

Form 8849, Claim for Refund of Excise Taxes (Rev. October 2006)

Purpose: This is the second circulated draft of Form 8849 (Rev. October 2006) for your review and comments. See below for a discussion of the major changes since the first circulation.

Note. *The first circulation indicated a revision date of March 2006.*

TPCC Meeting: None, but one may be arranged if requested.

Prior Circulation: The first circulation of Form 8849, dated March 9, 2006, is available at: http://taxforms.web.irs.gov/Products/Drafts/2006/06f8849_d1.pdf

Prior Version: The February 2005 Form 8849 is available at: <http://www.irs.gov/pub/irs-pdf/f8849.pdf>

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at: http://taxforms.web.irs.gov/draft_products.html

Comments: Please email, fax, call, or mail any comments by **August 11, 2006**.

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Major Changes

These changes are based on the Energy Tax Incentives Act of 2005 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or "SAFETEA-LU."

- Schedule 3 is re-titled **Certain Fuel Mixtures and the Alternative Fuel Credit** to reflect the addition of the alternative fuel mixture credit and alternative fuel credit as provided by IRC 6426(d) & 6426(e).
- Under **What's New**, we added information about the changes made to each schedule.
- Under **Additional Information**, we updated the explanation of Pub. 510 and added a reference to Pub. 225.
- Under **Type of Use Table**, we added specific information for **Type of Use 13 and 14**.

General Instructions

Section references are to the Internal Revenue Code.

What's New

- Schedules 1, 2, 3, 5, and 6 have all been revised based on the Safe, Accountable, Flexible, & Efficient Transportation Equity Act of 2005 (SAFETA) and the Energy Policy Act of 2005.
- Schedule 1 has been revised to include claims for the nontaxable use of a diesel-water fuel emulsion and alternative fuels.
- Schedule 3 is re-titled Certain Fuel Mixtures and the Alternative Fuel Credit to reflect the new claims for refund related to renewable diesel mixtures, alternative fuel mixtures, and the alternative fuel credit.
- Schedule 6 has been revised to remove claims for the nontaxable use of a diesel-water fuel emulsion. These claims are now made on Schedule 1.

New Schedule 8, Registered Credit Card Issuers, is used by registered credit card issuers to claim refunds for sales of certain tax able fuel to states and local governments and nonprofit educational organizations for fuel sold or used after December 31, 2005.

Additional Information

- Pub. 510, Excise Taxes for 2006, has more information on nontaxable uses, and the definitions of terms such as ultimate vendor and blocked pump. Pub. 510 also contains information on fuel tax credits and refunds previously in Pub. 378.
- Pub. 225, Farmer's Tax Guide, also includes information on credits and refunds for the federal excise tax on fuels applicable to farmers.

You may also call the business and specialty tax line at 1-800-829-4933 with your excise tax questions.

Purpose of Form

Use Schedules 1, 2, 3, 5, and 8 to claim certain fuel related refunds such as nontaxable uses (or sales) of fuels. Form 8849 lists the schedules by number and title.

Use Schedule 6 for claims not reportable on Schedules 1, 2, 3, 5, and 8, including refunds of excise taxes reported on:

- Form 720, Quarterly Federal Excise Tax Return;
- Form 730, Monthly Tax Return for Wagers;
- Form 11-C, Occupational Tax and Registration Return for Wagering; or
- Form 2290, Heavy Highway Vehicle Use Tax Return.

Filers only need to complete and attach to Form 8849 the applicable schedules.

Do not use Form 8849:

- To make adjustments to liability reported on Forms 720 filed for prior quarters. Instead, use Form 720X.
- To claim amounts that you took or will take as a credit on Schedule C (Form 720), Form 730, Form 2290, or Form 4136, Credit for Federal Tax Paid on Fuels.

How To Fill In Form 8849

Name and Address

Print the information in the spaces provided. Begin printing in the first box on the left. Leave a blank box between each name and word. If there are not enough boxes, print as many letters as there are boxes. Use hyphens for compound names; use one box for each hyphen.

P.O. box. If your post office does not deliver mail to your street address and you have a P.O. box, show your box number instead of your street address.

Foreign address. Enter the information in the following order: city, state or province, and the name of the country. Follow the country's practice for entering the postal code. Do not abbreviate the country's name.

Taxpayer Identification Number (TIN)

Enter your employer identification number (EIN) in the boxes provided. If you are not required to have an EIN, enter your social security number (SSN). An incorrect or missing number will delay processing your claim.

Month Income Tax Year Ends

Enter the month your income tax year ends. For example, if your income tax year ends in December, enter "12" in the boxes. If your year ends in March, enter "03".

Signature

Form 8849 must be signed by a person with authority to sign this form for the claimant.

Where To File

- For Schedules 1 and 6, mail Form 8849 to:
Internal Revenue Service
Cincinnati, OH 45999-0002
- For Schedules 2, 3, 5, and 8, mail Form 8849 to:
Internal Revenue Service
P.O. Box 312
Covington, KY 41012-0312

Caution. Private delivery services designated by the IRS cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address. For details on designated private delivery services, see *Pub. 509, Tax Calendars for 2006*.

Including the Refund in Income

Include any refund of excise taxes in your gross income if you claimed the amount of the tax as an expense deduction that reduced your income tax liability.

Cash method. If you use the cash method and file a claim for refund, include the refund amount in your gross income for the tax year in which you receive the refund.

Accrual method. If you use an accrual method, include the amount of refund in gross income for the tax year in which you used the fuels (or sold the fuels if you are a registered ultimate vendor or registered credit card issuer).

Information for Completing Schedules 1, 2, 3, 5, and 8

Note. Your refund will be delayed or Form 8849 will be returned to you if you do not follow the required procedures or do not provide all the required information. See the instructions for each schedule.

Complete each schedule and attach all information requested for each claim you make. Be sure to enter your name and TIN on each schedule you attach. Generally, for each claim, you must enter the:

- Period of the claim.
- Item number (when requested) from the *Type of Use Table* on page 3.
- Rate (as needed). See the separate schedule instructions.
- Number of gallons.
- Amount of refund.

Caution. A refund claim for the communications excise tax on nontaxable service cannot be made on Form 8849. See Pub. 510 for the procedures to make this claim.

If you need more space for any line on a schedule (for example, you have more than one type of use) prepare a separate sheet with the same information. Include your name and TIN on each sheet you attach.

Period of Claim

Enter the period of the claim for each type of claim using the MMDDYYYY format. For example, the first quarter of 2007 for a calendar-year taxpayer would be 01012007 to 03312007.

Type of Use Table

The following table lists the nontaxable uses of fuels. You must enter the number from the table in the **Type of Use** column as required on Schedules 1 and 2.

No.	Type of Use
1	On a farm for farming purposes
2	Off-highway business use (for business use other than in a highway vehicle registered or required to be registered for highway use) (other than use in mobile machinery)
3	Export
4	In a boat engaged in commercial fishing
5	In certain intercity and local buses
6	In a qualified local bus
7	In a bus transporting students and employees of schools (school buses)
8	For diesel fuel and kerosene (other than kerosene used in aviation) used other than as a fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway business use)
9	In foreign trade
10	Certain helicopter and fixed-wing aircraft uses
11	Not applicable
12	In a highway vehicle owned by the United States that is not used on a highway
13	Exclusive use by a nonprofit educational organization
14	Exclusive use by a state, political subdivision of a state, or the District of Columbia
15	In an aircraft or vehicle owned by an aircraft museum
16	In military aircraft
17	For use in the production of special fuels and alternative fuels

Type of Use 13 and 14. Generally, claims for sales of diesel fuel, kerosene, kerosene for use in aviation, gasoline, or aviation gasoline for the exclusive use of a state or local government (and nonprofit educational organization for gasoline or aviation gasoline) must be made following the order below.

1. By the registered credit card issuer if the state or local government (or nonprofit educational organization if applicable) used a credit card and the credit card issuer meets the four requirements discussed in the Schedule 8 (Form 8849) instructions.
2. By the registered ultimate vendor if the ultimate purchaser did not use a credit card and waives his or her right to make the claim and the registered credit card issuer cannot make the claim.
3. By the ultimate purchaser if neither the registered credit card issuer nor the registered ultimate vendor is eligible to make the claim.

Additional requirements that must be met are discussed in Pub. 510.

Additional Information for Schedules 1, 2, and 3

(except for gasoline and aviation gasoline)

Annual Claims

If a claim was not made for any gallons during the income tax year on Form 8849, an annual claim may be made. Generally, an annual claim is made on Form 4136 for the income tax year during which the fuel was:

- Used by the ultimate purchaser.
- Sold by the registered ultimate vendor.
- Sold by the registered credit card issuer.
- Used to produce alcohol fuel mixtures, biodiesel or renewable diesel mixtures, and alternative fuel mixtures.
- Used in mobile machinery.

The following claimants must use Form 8849 (Schedule 1) for annual claims:

1. The United States,
2. A state, political subdivision of a state, or the District of Columbia (but see *Type of Use 13 and 14* above), and
3. Organizations exempt from income tax under section 501(a) (provided that the organization is not required to file Form 990-T, Exempt Organization Business Income Tax Return, for that taxable year).

For claimants included in 1–3 above, the annual Form 8849 for fuel used during the taxable year must be filed within the 3 years following the close of the taxable year. For these claimants, the taxable year is based on the calendar year or fiscal year it regularly uses to keep its books.

Note. Gasoline used by the above claimants on a farm for farming purposes (type of use 1) is an allowable use on Line 1 of Schedule 1.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on the form and schedules to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle F, Procedure and Administration, of the Internal Revenue Code allows refunds of taxes imposed under Subtitle D, Miscellaneous Excise Taxes. The form and schedules are used to determine the amount of the refund that is due to you. Section 6109 requires you to provide your taxpayer identification number (SSN or EIN). Routine uses of tax information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement agencies and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file the form and schedules will vary depending on individual circumstances. The estimated average times are:

	Recordkeeping	Learning about the law or the form	Preparing, copying, assembling, and sending the form to the IRS
Form 8849	3 hr., 21 min.	28 min.	24 min.
Schedule 1	12 hr., 54 min.		12 min.
Schedule 2	13 hr., 23 min.	6 min.	19 min.
Schedule 3	3 hr., 6 min.	6 min.	9 min.
Schedule 5	4 hr., 18 min.	6 min.	10 min.
Schedule 6	2 hr., 9 min.	12 min.	14 min.
Schedule 8	x hr., x min.	x min.	x min.

If you have comments concerning the accuracy of these time estimates or suggestions for making the form and schedules simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form 8849 to this address. Instead, see *Where To File* on page 2.

