

SUPPORTING STATEMENT  
REG-120616-03 (T.D. 9346)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 4081 (a)(1 )(A)(iii) imposes a tax on the entry into the United States of any taxable fuel for consumption, use, or warehousing.

Section 4083(a)(1 ) defines taxable fuel as gasoline, diesel fuel, and kerosene.

Section 48.4081-3(c)(2) provides that the enterer is liable for the tax imposed on the entry of taxable fuel into the United States.

Section 48.4081-1 (b) defines "enterer" as the importer of record (under customs law) with respect to the taxable fuel. However, if the importer of record is acting as an agent (for example, the importer of record is a customs broker engaged by the owner of the taxable fuel), the person for whom the agent is acting is the enterer.

Section 4101 (a) provides that each person required by the Secretary to register with respect to the tax imposed by 4081 shall register at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may prescribe.

Section 48.4101-1 (c)(1 )(ii) requires a person who is an enterer to register under section 4101.

Section 48.4081-3(c)(2)(ii) imposes joint and several liability on the importer of record of taxable fuel if the importer of record is not the enterer and the enterer is not registered by the IRS as required by 4101. Section 48.4081-3(c)(2)(iii) provides that if an importer of record has an unexpired notification certificate (as described in 48.4081-5) from the enterer and has no reason to believe that any information in the notification certificate is false, the importer of record will not be liable for the tax on the entry of taxable fuel.

Section 48.4081-3(c)(2)(iv) provides that a Customs bond posted with respect to the importation of fuel will not be charged for the tax imposed on the entry of fuel if the enterer is a taxable fuel registrant. If a surety has an unexpired notification certificate (as described in §48.4081-5) from the enterer and has no reason to believe that any information in the notification certificate is false, the surety bond will not be charged for the tax imposed on the entry of taxable fuel.

2. USE OF DATA

The importer of record's notification certificate from the enterer will help verify that the importer of record is not liable for the tax on the entry of taxable fuel.

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

Not applicable.

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

We received no comments during the comment period in response to the Federal Register notice dated August 30, 2010, (75 FR 53020).

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

The estimated number of responses for this regulation is 1,125, with a total burden of 281 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated August 30, 2010, (75 FR 53020), 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.