery

   _____ Entry into United States

   _____ Bulk transfer from terminal by unregistered position holder

   _____ Bulk transfer not received at an approved terminal

   _____ Sale within the bulk transfer/terminal system

   _____ Removal at the terminal rack

   _____ Removal or sale by the blender

6. _____
   Amount of federal excise tax paid on account of the removal, entry, or sale

The undersigned taxpayer ("Taxpayer") has not received, and will not claim, a credit with respect to, or a refund of, the tax on the taxable fuel to which this form relates.

Under penalties of perjury, Taxpayer declares that Taxpayer has examined this statement, including any accompanying schedules and statements, and to the best of Taxpayer's knowledge and belief, they are true, correct and complete.

_____
Signature and date signed

_____
Printed or typed name of person signing this report

_____
Title

Model Certificate C

NOTIFICATION CERTIFICATE OF TAXABLE FUEL REGISTRANT

_____

_____

Name, address, and employer identification number of person receiving certificate

The undersigned taxable registrant ("Registrant") hereby certifies under penalties of perjury that Registrant is registered by the Internal Revenue Service with registration number _____ and that Registrant's registration has not been revoked or suspended by the Internal Revenue Service.

Registrant understands that the fraudulent use of this certificate may subject Registrant and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Registrant

_____

Employer identification number

_____

Address of Registrant

Model Certificate D

CERTIFICATE OF PERSON BUYING GASOLINE BLENDSTOCKS FOR USE OTHER THAN IN THE PRODUCTION OF FINISHED GASOLINE

(To support tax-free sales under section 4081 of the Internal Revenue Code.)

_____

_____

Name, address, and employer identification number of seller

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

The gasoline blendstocks to which this certificate relates will not be used to produce finished gasoline.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here _____ and enter:

1. Invoice or delivery ticket number
2. _____ (number of gallons) of _____ (type of gasoline blendstocks)

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date _____
2. Expiration date _____

(period not to exceed 1 year after the effective date)

3. Type (or types) of gasoline blendstocks _____
4. Buyer account or order number _____

Buyer will not claim a credit or refund under section 6427(h) of the Internal Revenue Code for any gasoline blendstocks covered by this certificate.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer resells the gasoline blendstocks to which this certificate relates, Buyer will be liable for tax unless Buyer obtains a certificate from the purchaser stating that the gasoline blendstocks will not be used to produce finished gasoline and otherwise complies with the conditions of §48.4081-4(b)(3) of the Manufacturers and Retailers Excise Tax Regulations.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells gasoline blendstocks tax free.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

Model Certificate G

CERTIFICATE OF REGISTERED FEEDSTOCK USER

(To support tax-free removals and entries of kerosene under section 4082 of the Internal Revenue Code.)

_____ (Buyer) certifies the following under penalties of perjury:
Name of buyer

Buyer is a registered feedstock user with registration number _____ . Buyer's registration has not been revoked or suspended.

The kerosene to which this certificate applies will be used by Buyer for a feedstock purpose.

This certificate applies to _____ percent of Buyer's purchases from _____ (name, address, and employer identification number of seller) as follows (complete as applicable):

1. A single purchase on invoice or delivery ticket number _____ .

2. All purchases between _____ (effective date) and _____ (expiration date) (period not to exceed one year after the effective date) under account or order number(s) _____ . If this certificate applies only to Buyer's purchases for certain locations, check here _____ and list the locations.

_____

_____

_____

If Buyer sells the kerosene to which this certificate relates, Buyer will be liable for tax on that sale.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer violates the terms of this certificate, the Internal Revenue Service may revoke the Buyer's registration.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

Model Certificate J

CERTIFICATE OF PERSON BUYING COMPRESSED NATURAL GAS (CNG) FOR A NONTAXABLE USE

(To support tax-free sales of CNG under section 4041 of the Internal Revenue Code.)

_____

_____

Name, address, and employer identification number of seller

_____ ("Buyer") certifies the following under penalties of perjury:
(Name of buyer)

The CNG to which this certificate relates will be used in a nontaxable use.

This certificate applies to the following (complete as applicable):

The kerosene to which this certificate applies will be used by Buyer for a feedstock purpose.

If this is a single purchase certificate, check here _____ and enter:

1. Invoice or delivery ticket number _____

2. _____ (number of MCFs)

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date _____
2. Expiration date _____

   (period not to exceed 1 year after the effective date)
3. Buyer account or order number _____

Buyer will not claim a credit or refund under section 6427 of the Internal Revenue Code for any CNG to which this certificate relates.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells CNG tax free.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

Model Certificate K

CERTIFICATE OF PERSON BUYING AVIATION-GRADE KEROSENE FOR COMMERCIAL AVIATION OR NONTAXABLE USE

(To support operator liability for tax on removals of aviation-grade kerosene directly into the fuel tank of an aircraft in commercial aviation pursuant to § 4081 of the Internal Revenue Code or to support a tax rate of zero pursuant to §§ 4041 and 4082.)

_____

_____

Name, address, and employer identification number of position holder

The undersigned aircraft operator ("Buyer") hereby certifies the following under the penalties of perjury:

The aviation-grade kerosene to which this certificate relates is purchased (check one): _____ for use on a farm for farming purposes; _____ for use in foreign trade (reciprocal benefits required for foreign registered airlines); _____ for use in certain helicopter and fixed-wing air ambulance uses; _____ for use other than as a fuel in the propulsion engine of an aircraft; _____ for the exclusive use of a nonprofit educational organization; _____ for the exclusive use of a state; _____ for use in an aircraft owned by an aircraft museum; _____ for use in military aircraft; or _____ for use in commercial aviation (other than foreign trade).

With respect to aviation-grade kerosene purchased after June 30, 2005, for use in commercial aviation (other than foreign trade), Buyer's registration number is _____. Buyer's registration has not been suspended or revoked by the Internal Revenue Service.

This certificate applies to the following (complete as applicable):

_____ This is a single purchase certificate:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

_____ This is a certificate covering all purchases under a specified account or order number:

1. Effective date _____
2. Expiration date _____ (period not to exceed 1 year after the effective date)
3. Buyer account number _____

Buyer agrees to provide the person liable for tax with a new certificate if any information in this certificate changes.

If the aviation-grade kerosene to which this certificate relates is being bought for use in commercial aviation (other than foreign trade), Buyer is liable for tax on its use of the fuel and will pay that tax to the government.

If Buyer sells or uses the aviation-grade kerosene to which this certificate relates for a use other than the use stated above, Buyer will be liable for tax.

Buyer understands that it must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

The fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Waiver L

WAIVER FOR USE BY ULTIMATE PURCHASERS OF

AVIATION-GRADE KEROSENE USED IN NONTAXABLE USES

To support vendor's claim for a credit or payment under § 6427 of the Internal Revenue Code.

_____

_____

Name, address, and employer identification number of ultimate vendor

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under the penalties of perjury:

The aviation-grade kerosene to which this waiver relates is purchased (check one):

_____ for export;

_____ for use in foreign trade (reciprocal benefits required for foreign registered airlines);

_____ for use in certain helicopter and fixed-wing air ambulance uses;

_____ for use other than as a fuel in the propulsion engine of an aircraft;

_____ for the exclusive use of a nonprofit educational organization;

_____ for use in an aircraft owned by an aircraft museum;

_____ for use in military aircraft;

_____ other nontaxable use (describe); or

_____ for use in commercial aviation (other than foreign trade).

This waiver applies to the following (complete as applicable):

_____ This is a single purchase waiver:

1. _____ Invoice or delivery ticket number

2. _____ Number of gallons

_____ This is a waiver covering all purchases under a specified account or order number:

1. Effective date _____

2. Expiration date _____ (period not to exceed 1 year after the effective date)

3. Buyer account number _____

Buyer will provide a new waiver to the vendor if any information in this waiver changes.

If Buyer uses the aviation-grade kerosene to which this waiver relates for a use other than the use stated above, Buyer will be liable for tax.

Buyer understands that by signing this waiver, Buyer gives up its right to claim any credit or payment for the aviation-grade kerosene used in a nontaxable use.

Buyer acknowledges that it has not and will not claim any credit or payment for the aviation-grade kerosene to which this waiver relates.

Buyer understands that the fraudulent use of this waiver may subject Buyer and all parties making such fraudulent use of this waiver to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Certificate M

CERTIFICATE FOR STATE USE OR NONPROFIT EDUCATIONAL ORGANIZATION USE

To support vendor's claim for a credit or payment under § 6416(a)(4) of the Internal Revenue Code.

Name, address, and employer identification number of ultimate vendor

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under the penalties of perjury:

Buyer will use the gasoline or aviation gasoline to which this certificate relates (check one):

_____ For the exclusive use of a state; or

_____ For the exclusive use of a nonprofit educational organization.

This certificate applies to the following (complete as applicable):

_____ This is a single purchase certificate:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

_____ This is a certificate covering all purchases under a specified account or order number:

1. Effective date _____
2. Expiration date_____ (period not to exceed 1 year after the effective date)
3. Buyer account number_____

Buyer will provide a new certificate to the vendor if any information in this certificate changes.

Buyer understands that by signing this certificate, Buyer gives up its right to claim any credit or payment for the gasoline or aviation gasoline to which this certificate relates.

Buyer acknowledges that it has not and will not claim any credit or payment for the gasoline or aviation gasoline to which this certificate relates.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing

Title of person signing

Name of Buyer

Employer identification number

Address of Buyer

Signature and date signed

Model Waiver N

WAIVER FOR USE BY ULTIMATE PURCHASERS OF DIESEL FUEL OR KEROSENE USED IN INTERCITY BUS TRANSPORTATION

To support vendor's claim for a credit or payment under § 6427 of the Internal Revenue Code.

_____

_____

_____

Name, address, and employer identification number of ultimate vendor

The undersigned ultimate purchaser ("Buyer") hereby certifies the following under the penalties of perjury:

The diesel fuel or kerosene to which this waiver relates is purchased for use in intercity bus transportation.

This waiver applies to the following (complete as applicable):

_____ This is a single purchase waiver:

1. _____ Invoice or delivery ticket number

2. _____ Number of gallons

_____ This is a waiver covering all purchases under a specified account or order number:

1. Effective date _____

2. Expiration date _____ (period not to exceed 1 year after the effective date)

3. Buyer account number _____

Buyer will provide a new waiver to the vendor if any information in this waiver changes.

If Buyer uses the diesel fuel or kerosene to which this waiver relates for a use other than in intercity bus transportation, Buyer will be liable for tax.

Buyer understands that by signing this waiver, Buyer gives up its right to claim any credit or payment for the diesel fuel or kerosene used in intercity bus transportation.

Buyer acknowledges that it has not and will not claim any credit or payment for the diesel fuel or kerosene to which this waiver relates.

Buyer understands that the fraudulent use of this waiver may subject Buyer and all parties making such fraudulent use of this waiver to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

Model Certificate O

CERTIFICATE FOR BIODIESEL

(To support a claim under §§ 6426(c), 6427(e), and 40A of the Internal Revenue Code)

_____

_____

_____

_____

Name, address, and employer identification number of claimant.

The undersigned biodiesel producer ("Producer") hereby certifies the following under penalties of perjury:

Producer certifies that the biodiesel to which this certificate relates is monoalkyl esters of long chain fatty acids derived from plant or animal matter that meets the requirements of the American Society of Testing and Materials D6751 and the registration requirements for fuels and fuel additives established by EPA under § 211 of the Clean Air Act (42 U.S.C § 7545)

Producer certifies that the biodiesel to which this certificate relates is:

_____% Agri-biodiesel (derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds and from animal fats).

_____% Biodiesel (other than agri-biodiesel)

This certificate applies to the following:

1. _____ Invoice or delivery ticket number
2. _____ Number of gallons

Producer understands that fraudulent use of this certificate may subject producer, claimant, and parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Producer

_____

Employer identification number

_____

Address of Producer

_____

Signature and date signed

Model Certificate P

CERTIFICATE OF FARMING USE OR STATE USE

To support vendor's claim for credit or payment under section 6427 of the Internal Revenue Code

_____

Name, Address, and Employer Identification Number of Vendor

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

A. Buyer will use the diesel fuel or kerosene to which this certificate relates — (check one):

1. ☐ On a farm for farming purposes (as defined in §48.6420-4 of the Manufacturers and Retailers Excise Tax Regulations) and Buyer is the owner, tenant, or operator of the farm on which the fuel will be used;

2. ☐ On a farm (as defined in §48.6420-4(c)) for any of the purposes described in paragraph (d) of that section (relating to cultivating, raising, or harvesting) and Buyer is not the owner, tenant, or operator of the farm on which the fuel will be used; or

3. ☐ For the exclusive use of a State or local government, or the District of Columbia.

B. This certificate applies to the following (complete as applicable):

1. If this is a single purchase certificate, check here ☐ and enter:

   a. Invoice or delivery ticket number _____

   b. Number of gallons _____

2. If this is a certificate covering all purchases under a specified account or order number, check here ☐ and enter:

   a. Effective date _____

   b. Expiration date _____
   (period not to exceed 1 year after effective date)

   c. Buyer account or order number _____

■ Buyer will provide a new certificate to the vendor if any information in this certificate changes.

■ If Buyer uses the diesel fuel or kerosene to which this certificate relates for a purpose other than stated in the certificate, Buyer will be liable for any tax.

■ Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Name of Buyer

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

■