



TaxNewsFlash

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Notice 2017-30: Temporary relief, taxable fuel removals from Milwaukee terminals due to energy emergencies

The IRS today released an advance version of Notice 2017-30 providing 180-day emergency relief for taxable fuel removals from Milwaukee terminals due to the shutdown of the West Shore Pipeline.

[Notice 2017-30](#) [PDF 24 KB] states that, following the expiration of the 180-day emergency relief in the notice, subsequent temporary relief will provide a mechanism for certain claims relating to dyed diesel fuel.

The 180-day emergency relief—for the period beginning on May 3, 2017 and ending on October 30, 2017—provides that section 4081(a) tax will be imposed on the removal of taxable fuel from a terminal rack in Milwaukee into a tank truck or rail car, unless the fuel is entered into a Green Bay terminal within 24 hours and other specified conditions are met. The subsequent temporary relief, relating to dyed diesel, will generally apply the rules of section 4081(e) to certain claims for refund; additional guidance will be published by the IRS.

The IRS and Treasury Department recognize that the 180-day emergency relief is needed for position holders in Milwaukee to have time to adjust sales contracts and business practices and to explore the possibility of increasing bulk transfers via vessel.

Background

Due to the unanticipated permanent shutdown of the West Shore Pipeline that transported refined petroleum products to the northeastern part of Wisconsin, the areas of Green Bay and northeast Wisconsin are expected to have material fuel shortages for a relatively long period of time. The governor of Wisconsin declared energy emergencies. Without access to a pipeline, position holders are currently removing taxable fuel from Milwaukee terminals and transporting it via tank trucks

and/or rail cars to terminals in Green Bay for distribution now that the pipeline is permanently shut down.

Tax is imposed on removals of taxable fuel into tank trucks and rail cars under section 4081(a)(1). A second tax would be imposed on removals of the same fuel from terminals in Green Bay into tank trucks or rail cars. Generally, however, no excise tax is imposed on bulk transfers of taxable fuel by vessel.

Section 4081(e) allows position holders in the Green Bay terminals to claim a refund (but not a credit) of the second tax paid (without interest) upon the removal of taxable fuel from the Green Bay terminals. However, there is no mechanism under existing law that permits a refund of the section 4081(a)(1) tax imposed upon removal of taxable fuel from a Milwaukee terminal when that fuel is transported to and entered into a Green Bay terminal, and then removed from the Green Bay terminal as dyed fuel destined for a nontaxable use.

For more information, contact a tax professional with KPMG's Excise Tax Practice group:

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