

Sec. 4082. Exemptions for diesel fuel

TITLE 26, Subtitle D, CHAPTER 32, Subchapter A, PART III, Subpart A, Sec. 4082

STATUTE

(a) In general

The tax imposed by section 4081 shall not apply to diesel fuel -

- (1)** which the Secretary determines is destined for a nontaxable use,
- (2)** which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and
- (3)** which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.
Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

(b) Nontaxable use

For purposes of this section, the term "nontaxable use" means -

- (1)** any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,
- (2)** any use in a train, and
- (3)** any use described in section 6427(b)(1)(after the application of section 6427(b)(3)).

(c) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

(d) Cross reference

For tax on train and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

Sec. 6714. Dyed fuel sold for use or used in taxable use, etc.

STATUTE

(a) Imposition of penalty

If -

- (1)** any dyed fuel is sold or held for sale by any person for any use which such person knows or has reason to know is not a nontaxable use of such fuel,
- (2)** any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed, or
- (3)** any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel, then such person shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be the greater of -

(A) \$1,000, or

(B) \$10 for each gallon of the dyed fuel involved.

(2) Multiple violations

In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1)(A) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

(c) Definitions

For purposes of this section -

(1) Dyed fuel

The term "dyed fuel" means any dyed diesel fuel, whether or not the fuel was dyed pursuant to section 4082.

(2) Nontaxable use

The term "nontaxable use" has the meaning given such term by section 4082(b).

(d) Joint and several liability of certain officers and employees

If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

FOR FURTHER INFORMATION, PLEASE CONTACT THE INTERNAL REVENUE SERVICE.