



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[TD 10047]

RIN 1545-BS04

Section 6435 Payments; Refunds for Previously Taxed Dyed Fuel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations regarding the statutory provision providing for payments to taxpayers with respect to certain previously taxed dyed fuel. Specifically, these temporary regulations provide guidance delineating which taxpayers may claim such payments and the procedures these taxpayers must follow to claim the payments. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the proposed rules section in this issue of the **Federal Register**. These temporary regulations affect taxpayers that withdraw previously taxed dyed fuel from a terminal.

DATES: *Effective date:* These temporary regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The temporary regulations under § 48.6435-1T expire on the earlier of May 1, 2029, or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Applicability date: These temporary regulations apply to removals of eligible dyed fuel occurring on or after December 31, 2025.

FOR FURTHER INFORMATION CONTACT: Concerning these temporary regulations, Danielle Mayfield or Andrew Clark of the Office of Associate Chief Counsel

(Energy, Credits, and Excise Tax) at (202) 317-6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) under section 6435 of the Internal Revenue Code (Code) relating to the determination of payments regarding dyed diesel fuel or dyed kerosene with respect to which excise tax under section 4081 of the Code was paid (regulations). The regulations are issued under the authority granted by sections 6435(a), 6001, and 7805(a) of the Code.

Section 6435(a) requires that a person claiming a payment under section 6435 establish to the satisfaction of the Secretary of the Treasury or the Secretary's delegate (Secretary) that such person meets the requirements under section 6435(b).

Section 6001 authorizes the Secretary to prescribe regulations related to recordkeeping, statements, and returns.

Section 7805(a) authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

Background

I. Overview

This document amends the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) to add temporary regulations providing rules relating to claims for payment under section 6435 regarding previously taxed dyed fuel. For the reasons discussed in Part IV of this Background, the temporary regulations limit the claimants under section 6435 to taxpayers that paid to the IRS the prior fuel excise tax under section 4081 with respect to the dyed fuel.

In accordance with section 7805(e)(1), concurrent with the publication of this

Treasury Decision, the Department of the Treasury (Treasury Department) and the IRS are publishing in the Proposed Rules section of this issue of the **Federal Register** a notice of proposed rulemaking (REG-119294-25) containing proposed regulations under section 6435 at proposed § 48.6435-1, the text of which is identical to the text of § 48.6435-1T of the temporary regulations.

Interested persons are directed to the **ADDRESSES** and **Comments and Requests for a Public Hearing** sections of the preamble to REG-119294-25 for information on submitting public comments or requesting a public hearing on the proposed regulations.

II. Federal Fuel Excise Taxes

Section 4081(a) imposes an excise tax (section 4081 tax) on certain removals, entries, and sales of taxable fuel, including diesel fuel and kerosene. Section 4081(a)(2) prescribes the tax rate for the section 4081 tax. Section 4081(a)(2)(A)(iii) prescribes a general tax rate of 24.3 cents per gallon for diesel fuel or kerosene. In addition to that tax rate, section 4081(a)(2)(B) prescribes a tax rate of 0.1 cent per gallon, referred to as the Leaking Underground Storage Tank Trust Fund financing rate (LUST tax).

Under section 4082(a), diesel fuel and kerosene are exempt from the section 4081 tax if the fuel: (i) is destined for a nontaxable use (as defined in section 4082(b)); (ii) is indelibly dyed by mechanical injection in accordance with Treasury regulations; and (iii) meets any marking requirements prescribed in Treasury regulations. Section 4082(f)(1) provides that the exemption in section 4082(a) generally does not apply to the LUST tax.

Section 48.4082-1 and Notice 2005-80, 2005-2 C.B. 953, provide rules and conditions for the exemption provided by section 4082(a) to apply to the removal, entry, or sale of any diesel fuel or kerosene.

III. Section 6435

Section 70525(a) of Public Law 119-21, 139 Stat. 282 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), added section 6435 to allow recovery of the amount of the section 4081 tax paid with respect to diesel fuel or kerosene that later qualifies as exempt from section 4081 tax under section 4082(a).

Section 6435 allows a person that establishes to the satisfaction of the Secretary that the person removed eligible indelibly dyed diesel fuel or kerosene (eligible dyed fuel) from a terminal to claim a payment (without interest) equal to the amount of the section 4081 tax previously paid with respect to such dyed fuel. Eligible dyed fuel is diesel fuel or kerosene: (i) with respect to which tax under section 4081 was previously paid (and not credited or refunded); and (ii) that is exempt from the section 4081 tax under section 4082(a). See section 6435(a) and (b). Section 6435 is effective for eligible dyed fuel removed on or after December 31, 2025. See section 70525(c) of the OBBBA.

Section 6430 provides that no refunds, credits, or payments shall be made under subchapter B of chapter 65 for any LUST tax imposed except with respect to fuels as otherwise provided by section 6430. Section 70525(b)(2) of the OBBBA amended section 6430 to except from the general rule fuels which are removed as eligible dyed fuel under section 6435. Therefore, payments under section 6435 may include the LUST tax.

IV. Announcement 2026-1

Announcement 2026-1, 2026-4 I.R.B 402 (released December 22, 2025), requested that taxpayers hold any section 6435 claims until the Treasury Department and the IRS issue guidance related to section 6435 and the process for requesting a refund. The announcement explained that, although section 6435 is functionally similar to other rules providing for payments to taxpayers with respect to previously paid excise

tax, section 6435 lacks a directive to treat the payments as if they constitute refunds of overpayments of the underlying tax. *Compare* section 6435 with sections 6420(e)(1), 6421(g)(1), and 6427(j)(1) of the Code. Further, the OBBBA does not provide a specific appropriation for section 6435 payments. The only appropriation for paying section 6435 claims is the general refund appropriation, which is available only to the extent of an overpayment under section 6402, which requires the claimant to be the same person that paid the section 4081 tax to which the claim relates. See 31 U.S.C. 1324(b)(1) (disbursement may be made from the refund appropriation for “refunds to the limit of liability of an individual tax account”); section 6402 (permitting a refund of an overpayment “on the part of the person who made the overpayment”). Thus, absent a statutory change, the Treasury Department and the IRS lack the authority to pay section 6435 claims to anyone other than the person that paid the section 4081 tax with respect to the eligible dyed fuel to which the claim relates.

These temporary regulations, and the cross-referenced proposed regulations, are the forthcoming guidance referenced in Announcement 2026-1.

Explanation of Provisions

I. Overview

These temporary regulations, § 48.6435-1T, provide rules to determine eligibility for a refund under section 6435 with respect to eligible dyed fuel (section 6435 refund) and rules for filing a claim for a section 6435 refund (section 6435 claim).

II. General Rules

A. Overview

Section 48.6435-1T(b) provides definitions of terms used for purposes of section 6435 and § 48.6435-1T. Section 48.6435-1T(c) provides that a person that satisfies the requirements of paragraphs (d) through (g) of that section with respect to eligible dyed fuel may receive a payment under section 6435 that is a refund of an overpayment of

the section 4081 tax previously paid. Section 48.6435-1T(d) provides conditions that must be satisfied for a section 6435 refund to be allowed to the person that paid the section 4081 tax and incorporates and clarifies the rules in section 6435(b). Section 48.6435-1T(e) provides reporting requirements taxpayers must satisfy to make a section 6435 claim. Section 48.6435-1T(f) provides rules regarding the form and content of a section 6435 claim. Section 48.6435-1T(g) provides the claim period for section 6435 refunds.

B. Definitions

The terms defined in § 48.6435-1T(b) include “approved terminal,” “eligible dyed fuel,” and “section 6435 refund.” To maintain consistency with existing fuel excise tax regulations, the term “approved terminal” has the same meaning as in § 48.4081-1(b).

C. Refund to Taxpayer

Section 48.6435-1T(c) provides that the payment under section 6435 of the amount equal to the section 4081 tax paid to the IRS is the refund (without interest) of an overpayment to the taxpayer that paid the section 4081 tax with respect to the eligible dyed fuel. Section 48.6435-1T(c) incorporates and clarifies the rules in section 6435(a). Section 48.6435-1T(d) makes clear that only a taxpayer that removes the eligible dyed fuel from a terminal and also previously paid the section 4081 tax with respect to that fuel can receive a refund described in § 48.6435-1T(c).

As explained below, to the extent the claimant previously paid the section 4081 tax, the payment described in section 6435 represents a refund of an overpayment. Under section 6402(a), “[i]n the case of any overpayment,” the IRS “may credit the amount of such overpayment . . . against any liability in respect of an Internal Revenue tax on the part of the person who made the overpayment and shall . . . refund any balance to such person.” For a taxpayer to receive a credit or refund, there must first be an overpayment. An overpayment is “any payment in excess of that which is properly

due.” *Jones v. Liberty Glass Co.*, 332 U.S. 524, 531 (1947). An overpayment is determined by comparing the amount by which a taxpayer’s payments exceed the amount of tax properly due. For example, a taxpayer that pays \$5,000 towards a taxable period or event but owes \$4,000 in tax liability for such taxable period or event has an overpayment of \$1,000. Section 6402(a) also limits to whom a credit or refund can be made by providing that only “the person who made the overpayment,” that is, the taxpayer subject to the tax and to whom the payments are attributed, is entitled to receive a credit or refund of an overpayment. *Roman v. United States*, 61 F.4th 1366, 1370 (Fed. Cir. 2023); *JetPay Corp. v. United States*, 26 F.4th 239, 242 (5th Cir. 2022); *Jewell v. United States*, 548 F.3d 1168, 1172 (8th Cir. 2008); *DeNiro v. United States*, 561 F.2d 653 (6th Cir. 1977).

Section 4081(a)(1)(A) generally imposes an excise tax on the removal of taxable fuel (defined in section 4083(a) to include diesel fuel and kerosene) from any refinery or terminal; the entry of taxable fuel into the United States for consumption, use, or warehousing; and the sale of taxable fuel to an unregistered person. In certain circumstances, diesel fuel or kerosene with respect to which tax has previously been imposed may be transported outside the bulk transfer/terminal system and later entered into a terminal that is part of the system. That fuel would also generally be subject to a second instance of the section 4081 tax upon removal from such terminal. In other words, the section 4081 tax may be imposed with respect to fuel more than once. Section 4081(e) and § 48.4081-7 provide a refund mechanism that allows the person that pays the second instance of section 4081 tax to claim a refund in the amount of the second tax paid (without interest). However, if the fuel removed from the terminal is destined for a nontaxable use and dyed pursuant to the provisions of section 4082(a), then the second removal is exempt from section 4081 tax. Section 4081(e) does not apply to such a removal because there is no second instance of section 4081 tax.

Prior to the enactment of section 6435, there was no mechanism allowing a taxpayer to claim a refund when dyed fuel removed from a terminal was previously taxed under section 4081. Section 6435(a) creates such a mechanism by providing for a payment in the amount of the section 4081 tax previously paid (and not credited or refunded) with respect to eligible dyed fuel. However, as explained in Part IV of the Background section, section 6435 does not include language deeming such a payment as a refund of an overpayment of tax and lacks a specific appropriation for section 6435 payments.

The Treasury Department and the IRS view the general appropriation for refunds of Internal Revenue collections in 31 U.S.C. 1324(b) as appropriating funding for section 6435 payments to the extent that the taxpayer claiming the section 6435 payment is the same taxpayer that paid the section 4081 tax with respect to the diesel fuel or kerosene. Accordingly, these regulations provide that if the same taxpayer that paid the section 4081 tax with respect to the diesel fuel or kerosene subsequently removes that fuel from an approved terminal as eligible dyed fuel, such taxpayer can seek a refund under section 6435 of the section 4081 tax it paid. Construing the payment described in section 6435(a) as a refund of an overpayment on the part of the same taxpayer that paid the section 4081 tax to the IRS with respect to the diesel fuel or kerosene is consistent with the Supreme Court's explanation of how to determine an overpayment in *Jones v. Liberty Glass*. Accordingly, under section 6435 when a person removes from a terminal eligible dyed fuel with respect to which the person had previously paid section 4081 tax, that person has made an overpayment because, as a result of section 6435, the person has paid more section 4081 tax than is due.

These regulations are also consistent with section 6402(a)'s requirement that only "the person who made the overpayment" is entitled to receive a credit or refund of that overpayment. Reading section 6435 in conjunction with section 6402(a),

section 6435(a) requires that the payment be made to the same taxpayer that paid the section 4081 tax with respect to diesel fuel or kerosene and later removes the fuel as dyed for nontaxable use. Thus, under these regulations, the taxpayer entitled to payment under section 6435 is “the person who made the overpayment.”

D. Reporting Requirements

The rules in § 48.6435-1T(e) closely follow existing reporting requirements under § 48.4081-7(c) applicable to section 4081(e) claims with which taxpayers are already familiar. Under § 48.6435-1T(e)(1), a taxpayer must file a section 6435 taxpayer’s report with its section 6435 refund claim. Section 48.6435-1T(e)(2) provides a model report. This model report differs in a few respects from the first taxpayer’s report used for section 4081(e) claims as provided in § 48.4081-7(c)(2). The model report requires a taxpayer to declare that, except for the section 6435 claim to which the report relates, the taxpayer has not received, and will not claim, a credit with respect to, or a refund of, the tax with respect to the diesel fuel or kerosene to which the report relates. The model report also differs by identifying and revoking any prior first taxpayer report filed pursuant to § 48.4081-7(c) by the taxpayer with respect to the fuel that is the subject of the section 6435 taxpayer’s report.

This approach is expected to reduce the burden on taxpayers. It also avoids duplicate reporting for many taxpayers that also file a first taxpayer’s report with their Form 720, *Quarterly Federal Excise Tax Return*, in accordance with § 48.4081-7(c). A taxpayer may not know after paying section 4081 tax with respect to a particular volume of fuel whether it will sell the fuel as undyed fuel such that there may be a second tax imposed under section 4081 (which may result in a section 4081(e) refund), or whether it will later remove the fuel as eligible dyed fuel (which may result in a section 6435 refund). As such, a section 6435 taxpayer’s report will only be filed once, when a taxpayer makes a section 6435 claim, and need not be filed with the taxpayer’s Form

720 to which the section 4081 tax relates. Such a report will also allow a taxpayer to automatically revoke any first taxpayer's report with respect to the same fuel.

E. Form and Content of Claim

Section 48.6435-1T(f)(1) provides that a taxpayer must submit a section 6435 claim on Form 8849, *Claim for Refund of Excise Taxes*. In addition to the section 6435 taxpayer's report, the Form 8849 must include a completed Schedule 5 (Form 8849), *Section 4081(e) and 6435 Claims*. A taxpayer cannot make a section 6435 claim on the same Form 8849 as any other claims. For example, if a taxpayer also wishes to make section 4081(e) claims, the taxpayer must submit a separate Form 8849, and include a separate Schedule 5 (Form 8849), for those section 4081(e) claims. Section 48.6435-1T(f)(2) provides the information that must be included in a section 6435 claim.

F. Time for Filing Claim

Section 48.6435-1T(g) provides that the time for filing a section 6435 claim begins after the removal of the eligible dyed fuel and lasts until the end of the period prescribed by section 6511 of the Code for filing a refund claim for the section 4081 tax paid with respect to the fuel.

Applicability Date

The temporary regulations under § 48.6435-1T apply to removals of eligible dyed fuel occurring on or after December 31, 2025. See section 7805(b)(2). The temporary regulations under § 48.6435-1T expire on the earlier of May 1, 2029, or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Special Analyses

I. Good Cause

Section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. Subchapter II)

provides that advance notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The Treasury Department and the IRS find that good cause exists for making these temporary regulations immediately effective without notice and comment because failure to do so would be impracticable and contrary to the public interest.

Section 6435 became effective on December 31, 2025, less than six months after it was enacted as part of the OBBBA on July 4, 2025. In addition to the implementation of this new dyed fuel payment provision, the OBBBA contained sweeping changes to the tax code, with extensive modifications and additions to provisions administered by the IRS, necessitating guidance-drafting and administrative responsibilities across the organization. Given the legal complexity and administration challenges presented by section 6435, discussed below, it is critical to provide taxpayers and the IRS with certainty as soon as possible regarding the rules governing eligibility for, and the procedures for claiming, a payment under section 6435.

Section 6435 is a complex provision that presented interpretation challenges. Specifically, the OBBBA does not direct that these payments be treated as refunds of overpayments of tax, nor does it provide a specific appropriation for payments. Accordingly, the Treasury Department and the IRS were required to determine if and how section 6435 could be implemented consistent with both Congressional intent and the lack of a specific appropriation to make the payments contemplated by section 6435 and then develop appropriate procedures that taxpayers can easily follow to claim section 6435 payments.

As noted, section 6435 became effective on December 31, 2025, and taxpayers

are seeking certainty as to whether and how to file claims. It is important to provide that certainty by the issuance of these temporary regulations so that taxpayers understand the procedures they need to follow in order for the IRS to be able to process claims under section 6435 and the limitations on the IRS's ability to pay those claims. In addition, given that these regulations limit the scope of eligible claimants under section 6435 to taxpayers that paid the underlying section 4081 tax, taxpayers also need certainty as soon as possible to enable them to structure their business arrangements in a manner that results in eligibility for the section 6435 payment.

The guidance in these regulations also preserves government resources by discouraging taxpayers from filing claims that the IRS lacks the legal authority to pay. Issuing this guidance quickly also protects the Federal fisc as a delay in guidance would increase the likelihood of unappropriated funds being disbursed.

Following notice-and-comment procedures would delay when taxpayers receive the certainty provided by the rules and procedures in these temporary regulations. Issuing immediately effective regulations avoids wasting resources and ensures eligible taxpayers can claim section 6435 refunds as enacted by the OBBBA to the extent appropriations are authorized by 31 U.S.C. 1324(b). Having immediately effective regulations also provides the IRS certainty as to appropriations boundaries regarding section 6435 refunds and enables the IRS to process claims without waiting for notice-and-comment regulations or risking uneven implementation.

Because of the limited time to provide the requisite certainty to taxpayers and the IRS without unduly delaying the ability of eligible taxpayers to file claims that the IRS is authorized to pay, it was impracticable to conduct notice-and-comment procedures. The limited time available to prepare these regulations is an important factor in finding good cause. See *Petry v. Block*, 737 F.2d 1193 (D.C. Cir. 1984). Accordingly, it is in the public interest to both provide these temporary regulations without following notice-

and-comment procedures and to make them effective immediately.

Comments are being solicited in the cross-referenced notice of proposed rulemaking that is in the proposed rules section in this issue of the **Federal Register**. Any comments will be considered before final regulations are issued.

II. *Regulatory Planning and Review*

These temporary regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations.

III. *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

These temporary regulations set forth intended collections of information to be provided to the IRS with Form 8849 and Schedule 5 (Form 8849).

The collections of information associated with these temporary regulations include reporting and recordkeeping requirements that are necessary to ensure that a taxpayer qualifies for a section 6435 refund. The collections will be used by the IRS for tax compliance purposes and by taxpayers to establish eligibility for a section 6435 refund.

The reporting requirements include reporting related to claiming a section 6435 refund, including the execution and filing of reports as detailed in § 48.6435-1T(e). The recordkeeping requirements include that a taxpayer keep records to establish its

eligibility for and the amount of a section 6435 claim. The burden for these requirements is included with Form 8849 and its instructions and with Schedule 5 (Form 8849) and its instructions. These forms and form instructions are already approved under OMB control number 1545-1420.

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.

IV. Regulatory Flexibility Act

For applicability of the Regulatory Flexibility Act, please refer to the cross-referenced notice of proposed rulemaking (REG-119294-25) published elsewhere in this issue of the **Federal Register**.

Pursuant to section 7805(f), these temporary regulations will be submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on their impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). These temporary regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance

costs on State and local governments and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These temporary regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as a non-major rule as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

Guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these temporary regulations are Danielle Mayfield and Andrew Clark of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 48 as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding an entry for § 48.6435-1T in numerical order to read in part as follows:

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

* * * * *

Section 48.6435-1T also issued under 26 U.S.C. 6435(a) and 6001.

Par. 2. Add § 48.6435-1T to subpart O to read as follows:

§ 48.6435-1T Dyed fuel refund.

(a) *Overview.* This section provides guidance related to section 6435 of the Internal Revenue Code (Code), including definitions, rules, conditions, filing instructions, and reporting requirements governing claims. Paragraph (h) of this section provides an example illustrating the provisions of this section.

(b) *Definitions.* For purposes of section 6435 and this § 48.6435-1T:

(1) *Approved terminal.* The term *approved terminal* has the same meaning as provided in § 48.4081-1(b).

(2) *Eligible dyed fuel.* The term *eligible dyed fuel* means diesel fuel or kerosene with respect to which a tax under section 4081 of the Code (section 4081 tax) was previously paid (and not credited or refunded), and that is exempt from taxation under section 4082(a) of the Code.

(3) *Section 6435 refund.* The term *section 6435 refund* means a payment made under section 6435(a) to the person that paid the section 4081 tax to the Internal Revenue Service (IRS) with respect to eligible dyed fuel. Under paragraph (c) of this section, such a payment is a refund of an overpayment (without interest) under section 6402 to the taxpayer equal to the amount of section 4081 tax previously paid by the taxpayer with respect to such fuel.

(c) *Refund of overpayment.* If a person satisfies the requirements of paragraphs (d) through (g) of this section with respect to eligible dyed fuel, then pursuant to section 6435, an amount equal to the section 4081 tax paid to the IRS (including any tax paid at the Leaking Underground Storage Tank Trust Fund financing rate (LUST tax) under

section 4081(a)(2)(B)) with respect to such fuel is allowed as a refund (without interest) to such person as an overpayment of such tax under section 6402.

(d) *Conditions to allowance of refund.* A claim for refund is allowed under section 6435 and this § 48.6435-1T only if each of the following conditions is satisfied:

(1) Section 4081 tax was imposed with respect to diesel fuel or kerosene;

(2) The taxpayer was liable for and paid such tax to the IRS and the tax has not been credited or refunded;

(3) The taxpayer removes from an approved terminal the diesel fuel or kerosene, which has been dyed as provided in section 4082(a); and

(4) The taxpayer meets the reporting requirements of paragraph (e) of this section.

(e) *Reporting requirements--(1) In general.* A taxpayer must file a report with respect to the tax described in paragraph (d)(2) of this section that is in substantially the same form as the model report provided in paragraph (e)(2) of this section (or such other model report as the Commissioner of Internal Revenue (Commissioner) may prescribe) and contains all information necessary to complete such report (section 6435 taxpayer's report). A section 6435 taxpayer's report must be filed with the section 6435 claim to which it relates (or at such other time, or in such other manner, as prescribed by the Commissioner).

(2) *Model section 6435 taxpayer's report.*

Section 6435 Taxpayer's Report

1. _____

Taxpayer's name, address, and employer identification number

2. _____
Date and location of taxable event

3. _____
Volume and type of taxable fuel

4. Check type of taxable event:

____ Removal at the terminal rack

____ Entry into United States

____ Other: _____
Description

5. _____
Amount of federal excise tax paid on the taxable event

6. Check the box if Taxpayer previously filed a First Taxpayer's Report under § 48.4081-7 relating to the same fuel described in this statement.

Year and quarter First Taxpayer's Report filed

Taxpayer hereby revokes such report with respect to the fuel described in this statement.

Except for the section 6435 claim to which this report relates, the undersigned taxpayer (the "Taxpayer") has not received, and will not claim, a credit with respect to, or a refund of, the tax to which this form relates.

Under penalties of perjury, Taxpayer declares that Taxpayer has examined this statement, including any accompanying schedules and statements, and to the best of Taxpayer's knowledge and belief, such statements are true, correct, and complete.

Signature and date signed

Printed or typed name of person signing this report

Title

(f) *Filing instructions for a section 6435 claim--(1) Form of claim.* A taxpayer must submit a section 6435 claim on Form 8849, *Claim for Refund of Excise Taxes*, that includes the section 6435 taxpayer's report and a completed Schedule 5 (Form 8849), *Section 4081(e) and 6435 Claims*, or any successor form(s). Both the Form 8849 and

the included Schedule 5 (Form 8849) must include all information and documentation required by the forms, form instructions, and this section. A taxpayer cannot make a section 6435 claim on the same Form 8849 as any other claims besides another section 6435 claim. Therefore, no other schedules or types of claims may be included with the Form 8849 on which a section 6435 claim is made. For example, if a taxpayer making a section 6435 claim also wishes to make section 4081(e) claims, the taxpayer must submit a separate Form 8849, and include a separate Schedule 5 (Form 8849), for those section 4081(e) claims.

(2) *Content of claim.* A section 6435 claim must contain the following information with respect to the eligible dyed fuel covered by the claim:

- (i) Volume and type of fuel removed.
- (ii) Date of removal of fuel.
- (iii) Amount of section 4081 tax previously paid with respect to such fuel.
- (iv) The section 6435 taxpayer's report that relates to such fuel.

(g) *Time for filing claim.* A section 6435 claim may be filed any time after the removal of the eligible dyed fuel and before the end of the period prescribed by section 6511 of the Code for the filing of a claim for a refund of an overpayment of the section 4081 tax paid with respect to such fuel.

(h) *Example.* The following example illustrates the provisions of this section: On June 25, 2026, X, a taxable fuel registrant, removes 10,000 gallons of undyed diesel fuel from an approved terminal at the rack. The diesel fuel is then transported to and entered into a second approved terminal via tank trucks. X, as the position holder of the diesel fuel at the time of this first removal, is liable for the \$2,440 section 4081 tax imposed on the removal, which includes the LUST tax. On July 31, 2026, X timely files its Form 720 for the quarterly tax period ending June 30, 2026, on which it reports the section 4081 tax imposed on the removal, and pays the section 4081 tax to the IRS.

Pursuant to § 48.4081-7(c)(3), X also files a first taxpayer's report with its Form 720 with respect to the removal of the 10,000 gallons of diesel fuel. On August 10, 2026, X dyes 5,000 gallons of the diesel fuel and removes the dyed diesel fuel from the second approved terminal. The dyed diesel fuel is intended for use on a farm, which is a nontaxable use. After X has removed the dyed diesel fuel from the second approved terminal, X files a Form 8849 that only covers a section 6435 claim, and includes a completed Schedule 5 (Form 8849) and the required section 6435 taxpayer's report, to claim a refund in the amount of the \$1,220 section 4081 tax paid with respect to such fuel. X's section 6435 taxpayer's report uses the model report provided in paragraph (e)(2) of this section. X checks the box in line 6 of its section 6435 taxpayer's report and identifies the corresponding first taxpayer's report it filed for the quarterly tax period ending June 30, 2026, thereby revoking the first taxpayer's report to the extent of the 5,000 gallons of dyed diesel fuel. Because X has met the conditions under paragraph (d) of this section and filed a claim for refund in accordance with paragraph (f) of this section, X is allowed a refund of the section 4081 tax (including the LUST tax) that it paid to the IRS on the June 25, 2026, removal of the 5,000 gallons of diesel fuel that it later reentered, dyed, and removed.

(i) *Applicability date.* This section applies to removals of eligible dyed fuel occurring on or after December 31, 2025.

(j) *Expiration date.* This section expires on the earlier of May 1, 2029, or the date of any statutory change that would appropriate funds for the payment of claims under section 6435 to persons other than the taxpayer that paid the section 4081 tax to which the claim relates.

Frank J. Bisignano,
Chief Executive Officer.

Approved: April 6, 2026.

Kenneth J. Kies,
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