

SUPPORTING STATEMENT
Internal Revenue Service
Notice 2005-04 Fuel Tax Guidance
(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 operator of an aircraft that buys aviation-grade kerosene must give a certificate to the position holder 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 a waiver to 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 a waiver 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 a certificate 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). Applicable United State Codes to this collection are: 26 USC 6246, 26 USC 40, and 26 USC 4041.

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

The IRS has no plans at this time to offer electronic filing due to the low volume of filers.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

There is no flexibility to reduce burden on small businesses or other small entities because the statutes apply to small businesses and small entities.

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

A less frequent collection would prevent timely reporting of information on certain excise tax provisions that were added or affected by the American Jobs Creation Act of 2004 (Pub. L 108-357) (Act).

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

Notice 12005-4 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 July 17, 2020, (85 FR 43649), 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

No gifts or payments are being provided to any respondents.

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

No sensitive personally identifiable information (PII) is collected.

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.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
2005-4	recordkeeping	157,963	1	157,963	.24	38,095
2005-4	reporting	157,963	1	157,963	.24	38,095
Totals				157,963		76,190

Please continue to assign OMB number 1545-1915 to this regulation.
48-4061(a)-1(d)(2)(ii)

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

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

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes 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

There are no exceptions to the certification statement.

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.