



# TaxNewsFlash

## United States

No. 2017-390  
September 19, 2017

### **IRS offers fuel penalty relief; hurricane-related shortages of ultra low sulfur diesel fuel**

The IRS today issued a release announcing that it will not impose a penalty on certain uses of “adulterated fuels” that do not comply with applicable Environmental Protection Agency (EPA) regulations, in response to shortages of ultra low sulfur diesel (ULSD) fuel caused by Hurricane Irma.

Today’s IRS release—[IR-2017-157](#)—notes that the EPA on September 13 issued a “no action assurance” letter when non-ultra low sulfur diesel is used in limited diesel-powered highway and non-road vehicles and equipment in Florida. According to that letter, the EPA will not pursue action for the use of certain diesel reserves of approximately 4 million gallons of dyed diesel fuel that has a sulfur content that is over 15 but no greater than 20 parts per million (ppm). The “no action assurance” letter imposes several conditions on the use of this fuel.

In response to requests from the EPA and the state government of Florida, the IRS has stated that it will waive penalties for the use of non-ULSD fuel that has a sulfur content of 20 ppm or less under these circumstances. The IRS will not impose the adulterated-fuel penalty on any uses that fully comply with the EPA’s “no action assurance.”

This relief is effective from September 13 through September 22, 2017, or until such dyed diesel reserves are exhausted, whichever is earlier. Because the reserves to which this relief applies consist of dyed diesel fuel, the penalty relief previously provided by the IRS and announced in [IR-2017-149](#) is also available, provided that the operator or the person selling the fuel pays the tax of 24.4 cents per gallon for any such fuel used on the highway.

The information contained in TaxNewsFlash is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader’s knowledge on the matters addressed therein, and is

not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)