

COMPLIANCE BULLETIN

October 18, 2007

RECENT CHANGES IN IRS BLENDING REQUIREMENTS

BACKGROUND: The Internal Revenue Service requires petroleum marketers who blend an untaxed liquid with a taxed liquid below the terminal rack to obtain an IRS 637 M registration. Blending untaxed and taxed liquids together increases the volume of taxable fuel and creates a federal excise tax (FET) liability on the untaxed volume in the blend. Blenders must have an IRS 637 M registration to pay the FET owed on the blend. Blenders must also obtain an IRS 637 M to file a claim for the federal biodiesel or alcohol mixture credits.

ISSUE: Changes in the tax code, legislation in Congress and evolving interpretations by the IRS have expanded the conditions under which a blender must obtain a 637 M registration. As a result of these changes, a wider class of petroleum marketers must obtain an IRS 637 M registration than previously thought.

COMPLIANCE: The following blending activities that occur below the terminal rack **require** the blender to obtain an IRS 637 M registration if the blender owns both components of the blend prior to it being mixed:

- Blending B-100 or B-99 into **clear** diesel fuel. The 24.3 cpg FET and the \$.001 cpg federal Leaking Underground Storage Tank (LUST) tax is owed on the volume of B-100 or B-99 added to the diesel fuel;
- Blending ethanol into gasoline. The 18.3 cpg FET and the \$.001 cpg LUST tax is owed on the volume of ethanol added to the gasoline;
- Blending B-100 or B-99 into **dyed** diesel fuel. The \$.001 cpg LUST tax is owed on the volume of B-100 or B-99 added to the dyed diesel fuel;
- Blending B-100 or B-99 into **heating oil**. The federal \$.001 LUST tax is owed on the volume of B-100 or B-99 added to the heating oil;
- Blending B-100 or B-99 into any distillate with the FET or LUST tax attached;
- Filing for the federal alcohol or biodiesel mixture credits.

IRS FORMS: The 637 M Registration must be filed on IRS Form 637 (Rev. 10-2006). Claims for the federal alcohol mixture credit may be filed on IRS Form 720 (Rev. January 2007) Schedule C, line 12. Claims for the federal biodiesel or renewable diesel mixture credit may be filed on IRS Form 720 (Rev. January 2007) Schedule C, line 13. Use IRS Form 720 (Rev. January 2007) to remit the federal LUST tax for untaxed product blended into dyed fuel below the terminal rack. Claims for FET may be made on IRS Forms 720, 4136 or 8849. All IRS forms and instructions may be obtained at www.irs.gov.

BOTTOM LINE: All petroleum marketers who blend below the terminal rack and own both products prior to blending, including blending into dyed fuels, **must** obtain an IRS 637 M registration. If you are blending below the rack and do not have an IRS 637 M registration, obtain one right away. Petroleum marketers purchasing blended products at the terminal rack are not required to obtain a 637 M registration.

Got Questions? Contact Mark S. Morgan, Esq. at mmorganpts@cox.net or (202) 364-6767.