

SUPPORTING STATEMENT
Notice 2005-04
(as modified by Notices 2005-24, 2005-62, and 2005-80)
OMB No. 1545-1915

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Notice 2005-4 provides guidance on certain excise tax provisions in the Internal Revenue Code that were added or affected by the American Jobs Creation Act of 2004 (Pub. L. 108-357) (Act). These provisions relate to: alcohol and biodiesel fuels; the definition of off-highway vehicles; aviation-grade kerosene; claims related to diesel fuel used in certain buses; the display of registration on certain vessels; claims related to sales of gasoline to state and local governments and nonprofit educational organizations; two party exchanges of taxable fuel; and the classification of transmix and certain diesel fuel blendstocks as diesel fuel.

- Under §§ 6426(c), 6427(e), and 40A, the producer of biodiesel must give a certificate to the claimant of a biodiesel mixture credit or biodiesel credit.
- Section 4081(a)(3)(C) describes the recordkeeping requirements of certain terminal operators of aviation-grade kerosene.
- The buyer of aviation-grade kerosene must give to the seller in order to support removals of aviation-grade kerosene directly into the fuel tank of an aircraft in commercial aviation pursuant to § 4081 or to support a tax rate of zero pursuant to §§ 4041 and 4082.
- For the purposes of § 6427(1)(4)(B), the ultimate purchaser of aviation-grade kerosene must give the registered ultimate vendor in order to waive its right to an income tax credit or payment and assign such rights to the registered ultimate vendor.
- For the purposes of § 6427(b)(4), the ultimate purchaser of diesel fuel or kerosene for use in an intercity bus must give to the registered ultimate vendor in order to waive its rights to an income tax credit or payment and assign such rights to the registered ultimate vendor.
- To support ultimate vendor's claim for a credit or refund under § 6416(a)(4), the ultimate purchaser of gasoline for the exclusive use of the state or the exclusive use of a nonprofit educational organization must give to the registered ultimate vendor in order for the registered ultimate vendor to be treated as the taxpayer.
- A delivering person may treat a receiving person as a taxable fuel registrant if at the time of exchange, the delivering person has an unexpired notification certificate that the delivering person may receive in order to treat the receiving person as a taxable fuel registrant.

Subsequent modifications were made to Notice 2005-4, by Notice 2005-24 and 2005-62 to make corrections and provide additional guidance. Notice 2005-80 modifies 2005-4 to provide guidance on certain excise tax provisions added or affected by the Energy Policy Act of 2005 (Pub. L 109-58) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act (Pub. L 109-59).

2. USE OF DATA

The information will be used by the IRS to verify that the proper amount of tax is reported, excluded, refunded, or credited.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS publication, 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 INSTRUCTION AND FORMS, AND DATA ELEMENTS

Notice 2005-4 was published in the Internal Revenue Bulletin (IRB) on January 10, 2005 (2005-2 IRB 289). Subsequent modifications were made by Notice 2005-24 (2005-12 IRB 757), Notice 2005-62 (2005-35 IRB 443), and Notice 2005-80 (2005-46 IRB 953).

In response to the *Federal Register* notice dated March 25, 2014 (79 FR 16424), we received no comments during the comment period regarding Notice 2005-4, as modified by Notices 2005-24, 2005-62, and 2005-80.

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**

We estimate 157,963 responses for this notice. We estimate that the number of hours attributed to recordkeeping is 38,095, and that the number of hours attributed to reporting is also 38,095. The total burden hours are estimated as 76,190.

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 March 25, 2014 (79 FR 16424), 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

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.