



# TaxNewsFlash

## United States

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### **Notice 2018-39: IRS extends temporary relief, taxable fuel removals from certain Wisconsin terminals**

The IRS today released an advance version of Notice 2018-39 that provides an extension of the temporary dyed fuel relief for taxable fuel removals from Milwaukee terminals due to the shutdown of the West Shore Pipeline, and expands the relief to include Madison, Wisconsin terminals.

[Notice 2018-39](#) [PDF 30 KB] extends and expands the relief provided by Notice 2017-30. The extended relief will be available beginning May 4, 2018, and ending December 31, 2018.

#### **Relief under 2017 notices**

The IRS issued [Notice 2017-30](#) [PDF 24 KB] in May 2017 providing 180-day emergency relief for taxable fuel removals from Milwaukee terminals due to the shutdown of the West Shore Pipeline. Section 3.02 of Notice 2017-30 provided temporary refund mechanism for the section 4081(a)(1) tax imposed on removals of undyed diesel fuel and kerosene from a Milwaukee terminal when such fuel is subsequently removed from a Green Bay terminal as dyed fuel destined for a nontaxable use if certain conditions were met. This temporary relief was set to expire May 3, 2018. Read [TaxNewsFlash](#)

[Notice 2017-59](#) [PDF 21 KB] provides guidance on how persons eligible for relief under section 3.02 of Notice 2017-30 may submit claims for refund. Section 3.03 and 3.04 describe claim requirements.

#### **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.

## **Notice 2018-39**

Today's notice extends the temporary relief for fuel dyed at Green Bay terminals through December 31, 2018, discussed in section 3.02 of Notices 2017-30 and 2017-59.

To obtain relief, the conditions set forth in section 3.03 and 3.04 of Notice 2017-59 must be met. Further, today's notice expands the relief to fuel removed from terminals in Madison, Wisconsin, if the conditions set forth in the prior notices are met.

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

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