

## **SUPPORTING STATEMENT**

PS-66-93 Gasohol; Compressed Natural Gas; and PS-120-90 Gasoline Excise Tax  
OMB No. 1545-1270

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

#### **PS-66-93**

Section 4041(a)(3), as added by the Omnibus Budget Reconciliation Act of 1993 (PL 103-66), imposes a tax on compressed natural gas (CNG) that is sold for use or used as a fuel in a motor vehicle or motorboat.

Section 4041(b),(f),(g),(h), and (l) provide exemptions from the tax imposed by section 4041(a)(3). These exemptions include CNG sold for use or used by a state or local government and for farming.

Section 4081(e) of the Code provides that if any person who paid the tax imposed by section 4081 with respect to any taxable fuel establishes to the satisfaction of the IRS that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund to such person in the same manner as if it were an overpayment of tax imposed by section 4081.

Reg. section 48.4041-21(c) provides that if the person otherwise liable for the tax on CNG is the seller of the CNG, then the exemptions under section 4041 apply only if the seller has obtained a described certificate from the buyer of the CNG.

Reg. section 48.4081-7 provides the conditions that must be met in order for the person that paid a second tax on taxable fuel to receive a refund.

#### **PS-120-90**

Section 11212(a) of the Revenue Reconciliation Act of 1990 (PL-101-508)("Act"), amended section 4081(a) of the Internal Revenue Code to impose a tax on certain sales, entries and removals of gasoline, effective July 1, 1990.

Under section 4081(a)(1)(A)(iv) of the Code, the tax on sales of gasoline does not apply if the buyer is registered under section 4101. Also, section 4081(a)(1)(B) provides that the tax imposed by section 4081(a) does not apply to any removal or entry of gasoline transferred in bulk to a terminal if the person removing or entering the gasoline and the operator of the terminal are registered under section 4101.

Registration under section 4101 is accomplished on Form 637, Application for Registration.

Section 4081(c) of the Code provides a reduced rate for gasoline sold for gasohol

production.

Section 4081(e) allows a refund of tax if the taxpayer establishes to the satisfaction of the Secretary that a prior tax was paid to the government.

Section 4083(a) of the Code provides that the term gasoline includes, to the extent provided by regulations, gasoline blend stocks and products commonly used as additives in gasoline.

Reg. sections 48.4081-2(c)(2) and 48.4081-3(d)(2) provide that a terminal operator is liable for tax if a person allowed to store gasoline in its terminal (i.e., a position holder) is not registered with the IRS. The terminal operator may avoid this liability if it obtains from the position holder a notification certificate, described in §48.4081-5, that contains the position holder's registration number.

Reg. section 48.4081-3(e)(2) provides that the owner of gasoline is liable for tax when it makes a bulk transfer of gasoline into a facility operated by a person that is not registered with the IRS. The owner may avoid this liability if it obtains from the terminal operator a notification certificate, described in §48.4081-5, that contains the terminal operator's registration number.

Reg. section 48.4081-3(f)(2) provides that the seller of gasoline is liable for tax when it makes a sale of gasoline to an unregistered buyer. The seller may avoid this liability if it obtains from the buyer a notification certificate, described in §48.4081-5, that contains the terminal operator's registration number.

Reg. section 48.4081-4(b)(2) provides that a person may sell gasoline blend stocks and additives tax free for use in other than producing gasoline if the seller obtains from the buyer a certificate, in the form described in §48.4081-4(c), that states that the products will not be used to produce gasoline.

Reg. section 48.4081-4(c) provides that tax is not imposed on the nonbulk removal or entry of gasoline blend stocks and additives if they are received at an approved terminal or refinery. The person that would otherwise be liable for tax must obtain a notification certificate in the form described in §48.4081-5.

Reg. section 48.4081-4(c) contains a certificate that must be used to support tax free sales of gasoline blend stocks and additives.

Reg. section 48.4081-5 contains a certificate that must be used to notify another person of a person's registration status.

Reg. section 48.4081-6(c)(1)(ii) provides that gasoline may be sold at the gasohol production rate if the seller obtains from the gasohol blender a certificate, in the form described in §48.4081-6(c)(2), that states the blender's registration number and that the blender will use the gasoline to produce gasohol.

Reg. section 48.4081-6(c)(2) contains a certificate that must be used by a registered gasohol blender to buy gasoline at the gasohol production rate.

Reg. section 48.4081-7(c)(1) provides that certain taxpayers must include with their tax return certain information about specified taxable events for which they are liable. Section 48.4081-7(c)(2) provides a form for this information report. This report (the "first taxpayer's report") must also be given to the buyer of the gasoline.

Reg. section 48.4081-7(c)(3) provides that certain other taxpayers may include with their tax return certain information about specified taxable events for which they are liable.

Reg. section 48.4081-7(c)(4) provides that any buyer of gasoline that receives a copy of the first taxpayer's report must give a statement of subsequent seller (described in §48.4081-7(c)(4)(ii)) to its buyer if the gasoline is sold within the bulk transfer/terminal system.

Reg. section 48.4081-7(d)(2) contains the format for taxpayers to claim a refund if they have paid tax on gasoline that has already been subject to tax. Section 48.4081-(d)(3) provides a form of claim for use by taxpayers that pay both the first and second taxes.

2. **USE OF DATA**

The data is used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported, excluded, refunded, or credited.

3. **USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

5. **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

We have been unable to reduce burden specifically for small businesses.

6. **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

7. **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Final regulations were published in the *Federal Register* codifying these requirements under Title 26 Part 48 of the Code of Federal Regulations (CFR). Public comments were solicited and public hearings held as a result of final rulemaking. Comments were considered in the development of these final regulations.

Subsequent requests for public comments were solicited for the continue collection of this information in accordance with the PRA. Most recently, a *Federal Register* notice dated June 15, 2010, at 75 FR 33889, was published and we received no comments during the comment period.

**9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

**10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

**PS-66-93**

Section 48.4041-21(c) provides that compressed natural gas (CNG) may be sold tax free if the seller obtains from the buyer a certificate, in the form described in §48.4041-21(c) (2), that states that the buyer will use the CNG in a nontaxable use. We estimate that there will be 100 buyers of tax-free CNG and that the certificate will take approximately .1 hour to complete. The total burden for this reporting requirement is 10 hours.

Section 48.4081-7(c)(5) provides that a first taxpayer's report is not required to be filed if the first tax and the second tax are incurred by the same person in the same calendar quarter. The final regulations eliminate the exemption in §48.4081-7(c)(5). We estimate that there will be 20 taxpayers preparing this report under these conditions and that the

report will take approximately .25 hour to complete. The total burden for this requirement is 5 hours.

**PS-120-90**

Sections 48.4081-2(c)(2) and 48.4081-3(d)(2)(iii) provide that a terminal operator may avoid tax liability if it obtains from the position holder a notification certificate, described in §48.4081-5, that contains the position holder's registration number. We estimate that there will be 500 position holders and that the certificate will take approximately .1 hour to complete. The total burden for this requirement is 50 hours.

Section 48.4081-3(e)(2)(ii) provides that the owner of gasoline may avoid tax liability if it obtains from the terminal operator a notification certificate, described in §48.4081-5, that contains the terminal operator's registration number. We estimate that there will be 200 terminal operators and that the certificate will take approximately .1 hour to complete. The total burden for this requirement is 20 hours.

Section 48.4081-3(f)(3)(ii) provides that the seller of gasoline may avoid tax liability if it obtains from the buyer a notification certificate, described in §48-4081-5, that contains the buyer's registration number. We estimate that there will be 150 buyers and that the certificate will take approximately .1 hour to complete. The total burden of this requirement is 15 hours.

Sections 48.4081-4(b)(2)(ii) and (3)(i) provide that a person may sell gasoline blend stocks and additives tax free for use other than in producing gasoline if the seller obtains from the buyer a certificate, in the form described in §48.4081-4(e), that states that the products will not be used to produce gasoline. We estimate that there will be 1,000 buyers of blend stocks and additives tax free and that the certificate will take approximately .1 hour to complete. The total burden of this requirement is 100 hours.

Section 48.4081-4(c) provides that tax is not imposed on the nonbulk removal or entry of gasoline blend stocks and additives if they are received at an approved terminal or refinery. The person that would otherwise be liable for tax must obtain a notification certificate in the form described in §48.4081-5. We estimate that there will be 100 refiners and terminal operators that will receive these products and that the certificate will take approximately .1 hour to complete. The total burden of this requirement is 10 hours.

Section 48.4081-6(c)(1)(ii) provides that gasoline may be sold at the gasohol production rate if the seller obtains from the gasohol blender a certificate, in the form described in §48.4081-6(c), that states the blender's registration number and that the blender will use the gasoline to produce gasohol. We estimate that there will be 1,200 gasohol blenders and that the certificate will take approximately .1 hour to complete. The total burden of this requirement is 120 hours.

Section 48.4081-7 provides that if the tax on gasoline has been paid to the government

twice, the person that paid the second tax may obtain a refund. Sections 48.4081-7(c)(1) and (3) provide for an information report (the first taxpayer's report") to be filed with the tax return for persons that pay the first tax. We estimate that there will be 50 taxpayers preparing this report and that the report will take approximately .25 hours to complete. The total burden of this requirement is 13 hours.

Section 48.4081-7(c)(4) provides that any buyer of gasoline that receives a copy of the first taxpayer's report must give a statement of subsequent seller (described in §48.4081-7(c)(4)(ii)) to its buyer if the gasoline is sold within the bulk transfer/terminal system. We estimate that there will be 50 subsequent sellers and that the statement of subsequent seller will take approximately .25 hours to complete. The total burden for this requirement is 13 hours.

Section 48.4081-7(d)(2) provides the form and content of the refund claim under §48.4081-7 for claimants who did not pay the first tax to the government. We estimate that there will be 40 of these claimants and that the claim form will take .25 hours to complete. The total burden for this requirement is 10 hours.

	USC citation	# Respondents	# Responses per Respondent	Total # Responses	Hours per Response	Total Hours
PS-66-93	48.4041-21(c)	100	1	100	0.1	10
	48.4081-7(c)(5)	20	1	20	0.25	5
PS-120-90	48.4081-2(c)(2) & 48.4081-3(d)(2)(iii)	500	1	500	0.1	50
	48.4081-3(e)(2)(ii)	200	1	200	0.1	20
	48.4081-3(f)(3)(ii)	150	1	150	0.1	15
	48.4081-4(b)(2)(ii) & (3)(i)	1000	1	1000	0.1	100
	48.4081-4(c)	100	1	100	0.1	10
	48.4081-6(c)(1)(ii)	1200	1	1200	0.1	120
	48.4081-7	50	1	50	0.25	13
	48.4081-7(c)(4)	50	1	50	0.25	13
	48.4081-7(d)(2)	40		40	0.25	10
				3410	0.1073314	366.00

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register** notice dated June 15, 2010 (**75 FR 33889**), requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

Not applicable.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I**

Not applicable.

**Note:** The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.