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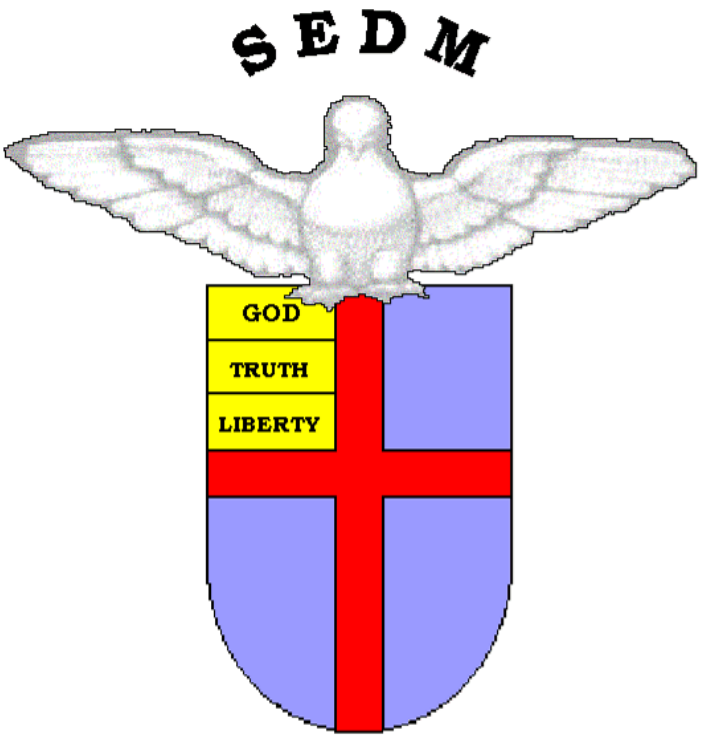
Publication 510

Catalog No. 15014I

Excise Taxes for 1997



Department of the Treasury
Internal Revenue Service

Publication 510

Catalog No. 15014I

Excise Taxes for 1997

Note. This revision of Publication 510 is available only in electronic form and reflects tax changes and developments as of June 1997. It is not available in printed form. If you ask for a paper copy of the publication from IRS, you will be sent a copy of the December 1996 revision.

Important Changes

Taxpayer identification number.

There are generally three types of taxpayer identification numbers: social security numbers (SSN), IRS individual taxpayer identification numbers (ITIN), and employer identification numbers (EIN). Generally, an EIN is used for excise tax purposes. In some cases, an individual may have to provide his or her SSN. If an alien individual does not have and is not eligible to get an SSN, he or she should get an ITIN from the IRS.

Tax deposits.

The look-back safe harbor rule for tax deposits does not apply if the tax was not in effect throughout the look-back quarter.

Electronic deposit requirement.

If your total deposits of social security, Medicare, railroad retirement, and withheld income taxes were more than $50,000 in 1995, you should make electronic deposits for all depository tax liabilities that occur after June 30, 1997. See *Deposit Requirements* under *Paying the Taxes.*

Diesel fuel used in boats.

The excise tax on diesel fuel used or sold for use in boats is suspended through December 31, 1997.

Diesel fuel dyeing requirements.

If certain requirements are met, diesel fuel removed, entered, or sold in Alaska for ultimate sale or use in Alaska does not have to meet the dyeing requirements to be exempt from the excise tax on diesel fuel. See *Dyed Diesel Fuel* under *Diesel Fuel,* later.

Luxury tax on automobiles.

For sales after August 27, 1996, and before January 1, 1997, the luxury tax on automobiles was 9% of the amount the sales price exceeded $34,000.

For sales occurring in calendar year 1997, the tax is 8% of the amount the sales price exceeds $36,000. After 1997 the tax rate decreases by one percentage point each year until the tax ends at the end of 2002.

Ozone-depleting chemicals.

Effective August 27, 1996, chemicals that are used as propellants in metered-dose inhalers are exempt from the excise tax on ozone-depleting chemicals.

Effective January 1, 1997, recycled halons imported from countries that have signed the Montreal Protocol are exempt from the tax on ozone depleting chemicals. However, this exemption does not apply to Halon–1211 until January 1, 1998.

Air transportation taxes.

The following taxes were reinstated for amounts paid after March 6, 1997, and before October 1, 1997:

1. The 10% tax on transportation of persons by air,

2. The 6.25% tax on transportation of property by air, and

3. The $6 tax for use of international air travel facilities.

See *Appendix D.*

Aviation gasoline.

For the period starting March 7, 1997, and ending September 30, 1997, a tax of 19.3 cents per gallon applies to aviation gasoline when it is removed from the terminal at the terminal rack. On October 1, 1997, the tax on aviation gasoline is scheduled to decrease to 4.3 cents per gallon.

Aviation fuel (other than gasoline).

Generally, the tax on aviation fuel (other than gasoline) is 21.8 cents per gallon for the period starting on March 7, 1997, and ending September 30, 1997. On October 1, 1997, the tax is scheduled to decrease to 4.3 cents per gallon.

Floor stocks taxes.

A floor stocks tax of 15 cents a gallon applies to any person who held previously taxed aviation gasoline on March 7, 1997. A floor stocks tax of 17.5 cents a gallon applies to any person who held previously taxed aviation fuel (other than gasoline) on March 7, 1997. These taxes must be paid by August 1, 1997, and reported on the Form 720 for the third quarter of 1997. For exceptions see *Aviation Gasoline* under *Gasoline* and see *Aviation Fuel.*

Introduction

This publication covers the excise taxes for which you may be liable during 1997. It covers the excise taxes reported on Form 720, *Quarterly Federal Excise Tax Return.* It also provides information for those persons engaged in wagering activities.

Useful Items

Publication

378 Fuel Tax Credits and Refunds

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

730 Tax on Wagering

1363 Export Exemption Certificate

6197 Gas Guzzler Tax

6627 Environmental Taxes

8849 Claim for Refund of Excise Taxes

See *How To Get More Information* 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 use other forms to report certain other excise taxes.

These forms and taxes are:

1. IRS Form 2290: Heavy Vehicle Use Tax Return
2. ATF Form 5630.5: Alcohol, Tobacco
3. ATF Form 5630.7: Firearms
4. ATF Form 5300.26: Firearms

If any of these taxes appear to apply to you, see the following discussions for information about them.

Bureau of Alcohol, Tobacco, and Firearms (ATF).
If you need forms or information about the ATF forms, write to or call the director for your area.

District Director (Regulatory Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
300 S. Riverside Plaza
Suite 310 – Attn: PIO
Chicago, IL 60606–6616
(312) 353–1967

District Director (Regulatory Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
6 World Trade Center, Rm 620 – Attn: PIO
New York, NY 10048
(212) 264–2328

District Director (Regulatory Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
2600 Century Parkway, Suite 300 – Attn: PIO
Atlanta, GA 30345
(404) 679–5001

District Director (Regulatory Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
1114 Commerce Street, 7th Floor (PIO)
Dallas, TX 75242
(214) 767–2280

District Director (Regulatory Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
221 Main Street, 11th Floor (Attn: PIO)
San Francisco, CA 94105
(415) 744–7013

Tax Processing Center (SOT)
P.O. Box 145433
Cincinnati, OH 45250–5433
(513) 684–2979

IRS Form 2290: Highway Use Tax

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 taxable gross weights of 55,000 pounds or more. Vans, pickup trucks, panel trucks, and similar trucks generally are not subject to this tax.

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 liable for this tax. For more information, get the instructions for Form 2290.

Registration of vehicles. Generally, you must prove that you paid your federal highway use tax before registering your taxable vehicle with your state motor vehicle department. Generally, a copy of Schedule 1 of Form 2290, stamped after payment and returned to you by the IRS, is acceptable proof of payment.

ATF Form 5630.5: Alcohol, Tobacco; ATF Form 5630.7: Firearms

A number of excise taxes apply to alcoholic beverages, tobacco products, and

firearms. If you produce, sell, or import guns, tobacco, or alcoholic products, or if you manufacture equipment for their production, you may be liable for one or more excise taxes. Use Form 5630.5 (Alcohol, Tobacco) or Form 5630.7 (Firearms), *Special Tax Registration and Return,* to register your place of business and pay an annual tax. The businesses covered by Form 5630.5 include:

1. Brewers and dealers of liquor, wine, or beer,

2. Distillers, importers, wholesale and retail dealers of distilled spirits,

3. Manufacturers who use alcohol to produce non-beverage products, and

4. Importers and wholesalers of imported perfumes.

The businesses covered by Form 5630.7 include manufacturers, importers, and dealers in firearms (National Firearms Act).

ATF Form 5300.26: Firearms

Use ATF Form 5300.26, *Federal Firearms and Ammunition Excise Tax Return,* to determine your firearms excise tax liability. Mail all domestic firearms excise tax returns to the special purpose post office box (lockbox) as indicated on the return form. File returns for Puerto Rico and Virgin Islands with the Chief, Puerto Rico Operations, Alcohol, Tobacco, and Firearms.

Registration for Certain Activities

You must register for certain excise tax activities. See the instructions for Form 637 for the list of activities for which you must register. Each business unit that has, or should have, a separate employer identification number must register.

To apply for registration, use Form 637 and provide the information requested in its instructions. File the form with the district director for the district in which your books and records and principal place of business are located.

If the district director approves your application, 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 ozone-depleting chemicals. Figure the environmental tax on Form 6627. The rates are on Form 6627 or in the *Instructions for Form 6627*. Enter the tax on the appropriate lines of Form 720. Attach Form 6627 to Form 720 as a supporting schedule.

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.

Credits or refunds of environmental taxes.

You can make a claim for credit or refund of any overpayment of environmental taxes. Set forth in detail the grounds upon which you base your claim and provide sufficient facts to support the claim.

You make a claim for **refund** of any overpayment of the tax on Form 8849. You make a claim for **credit** for any overpayment of the tax on Form 720. Complete Schedule C if you are filing a claim for a credit.

You may file a claim for refund for any amount at any time within the 3-year statutory period for filing a claim. There is no limit on the number of claims for refund of environmental taxes that you may file in a year. There is no minimum dollar amount necessary for a claim.

Ozone-Depleting Chemicals (ODCs)

Tax is imposed on chemicals that deplete the ozone layer and on 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.

Taxable ODCs

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.

For the taxable ODCs and tax rates, see the *Instructions for Form 6627.*

Use of ODCs. You use an ODC if you put it into service in a trade or business or for production of income. An ODC also 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 is treated as use of the ODC contained in the mixture. 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 on 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. There is no tax on ODCs used or sold for use as propellants in metered-dose inhalers.

Recycled. 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 any recycled halon imported from a country that has signed the Montreal Protocol on Substances that Deplete the Ozone Layer. However, this exemption does not apply to imported Halon–1211 until January 1, 1998.

Export. Generally, there is no tax on ODCs sold for export if certain requirements are met. The tax benefit of this exemption is limited. For information on the requirements and limit see section 52.4682-5 of the Environmental Tax Regulations.

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, but use of an ODC in a mixture does not qualify.

For a sale to be nontaxable, you must obtain a registration certificate that you rely on in good faith from the purchaser. The registration 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.

Imported Taxable Products

Tax is imposed on imported products containing or manufactured with ODCs when the product is first sold or used by its importer. The importer is liable for the tax. A product 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, discussed later.

Use of imported products. You use an imported product if you put it into service in a trade or business or for 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 products into the United States as the use of the product. Tax is imposed on the date of entry. 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 on 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:

1. You have consistently treated the sale of similar items as the first sale or use of similar taxable imported products, and

2. You have not chosen to treat entry into the United States as use of the product.

Imported Products Table.

The Imported Products Table appears in Appendix B at the end of this publication. 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 contains a listing for electronic items that are not included within any other listing in the table. An imported product is included in this listing only if the product is:

1. A component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits, or

2. Contains these components and more than 15% of the cost of the product is from these components.

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:

   A. Is not an imported taxable product, and

   B. Would otherwise be included within a listing 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 listing for electronic items not specifically identified, but for their listing in Part III.

The table gives the ODC weight in pounds per single unit of product unless otherwise specified.

Base the tax on the weight of the ODCs used in the manufacture of the product. Figure the tax based on either:

1. The actual weight of the ODCs used in manufacturing the product, or

2. The ODCs weight listed in the Imported Products Table for the product.

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

Modifying the table. A manufacturer or importer of a product may request the IRS to add a product and its ODC weight to the table. They also may request IRS to remove a product from the table, or change or specify the ODC weight of a product. Your request must include for each product to be modified:

1. The name of the product,
2. The HTS heading or subheading,
3. The type of modification requested,
4. The ODC weight that should be specified (unless the product is being removed), and
5. The data supporting the request.

Include your name, address, taxpayer identification number, and principal place of business in your request. Send your request to:

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Attn: CC:CORP:R (Imported Products Table)
Room 5228
Washington, DC 20044.

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 ODCs is liable for the tax.

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 on January 1 you hold:

1. At least 400 pounds of ODCs subject to tax and not described in item (2) or (3), or

2. At least 50 pounds of ODCs that are Halons subject to tax, or

3. At least 1,000 pounds of ODCs that are methyl chloroform subject to tax.

If you are liable for the tax, on January 1 prepare an inventory 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.

For the tax rates, see the *Instructions for Form 6627.*

Communications Tax

The 3% telephone excise tax is imposed on amounts paid for:

1. Local telephone service,

2. Toll telephone service, and

3. Teletypewriter exchange service.

The person paying for the service is liable for the tax. The person who receives the payment is required to collect the tax, file returns, and pay the tax to the government. File Form 720 to report excise taxes on communication facilities and services.

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.

Local telephone service.

Local telephone service is access to a local telephone system and the privilege of telephonic quality communication with most people who are part of the system facilities or services provided with this service. For example, 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 systems 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 connection with intercommunication among the subscriber's stations.

The tax applies to a communications system with direct inward and outward dialing, set up for a single subscriber (such as a Centrex-type PBX system) that does not include any internal service for which a separate charge is made.

Toll telephone service.

This means a telephonic quality communication for which a toll is charged that varies with the elapsed transmission time of each communication. The toll must be paid within the United States. It also includes 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 flat charge. Microwave relay service used for the transmission of television programs and not for telephonic communication is not a toll telephone service.

Teletypewriter exchange service.

This means 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.

Computation of 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 state or local taxes that are separately stated (such as a retail sales or excise tax) on the taxpayer's bill in the charges for the services.

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.

Exemptions

Payments for certain services or 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. 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.

Payments made for services by inserting coins in coin-operated telephones available to the public are not subject to tax for local telephone service. They also are not subject to tax for toll telephone service 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 and radio broadcasts of news and sporting events.

The tax on toll telephone service and teletypewriter exchange service does not apply to news services and radio broadcasts of news and sporting events. 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). However, the tax applies to local telephone services and related charges. The tax does not apply to charges for services dealing exclusively with the collection or dissemination of news for the public press. It also does not apply to charges for services used in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press. For the exemption to apply, the

charge for these services or facilities 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 one of these exempt purposes. However, toll telephone service in connection with celebrities or special guests on talk shows is subject to tax.

Common carriers and communications companies.
The tax on toll telephone service does not apply to WATS or WATS-like 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, 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 certificate of exemption. The signed and dated exemption certificate must contain the following information:

1. The name of the person who called from the combat zone and that the person was a member of the U.S. Armed Forces performing services in the combat zone;

2. The toll charges, point of origin, and name of carrier;

3. A statement that the charges are exempt from tax under section 4253(d) of the Internal Revenue Code; and

4. 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 means Bosnia and Herzegovina, Croatia, or Macedonia. A qualified hazardous duty area includes a country only while the special pay provision is in effect for that country.

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 its 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:

1. Normally maintains a regular faculty and curriculum,

2. Normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and

3. Is exempt from income tax under IRC 501(a).
This includes a school operated by an organization that is exempt under IRC 501(c)(3) 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 pertinent sections of the Internal Revenue Code and Regulations. 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 of exemption from the communications tax:

1. Red Cross and other international organizations,

2. Nonprofit hospitals,

3. Nonprofit educational organizations, and

4. State and local governments.

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

All other organizations must furnish exemption certificates when required.

Fuel Taxes

Excise taxes are imposed on:

1. Gasoline,
2. Gasohol,
3. Diesel fuel,
4. Aviation fuel (other than gasoline),
5. Special motor fuels,
6. Compressed natural gas, and
7. Fuels used in commercial transportation on inland waterways.

Registration Requirements

The following discussion applies to registration for purposes of the excise taxes on gasoline and diesel fuel. The terms used in this discussion are explained later under *Gasoline* and *Diesel Fuel.* See *Registration for Certain Activities,* earlier for more information about registration.

Persons that must register. You must register if you are:

1. A blender,
2. An enterer,
3. A refiner,
4. A terminal operator, or
5. A position holder.

In addition, bus and train operators must register if they will incur liability for tax at the bus or train rate.

Persons that may register. You may, but are not required to, register if you are:

1. A gasohol blender,
2. An industrial user,

3. A throughputter that is not a position holder, or

4. An ultimate vendor of diesel fuel.
Ultimate vendors do not need to register to buy or sell diesel fuel. However, they must be registered for filing certain claims for the excise tax on diesel fuel.

Taxable fuel registrant. A person (other than an ultimate vendor) who receives a letter of registration under this provision for gasoline and diesel fuel is a taxable fuel registrant if the registration has not been revoked or suspended. The term ***registrant*** as used in the discussions under *Gasoline* and *Diesel Fuel* means a taxable fuel registrant.

Additional information. See the Form 637 instructions for the information you must submit when you apply for registration. See section 48.4101–1 of the excise tax regulations for the registration tests and terms and conditions of registration.

Gasoline

The following discussion provides definitions and an explanation of events relating to the excise tax on gasoline.

Definitions

The following terms are used throughout the discussion of gasoline. Some of these terms are also used in the discussion of diesel fuel. Other terms are defined in the discussion to which they pertain.

Gasoline. This means finished gasoline and gasoline blendstocks. Finished gasoline means all products (including gasohol) that are commonly or commercially known or sold as gasoline and are suitable for use as motor fuel. The product must have an octane rating of 75 or more. Gasoline blendstocks are discussed later.

To figure the number of gallons of gasoline on which tax is imposed, you may base your measurement on the actual volumetric gallons, gallons adjusted to 60 degrees Fahrenheit, or any other temperature adjustment method approved by the IRS.

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.

Blended taxable fuel. This is a mixture produced outside the bulk transfer/terminal system that consists of gasoline or diesel fuel on which excise tax has been imposed and any other liquid on which that 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. Blended taxable fuel does not include gasohol containing only gasoline subject to a reduced tax rate and alcohol.

Blender. This is the person that produces blended taxable fuel.

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

Bulk transfer/terminal system. This is the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in the supply tank of any engine, or in any tank car, rail car, 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 fuel. However, if the importer of record is acting as an agent, 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.

Position holder. This is the person who holds the inventory position in the fuel in the terminal, as reflected on 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 fuel. A terminal operator that owns the fuel in its terminal is a position holder.

Rack. This is a mechanism for delivering fuel from a refinery or terminal into a truck, trailer, railroad car, or other means of nonbulk transfer.

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

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

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

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

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

Terminal operator. This is any person that owns, operates, or otherwise controls a terminal. A ***terminal*** is a storage and distribution facility that is supplied by pipeline or vessel, and from which 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.

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

Taxable Events

The tax on gasoline is 18.3 cents a gallon. It is imposed on each of the following events. However, see the special rules that apply to gasoline blendstocks, later. Also, see the discussion under *Gasohol,* if applicable.

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

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

Terminal operator's liability. The terminal operator is jointly and severally liable for the tax if the position holder is a person other than the terminal operator and is not a registrant.

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

1. Be a registrant,

2. Have an unexpired notification certificate (discussed later) from the position holder, and

3. Have no reason to believe that any information on the certificate is false.

Removal from refinery. The removal of gasoline from a refinery is taxable if the removal is:

1. By bulk transfer and the refiner or the owner of the gasoline immediately before the removal is not a registrant, or

2. At the refinery rack.

The refiner is liable for the tax.

The tax does not apply to a removal of gasoline at the refinery rack if:

1. The gasoline is removed from an approved refinery that is not served by pipeline (other than for receiving crude oil) or vessel,

2. The gasoline is received at a facility that is operated by a registrant and is within the bulk transfer/terminal system,

3. The removal from the refinery is by rail car, and

4. 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 is:

1. By bulk transfer and the enterer is not a registrant, or

2. Not by bulk transfer.
The enterer is liable for the tax.

Fuel is entered into the United States if 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.

Removal from a terminal by unregistered position holder. The removal by bulk transfer of gasoline from a terminal is taxable if the position holder for the gasoline 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 an approved terminal or refinery. The removal by bulk transfer of gasoline from a terminal or refinery, or the entering of gasoline by bulk transfer into the United States, is taxable, if:

1. No tax was imposed (as discussed earlier) on:

   A. The removal from the refinery,

   B. The entry into the United States, or

   C. The removal from a terminal by an unregistered position holder, and

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 the following conditions at the time of the removal from the pipeline or vessel will not be liable for the tax. The owner must:

1. Be a registrant,

2. Have an unexpired notification certificate (discussed later) from the operator of the terminal or refinery where the gasoline is received, and

3. Have no reason to believe that 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 imposed under any of the events discussed earlier.

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

1. Be a registrant,

2. Have an unexpired notification certificate (discussed later) from the buyer, and

3. Have no reason to believe that 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.

The tax on these sales does not apply if:

1. The buyer's principal place of business is not in the United States,

2. The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel,

3. The seller is a registrant and the exporter of record, and

4. 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 of blended gasoline that was not previously subject to the tax on gasoline.

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 C as Model Certificate A. Your 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:

1. 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
2. Any other person who willfully causes that person to fail to pay the tax.

Aviation Gasoline

Aviation gasoline is taxable under the same rules as other gasoline. However, starting March 7, 1997, the tax on aviation gasoline increases from 4.3 cents a gallon to 19.3 cents a gallon. The tax is scheduled to decrease to 4.3 cents a gallon on October 1, 1997.

Floor stocks tax.

A floor stocks tax of 15 cents a gallon applies to any person who held previously taxed aviation gasoline on March 7, 1997. The floor stocks tax must be paid by August 1, 1997, and reported on Form 720 for the third quarter of 1997.

The floor stocks tax does not apply to aviation gasoline:

- Held exclusively for use in foreign trade or in military aircraft, or
- Held by a person or related group of persons if the aggregate amount of fuel is not more than 2,000 gallons. (Fuel held for the an exempt use is not taken into account.)

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 products that cannot be used without further processing in the production of finished gasoline.

Not used to produce finished gasoline. Gasoline blendstocks that are 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, that person:

1. Has an unexpired certificate (discussed later) from the buyer, and

2. Has no reason to believe that 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:

1. Has an unexpired certificate (discussed next) from the buyer, and

2. Has no reason to believe that any information in the certificate is false.

Certificate of buyer. The certificate from the buyer certifies that 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 C as Model Certificate B. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates:

1. The date 1 year after the effective date (not earlier than the date signed) of the certificate.

2. The date that a new certificate is provided to the seller.

3. The date that the seller is notified 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 right to provide a certificate can be withdrawn by the IRS 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 an approved terminal or refinery. The nonbulk removal or entry of gasoline blendstocks that are received at an approved terminal or refinery is not taxable if the person otherwise liable for the tax (position holder, refiner, or enterer):

1. Is a registrant,
2. Has an unexpired notification certificate (discussed earlier) from the operator of the terminal or refinery where the gasoline blendstocks are received, and
3. Has no reason to believe that 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.

Refunds

If the tax is paid on more than one taxable event, the person paying the "second tax" may claim a refund of that tax if certain conditions and reporting requirements are met. No credit against any tax is allowed for this tax. These procedures apply to the tax on gasoline and the tax on diesel fuel (discussed later).

Conditions for allowance of refund. A claim for refund of the tax is allowed only if:

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 files a claim for refund containing the information required (see *Refund claim,* later), and
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 with its Form 720 for that quarter a "First Taxpayer's Report." A model first taxpayer's report is shown in Appendix C as Model Certificate C. Your report must contain all

information needed to complete the model.

Optional report. A first taxpayer's report is not required for the tax imposed on a removal from a terminal rack, nonbulk entries into the United States, or 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, if the first taxpayer is not the owner at the time, to the person that owned the fuel immediately before the first tax was imposed. If the 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 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 statement of subsequent seller is shown in Appendix C as Model Certificate D. Your 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 make your claim for refund on Form 8849. You must have filed Form 720 and paid the second tax before you file for a refund of that tax. At the top of Form 8849 put "Section 4081(e) Claim." Do not include this claim with a claim under another tax provision. You must include the following information:

1. Volume and type of fuel.
2. Date that you incurred the tax liability for which you are filing this claim.
3. Amount of second tax that you paid to the government on this fuel and a statement that you have not included this tax in the sales price of the fuel and have not collected it from the buyer.
4. Name, address, and employer identification number of the person that paid the first tax to the government.
5. A copy of the first taxpayer's report (discussed earlier).
6. A copy of the statement of subsequent seller if the fuel was bought from other than the first taxpayer.

Credits and Refunds

A credit or refund of the gasoline tax may be allowable if gasoline is, by any person:

1. Exported,

2. Used or sold for use as supplies for vessels or aircraft (as defined in section 4221(d)(3) of the Internal Revenue Code),

3. Sold to a state for its exclusive use,

4. Sold to a nonprofit educational organization for its exclusive use,

5. Sold to the United Nations for its exclusive use, or

6. Used or sold in the production of special fuels.

Claims by wholesale distributors. A credit or refund is allowable to a gasoline wholesale distributor who buys gasoline tax paid and then sells it to the ultimate purchaser (including an exporter) for an exempt purpose.

A wholesale distributor must submit with its claim a statement that it:

1. Sold the gasoline at a price that did not include the tax, and did not otherwise collect the tax from its buyer, and

2. Has obtained a certificate of ultimate purchaser or proof of export.

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 user (including an exporter) by either that person or by a retailer. A credit or refund also is allowable to that person if the gasoline was sold to the user by a wholesale distributor and:

1. The distributor bought the gasoline at a price that did not include the tax, or

2. The sale to the user was charged on an oil company credit card.

The person must submit with its claim:

1. Proof of exportation, or

2. A certificate of ultimate purchaser, or

3. A certificate of ultimate vendor, and

4. A statement that it:

A. Has neither included the tax in the price of the gasoline nor collected the amount of the tax from the buyer,

B. Has repaid, or agreed to repay, the amount of the tax to the ultimate vendor of the gasoline, or

5. Has gotten the written consent of the ultimate vendor to the allowance of the credit or refund.

Claims by the ultimate purchaser. A credit or refund is allowable to the ultimate purchaser of tax-paid gasoline used for an exempt purpose. See Publication 378 for more information about these claims.

Gasohol

Generally, the same rules that apply to the imposition of tax on the removal and entry of gasoline (discussed earlier) apply to gasohol.

However, the removal of gasohol from a refinery is taxable if the removal from an approved refinery is by bulk transfer and the registered refiner chooses to be treated as not registered. This is in addition to the taxable events discussed earlier under *Removal from refinery.*

Gasohol. Gasohol is a blend of gasoline and alcohol that satisfies the alcohol requirement. Eligible blends include those made with ethanol and methanol. The term "alcohol" does not include alcohol produced from petroleum, natural gas, coal, or peat, or alcohol that is less than 190 proof. Methanol produced from methane gas formed in waste disposal sites is not "alcohol produced from natural gas." Alcohol used to produce ethyl tertiary butyl ether (ETBE) generally qualifies as alcohol for this purpose.

Alcohol requirement. To qualify as gasohol, the mixture must contain a specific amount of alcohol by volume, without rounding. Figure the alcohol content on a batch-by-batch basis.

- ***10% gasohol.*** This is a mixture that contains at least 9.8% alcohol.

- ***7.7% gasohol.*** This is a mixture that contains at least 7.55%, but less than 9.8%, alcohol.

- ***5.7% gasohol.*** This is a mixture that contains at least 5.59%, but less than 7.55%, alcohol.

If the mixture is produced within the bulk transfer/terminal system, such as at a refinery, determine whether the mixture is gasohol when the taxable removal or entry of the mixture occurs.

If the mixture is produced outside the bulk transfer/terminal system, determine whether the mixture is gasohol immediately after the mixture is produced. If you splash blend a batch in an empty tank, figure the volume of alcohol (without adjustment for temperature) by dividing the metered gallons of alcohol by the total metered gallons of alcohol and gasoline as shown on each delivery ticket. However, if you add the metered gallons to a tank already containing more than 0.5% of its capacity in a liquid, include the amount of alcohol and non-alcohol fuel contained in that liquid in figuring the volume of alcohol in that batch.

Example 1. John uses an empty 8,000 gallon tank to blend alcohol and gasoline. His delivery tickets show that he blended Batch 1 using 7,200 metered gallons of gasoline and 800 metered gallons of alcohol. John divides the gallons of alcohol (800) by the total gallons of alcohol and gasoline delivered (8,000). Batch 1 qualifies as 10% gasohol.

Example 2. John blends Batch 2 in an empty tank. According to his delivery tickets, he blended 7,220 gallons of gasoline and 780 gallons of alcohol. Batch 2 contains 9.75% alcohol (780 ÷ 8,000); it qualifies as 7.7% gasohol.

Batches containing at least 9.8% alcohol. If a mixture contains at least 9.8%, but less than 10%, alcohol, part of the mixture is considered to be 10% gasohol. To figure that part, multiply the number of gallons of alcohol in the mixture by 10. The other part of the mixture is excess liquid that is subject to the rules on failure to blend, discussed later.

Batches containing at least 7.55% alcohol. If a mixture contains at least 7.55%, but less than 7.7%, alcohol, part of the mixture is considered to be 7.7% gasohol. To figure that part, multiply the number of gallons of alcohol in the mixture by 12.987. The other part of the mixture is excess liquid that is subject to the rules on failure to blend, discussed later.

Batches containing at least 5.59% alcohol. If a mixture contains at least 5.59%, but less than 5.7%, alcohol, part of the mixture is considered to be 5.7% gasohol. To figure that part, multiply the number of gallons of alcohol in the mixture by 17.544. The other part of the mixture is excess liquid that is subject to the rules on failure to blend, discussed later.

Gasohol blender. A gasohol blender is any person that regularly buys gasoline and alcohol and produces gasohol for use in its trade or business or for resale. A "registered gasohol blender" is one that has been registered by the IRS. See *Registration Requirements,* earlier.

Tax Rates

The tax rate depends on the type of gasohol. These rates are less than the regular tax rate for gasoline. The reduced rate also depends on whether you are liable for the tax on the removal or entry of gasoline used to make gasohol, or on the removal or entry of gasohol. You may be liable for additional tax if you later separate the gasohol or fail to blend gasoline into gasohol.

Tax on gasoline. The tax on gasoline that is removed or entered for the production of gasohol depends on the type of gasohol that is to be produced. The rates apply to the tax imposed on the removal at the terminal or refinery, or on the nonbulk entry into the United States (as discussed under *Gasoline,* earlier). The rates for gasoline used to produce gasohol containing ethanol are shown on Form 720. The rates for gasoline used to produce gasohol containing methanol are shown in the instructions for Form 720.

Requirements. The reduced rates apply if the person liable for the tax (position holder, refiner, or enterer) is a registrant and:

1. A registered gasohol blender and that person produces gasohol with the gasoline within 24 hours after removing or entering the gasoline, or
2. That person, at the time that the gasoline is sold in connection with the removal or entry:

   A. Has an unexpired certificate from the buyer, and

   B. Has no reason to believe that any information in the certificate is false.

Certificate. The certificate from the buyer certifies that the gasoline will be used to produce gasohol within 24 hours after purchase. The certificate may be included as part of any business records normally used for a sale. A copy of the registrant's letter of registration cannot be used as a gasohol blender's certificate. A model certificate is shown in Appendix C as Model Certificate E. Your certificate must contain all information necessary to complete the model.

A certificate expires on the earliest of the following dates:

1. The date 1 year after the effective date (which may be no earlier than the date signed) of the certificate.

2. The date that a new certificate is provided to the seller.

3. The date that the seller is notified that the gasohol blender's registration has been revoked or suspended.

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

Tax on gasohol. The tax on the removal or entry of gasohol depends on the type of gasohol. The rates for gasohol containing ethanol are shown on Form 720. The rates for gasohol containing methanol are shown in the instructions for Form 720.

Later separation. If a person separates gasoline from gasohol on which a reduced tax rate was imposed, that person is treated as the refiner of the gasoline. Tax is imposed on the removal of the gasoline. This tax rate is the difference between the regular tax rate for gasoline and the tax rate imposed on the prior removal or entry of the gasohol.

Failure to blend. Tax is imposed on the removal, entry, or sale of gasoline on which a reduced rate of tax was imposed if the gasoline was not blended into gasohol, or was blended into gasohol taxable at a higher rate. If the gasoline was not sold, the person liable for this tax is the person that was liable for the tax on the entry or removal. If the gasoline was sold, the person that bought the gasoline in connection with the taxable removal or entry is liable for this tax. This tax is the difference between the tax that should have applied and the tax actually imposed.

Example. John uses an empty 8,000 gallon tank to blend gasoline and alcohol. The delivery tickets show that he blended 7,205 metered gallons of gasoline and 795 metered gallons of alcohol. He bought the gasoline at a reduced tax rate of 14.333 cents per gallon. The batch contains 9.9375% alcohol (795 ÷ 8,000). John determines that 7,950 gallons (10 × 795) of the mixture qualifies as 10% gasohol. See *Batches containing at least 9.8% alcohol,* earlier. The other 50 gallons is excess liquid that he failed to blend into gasohol. He is liable for a tax of 3.967 cents per gallon (18.30 (full rate) – 14.333 (reduced rate)) on this excess liquid.

Diesel Fuel

Generally, diesel fuel is taxed in the same manner as gasoline (discussed earlier). The following discussion provides information about the excise tax on diesel fuel.

Definitions

The following terms are used in this discussion of the tax on diesel fuel. Other terms used in this discussion are defined under *Gasoline.*

Diesel fuel. This is any liquid (other than gasoline) that, without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat. It does not include kerosene.

Diesel-powered highway vehicle.

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

Diesel-powered boat. This is any waterborne vessel of any size or configuration that is propelled, in whole or in part, by a diesel-powered engine.

Caution: The excise tax on diesel fuel used or sold for use in boats is suspended through December 31, 1997.

Taxable Events

The tax on diesel fuel is 24.3 cents a gallon. It is imposed on each of the following events. The tax does not apply to dyed diesel fuel, discussed later.

If the tax is imposed on the diesel fuel in more than one event, a refund may be allowed for the "second" tax paid on the diesel fuel. See *Refunds,* earlier under *Gasoline.*

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

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 undyed diesel fuel is dyed diesel fuel (discussed later).

The terminal operator is jointly and severally liable for the tax if the position holder 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 terminal operator:

1. Is a registrant,

2. Has an unexpired notification certificate (discussed under *Gasoline*) from the position holder, and

3. Has no reason to believe that any information on the certificate is false.

Removal from refinery. The removal of undyed diesel fuel from a refinery is taxable if the removal is:

1. By bulk transfer and the refiner or owner of the fuel immediately before the removal is not a registrant, or

2. At the refinery rack.
The refiner is liable for the tax.

The tax does not apply to a removal of undyed diesel fuel at the refinery rack if:

1. The undyed diesel fuel is removed from an approved refinery that is not served by pipeline (other than for receiving crude oil) or vessel,

2. The undyed diesel fuel is received at a facility that is operated by a registrant and is within the bulk transfer/terminal system, and

3. The removal from the refinery is by:

A. Rail car and the same person operates the refinery and the facility at which the undyed diesel fuel is received, or

B. A trailer or semi-trailer used exclusively to transport undyed diesel fuel from a refinery (described in (1)) to a facility (described in (2)) that is less than 20 miles from the refinery.

Entry into the United States. The entry of undyed diesel fuel into the United States is taxable if the entry is:

1. By bulk transfer and the enterer is not a registrant, or

2. Not by bulk transfer.
The enterer is liable for the tax.

For information about fuel entered into the United States, see *Entry into the United States* under *Gasoline.*

Removal from a terminal by an unregistered position holder. The removal by bulk transfer of undyed diesel fuel from a terminal is taxable if the position holder for that fuel 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 an approved terminal or refinery. The removal by

bulk transfer of undyed diesel fuel from a terminal or refinery or the entering of undyed diesel fuel by bulk transfer into the United States is taxable if:

1. No tax was imposed (as discussed earlier) on:

   A. The removal from the refinery,

   B. The entry into the United States, or

   C. The removal from a terminal by an unregistered position holder, and

2. Upon removal from the pipeline or vessel, the undyed diesel fuel is not received at an approved terminal or refinery (or at another pipeline or vessel).

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

1. Be a registrant,

2. Have an unexpired notification certificate (discussed under *Gasoline*) from the operator of the terminal or refinery where the undyed diesel fuel is received, and

3. Have no reason to believe that any information on the certificate is false.

The operator of the facility where the undyed diesel fuel 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 undyed diesel fuel located within the bulk transfer/terminal system to a person that is not a registrant is taxable if tax was not imposed under any of the events discussed earlier.

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

1. Be a registrant,

2. Have an unexpired notification certificate (discussed under *Gasoline*) from the buyer, and

3. Have no reason to believe that any information on the certificate is false.

The buyer of the undyed diesel fuel 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.

The tax on these sales does not apply if:

1. The buyer's principal place of business is not in the United States,

2. The sale occurs as the fuel is delivered into a transport vessel with a capacity of at least 20,000 barrels of fuel,

3. The seller is a registrant and the exporter of record, and

4. The fuel was exported.

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

The blender is liable for the tax. The tax is figured on the number of gallons of blended diesel fuel that were not previously subject to the tax.

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:

1. 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

2. Any other person who willfully causes that person to fail to pay the tax.

Dyed Diesel Fuel

The excise tax is not imposed on the removal, entry, or sale of diesel fuel if:

1. The person otherwise liable for tax (for example, the position holder) is a registrant,

2. In the case of a removal from a terminal, the terminal is an approved terminal, and

3. The diesel fuel satisfies the dyeing requirements (described later).

Alaska. Diesel fuel removed, entered, or sold in Alaska for ultimate sale or use in Alaska does not have to meet the dyeing requirements, discussed next, to be exempt from the excise tax on diesel fuel. The removal or entry of any diesel fuel in Alaska is not taxable if:

1. The person that would be liable for the tax as discussed under *Taxable Events,* earlier:

   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, and

3. The owner of the fuel immediately after the removal or entry holds the fuel for its own use in a nontaxable use or is a qualified dealer.

This exemption applies to diesel fuel that is subsequently sold by a qualified dealer only if

- The fuel is sold in Alaska,

- The buyer buys the fuel for its own use in a nontaxable use or is a qualified dealer, and

- The seller can show satisfactory evidence of the nontaxable nature of the transaction and has no reason to believe that evidence is false.

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

Dyeing requirements. Diesel fuel satisfies the dyeing requirements only if it:

1. 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 diesel fuel, or

2. 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: ***DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*** must be:

1. Provided by the terminal operator to any person that receives dyed diesel fuel 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 for use by its buyer.

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

Any seller that fails to post the required notice is presumed to know that the fuel will be used for a taxable use. That seller is subject to the penalty described next.

Penalty. A penalty is imposed on persons who:

1. Know or have reason to know that they sold or held for sale dyed diesel fuel for a taxable use,
2. Know or have reason to know that they used or held for use dyed diesel fuel for a taxable use, or
3. Alter or attempt to alter the strength or composition of the dye in any dyed diesel fuel.

The penalty is the greater of $1,000 or $10 per gallon of the dyed diesel fuel 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.

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

1. Diesel fuel meeting the dyeing requirements is blended with any undyed liquid and the resulting product meets the dyeing requirements.
2. Diesel fuel meeting the dyeing requirements is blended with any other liquid (other than diesel fuel) that contains the type and amount of dye required to meet the dyeing requirements.
3. Diesel fuel meeting the dyeing requirements that is dyed one color is blended with diesel fuel meeting the dyeing requirements that is dyed another color.
4. Diesel fuel meeting the dyeing requirements is blended with diesel fuel not meeting the dyeing requirements and the blending occurs as part of a nontaxable use (other than export), discussed later.

Back-up Tax

The excise tax is imposed on dyed diesel fuel that is delivered into the fuel supply tank of a diesel-powered vehicle (other than certain buses), diesel-powered train, or diesel-powered boat, and used for other than a nontaxable purpose.

This "back-up tax" also applies if the delivery consists of:

1. Any diesel fuel on which a credit or refund (for fuel not used for a taxable purpose) has been allowed, or
2. Any liquid other than gasoline or diesel fuel.

Caution: The excise tax on diesel fuel used or sold for use in boats is suspended through December 31, 1997.

Generally, the back-up tax is imposed at a rate of 24.3 cents a gallon. The rate for delivery of the fuel into a train is 5.55 cents a gallon. The rate for delivery into certain intercity buses is 7.3 cents a gallon.

If you are liable for the back-up tax, you may be liable for the penalty discussed under *Dyed Diesel Fuel.* However, the penalty applies only to dyed diesel fuel, while the back-up tax can 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 until the fuel is delivered into the fuel supply tank.

Liability for tax. The operator of the vehicle, boat, or train into which the fuel is delivered is liable for the tax. In addition, the seller of the diesel fuel is jointly and severally liable for the tax if the seller knows or has reason to know that the fuel will be used for a taxable use. Generally, a seller of diesel fuel is not liable for tax on fuel delivered into the fuel supply tank of a bus or train. However, the person that delivers the fuel into the supply tank of a train is liable for the tax if, at the time of delivery, the deliverer and the train operator are both registered 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 for uses (1) through (10) 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, train, or boat, the tax does not apply to diesel fuel used as heating oil or in stationary engines.

Nontaxable Uses

Diesel fuel intended for a nontaxable use generally is not subject to the excise tax if the fuel meets the dyeing requirements, discussed earlier under *Dyed Diesel Fuel.*

The following are nontaxable uses of diesel fuel:

1. Use on a farm for farming purposes (discussed later),
2. Exclusive use of a state (discussed earlier under *Gasoline*),

3. Use in a vehicle owned by an aircraft museum (as discussed later under *Aviation Fuel*),

4. Use in a boat employed in:

   A. The business of commercial fishing or transporting persons or property for compensation or hire, or

   B. Any other trade or business, unless the boat is used predominantly for entertainment, amusement, or recreation,

   Caution: For 1997 use in any boat for any purpose qualifies as a nontaxable use.

5. Use in a school bus (discussed later),

6. Use in a qualified local bus (discussed later),

7. 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.

8. Exclusive use of a nonprofit educational organization,

9. Use in a vehicle owned by the United States that is not used on a highway,

10. Use in any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation,

11. Diesel fuel that is exported,

12. Use other than as a fuel in a propulsion engine of a diesel-powered highway vehicle or diesel-powered boat (such as home heating oil),

13. Use as a fuel in a propulsion engine of a diesel-powered train (subject to back-up tax, discussed earlier),

14. Use in an intercity bus meeting certain qualifications (discussed later).

For information about filing a claim for refund or credit for the tax paid on undyed diesel fuel used for a nontaxable purpose, see Publication 378.

Used on a farm for farming purposes. Diesel fuel is used on a farm for farming purposes if it is bought by the owner, tenant, or operator of the farm and used:

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

Item (4) applies only if more than one-half of the commodity that was 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.

If undyed diesel fuel is used on a farm for farming purposes, the fuel cannot be considered as being used for any other nontaxable purpose.

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. The farm must be operated for profit and located in any of the 50 States or the District of Columbia.

Diesel fuel is **not used** for farming purposes if:

1. Used off the farm, such as on the highway, even if the diesel fuel is used in transporting livestock, feed, crops, or equipment;

2. Used for personal use, such as mowing the lawn;

3. Used in processing, packaging, freezing, or canning operations; or

4. Used to process crude gum into gum spirits of turpentine or gum resin or to

process maple sap into maple syrup or maple sugar.

Buses. Generally, diesel fuel used in a bus is used for a nontaxable use. However, fuel used in certain buses is subject to a reduced rate of excise tax.

School bus. No tax is imposed on dyed diesel fuel used in a bus while the bus is engaged in the transportation of students and school employees.

Qualified local bus. No tax is imposed on dyed diesel fuel used in a bus while the bus is engaged in furnishing intracity passenger land transportation for compensation, if the bus is:

1. Available to the general public,
2. Operates along scheduled, regular routes,
3. Has a seating capacity of at least 20 adults (excluding the driver), and
4. Is under contract with or receiving more than a nominal subsidy from any state or local government to furnish that transportation.

Intercity bus. A reduced rate of tax (7.3 cents a gallon) is imposed on dyed diesel fuel delivered into the tank of an intercity bus. (See *Back-up Tax,* earlier.) This is a bus used to furnish (for compensation) passenger land transportation that is available to the general public and:

1. The transportation is scheduled and along regular routes, or
2. 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.

Other buses. The full amount of tax (24.3 cents a gallon) is imposed on dyed diesel fuel delivered into the tank of a bus not previously described.

Credit or refund. If undyed diesel fuel is bought and used in a bus for a nontaxable use, a credit or refund of the tax can be claimed by the bus operator. See Publication 378 for more information.

Aviation Fuel

Tax is imposed on the sale of aviation fuel (other than gasoline) by its producer or importer. The tax increases on March 7, 1997, from 4.3 cents a gallon to 21.8 cents a gallon. The tax rate is scheduled to decrease to 4.3 cents a gallon on October 1,

1997.

The person making the taxable sale is liable for the tax. The use of aviation fuel (other than gasoline) by a producer is considered a sale of that fuel. This applies if there was no taxable sale of the fuel and the use was not a nontaxable use.

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:

1. 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
2. Any other person who willfully causes that person to fail to pay the tax.

Aviation fuel. This is any liquid (other than gasoline or diesel fuel) that is suitable for use as fuel in an aircraft.

Producers. Producers include refiners, blenders, and wholesale distributors of aviation fuel and dealers selling aviation fuel exclusively to producers of aviation fuel if these persons have been registered by the IRS. The term also includes the actual producer of aviation fuel. See *Registration for Certain Activities,* earlier.

Any person buying aviation fuel at a reduced rate is the producer of that fuel.

Wholesale distributors. To qualify as a wholesale distributor, you must hold yourself out to the public as being engaged in the trade or business of:

1. Selling aviation fuel to producers or retailers or to users who purchase in bulk quantities (25 gallons or more) and accept delivery into bulk storage tanks, and

   A. At least 30% of your sales of aviation fuel in a year are to these buyers, or

   B. At least 50% of the volume of aviation fuel is sold to these buyers ***and*** at least 500 of your sales during a year are made to these buyers, or

2. Selling aviation fuel for nontaxable uses (such as use on a farm for farming purposes) ***and*** sell at least 70% of your volume of aviation fuel during the year to these users.

Bulk storage tanks. A bulk storage tank is a container that holds at least 50 gallons and is not the fuel supply tank of any engine that is mounted on, or attached to, an aircraft.

Aviation Fuel Exemptions

Registered producers may sell aviation fuel tax free for purposes described below, but ***only*** if certain prescribed conditions are met. No **seller** of aviation fuel is eligible to claim a credit or refund for aviation fuel used by the buyer for these purposes.

Sales to other producers. Registered producers may sell aviation fuel tax free to other registered producers of aviation fuel. The buyer must give the seller a written statement containing the buyer's registration number.

Sales for nontaxable uses. A registered producer may sell aviation fuel tax free for use:

1. In military aircraft owned by the United States or a foreign country,
2. In a domestic air carrier engaged in foreign trade or trade between the United States and any of its possessions, and
3. In a foreign air carrier engaged in foreign trade or trade between the United States and any of its possessions, but only if the country in which the foreign carrier is registered allows U.S. carriers reciprocal privileges. See Revenue Rulings 74–346, 1974–2 C.B. 361; 75–526, 1975–2 C.B. 435; 75–398, 1975–2 C.B. 434; and 75–109, 1975–1 C.B. 348, for a list of these countries.

In addition, registered producers may sell aviation fuel tax free for certain uses in an aircraft including:

1. Use on a farm for farming purposes, as discussed earlier under *Diesel Fuel,*
2. Use by certain aircraft museums, discussed next,
3. Use by certain helicopters, discussed later,
4. Use by a state, as discussed earlier under *Gasoline,* and
5. Exclusive use by the United Nations.

A buyer for these uses gives its supplier a signed ***exemption certificate*** stating the buyer's name, address, taxpayer identification number, registration number (if applicable), and intended use. A buyer may give a separate exemption certificate for each purchase or may give one certificate to cover all purchases from a particular seller for up to 1 year.

Aircraft museums. Aviation fuel may be sold tax free for use in an aircraft that is owned by an aircraft museum and used exclusively for purposes in item (3) of the following definition.

An aircraft museum is an organization:

1. Exempt from income tax as an organization described in section 501(c)(3) of the Internal Revenue Code;

2. Operated as a museum under a state (or District of Columbia) charter; and

3. Operated exclusively for acquiring, exhibiting, and caring for aircraft of the type used for combat or transport in World War II.

Helicopter uses. Aviation fuel may be sold tax free for use in a helicopter that does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided under the Airport and Airway Improvement Act of 1982 during the use and is used for:

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).

For helicopters used in exploration for, or development or removal of, hard minerals, oil, or gas, each flight segment is treated as a separate flight.

Emergency medical transportation. Aviation fuel may be sold tax free for use in a helicopter providing emergency medical transportation.

Sales to commercial airlines.

During the period the 21.8 cents a gallon rate is in effect, registered producers may sell aviation fuel at the tax-reduced rate of 4.3 cents a gallon to a registered commercial aircraft operator for use as a fuel in commercial aviation.

Commercial aviation. Commercial aviation is use of an aircraft not in noncommercial aviation.

Noncommercial aviation. Noncommercial aviation is any use of an aircraft other than in the business of transporting persons or property by air for compensation or hire.

Noncommercial aviation is also any use, including the business of transportation 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, or

- An aircraft owned or leased by a member of an affiliated group and unavailable for hire to nonmembers. (Whether an aircraft is available for hire to nonmembers

is made on a flight-by-flight basis.)

Registration.

An airline must be registered by the IRS to buy aviation fuel at the 4.3 cents per gallon rate. An airline must apply for registration on Form 637. To buy at a tax-reduced rate, the airline gives the seller a written ***exemption certificate*** stating the buyer's name, address, taxpayer identification number, registration number, and intended use of the fuel. An airline may give a separate exemption certificate for each purchase or may give one certificate to cover all purchases from a particular seller for up to 1 year.

Floor Stocks Tax

A floor stocks tax of 17.5 cents per gallon is imposed on any person holding previously taxed aviation fuel (other than gasoline) on March 7, 1997. The floor stocks tax must be paid by August 1, 1997, and reported on the Form 720 for the third quarter of 1997.

The floor stocks tax does not apply to aviation fuel (other than gasoline):

- Held exclusively for use in foreign trade or in military aircraft,
- Held exclusively for use in domestic commercial aviation, or
- Held by a person or related group of persons if the aggregate amount of fuel is not more than 2,000 gallons. (Fuel held for exempt purposes is not taken into account.)

Special Motor Fuels

Tax is imposed on special motor fuel if it is sold to an owner, lessee, or other operator for use as a fuel in the propulsion engine of a motor vehicle or motorboat, or is acquired in any manner other than through a taxable sale and used as fuel for a motor vehicle or motorboat. The tax is 18.3 cents a gallon.

Special motor fuels include such products as benzol, benzene, naphtha, liquefied petroleum gas, liquefied natural gas, casinghead and natural gasoline, and any other liquid **other than** gasoline, diesel fuel, kerosene, gas oil, and fuel oil. Treat products called kerosene, gas oil, or fuel oil that do not fall within certain specifications as special motor fuel.

Motor vehicle. For this purpose, motor vehicles include all types of vehicles, whether or not registered (or required to be registered) for highway use, that are:

1. Propelled by a motor, and

2. 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:

Farm tractors	Trench diggers
Power shovels	Bulldozers
Road graders	Road rollers
Similar equipment that does not carry or tow a load	

Special motor fuel/alcohol mixture. A reduced rate of tax is imposed on the sale or use of a blend of alcohol with special motor fuels. The blend must be at least 10% alcohol that is 190 proof or more. Figure the proof of any alcohol without regard to any added denaturants.

The alcohol includes methanol or ethanol. But it does not include alcohol produced from petroleum, natural gas, or coal (including peat), or from a derivative of any of these products. Methanol produced from methane gas formed in waste disposal sites is not "alcohol produced from natural gas." See Form 720 instructions for the tax rates on special motor fuels alcohol mixtures.

Later separation. Treat the separation of special motor fuel from an alcohol mixture upon which tax has been paid at a reduced rate as a sale of special motor fuel. The tax on the sale is imposed on the person who makes the separation. Reduce the tax on special motor fuel by the tax already paid on the alcohol mixture.

Qualified methanol and ethanol fuels. These consist of at least 85% methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas. A tax of 12.3 cents a gallon applies to a mixture ***not*** containing ethanol (qualified methanol). A tax of 12.9 cents a gallon applies to a mixture containing ethanol (qualified ethanol).

Partially exempt alcohol fuels. These consist of at least 85% methanol, ethanol, or other alcohol produced from natural gas. They are taxed at a reduced rate of 11.3 cents a gallon.

Special Motor Fuel Exemptions

Special motor fuels are exempt from the tax if sold for use or used:

- In an off-highway business use (discussed later).
- In a vessel used in commercial fishing.
- On a farm for farming purposes, as discussed earlier under *Diesel Fuel.*
- By a state for its exclusive use, as discussed earlier under *Gasoline.*
- By nonprofit educational organizations for their exclusive use, as discussed earlier under *Communications Tax.*
- By the United Nations for its official use.
- By aircraft museums as discussed earlier under *Aviation Fuel (Other Than Gasoline).*

Off-highway 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

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 unless tax was imposed under the bulk sales rule discussed next. If the delivery is in connection with a sale, the seller is liable for the tax. If 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, by the time of sale, the seller has:

1. Received the buyer's written statement that the entire quantity of the CNG is for use as a fuel in a motor vehicle or motorboat, and

2. Given the buyer written acknowledgment of receipt of the statement.

The seller of the CNG is liable for the tax.

Tax rate. The rate is 48.54 cents per thousand cubic feet (determined at standard temperature and pressure).

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

CNG Exemptions

CNG is exempt from the tax if delivered or sold for use:

- In an off-highway business use, as discussed earlier under *Special Motor Fuels.*
- In a vessel used in commercial fishing.
- In a school bus or qualified local bus, as discussed earlier under *Diesel Fuel.*
- On a farm for farming purposes, as discussed earlier under *Diesel Fuel.*
- By a state for its exclusive use, as discussed earlier under *Gasoline.*
- By nonprofit educational organizations for their exclusive use, as discussed earlier under *Communications Tax.*
- By the United Nations for its official use.
- By aircraft museums, as discussed earlier under *Aviation Fuel (Other Than Gasoline).*
- Use in any boat operated by the United States for its exclusive use or any vessel of war of any foreign nation.

The exemption applies to the sale of CNG only if, by the time of sale, the seller:

1. Has an unexpired certificate from the buyer, and
2. Has no reason to believe that any information in the certificate is false.

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

A certificate expires on the earliest of the following dates:

1. The date one year after the effective date (which may be no earlier than the

date signed) of the certificate.

2. The date that a new certificate is provided to the seller.

3. The date that the seller is notified that the buyer's right to provide a certificate has been withdrawn.

Fuels Used on Inland Waterways

Tax of 24.3 cents a gallon is imposed on any 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.

The person who operates the vessel in which the fuel is consumed is the user and must file returns and pay the tax. The tax is paid with the Form 720. No tax deposits are required.

Inland and intracoastal waterways. Inland and intracoastal waterways on which fuel consumption is subject to tax are listed in section 206 of the Inland Waterways Revenue Act of 1978, as amended.

Commercial waterway transportation. Commercial waterway transportation is the use of a vessel on inland or intracoastal waterways:

1. In the business of transporting property for compensation or hire, or
2. To transport 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 (except certain fishing vessels) meeting either of these requirements is commercial waterway transportation regardless of whether the vessel is actually transporting property on a particular voyage. Thus, the tax is imposed on vessels while:

1. Moving without cargo,
2. Awaiting passage through locks,
3. Moving to or from a repair facility,
4. Dislodging vessels grounded on a sand bar,
5. Fleeting barges into a single tow, and
6. Maneuvering around loading and unloading docks.

Fishing vessels exception. The tax does not apply to fuel 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.

Liquid fuel. Liquid fuel includes diesel fuel, bunker C residual fuel oil, special motor fuel, or gasoline. The tax is imposed on liquid fuel actually consumed by a vessel's propulsion engine and not on the unconsumed fuel put into 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 that are 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, figure the fuel used in the nonpropulsion engine. 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 taxable 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 within those waterways. Generally, the operator may figure the amount of 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 may not be used where it is found to be unreasonable.

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

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 transporting property in addition to transporting passengers. 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 ocean-going carriers solely to pick up or deliver international cargoes.

However, it is taxable when:

1. 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; or

2. One or more of the barges is not on an international voyage; or

3. 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:

1. The date and quantity of fuel delivered into storage tanks or the tanks on your vessel,

2. The identification number and name of each vessel using the fuel, and

3. 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:

1. The draft of the vessel on each voyage,

2. The type of vessel in which you used the fuel,

3. The type of cargo that you transport, and

4. The final use of the cargo (for vessels operated by state or local governments).

Alcohol Sold As Fuel But Not Used As Fuel

Alcohol (either mixed or straight) designated for use as fuel may be eligible for a credit. Use Form 6478, *Credit for Alcohol Used as Fuel,* to figure the credit. If you claimed the credit for alcohol used as fuel, you are liable for an excise tax if you:

1. Use the mixture or straight alcohol other than as a fuel,

2. Separate the alcohol from a mixture, or

3. Mix the straight alcohol.

Report the tax on Form 720. The rate of tax depends on the rate at which the credit was allowed. No tax deposits are required.

For more information about this credit, see *Alcohol Fuels Credit* in Publication 378.

Manufacturers Taxes

If you are a manufacturer, producer, or importer, and you sell, lease, or use an article subject to the manufacturers excise tax, you are liable for the tax unless an exemption applies.

Registration.

Certain transactions may be made tax free, but only if the manufacturer, first purchaser, and second purchaser are registered. See Form 637 instructions for more information.

Note.

The discussion from this point to *Tax Liability,* later, does not apply to the manufacturers tax on:

1. Coal when the tax is based on weight,

2. Tires,

3. Gas guzzlers, and

4. Vaccines.

Lease considered sale.
The lease of an article (including any renewal or extension of the lease) by the manufacturer, producer, or importer is generally considered a taxable sale.

Determination of sales price.
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 while you exclude others. To figure the price on which you base the tax, you:

1. **Include:**

   A. Any charge for coverings or containers (regardless of their nature), and

   B. Any charge incident to placing the article in a condition packed ready for shipment.

2. **Exclude:**

   A. The manufacturers excise tax, whether or not it is stated as a separate charge.

   B. The cost of transportation. (The cost of transportation of goods to a warehouse before their bona fide sale is not excludable.)

   C. Delivery, insurance, installation, retail dealer preparation costs, and other charges that 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, producer, or importer requires the purchaser to pay to obtain the article is included in the sale price on which the tax is figured.

G. Bonus goods.
Allocate the sales price if you give free nontaxable goods with the purchase of taxable merchandise. Impose 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.

Tax Liability

The following discussions apply to all manufacturers taxes in this section unless otherwise stated.

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.

Partial payments.

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

1. Leased,

2. Sold conditionally,

3. Sold on installment with chattel mortgage, or

4. 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.

Uncollectible accounts.

You cannot take a credit or claim a refund for the tax you have paid on articles sold on open accounts that become uncollectible.

Exemptions

Exempt

from the manufacturers tax are sales:

1. Of certain supplies for vessels and aircraft.

2. Of articles of native Indian handicraft manufactured or produced by Indians.

3. For further manufacture of other taxable articles.

4. For export or for resale to someone who intends to export.

Indian products.

The tax does not apply to native Indian products, such as bows and arrows (or their parts and accessories), manufactured by Indians on reservations, in Indian schools, or under U.S. jurisdiction in Alaska.

Further manufacturing.

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.

Export returned to United States.

If an article is sold tax free for export and subsequently is returned to the United States in an unused and undamaged condition, the importer must pay the tax on any later sale or use of the article in the United States.

Other exemptions. Also exempt are sales to:

1. State and local governments for their exclusive use.
2. Indian tribal governments, but only if sales involve the exercise of an essential tribal government function.
3. American National Red Cross for its exclusive use.
4. Nonprofit educational organizations for their exclusive use.
5. The United Nations for its exclusive use.

The exemptions listed above do not apply to all the manufacturers tax in every situation. For example, the ***American Red Cross*** is not exempt from the tax on the purchase of:

1. Automobiles that do not meet certain fuel economy standards (see *Gas Guzzler Tax,* later), or
2. Coal.

Credits and refunds. You may obtain a credit or refund of the manufacturers taxes paid on the sale of an article if the article is resold for certain uses or used for an exempt purpose.

The manufacturer may be eligible to file a claim for the tax already paid on articles sold for the exclusive use of:

1. Nonprofit educational organizations,
2. State and local governments,
3. Indian tribal governments,
4. United Nations, and
5. Vessels and aircraft as supplies.

The tax will be refunded to the person who filed and paid the tax.

The manufacturer must get a written statement from the purchasing organization

stating:

1. The type of article, both as to nature and quantity,

2. The address of the organization,

3. The name and address of the person from whom the article was purchased,

4. The exempt use made, or to be made, of the article, and

5. That the organization will notify the manufacturer if the article is not used for an exempt purpose.

If the article passed through a chain of sales to the organization, the person who made the final sale to the organization may provide the manufacturer a certificate that the seller has the statement described above.

In addition, the manufacturer must submit with its claim a statement that the manufacturer:

1. Has not collected the tax from the dealer involved, or

2. Has repaid the tax to the dealer involved in return for the dealer's written consent to the allowance of any possible credit or refund involved.

If a taxable article is bought from a dealer by an organization listed above at a reduced price (the reduction equal to the tax) and the dealer bought the article from the manufacturer **tax paid,** the dealer should give the manufacturer the required statement obtained from the organization. Then, the manufacturer may file a claim for a credit or refund.

Sport Fishing Equipment

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

Pay the tax with your return. No tax deposits are required.

Sport fishing equipment includes:

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) above);

3. The following items of fishing supplies and accessories: fish stringers, creels, tackle boxes, 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; and

5. Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers.

See Revenue Ruling 88–52, 1988–1 C.B. 356, for a more complete description of the items of taxable equipment.

Electric outboard boat motors and sonar devices.

A tax of 3% of the sale price is imposed on electric outboard motors and sonar devices suitable for finding fish, sold by the manufacturer, producer, or importer. This includes any parts or accessories sold on or in connection with, or with the sale of, those articles. The tax on any sonar device, however, cannot exceed $30. A sonar device suitable for finding fish does not include any device that is a graph recorder, a digital type, a meter readout, a combination graph recorder, or a combination meter readout.

Certain equipment resale.

The tax on the sale of sport fishing equipment is imposed a second time under the following circumstances. If the manufacturer (including a producer or importer) 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 later) to the manufacturer, that related person is liable for a second tax. 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, producer, or importer.

If the second tax is imposed, a credit for tax previously paid by the manufacturer, producer, or importer is available provided the related person can document the amount of 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, producer, or importer if that person and the manufacturer, producer, or importer have the relationship described in Internal Revenue Code section 465(b)(3)(C).

Bows and Arrows

A tax of 11% of the sale price is imposed on the sale by the manufacturer, producer, or importer of any bow having a draw weight of 10 pounds or more and any arrow measuring 18 inches or more in overall length. The tax on arrows applies to arrows less than 18 inches long if they can be used with a taxable bow, such as a crossbow.

The tax also is imposed at the same rate on the sale by a manufacturer, producer, or importer of any part or accessory suitable for inclusion in or attachment to a taxable bow or arrow and on the sale of any quiver suitable for use with taxable arrows.

Pay this tax with your return. No tax deposit is required.

Coal

Producers of coal from mines in the United States are liable for the tax on the first sale or use of the coal. 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 the existence of 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 the 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 coal and less than $12.50 a ton for surface 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 tax is the lower of 4.4% of $525 ($23.10) or $1.10 times 10.5 tons ($11.55). In this case, the tax is $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 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 the 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. Thus, 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 any additional charge for a freeze-conditioning additive in figuring the tax.

Coal used by the producer. This means that you used the coal in other than a mining process. A mining process is determined the same way it is determined for percentage depletion. For example, the tax does not apply if you break the coal, clean it, size it, or apply any other process considered mining under the rules for depletion before selling the coal. In this case, the tax applies only when you sell the coal. But the tax does apply when you use the coal as fuel or as an ingredient in making coke. The tax does not apply to coal used as fuel in the coal drying 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. But 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 coal and imported coal. There are no exemptions from the tax on the sales of taxable coal.

Tires

Tax is imposed on the sale or use by the manufacturer, producer, or importer of tires of the type used on highway vehicles and made all or in part of rubber.

The tax is based on the weight of each tire. The tax rate is shown in the Form 720 instructions.

Determination of weight.
Do not include metal rims or rim bases in figuring the total weight of a tire. But include wire staples, darts, clips, and other material or fastening devices that form a part of the tire or are required for its use in the total weight of the tire.

Consider studs as part of a tire, and include them in the total weight. The total weight of a ***tubeless tire*** includes the weight of the air valve and stem or any other mechanism that functions as a part of the tire and is used in connection with inflating the tire or maintaining its air pressure.

When you sell tires with metal rims or rim bases attached, you must keep records establishing what portion of the total weight of the finished product represents the tire without the metal rim or rim base.

Alternative method of determining weight. If you have received permission

from the IRS, you may determine total weight of tires that you manufactured and sold using the average weight for each type, size, grade, and classification.

See Revenue Procedure 92–82 for several alternative methods that you may use to determine tire weight.

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

Articles not subject to tax.

The tax does not apply to:

1. Tires of extruded tiring with an internal wire fastening agent.
2. Tires manufactured from a thermoplastic substance known commercially as polyethylene.
3. Recapped or retreaded tires if the tires have been sold previously in the United States and were taxable tires at the time of sale.
4. Tire carcasses not suitable for commercial use.
5. Tires used on qualifying intercity, local, or school buses.

A qualifying intercity or local bus 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). A qualifying school bus is any bus used mainly (85% or more) to transport students and employees of schools.

Gas Guzzler Tax

Tax is imposed on the sale by the manufacturer or importer of automobiles of a model type that does not meet fuel economy standards as measured by the Environmental Protection Agency (EPA). If you import an automobile for personal use, you may have to pay this tax. Figure the tax on Form 6197, *Gas Guzzler Tax,* as discussed later.

Sale. Sale includes the manufacturer's use of an automobile or the first lease of an automobile. For rules on paying the tax in the case of a first lease, see IRC section

4217(e)(2).

Manufacturer. Manufacturer includes a producer or importer. The tax applies to automobiles imported for business **or** personal use. Consider the lengthening of an existing automobile (for example, to make a stretch limousine) to be the manufacture of an automobile.

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

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

Limousines.
The tax 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 fire-fighting purposes.

3. Vehicles defined in 49 CFR 523.5 (1978) as non-passenger automobiles.

You can sell a vehicle described in item (2) tax free only when you make the sale directly to a purchaser for the described emergency use. However, if the purchaser pays the tax on a vehicle that is used or resold for an emergency use described, you can either file a claim for the refund of the tax paid on the sale on Form 8849 or take a credit on Form 720. You must support the claim by evidence of the intended use. You must establish that you repaid the tax to the purchaser.

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 that the 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 applies to automobiles that do not have a prototype-based fuel economy rating assigned by the EPA. An automobile that is 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:

1. Converted, by installation of emission controls, to conform in all material respects to an automobile that is already certified for sale in the United States, or

2. 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 the conformed automobile.

A fuel economy rating is not generally available for those imported automobiles that have been modified 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).

For more information about imported automobiles, see Revenue Ruling 86–20, 1986–1 C.B. 319, Revenue Procedure 86–9, 1986–1 C.B. 530, and Revenue Procedure 87–10, 1987–1 C.B. 545.

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 about filing and the requirements for filing if you import an automobile for personal use.

Vaccines

Tax is imposed on certain vaccines sold in the United States. The taxable vaccines are those for:

1. Diphtheria, pertussis, and tetanus (DPT),
2. Diphtheria and tetanus (DT),
3. Measles, mumps, and rubella (MMR), and
4. Polio.

You are liable for the tax if you are the manufacturer, producer, or importer of the vaccines. The tax rates per dose are shown on Form 720.

Exemptions. The tax does not apply if the sale is:

1. To the first or second purchaser for further manufacture, or
2. For export, other than to a U.S. possession.

Credit or refund

is available if the vaccine is:

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

Tax on Heavy Trucks, Trailers, and Tractors

The following discussion covers the excise tax imposed on the first retail sale of heavy trucks, trailers, and tractors. See *First retail sale defined,* later.

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 article:

1. Truck chassis and bodies;

2. Truck trailer and semitrailer chassis and bodies; and

3. Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

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

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.

A highway vehicle is one designed to carry a load over highways, whether or not it is also designed to perform other functions.

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.

Generally, the gross vehicle weight must be determined by the seller solely on the strength of the chassis frame and the axle capacity and placement and, in the case of semitrailers, the weight to be borne by the towing vehicle. In making this determination, the seller may not take into account readily attachable components to lower the gross vehicle weight rating. "Readily attachable components" include springs, brakes, rims, and tires.

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 applies to the price of a part or accessory and its installation if:

1. The owner, lessee, or operator of any vehicle that contains a taxable item installs, or causes to be installed, any part or accessory on the vehicle, and

2. The installation occurs within 6 months after the vehicle is first placed in service.

A vehicle is placed in service on the date that 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. However, the tax does not apply if either the installed part or accessory is a replacement or the total price of the parts and accessories, including installation charges, is **$200 or less.** If the total price of parts and accessories including installation charges during the 6-month period is **more than $200,** 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 $150. On July 15, you bought and installed parts and accessories at a cost of $300. A tax of $54 applies (12% of $450) on July 15. Also, the tax will apply to any costs of additional parts and accessories installed on the vehicle before October 8.
The owners of the trade or business installing the parts or accessories are secondarily liable for the tax.

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

1. There has been a prior taxable sale, lease, or use of the article (except in the case of trailers and semitrailers).

2. The sale qualifies as a tax-free sale under section 4221 of the Code (see *Sales exempt from tax,* later).

3. The purchaser and seller are both registered for tax-free sales, and the seller in good faith accepts a proper certification from the purchaser that the purchaser intends to resell the article or lease it on a long-term basis.

A long-term lease is a lease with a term of one year or more. A long-term lease 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 one year) by a manufacturer, producer, importer, related person, or purchaser before a taxable sale is treated as a taxable use. The tax is imposed on the lessor at the time of the lease.

A vehicle that is exported before its first retail sale, used in a foreign country, and then returned to the U.S., 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 amount of tax on the resale.

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. The following discussions will show how you figure the presumptive retail sales price depending on the type of transaction and the persons involved in the transactions.

The ***presumed markup percentage*** to be used for trucks and truck-tractors is four percent. But for truck trailers and semitrailers and remanufactured trucks and tractors, the presumed markup percentage is zero.

Sale. Generally, you figure the tax imposed on a sale by a manufacturer, producer, importer, or related person 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 that is 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 that is 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 person that is a member of the same controlled group as the manufacturer, producer, or importer. Do not treat a person that sells the articles through a permanent retail establishment in the normal course of being a retailer as a related person if that person has records to prove that 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. In the case of 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 later 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:

1. You do not perform any significant activities relating to the processing of the sale of a taxable article,

2. The main reason for processing the sale through you is to avoid or evade the presumed markup, and

3. 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 cases, 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 amount on which the tax is based, 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 vendor or vendee. Also exclude the value of any used component of the article furnished by the first user of the article and the retail fair market value (including any excise tax) of any tires exclusive of any metal rim or rim base. A vehicle retailer without an established retail price of tires can use the tire manufacturer's predetermined retail price to figure the amount to exclude.

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.

In figuring the tax base 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. In figuring the tax base on the sale of a sewer cleaning vehicle, do not include 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:

1. 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, or

2. The sale is made under special arrangements between a seller and a purchaser.

Restoration of worn vehicles.

The tax does not apply to the sale or use of a worn vehicle restored to a usable condition if the cost of the restoration is not more than 75% of the cost of a comparable new vehicle. If the restoration includes the use of a glider kit, the tax does not apply on the sale or use of the restored vehicle as long as the total cost of the repair is not more than the 75% limit. Add the cost of non-emergency repairs, modifications, and upgrades occurring over any 6-month period in figuring the 75% limit.

However, the 75% limit does not apply to a wrecked vehicle. The owner of a wrecked vehicle is liable for the tax on the sale or use of the restored vehicle. A vehicle is wrecked when it has been damaged as a result of a collision or similar mishap and extensive repairs are necessary to return the vehicle to a fully functional condition. Do not consider a vehicle that has only minor damage as wrecked, even if the damage renders the vehicle inoperable.

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, the tax 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.

Further manufacture.

The tax does not apply to the use 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:

1. Coupling device (including any fifth wheel),
2. Wrecker crane,
3. Loading and unloading equipment (including any crane, hoist, winch, or power lift gate),
4. Aerial ladder or tower,
5. Ice and snow control equipment,
6. Earth moving, excavation and construction equipment,
7. Spreader,
8. Sleeper cab,
9. Cab shield, or
10. Wood or metal floor.

Merely combining articles as described here does not give rise to taxability.

Articles exempt from tax. The tax on heavy trucks, trailers, and tractors does not apply to the following articles:

Rail trailers and rail vans. 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 or accessories sold separately from the truck or trailer, except as described earlier in *Parts or accessories,* and *Separate purchase.*

Trash containers. Any box, container, receptacle, bin or similar article that is:

1. Designed to be used as a trash container,
2. Not designed to carry freight other than trash, and
3. Not designed to be permanently mounted or permanently affixed to a truck chassis or body.

House trailers (regardless of size) suitable for use in connection with either passenger automobiles or trucks.

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

Farm feed, seed, and fertilizer equipment 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, hearses, and combination ambulance-hearses.

Truck-tractors specifically designed for use in shifting semitrailers in and around freight yards and freight terminals.

Concrete mixers designed to be placed or mounted on a truck, truck trailer, or semitrailer chassis to be used to process or prepare concrete.

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

1. To state and local governments.
2. To Indian tribal governments, but only if the transaction involves the exercise of an essential tribal government function.
3. To nonprofit educational organizations.
4. For further manufacture of other taxable articles (see below).
5. For export or for resale to someone who intends to export (see below).
6. To the United Nations for official use.

Further manufacturing. 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.

Export returned to United States. If an article is sold tax free for export and subsequently is returned to the United States in an unused and undamaged condition, the importer must pay the tax on any later sale or use of the article in the United States.

Registration.

Certain transactions may be made tax free, but only if the buyer and seller have registered. File Form 637 to apply for registration.

Ship Passenger Tax

A tax of $3 per passenger is imposed on the operation of commercial ships, 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.

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 during the entire period until the vessel has completed at least one outward and one homeward passage. The tax may be imposed for a passenger who does not make both an outward and a homeward passage, or embarks or disembarks at an intermediate stop 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 includes 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 includes 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 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. A friendly game of chance with other passengers that is not operated by the owner or operator is not gambling for determining if the voyage is subject to the ship passenger tax.

Luxury Tax

The luxury tax is imposed on the first retail sale or use (other than use as a demonstrator) of a passenger vehicle with a price exceeding the base amount. The seller of the vehicle pays the luxury tax. For 1997 the tax is 8% of the amount the sales price exceeds the base amount of $36,000.

Passenger vehicles.

Generally, the tax applies if the passenger vehicle has an unloaded weight of 6,000 pounds or less. However, the tax applies to trucks and vans only if they have a **maximum loaded** weight of 6,000 pounds or less. The tax applies to limousines regardless of their weight. The tax does not apply to the sale of taxicabs and other vehicles used by the purchaser exclusively in the business of transporting persons or property for hire or compensation.

Exemptions.

The tax does not apply to passenger vehicles if bought for exclusive use:

1. In public safety, law enforcement, or public works by the federal, state, or local government, or

2. In providing emergency medical services by any person.

Treat an Indian tribal government as a state only if the use is an essential tribal government function.

The tax does not apply to vehicles sold for export.

Leases. Generally, a lease is considered a sale of the vehicle. The sales price is the lowest price for which the vehicle is sold by retailers in the ordinary course of business. For rules on paying the tax on a lease, see IRC section 4217(e)(2).

Parts and accessories.

Certain parts or accessories installed within six months of the date on which a passenger vehicle is placed in service may be subject to the tax.

The owner, lessee, or operator of the vehicle is liable for the tax. If the part is installed by someone else, the installer must collect the tax and pay it to the IRS.

The tax does not apply to:

1. Replacement parts or accessories,

2. Parts or accessories installed to help a person with a disability operate, enter, or exit the vehicle, or

3. Parts and accessories if the total cost (including installation) of all parts and accessories does not exceed $200.

Resale or substantial non-exempt use.

The tax may apply to vehicles that were originally exempt from the luxury tax if the purchaser resells the vehicle or makes a substantial non-exempt use of the vehicle within 2 years after the date of purchase.

Imported vehicles.

The tax applies to taxable vehicles that are imported for sale or use (except for vehicles first used before January 1, 1991). The tax is imposed on the first domestic sale or use of the vehicle.

Credit or refund. If the price of the vehicle is readjusted, you may qualify for a credit or refund of any tax overpaid. A readjustment of the price may occur if:

1. The vehicle is returned or repossessed, or

2. A bona fide discount, rebate, or allowance is applied against the price of the vehicle.

The tax on the amount repaid or credited to the purchaser is the overpayment. If the purchaser paid the tax on the original sale, you must repay the tax to the purchaser before claiming a credit or refund.

Other Excise Taxes

Excise taxes are imposed on:

1. Policies issued by foreign insurers, and

2. Obligations not in registered form.

Policies Issued by Foreign Insurers

Tax is imposed on the issuance of policies of insurance by foreign insurers. The tax rate applies to each dollar (or fraction thereof) of the premium paid and is as follows:

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); and

3. Reinsurance policies covering any of the contracts taxable in the two preceding paragraphs: 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 that is 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.

Duty to pay tax. The person who makes the payment of the premium to the foreign insurer or the person's agent pays the tax. This is the resident person who actually transfers the money or its equivalent to the insurer or agent.

The person required to pay 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 that are 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 for procedures that 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. 1% of the principal of the obligation multiplied by

2. 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:

1. Is issued by a natural person,
2. Is not of a type offered to the public,
3. Has a maturity (at issue) of not more than one year, or
4. 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

File Form 720 for each calendar quarter until you file a **final** Form 720. If you are not reporting a tax that you normally report, enter a zero on the line for that tax.

Be sure to sign the return. An unsigned return is not considered filed.

Your district director may require you to file your returns on a monthly or semimonthly basis instead of quarterly if you do not make deposits as required (see *Deposit Requirements,* later) or are liable for the excise tax on gasoline or diesel fuel and meet certain conditions.

Form 720. The Form 720 has various sections:

1. Part I consists of the excise taxes that generally are required to be deposited (See *Deposit Requirements,* later).
2. Part II consists of the excise taxes that are NOT required to be deposited.
3. Part III consists of the lines for figuring your tax liability, showing any adjustments and claims, and indicating the amount of your deposits.
4. Schedule A, *Excise Tax Liability,* is used to report your net tax liability for each semimonthly period in the quarter. Complete it if you have an entry in Part I.
5. Schedule C, *Adjustments and Claims,* is used if you have an entry for adjustments and claims in Part III.

Forms attached to Form 720.

Depending on the type of excise tax that you are reporting on Form 720, you may have to attach:

- Form 6197 for the gas guzzler tax.

- Form 6627 for the environmental taxes.

Employer identification number.

If you file Form 720, you generally need an employer identification number (EIN). If you do not have an EIN, you need to file Form SS–4, *Application for Employer Identification Number.* You can get a Form SS–4 from the IRS or from the Social Security Administration. If you do not receive an EIN by the time a return is due, file your return anyway and write "Applied for" in the space for the EIN.

Special one-time filings.
If you import a vehicle, you may be eligible to make a one-time filing of Form 720 for the gas guzzler tax or the luxury tax on passenger vehicles if you meet the following three conditions:

1. You do not use the automobile or vehicle in the course of your trade or business.

2. You do not import gas guzzling cars or luxury vehicles in the course of your trade or business.

3. You are not required to file Form 720 to report any other excise taxes.

File Form 720 for the quarter in which you incur the tax liability. Attach any required forms. Pay the full tax with the return. No deposits are required. Check the final return or one-time filing box on page 1, Form 720.

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

Returns for all excise taxes other than ozone-depleting chemicals, air transportation, and communications taxes 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

Note. The floor stocks taxes imposed on aviation gasoline and aviation fuel (other than gasoline) held on March 7, 1997, as discussed earlier, must be reported on a Form 720 for the third quarter of 1997.

Returns for taxes on ozone-depleting chemicals, air transportation, and communications are due as follows:

Quarter Covered	Due Dates
January, February, March	May 31
April, May, June	August 31
July, August, September	November 30
October, November, December	February 28

You must report the floor stocks tax imposed on ODCs held on January 1, as discussed earlier, on the return for the second calendar quarter filed by August 31 of the year that the tax is imposed.

If you must file a Form 720 for a quarter in which you report two or more excise taxes that are due on different dates, use the later filing date. File only one Form 720 for each quarter. However, the time for making payments and deposits of excise taxes is **not** extended.

Paying the Taxes

Excise taxes are due and payable without assessment or notice. Unless you are required to make deposits of taxes (as discussed next) attach your full payment for the quarterly tax to your return when filed. Make your payment by check or money order payable to the Internal Revenue Service—not to the "IRS." Write on your check or money order your employer identification number, Form 720, and the period covered by the payment.

Floor stocks tax on ODCs. You must deposit the floor stocks tax imposed on ODCs held on January 1, as discussed earlier, by June 30 of the year that the tax is imposed. On Form 8109, mark the boxes for "720" and "2nd Quarter."

Floor stocks taxes on aviation gasoline and aviation fuel (other than gasoline).

The floor stocks taxes imposed on aviation gasoline and aviation fuel (other than gasoline) held on March 7, 1997, as discussed earlier, must be paid by August 1, 1997.

Deposit Requirements

If you have to file a quarterly excise tax return on Form 720, you may have to make deposits of your excise taxes before the return is due. You are not required to make deposits if your net tax liability for Part I taxes for the calendar quarter is not more than $2,000. You pay the tax when you file Form 720. See *Exceptions,* later.

Deposit coupons.

If you make deposits, they must be accompanied by a Form 8109, *Federal Tax Deposit Coupon.* If you do not have a coupon book, contact your local IRS office or call 1–800–829–1040. However, see *Electronic deposit requirement,* next.

Electronic deposit requirement. If your total deposits of social security, Medicare, railroad retirement, and withheld income taxes were more than $50,000 in 1995, you should make electronic deposits for all depository tax liabilities that occur after June 30, 1997. This includes excise taxes. If you had to deposit by electronic funds transfer in prior years, continue to do so in 1997.

The Electronic Federal Tax Payment System (EFTPS) must be used to make electronic deposits. You may enroll and make electronic deposits even if you are not required to do so. For information about EFTPS, call 1–800–945–8400 or 1–800–555–4477. You can also see Revenue Procedure 97–33, 1997–30 I.R.B. 10.

Note. A 10% penalty applies to those who should make deposits by electronic funds transfer and do not do so. However, IRS will waive the penalty for deposits required for periods ending on or before December 31, 1997, unless you were required to start using electronic funds transfer before 1997.

Example. Under the 9-day rule (discussed later), the deposit for the second semimonthly period of June 1997 is due July 9, 1997. If you did not have to make electronic deposits before July 1, 1997, you can make the July 9, 1997, deposit using the paper coupon. If you meet the requirements, your deposit due July 24, 1997, for the first semimonthly period of July 1997 will be the first electronic deposit you should make.

When To Make Deposits

These rules apply to taxes reported on Form 720 for which deposits are required.

Generally, you make deposits for a semimonthly period. A semimonthly period

is the first 15 days of a month or the 16th day through the end of a month.

All excise taxes that must be deposited are subject to the special September rules. Under these rules, different dates may apply if you are required to make electronic deposits (see *Electronic deposit requirement,* earlier). The taxes for that part of the of the period not covered by the special rules should be deposited by the normal due date.

Each deposit rule is considered to be a class of tax.

The 9-day rule.

Deposits of taxes for a semimonthly period generally are due by the 9th day of the following semimonthly period. Therefore, the tax for the first semimonthly period is due by the 24th of that month. The tax for the second semimonthly period is due by the 9th of the following month. Generally, this rule applies to taxes listed in Part I of Form 720, except as discussed under the following rules.

September rule. For 1997 deposit by September 29 the taxes for the period beginning September 16 and ending September 25. If making electronic deposits, deposit by September 29 the taxes for the period beginning September 16 and ending September 26.

The 30-day rule.

Deposits of the taxes on **ozone-depleting chemicals (ODCs)** and imported products containing ODCs for a semimonthly period are due by the end of the second following semimonthly period. Therefore, the tax for the first semimonthly period is due by the 15th of the following month. The tax for the second semimonthly period is due by the end of the following month.

September rule. For 1997 deposit by September 29 the tax for the last 16 days of August and the period beginning September 1 and ending September 10. If making electronic deposits, deposit by September 29 the tax for the last 16 days of August and the period beginning September 1 and ending September 11.

The 14-day rule.

Deposits of **gasoline and diesel fuel taxes** for a semimonthly period by qualified persons made by electronic funds transfer are due by the 14th day following the semimonthly period. Therefore, the tax for the first semimonthly period is due by the 29th of that month. The tax for the second semimonthly period is due by the 14th of the following month. If the 14th day is a Saturday, Sunday, or legal holiday in the

District of Columbia, the due date is the **immediately preceding day** that is not a Saturday, Sunday, or legal holiday.

A qualified person is an independent refiner or a person whose average daily production of crude oil for the preceding calendar quarter was 1,000 barrels or less.

September rule. For 1997 deposit by September 29 the taxes for the period beginning September 16 and ending September 26.

Alternative method.
You may figure deposits of communications taxes based on amounts actually collected and use the 9-day rule (discussed earlier) for making the deposits. You also may be able to figure deposits of these taxes based on the amounts considered as collected (the "alternative method").

If you use the alternative method, the tax included in amounts billed during a semimonthly period is considered as collected during the first 7 days of the second following semimonthly period. You must deposit these taxes by the third banking day after that seventh day.

To use the alternative method, you must keep a separate account of the tax included in the amounts billed during the month. Report on Form 720, the tax included in amounts billed and not the amount of tax that is actually collected.

Example. Under the alternative method, the tax included in amounts billed between December 1 and December 15, 1996, is considered collected during the first 7 days of January 1997. The deposit of these taxes is due by January 10, 1997, 3 banking days after January 7. These amounts are reported on the Form 720 for the first quarter of 1997.

September rule. For 1997 if you use the alternative method, deposit by September 29 the communications tax included in the amounts billed during the period beginning September 1, and ending September 10. If making electronic deposits, deposit by September 29 the communications tax included in the amounts billed during the period beginning September 1 and ending September 11.

Caution: These rules apply to the air transportation taxes (See Appendix D***) That were reinstated for the period March 7, 1997, through September 30. 1997. If you use the alternative method base your deposits on tickets sold during a semimonthly period.***

Amount of Deposits

Deposits for a semimonthly period generally equal the amount of net tax liability incurred during that period unless a 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. For communications taxes, however, the amount deposited generally equals the tax collected or considered as collected (alternative method) during the semimonthly period.

Net tax liability. Your net tax liability is your tax liability for the period plus or minus any adjustments allowable on Form 720. 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.

September rule. To figure your deposit under the September rule, see the regulations under section 6302 of the Internal Revenue Code that relate to the class of tax.

Safe Harbor Rules

You can use a safe harbor rule to figure if you have deposited a sufficient amount of tax. The rules apply to each class of tax separately.

For the safe harbor rules that apply to deposits under the ***September rule,*** see the regulations under section 6302 that relate to the class of tax.

Look-back quarter. This safe harbor rule applies to persons who filed a Form 720 for the second calendar quarter (the look-back quarter) preceding the current quarter. If you filed for the look-back quarter, you will meet the semimonthly deposit requirement for that class of tax for the current quarter if:

1. The deposit of that tax for each semimonthly period in the current quarter is not less than 1/6 (16.67%) of the net tax liability reported for that tax for the look-back quarter,
2. Each deposit is timely made, and
3. Any underpayment for the current quarter is paid by the due date of the return.

In addition, if the due date of the return is extended because you report taxes with different due dates, you must make a special deposit by the earlier due date. The special deposit must be at least equal to the amount of the underpayment of the taxes due on that earlier date.

Example. In the third quarter, you report both fuel taxes (due date of October 31) and the tax on ozone-depleting chemicals (due date of November 30). You have an underpayment of the fuel taxes of $100. You must make a special deposit of the $100 by the October 31 deadline.

Tax rate increases. You must modify the safe harbor rule based on the look-back-quarter liability for a class of tax on which 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.

Caution: The look-back safe harbor rule for tax deposits does not apply if the tax was not in effect throughout the look-back quarter.

Current liability. This safe harbor rule applies to all filers. You meet the semimonthly deposit requirement for a class of tax for the current quarter if:

1. The deposit of that tax for each semimonthly period in the quarter is not less than 95% of the net tax liability incurred during the semimonthly period,
2. Each deposit is timely made, and
3. Any underpayment for the quarter is paid by the due date of the return.

In addition, if the due date of the return is extended because you report taxes with different due dates, you must make a special deposit by the earlier due date. The special deposit must be at least 5% of your net tax liability or the amount of the underpayment of the taxes due on that earlier date, whichever is less.

Exceptions

You do not have to make deposits of the following taxes. You pay these taxes when you file your Form 720 for the quarter:

1. Sport fishing equipment
2. Electric outboard motors and sonar devices
3. Bows and arrows
4. Fuels used on inland waterways
5. Alcohol sold as fuel but not used as fuel

One-time filings. You are not required to make deposits of any taxes reportable on a one-time filing. See the earlier discussion, *Special one-time filings,* under *Filing Form 720.* You pay the tax when you file Form 720.

Penalties and Interest

Penalties and interest may result from:

1. Failing to collect and pay over tax as the collecting agent (see *Trust fund recovery penalty*),
2. Failing to keep adequate records,
3. Failing to file returns,
4. Failing to pay taxes,
5. Filing returns late,
6. Filing false or fraudulent returns,
7. Paying taxes late,
8. Failing to make deposits, and
9. Depositing taxes late.

Trust fund recovery penalty. If you provide **communications services,** you have to collect excise taxes (as discussed earlier) from those persons who pay you for those services. You must pay these taxes to the IRS.

If you willfully fail to collect and 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 IRS.

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 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.

Help From the Taxpayer Advocate's Office

Taxpayer Advocates can help you with unresolved tax problems and can offer you special help if you have a significant hardship as a result of a tax problem. For more information, write to the Office of Taxpayer Advocate at the District Office or Service Center where you have the problem, or call 1–800–829–1040 (1–800–829–4059 for TDD users).

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 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 district directors and information letters issued by district directors or the National Office.

There is a fee for most types of determination letters and rulings. For complete details of the rulings program, get a copy of Revenue Procedure 97–1.

Appendix A

This appendix provides information for those persons engaged in wagering activities. You must pay the occupational tax if you are the principal or an employee-agent. See *Form 11–C,* later, for more information.

You may have to pay the excise tax on wagering if you are in the business of accepting wagers or running a betting pool or lottery. See *Form 730,* later, for more information.

Exempt organizations. Organizations that are exempt from income tax under section 501 or 521 of the Internal Revenue Code are **not** exempt from the excise 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 tax, except when necessary to administer or enforce the Internal Revenue laws.

Definitions

The following definitions apply to either Form 11–C or 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 is at risk for the profit or loss depending on the outcome of the event or contest for which the wager was accepted.

Employee-agent. This is the paid employee of the principal who accepts wagers for the principal.

Wagers. Wagers or bets include any wager:

1. Made on sports events or contests with a person in the business of accepting wagers,
2. Placed in a wagering pool on a sports event or contest, if the pool is conducted for profit, and
3. Placed in a lottery conducted for profit.

Sports events. 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

Contests. A contest includes any type of competition involving speed, skill, endurance, popularity, politics, strength, or appearances, such as:

1. Elections,

2. Nominating conventions,

3. Dance marathons,

4. Log-rolling,

5. Wood-chopping,

6. Weight-lifting,

7. Beauty contests, and

8. 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 the following:

1. Games in which the wagers are placed, winners are determined, and the prizes are distributed in front 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 any wagering activity and to **pay** the

occupational tax on wagering. After you file this form and pay the tax, the IRS issues you a letter as proof of registration and payment.

Who must file. You must file Form 11–C if you are a principal or an employee-agent. You must have an employer identification number (EIN). You cannot use your social security number. If you do not have an EIN, complete Form SS–4, *Application for Employer Identification Number,* and attach it to the Form 11–C when you file. If you have applied for a number but have not yet received it, write "applied for" in the block for the EIN on Form 11–C.

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 have to file supplemental returns when certain changes occur. These changes are shown in the instructions to the form.

Information required. Follow the instructions on the back of the form. If you are a principal, you must show the number of employee-agents that work for you and their names, addresses, and EINs. If you hire an employee-agent, you must file a supplemental return showing this information within 10 days after you hired the employee-agent.

Employee-agents must show the name, address, and EIN of each of their principals. You must file a supplemental return within 10 days after being hired by a principal. If you do not provide the information about the principal, you will be liable for the excise tax on wagering as if you were the principal.

Example. Ken operates a numbers game and arranges with 10 people to receive wagers from the public on Ken's behalf. Ken also employs a secretary and a bookkeeper. Ken and each of the 10 persons are liable for the tax. They each file Form 11–C. The secretary and the bookkeeper are not liable for the tax unless they 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 lists on Form 11–C his or her name, address, and EIN, as well as Ken's.

Figuring the tax. There are two rates of tax. If you start accepting wagers after July 31, these tax rates are prorated. The prorated amounts are shown in the table in the Form 11–C instructions. The rates of tax are:

- $50 if all wagers accepted are authorized under state law. This applies to principals who only accept these wagers and employee-agents who only work for

these principals.

- $500 in all other situations. This applies to all other principals and employee-agents.

Form 730

While Form 11–C is for the occupational tax, Form 730 is for figuring the tax on the wagers themselves. The wagering tax applies to the wagers (as defined earlier), regardless of the outcome of the individual bets.

The tax applies only to wagers:

1. Accepted in the United States, or
2. Placed by a person who is in the United States with a U.S. citizen or resident, or in a wagering pool 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.

Lay-off wagers. If you accept a wager taken initially by someone else (other than an agent or employee acting for you) include the wager in your gross receipts. When you lay off a wager on which you have already paid the tax to another person in the business of accepting wagers, you may either file a claim for refund on Form 8849 or claim a credit on line 5 of Form 730. For more details, get Form 730.

Excluded wagers. Tax is not imposed on the following:

1. Parimutuel wagering, including horse racing, dog racing, and jai alai when licensed under state law,
2. Coin-operated devices such as pinball machines, and
3. Sweepstakes, wagering pools, or lotteries if they are conducted by an agency of a state and the wagers are 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 percent of the wager if it is not authorized under state law. If the wager is authorized, the rate is 0.25 percent of the wager.

When to file. File Form 730 by the last day of the month following the month for which you report taxable wagers. If you temporarily stop accepting taxable wagers, continue to file Form 730 and write "None" on the return. When you stop accepting wagers permanently, write "Final Return" on the form.

Keep your records on a daily basis to reflect each day's operations. Your records should show:

1. The gross amount of all wagers accepted,
2. The gross amount of each class or type of wager accepted on each event, contest, or other wagering medium, and
3. The amount of any **layoffs** and the name and address of the person with whom you placed the layoffs.

If you have employees or agents who accept wagers for you, keep records of their names, home addresses, business addresses, periods of employment, and their EINs. Also, you may be subject to income and employment tax withholding for your employees. Get Publication 15, *Circular E, Employer's Tax Guide.*

Appendix B

This appendix provides the Imported Products Table. This is a listing of imported products containing or manufactured with ozone-depleting chemicals (ODCs). See *Imported Taxable Products* for more information on these tables.

Appendix C

This appendix contains models of the certificates, reports, and statements discussed earlier under *Gasoline, Gasohol, Diesel Fuel,* and *Compressed Natural Gas.*

Appendix D

The air transportation taxes
discussed in this appendix expired for transportation starting after December 31, 1996. They have been reinstated for amounts paid after March 6, 1997, and before October 1, 1997. They may be extended or reinstated for later time periods.

The air transportation taxes apply to:

1. Transportation of persons by air,
2. Use of international air travel facilities, and
3. Transportation of property by air.

Transportation of Persons by Air

A 10% tax applies to amounts paid for taxable transportation of persons by air, including amounts paid for related seating or sleeping accommodations. Amounts paid for *transportation* include charges for layover or waiting time and movement of aircraft in deadhead service. A fine of up to $100 may be imposed for failure to show the total of the fare and the tax on the ticket.

Example. Frank Jones pays $220 to a commercial airline for a flight from Washington to Chicago. This price includes the $20 excise tax for which Frank is liable. The airline collects this tax from Frank and pays it to the government.

Taxable transportation.

Taxable transportation is transportation by air that:

1. 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 rule***), or
2. Is directly or indirectly from one port or station in the United States to another in the United States, but only if it is not a part of uninterrupted international air transportation.

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 from tax,* later.

Transportation between the continental U.S. and Alaska or Hawaii.

The 10% 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. However, the $6 tax on use of international travel facilities (discussed later) applies if the transportation begins in the United States.

Example. James Ryder purchases a ticket in the United States for transportation by air from Vancouver, Canada, to Honolulu. No part of the route followed by the carrier passes through or over any part of the continental United States. The 10% tax applies only to the portion of his transportation between the 3-mile limit off the coast of Hawaii and the airport in Honolulu.

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 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 and files the returns. However, the tax must be collected by the person furnishing the initial transportation provided for under a prepaid order, exchange order, etc., paid for outside the United States.

A travel agency that is an independent broker licensed by the ICC and sells tours on aircraft that it charters is required to collect the transportation tax, file the returns, and pay the tax. 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.

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

Exemptions from tax.

The 10% excise tax on transportation of persons by air does not apply in the following situations.

Special rule for military personnel.

When traveling in uniform at their own expense, United States military personnel on authorized leave are exempt from the tax on the domestic part of *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, they 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 on transportation of persons by air does not apply to air transportation by helicopter if the helicopter is used for:

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

However, 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 the Airport and Airway Improvement Act of 1982 during such use. For helicopters used in exploration for, or development or removal of, hard minerals, oil, or gas, treat each flight segment as a separate flight.

Emergency medical transportation. The tax on transportation of persons by air does not apply to air transportation by helicopter or fixed-wing aircraft if used for emergency medical transportation. The exemption applies to fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.

Bonus tickets.

The 10% 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

where customers have traveled insufficient mileage to fully qualify for the free advance bonus tickets.

Use of International Air Travel Facilities

A $6 tax is imposed on amounts paid (whether paid within or outside the United States) for international flights that begin in the United States, even if the flight is the return part of a round trip to a foreign country. Also, the $6 tax applies whenever part of a domestic-international flight is exempt from the 10% transportation tax. Thus, the tax applies to the exempt part of transportation by persons making flights from the continental United States to Alaska and Hawaii.

Transportation of Property by Air

A tax of 6.25% is imposed on amounts **paid** (whether within 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.

The tax on transportation of property by air does not apply to amounts paid for cropdusting, aerial firefighting service, or use of helicopters in construction to settle 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 does not apply to payments for transportation of property by air in the course of ***uninterrupted exportation*** (including to United States possessions). Get Form 1363, *Export Exemption Certificate,* for more details.

The tax does not apply to air transportation by helicopter or fixed-wing aircraft for the purpose of providing emergency medical transportation. The exemption applies to fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.

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 (and the 225-mile zone). But the tax on transportation of property 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 pays the tax and, ordinarily, the person engaged in the business of transporting property by air for hire who receives the payment collects the tax and files returns.

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

Baggage.
Regular and excess baggage accompanying a passenger on an aircraft operated on an established line is not property under these rules.

Mixed load of persons and property. If you receive a flat amount for air transportation of a mixed load of persons and property, allocate the payment between the amount subject to the 10% tax on transportation of persons and the amount subject to the 6.25% tax on transportation of property. Your allocation must be reasonable and supported by adequate records.

Special Rules on Transportation Taxes

In certain circumstances, the taxes on transportation of persons and property by air do not apply to amounts paid for those services.

Aircraft used by affiliated corporations.

The taxes on transportation by air 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.

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

Small aircraft.
Transportation 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 aircraft operated on a charter basis between two cities that are served by that carrier on a regularly scheduled basis to be operated on an established line.

Airline aircraft.
Consider an aircraft used by an airline not only on scheduled flights but also to train its own pilots and carry its executives on business flights to be used exclusively in commercial aviation. Thus, the transportation taxes apply to its use—not the tax on fuels.

Paying the taxes. The rules that apply to communications tax under *Paying the Taxes,* earlier, also apply to air transportation taxes. If you use the alternative method, base the deposits on tickets sold.

How To Get More Information

You can get help from the IRS in several ways.

Free publications and forms. To order free publications and forms, call 1–800–TAX–FORM (1–800–829–3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address. Your local library or post office also may have the items you need.

For a list of free tax publications, order Publication 910, *Guide to Free Tax Services.* It also contains an index of tax topics and related publications and describes other free tax information services available from IRS, including tax education and assistance programs.

If you have access to a personal computer and modem, you also can get many forms and publications eiectronically. See your income tax package for details.

Tax questions. You can call the IRS with your tax questions. Check your income tax package or telephone book for the local number, or you can call 1–800–829–1040.

TTY/TDD equipment. If you have access to TTY/TDD equipment, you can call

1–800–829–4059 with your tax questions or to order forms and publications. See your income tax package for the hours of operation.