

volumetric gallons or gallons adjusted to 60 degrees Fahrenheit. However, beginning July 1, 2000, for each period from July 1 through the following June 30—

(1) A person liable for the tax on removal may use only one of the two bases of measurement with respect to all taxable fuel removed during the period from any particular terminal, refinery, or blending facility;

(2) A person liable for the tax on entry may use only one of the two bases of measurement with respect to all taxable fuel entered into the United States during the period at any particular point of entry; and

(3) A person liable for the tax on sale may use only one of the two bases of measurement with respect to all taxable fuel sold during the period to any particular buyer.

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

[T.D. 8659, 61 FR 10457, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17157, Mar. 31, 2000]

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

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

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

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

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

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

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

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

(c) *Marking requirements.* [Reserved]

(d) *Time for adding the dye and marker.* [Reserved]

(e) *Effective date.* This section is effective March 14, 1996.

[T.D. 8659, 61 FR 10457, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17157, Mar. 31, 2000]

**§ 48.4082-2 Diesel fuel and kerosene; notice required for dyed fuel.**

(a) *In general.* A legible and conspicuous notice stating “DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE” must be posted by a seller on any retail pump or other delivery facility where it sells dyed diesel fuel for use by its buyer. A legible and conspicuous notice stating “DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE” must be posted by a seller on any retail pump or other delivery facility where it sells dyed kerosene for use by its buyer. Any seller that fails to post the required notice on any retail pump or other delivery facility where it sells dyed fuel is, for purposes of the penalty imposed by section 6715, presumed to know that the fuel will not be used for a nontaxable use.

(b) *Cross reference; terminal operators.* For the requirement that terminal operators provide a notice with respect to dyed fuel, see § 48.4101-1(h)(3) (relating to terms and conditions of registration for terminal operators).

(c) *Effective date.* This section is applicable with respect to diesel fuel after December 31, 1993, and with respect to kerosene after June 30, 1998.

[T.D. 8879, 65 FR 17157, Mar. 31, 2000]

**§ 48.4082-3 Diesel fuel and kerosene; visual inspection devices. [Reserved]**

**§ 48.4082-4 Diesel fuel and kerosene; back-up tax.**

(a) *Imposition of tax—(1) In general.* Tax is imposed by section 4041 on the delivery into the fuel supply tank of the propulsion engine of a diesel-powered highway vehicle (other than a diesel-powered bus) of—

(i) Any diesel fuel or kerosene on which tax has not been imposed by section 4081;

(ii) Any diesel fuel or kerosene for which a credit or payment has been allowed under section 6427; or

(iii) Any liquid (other than taxable fuel) for use as fuel.

(2) *Liability for tax*—(i) *In general.* The operator of the highway vehicle into which the fuel is delivered is liable for the tax imposed under paragraph (a)(1) of this section.

(ii) *Joint and several liability of the seller.* The seller of the fuel is jointly and severally liable for the tax imposed under paragraph (a)(1) of this section if the seller knows or has reason to know that the fuel will not be used in a non-taxable use.

(3) *Rate of tax.* The rate of tax is the rate imposed on diesel fuel by section 4081(a).

(b) *Tax on diesel fuel and kerosene; buses and trains*—(1) *In general.* Tax is imposed by section 4041 on the delivery into the fuel supply tank of the propulsion engine of a diesel-powered bus or a diesel-powered train of—

(i) Any diesel fuel or kerosene on which tax has not been imposed by section 4081;

(ii) Any diesel fuel or kerosene for which a credit or payment has been allowed under section 6427; or

(iii) Any liquid (other than taxable fuel) for use as fuel.

(2) *Liability for tax*—(i) *In general.* Except as provided in paragraph (b)(2)(ii) of this section, the operator of the bus or train into which the fuel is delivered is liable for the tax imposed under paragraph (b)(1) of this section.

(ii) *Special rule for certain train operators.* The person that delivers the fuel into the fuel supply tank of a train, rather than the train operator, is liable for the tax imposed under paragraph (b)(1) of this section if, at the time of the delivery—

(A) The deliverer of the fuel and the operator of the train are both registered as train operators under § 48.4101-1; and

(B) A written agreement between the deliverer of the fuel and the operator requires the deliverer to pay the tax imposed under paragraph (b)(1) of this section.

(3) *Rate of tax*—(i) *Buses*—(A) *In general.* The rate of tax under paragraph (b)(1) of this section is the sum of the rates described in sections 4041(a)(1)(C)(iii)(I) and 4041(d)(1) (the bus rate) if the bus is used to furnish

(for compensation) passenger land transportation available to the general public and either such transportation is scheduled and along regular routes or 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.

(B) *Other uses.* The rate of tax under paragraph (b)(1) of this section is the rate of tax imposed on diesel fuel by section 4081(a) if the bus is used for a purpose other than that described in paragraph (b)(3)(i)(A) of this section.

(ii) *Trains.* The rate of tax under paragraph (b)(1) of this section is the rate prescribed in section 4041 for diesel fuel sold for use in a train (the train rate).

(4) *Cross reference.* For the registration requirement relating to certain bus and train operators, see § 48.4101-1(c)(2).

(c) *Exemptions.* The taxes imposed under paragraphs (a) and (b) of this section do not apply to a delivery of any liquid for—

(1) Use on a farm for farming purposes as that term and related terms are defined in § 48.6420-4 (a) through (g);

(2) The exclusive use of a State;

(3) Use described in section 4041(h) (relating to use in a vehicle owned by an aircraft museum);

(4) Use in a bus while the bus is engaged in the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C));

(5) Use in a qualified local bus (as defined in section 6427(b)(2)(D)) while the bus is engaged in furnishing (for compensation) intracity passenger land transportation that is available to the general public and is scheduled and along regular routes;

(6) Use in a highway vehicle that—

(i) Is not registered (and is not required to be registered) for highway use under the laws of any State or foreign country; and

(ii) Is used in the operator's trade or business or in an activity of the operator described in section 212 (relating to the production of income);

(7) The exclusive use of a nonprofit educational organization, as defined in § 48.4221-6(b); or

(8) Use in a highway vehicle that is owned by the United States and is not used on the highway.

(d) *Effective date.* This section is applicable after December 31, 1993, except that references to kerosene are applicable after June 30, 1998.

[T.D. 8659, 61 FR 10458, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17157, Mar. 31, 2000]

**§ 48.4082-5 Diesel fuel and kerosene; Alaska.**

(a) *Application.* This section applies to diesel fuel or kerosene removed, entered, or sold in Alaska for ultimate sale or use in an exempt area of Alaska.

(b) *Definitions.*

*Exempt area of Alaska* means the area of Alaska in which the sulfur content requirements for diesel fuel (see section 211(i) of the Clean Air Act (42 U.S.C. 7545(i))) do not apply because the Administrator of the Environmental Protection Agency has granted an exemption under section 211(i)(4) of that Act.

*Nontaxable use* means a use described in section 4082(b).

*Qualified dealer* means any person that holds a qualified dealer license from the state of Alaska or has been registered by the district director as a qualified retailer. The district director will register a person as a qualified retailer only if the district director—

(1) Determines that the person, in the course of its trade or business, regularly sells diesel fuel or kerosene for use by its buyer in a nontaxable use; and

(2) Is satisfied with the filing, deposit, payment, and claim history for all federal taxes of the person and any related person.

(c) *Tax-free removals and entries.* Notwithstanding § 48.4082-1, tax is not imposed by section 4081 on the removal or entry of any diesel fuel or kerosene in an exempt area of Alaska if—

(1) The person that would be liable for tax under § 48.4081-2 or 48.4081-3 is a taxable fuel registrant and satisfies the requirements of paragraph (e) of this section;

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

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

(d) *Sales after removals and entries*—(1) *In general.* Paragraph (c) of this section does not apply with respect to diesel fuel or kerosene that is subsequently sold by a qualified dealer unless—

(i) The fuel is sold in an exempt area of Alaska;

(ii) The buyer purchases the fuel for its own use in a nontaxable use or is a qualified dealer; and

(iii) The seller satisfies the requirements of paragraph (e) of this section.

(2) *Tax imposed at time of sale; liability for tax.* Notwithstanding §§ 48.4081-2 and 48.4081-3, in any case in which paragraph (c) of this section does not apply with respect to diesel fuel or kerosene because of a subsequent sale by a qualified dealer, the tax with respect to that fuel is imposed at the time of the subsequent sale and the qualified dealer is liable for the tax.

(3) *Rate of tax.* For the rate of tax, see section 4081.

(e) *Evidence of tax-free transactions.* The requirements of section 4082(c)(2) (relating to certification) and this paragraph (e) are satisfied if the person otherwise liable for tax is able to show the district director satisfactory evidence of the exempt nature of the transaction and has no reason to believe that the evidence is false. Satisfactory evidence may include copies of qualified dealer licenses or exemption certificates obtained for state tax purposes.

(f) *Registration.* With respect to each person that has been registered as a qualified retailer by the district director, the rules of § 48.4101-1(g), (h), and (i) apply.

(g) *Cross reference.* For the tax on previously untaxed diesel fuel or kerosene that is used for a taxable purpose, see § 48.4082-4.

(h) *Effective date.* This section is applicable with respect to diesel fuel removed or entered after December 31, 1996, and with respect to kerosene removed or entered after June 30, 1998. A