
Notice of Proposed Rulemaking

Gasoline and Diesel Fuel Excise Tax; Special Rules for Alaska; Definition of Aviation Gasoline and Kerosene

REG-247678-96

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed Rule and Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In T.D. 8693, page 9, this Bulletin, the IRS is issuing temporary regulations relating to the application of the diesel fuel excise tax to fuel used in Alaska. The text of those temporary regulations also serves as a portion of the text of these proposed regulations. This document also contains other proposed regulations relating to gasoline and diesel fuel excise taxes. The proposed regulations implement certain changes made by the Omnibus Budget Reconciliation Act of 1993 and the Small Business Job Protection Act of 1996 and affect certain enterers, refiners, retailers, terminal operators, throughputters, and users. **DATES:** Written comments and requests for a public hearing must be received by March 17, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-247678-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-247678-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments/html.

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622-3130 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations published in T.D. 8693 provide rules relating to diesel fuel that is removed, entered, or sold in the state of Alaska. The text of those temporary regulations also serves as the text of these proposed regulations relating to Alaska. The preamble to the temporary regulations explains the temporary rules.

In addition, this document proposes definitions of *aviation gasoline*, for purposes of the tax on aviation gasoline as added by the Small Business Job Protection Act of 1996, and *kerosene*, for purposes of the tax on diesel fuel. These definitions are based on definitions used by the Department of Energy. This

document also proposes changes to the effective date of proposed regulations relating to gasoline and diesel fuel that were published in the **Federal Register** on March 14, 1996 (61 FR 10490).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, a notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 48 is proposed to be amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 48.4082-5 also issued under 26 U.S.C. 4082. * * *

Par. 2. Section 48.4081-1 is amended as follows:

1. Paragraph (b) is amended by adding new definitions in alphabetical order.

2. The second sentence of paragraph (c)(2)(i) is amended by adding the language "aviation fuel (as defined in section 4093(a)), after "does not include".

3. Paragraph (d) is revised.

The additions and revision read as follows:

§ 48.4081-1 *Taxable fuel; definitions.*

* * * * *

(b) * * *

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Aviation gasoline means all special grades of gasoline that are suitable for use in aviation reciprocating engines, as described in ASTM Specification D 910 and Military Specification MIL-G-5572 (For availability, see paragraph (c)(2)(i) of this section.).

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Kerosene means No. 1-K and No. 2-K kerosene described in ASTM Specification D 3699 (the specification), applied without regard to any agreement permitted by the specification (For availability, see paragraph (c)(2)(i) of this section.). Any other fuel is not kerosene even if an agreement permitted by the specification modifies the applicable requirements and the fuel is treated as kerosene under the agreement.

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(d) *Effective date.* This section is effective January 1, 1994, except that in paragraph (b) of this section the definitions of *aviation gasoline* and *kerosene* are effective on the date the final regulations are published in the **Federal Register**.

Par. 3. In § 48.4081-8(c) (as proposed in the **Federal Register** for March 14, 1996 (61 FR 10491)), the language "October 1, 1996." is removed and "the date that is 60 days after the date that the final regulations are published in the **Federal Register**." is added in its place.

Par. 4. In § 48.4082-1(d)(7) (as proposed in the **Federal Register** for

March 14, 1996 (61 FR 10491)), the language “April 1, 1997.” is removed and “the date that is 180 days after the date that the final regulations are published in the **Federal Register.**” is added in its place.

Par. 5. Section 48.4082-5 is added to read as follows:

§ 48.4082-5 Diesel fuel; Alaska.

[The text of this proposed section is the same as the text of § 48.4082-5T published in T.D. 8693, page 9.]

Par. 6. Section 48.6715-2 is added to read as follows:

§ 48.6715-2 Application of section 6715(a)(3) to Alaska.

[The text of this proposed section is the same as the text of § 48.6715-2T published in T.D. 8693, page 9.]

Margaret Milner Richardson,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on December 16, 1996, and published in the issue of the Federal Register for December 17, 1996, 61 F.R. 66246)
