

at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(b) *Place of inspection*—(1) *In general.* Inspections may be at any place at which taxable fuel is (or may be) produced or stored or at any inspection site where evidence of activities described in section 6715(a) may be discovered. These places may include, but are not limited to—

- (i) Any terminal;
- (ii) Any fuel storage facility that is not a terminal;
- (iii) Any retail fuel facility; or
- (iv) Any designated inspection site.

(2) *Designated inspection sites.* A designated inspection site is any State highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Commissioner to be used as a fuel inspection site. A designated inspection site will be identified as a fuel inspection site.

(c) *Scope of inspection*—(1) *Inspection.* Officers or employees may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of fuel, fuel dyes, or fuel markers. Inspection may also be made of any equipment used for, or in connection with, production, storage, or transportation of fuel, fuel dyes, or fuel markers. This includes any equipment used for the dyeing or marking of fuel. This also includes books and records, if any, that are maintained at the place of inspection and are kept to determine excise tax liability under section 4081.

(2) *Detainment.* Officers or employees may detain any vehicle or train for the purpose of inspecting its fuel tanks and storage tanks. Detainment will be either on the premises under inspection or at a designated inspection site. Detainment may continue for such reasonable period of time as is necessary to determine the amount and composition of the fuel.

(3) *Removal of samples.* Officers or employees may take and remove samples of fuel in such quantities as are reasonably necessary to determine the composition of the fuel.

(d) *Refusal to submit to inspection.* For the penalty for any refusal to permit an entry or inspection authorized by this section, see section 4083(c)(3). This penalty is in addition to any tax that may be imposed by section 4041 or 4081 and any penalty that may be imposed by section 6715.

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

[T.D. 8659, 61 FR 10458, Mar. 14, 1996, as amended by T.D. 8685, 61 FR 58007, Nov. 12, 1996; T.D. 8879, 65 FR 17159, Mar. 31, 2000]

**§ 48.4091-3 Aviation fuel; conditions to allowance of refunds of aviation fuel tax under section 4091(d).**

(a) *Overview.* This section provides the conditions under which a refund of tax imposed by section 4091 is allowable with respect to taxed aviation fuel that is held by a registered aviation fuel producer. No credit against any tax imposed by the Internal Revenue Code is allowed under section 4091(d).

(b) *Conditions to allowance of refund.* A claim for refund of tax imposed by section 4091 with respect to aviation fuel is allowed under section 4091(d) and this section only if—

(1) A tax imposed by section 4091 with respect to the aviation fuel was paid to the government by an importer or producer (the first producer) and the tax has not been otherwise credited or refunded;

(2) After imposition of the tax, the aviation fuel is acquired by a person that is a registered aviation fuel producer (the second producer);

(3) The second producer has filed a timely claim for refund that contains the information required under paragraph (d) of this section; and

(4) The first producer and any person that owns the fuel after its sale by the first producer and before its purchase by the second producer (a subsequent seller) have met the reporting requirements of paragraph (c) of this section.

(c) *Reporting requirements*—(1) *In general.* The reporting requirements of this paragraph (c)(1) are met if the first producer files a report (the first producer's report) that—

(i) Is in substantially the same form as the model report provided in paragraph (c)(2) of this section (or such

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other model report as the Commissioner may prescribe);

(ii) Contains all information necessary to complete such model report; and

(iii) Is filed at the time and in the manner prescribed by the Commissioner.

(2) *Model first producer's report.*

FIRST PRODUCER'S REPORT

\_\_\_\_\_  
First Producer's name, address, and employer identification number

\_\_\_\_\_  
Buyer's name, address, and employer identification number

\_\_\_\_\_  
Date and location of taxable sale

\_\_\_\_\_  
Volume and type of aviation fuel sold

\_\_\_\_\_  
Amount of federal excise tax paid on account of the sale

Under penalties of perjury, First Producer declares that First Producer has examined this statement, including any accompanying schedules and statements, and, to the best of First Producer's knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
Printed or typed name of the person signing

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Signature and date signed

(3) *Information provided to buyers.* The reporting requirements of this paragraph (c)(3) are met if a first producer that filed a first producer's report under paragraph (c)(1) of this section gives a copy of the report to the person to whom the first producer sells the aviation fuel.

(4) *Statement of subsequent seller—(i) In general.* The reporting requirements of this paragraph (c)(4) are met if—

(ii)(A) Each subsequent seller gives to its buyer a copy of a statement that provides all information (whether or not in the same format) necessary to complete the model statement prescribed in paragraph (c)(4)(ii) of this section (or such other model statement as the Commissioner may prescribe); and

(B) The statement is provided at the bottom or on the back of the copy of

the first producer's report (or in an attached document).

(iii) *Model statement describing subsequent sale.*

STATEMENT OF SUBSEQUENT SELLER  
(AVIATION FUEL)

\_\_\_\_\_  
Name, address, and employer identification number of seller in subsequent sale

\_\_\_\_\_  
Name, address, and employer identification number of buyer in subsequent sale

\_\_\_\_\_  
Date and location of subsequent sale

\_\_\_\_\_  
Volume and type of aviation fuel sold

The undersigned seller (the Seller) has received the copy of the first producer's report provided with this statement in connection with Seller's purchase of the aviation fuel described in this statement.

Under penalties of perjury, Seller declares that Seller has examined this statement, including any accompanying schedules and statements, and, to the best of Seller's knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Signature and date signed

(5) *Sale to multiple buyers.* If a first producer's report relates to aviation fuel that is divided among more than one buyer, multiple copies of the first producer's report should be made at the stage that the aviation fuel is divided and a copy given to each buyer. The reporting requirements of this paragraph (c) will be met only with respect to the fuel purchased by buyers that are given a copy of the report including any statement required under paragraph (c)(4) of this section.

(d) *Form and content of claim—(1) In general.* The following rules apply to claims for refund under section 4091(d):

(i) The claim must be made by the second producer and must include all the information described in paragraph (d)(2) of this section.

(ii) The claim must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions on the form.

The form should be marked *Section 4091(d) Claim* at the top. Section 4091(d) claims must not be included with a claim for a refund under any other provision of the Internal Revenue Code.

(2) *Information to be included in the claim.* Each claim for a refund under section 4091(d) must contain the following information with respect to the aviation fuel covered by the claim:

- (i) Volume and type of aviation fuel.
- (ii) Date on which the second producer acquired the aviation fuel to which the claim relates.
- (iii) Amount of tax that the first producer paid to the government and a statement that the second producer has not included the amount of that tax in the sales price of the aviation fuel to which the claim relates and has not collected that amount from the person that bought the aviation fuel from the second producer, if any.
- (iv) Name, address, and employer identification number of the first producer that paid the tax to the government.
- (v) A copy of the first producer's report that relates to the aviation fuel covered by the claim.
- (vi) A copy of any statement of a subsequent seller that the second producer received with respect to that aviation fuel.

(e) *Time for filing claim.* A claim for refund under section 4091(d) may be filed any time after the first producer has filed the return of the tax to which the claim relates and before the end of the period prescribed by section 6511 for the filing of a claim for refund of that tax.

(f) *Effective date.* This section is applicable with respect to refunds of tax imposed by section 4091 after December 31, 1998.

[T.D. 8774, 63 FR 35802, July 1, 1998. Redesignated by T.D. 8879, 65 FR 17159, Mar. 31, 2000]

#### § 48.4101-1 Taxable fuel; registration.

(a) *In general.* (1) This section provides rules relating to registration under section 4101 for purposes of the federal excise tax on taxable fuel imposed by sections 4041(a)(1) and 4081 and the credit or payment allowed to certain ultimate vendors of diesel fuel and kerosene under section 6427.

(2) A person is registered under section 4101 only if the district director has issued a registration letter to the person and the registration has not been revoked or suspended. However, the United States is treated as registered under section 4101.

(3) A refiner that is registered under section 4101 may, with respect to the bulk removal of any batch of gasohol from its refinery, treat itself as a person that is not registered. See § 48.4081-3(b)(1)(iii).

(4) Each business unit that has, or is required to have, a separate employer identification number is treated as a separate person. Thus, two business units (for example, a parent corporation and a subsidiary corporation, or a proprietorship and a related partnership), each of which has a different employer identification number, are two persons.

(5) A registration in effect on December 31, 1993, with respect to the tax on gasoline or diesel fuel is subject to the district director's review, and to revocation or suspension, under the standards set forth in this section, but remains in effect until the earlier of—

- (i) The effective date of a registration issued under paragraph (g)(3) of this section; or
- (ii) The effective date of the revocation or suspension of the registration under paragraph (i) of this section.

(6)(i) A person is treated as a taxable fuel registrant if on June 30, 1998, the person—

(A) Is an enterer, refiner, terminal operator, or throughputter with respect to kerosene and is registered under section 4101 as a producer or importer of aviation fuel;

(B) Operates one or more terminals that store kerosene (and no other type of taxable fuel); or

(C) Is a commercial airline, an operator of aircraft in noncommercial aviation, or a fixed base operator and is also a position holder with respect to kerosene.

(ii) A person treated as registered under paragraph (a)(6)(i) of this section is treated as registered from July 1, 1998, until the earlier of—

(A) The date of a subsequent denial of an application for registration under paragraph (g)(2) of this section;