

**§ 48.4081-2 Taxable fuel; tax on removal at a terminal rack.**

(a) *Overview.* This section provides the general rule that all removals of taxable fuel at a terminal rack are subject to tax and the position holder with respect to the fuel is liable for the tax.

(b) *Imposition of tax.* Tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack.

(c) *Liability for tax—(1) In general.* The position holder with respect to the taxable fuel is liable for the tax imposed under paragraph (b) of this section.

(2) *Joint and several liability of terminal operator; unregistered position holder—(i) In general.* The terminal operator is jointly and severally liable for the tax imposed under paragraph (b) of this section if—

(A) The position holder with respect to the taxable fuel is a person other than the terminal operator and is not a taxable fuel registrant; and

(B) The terminal operator has not met the conditions of paragraph (c)(2)(ii) of this section.

(ii) *Conditions for avoidance of liability.* A terminal operator is not liable for tax under this paragraph (c)(2) if, at the time of the removal, the terminal operator—

(A) Is a taxable fuel registrant;

(B) Has an unexpired notification certificate (as described in § 48.4081-5) from the position holder; and

(C) Has no reason to believe that any information in the notification certificate is false.

(3) *Joint and several liability of terminal operator; incorrect information provided.* The terminal operator is jointly and severally liable for the tax imposed under paragraph (b) of this section if, in connection with the removal of diesel fuel or kerosene that is not dyed and marked in accordance with § 48.4082-1, the terminal operator provides any person (including the position holder with respect to the fuel) with any bill of lading, shipping paper, record, or similar document indicating that the diesel fuel or kerosene is dyed and marked in accordance with § 48.4082-1.

(4) *Example.* The following example illustrates this paragraph (c) and § 48.4082-1:

*Example.* (i) TO is a terminal operator and PH is the position holder with respect to, and owner of, 8,000 gallons of diesel fuel stored in TO's terminal. TO and PH are taxable fuel registrants. When the fuel is removed from the terminal at the rack, the fuel is not dyed and marked in accordance with § 48.4082-1, and TO does not provide any person with any paperwork indicating that the fuel is dyed and marked. After the removal from the terminal, PH sells the fuel to individuals for use as heating oil, a nontaxable use.

(ii) Because PH is the position holder of the fuel at the time of the removal from the terminal, PH is liable for the tax imposed by section 4081. The removal is subject to tax because the fuel is not dyed and marked in accordance with § 48.4082-1, and later use of the fuel in a nontaxable use does not make the removal from the terminal exempt from tax.

(iii) Because PH is a taxable fuel registrant and TO did not provide any person with any paperwork indicating that the fuel is dyed and marked, TO is not jointly and severally liable for tax under paragraph (c) (2) or (3) of this section.

(d) *Rate of tax.* For the rate of tax generally, see section 4081(a). For the rate of tax on gasohol and on gasoline removed for gasohol production, see § 48.4081-6.

(e) *Exemptions.* For exemptions from the tax imposed under this section, see §§ 48.4081-4 (relating to gasoline blendstocks), 48.4082-1 (relating to dyed diesel fuel and dyed kerosene), 48.4082-5 (relating to diesel fuel and kerosene used in Alaska), 48.4082-6 (relating to aviation-grade kerosene), and 48.4082-7 (relating to kerosene used for a feedstock purpose).

(f) *Effective date.* This section is applicable after December 31, 1993.

[T.D. 8659, 61 FR 10455, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17156, Mar. 31, 2000]

**§ 48.4081-3 Taxable fuel; taxable events other than removal at the terminal rack.**

(a) *Overview.* Although tax is imposed when taxable fuel is removed from the terminal at the rack, tax also is imposed in certain other situations described in this section.

(b) *Tax on removal from a refinery—(1) Imposition of tax.* Tax is imposed on the following removals from a refinery:

(i) A removal of taxable fuel by bulk transfer if the refiner or the owner of