



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

October 04, 2024

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MEMORANDUM FOR: DIRECTOR, SPECIALTY EXAMINATION, CHIEF, ESTATE & GIFT/EXCISE TAX, AND EXCISE TAX EXAMINATION MANAGERS

FROM: Daniel R. Lauer, Director, Examination Headquarters Daniel R. Lauer  
Digitally signed by Daniel R. Lauer  
Date: 2024.10.04 11:42:46 -0400

SUBJECT: Interim Guidance on Fuel Sampling Requests and Form 637 Registrations for Activity Letters CA and CN.

This memorandum issues interim guidance on fuel sampling requests and the registration tests that must be met for Form 637, Application for Registration (For Certain Excise Activities), received for activities under Internal Revenue Code (IRC) 4101, including new CA (producer of clean transportation fuel which is sustainable aviation fuel (SAF)) and CN (producer of clean transportation fuel which is non-SAF) activity letters until IRM 4.24.2, Form 637 Excise Tax Registrations, IRM 4.24.23, Operational Procedures and Responsibilities for Form 637 Excise Tax Registrations and Secure Airport Terminals (SATs), and IRM 4.24.24, Form 637 Registration Files: Administrative Procedures for Initial Applications and Case Reviews, are revised. Please ensure this information is distributed to all affected employees within your organization.

**Purpose:** To provide guidance on fuel sampling requests for existing registrations that require a sample and new applications received for activities under IRC 45Z, including new CA and CN activity letters. In addition, to provide guidance on the registration tests for activities under IRC 45Z including new CA and CN activity letters.

**Background/Source of Authority:** The Inflation Reduction Act of 2022 (Pub. L. 117-169, 136 Stat. 1818) added IRC 45Z and amended IRC 38(b) and IRC 4101(a), enacting the IRC 45Z credit for clean transportation fuel produced in the United States by the taxpayer at a qualified facility after December 31, 2024. Section 45Z(f)(1)(A)(i)(I) provides that no clean fuel production credit can be determined under IRC 45Z(a) with respect to any transportation fuel unless the taxpayer is registered as a producer of clean fuel under IRC 4101 at the time of production.

**Procedural Change:** Effective immediately, examiners must follow the procedures listed in Attachment A, B and C when working initial applications and follow-up compliance reviews containing activity letters that require fuel sampling.

**Effect on Other Documents:** This guidance will be incorporated into IRM 4.24.2, IRM 4.24.23,

and IRM 4.24.24, within two years of issuance.

**Effective Date:** This guidance is effective immediately upon issuance.

**Contact:** If you have any questions regarding this memorandum, you may contact Kellie L. Torri, Program Manager, Excise Tax Policy, or Diane Williams, Excise Tax Policy Analyst.

**Attachment:** A – IRM 4.24.2 Updates  
B – IRM 4.24.23 Updates  
C – IRM 4.24.24 Updates

**Distribution:**  
IRS.gov (<https://www.irs.gov>)

## Attachment A – IRM 4.24.2 Updates

The following changes for IRM 4.24.2 are effective immediately upon issuance.

### 4.24.2.1.1 , **Background** (paragraph 4 is revised as follows)

(4) Letter 3689, Approval of Excise Tax Registration, does not constitute a determination letter. For example:

- Approval of a Form 637 Registration with activity letters AB, NB, or SA does not mean all future product produced unequivocally qualifies for the biodiesel/renewable diesel mixture credit or SAF credit.
- Approval of a Form 637 Registration with activity letters AL or AM does not mean all future product produced unequivocally qualifies for the alternative fuel/alternative fuel mixture credit.
- Approval of a Form 637 Registration with activity letters CA or CN does not mean all future product produced unequivocally qualifies for the clean fuel production credit under IRC 45Z.

### 4.24.2.1.2 , **Authority** (paragraph 1 is revised as follows)

(1) Form 637 Registrations are processed under the following authorities:

- IRC 4101 - Registration and bond with respect to the tax imposed by IRC 4041(a)(1) or IRC 4081, every person producing or importing biodiesel (as defined in IRC 40A(d)(1)), including renewable diesel (as defined in IRC 40A(f)(3)), or alcohol (as defined in IRC 6426(b)(4)(A)), every person producing a fuel eligible for the clean fuel production credit (pursuant to IRC 45Z), every person producing or importing sustainable aviation fuel (SAF) (as defined in IRC 40B), and every person producing second generation biofuel (as defined in IRC 40(b)(6)(E)).

**Note:** The IRS will treat the producer or importer of a SAF synthetic blending component and the United States producer of a SAF co-processed qualified mixture as the persons required to register under IRC 4101. Refer to Section 5 of Notice 2023-6 for guidance.

- Treas. Reg. 48.4082-5 - Registrations relating to diesel fuel or kerosene removed, entered or sold in Alaska for ultimate sale or use in an exempt area of Alaska
- IRC 4222 - Registrations for certain tax-free sales under IRC 4221
- IRC 4662(b)(10)(C) - Registrations for intermediate hydrocarbon streams containing one or more organic taxable chemicals
- IRC 4662(c)(2)(B) - Registrations for inventory exchanges of taxable chemicals
- Treas. Reg. 52.4682-5(d) - Exports of ozone-depleting chemicals (ODCs)

### 4.24.2.2 , **General Overview of Form 637 Registration** (paragraph 3 is revised as follows)

(3) The following persons are required to register under IRC 4101(a):

- Blenders: activity letter M
- Enterers, position holders, refiners, and terminal operators: activity letter S
- Pipeline operators or vessel operators within the bulk transfer/terminal system: activity letter X

- Producers and importers of agri-biodiesel: activity letter AB
- Producers and importers of alcohol: activity letter AF
- Producers of clean transportation fuel which is SAF: activity letter CA
- Persons extending credit on certain exempt sales of taxable fuel: activity letter CC
- Producers of clean transportation fuel which is non-SAF: activity letter CN
- Producers and importers of biodiesel (other than agri-biodiesel) and renewable diesel: activity letter NB
- Producers and importers of sustainable aviation fuel: activity letter SA
- Producers of second generation biofuel and cellulosic biofuel: activity letter SB

**4.24.2.3 , Applications Under IRC 4101** (the following were added to table in paragraph 1):

Activity Letter	Description	Applicable Registration Tests
CA	Producers of clean transportation fuel which is sustainable aviation fuel (SAF)	<ul style="list-style-type: none"> <li>• Activity Test</li> <li>• Adequate Security Test (only the Satisfactory Tax History)</li> </ul> <p><b>Note:</b> Required to be registered and provide fuel samples to be tested.</p> <p><b>Note:</b> Must be registered at the time of production to file a claim for the IRC 45Z credit.</p>
CN	Producers of clean transportation fuel which is not sustainable aviation fuel (non-SAF)	<ul style="list-style-type: none"> <li>• Activity Test</li> <li>• Adequate Security Test (only the Satisfactory Tax History)</li> </ul> <p><b>Note:</b> Required to be registered and certain non-SAF transportation fuels require a fuel sample to be tested.</p> <p><b>Note:</b> Must be registered at the time of production to file a claim for the IRC 45Z credit.</p>

**4.24.2.3.1 , Registration Tests for IRC 4101 Activities** (paragraphs 12 and 19 are revised as follows and paragraphs 27 – 31 have been added)

- (12) An applicant will be registered for activity letters X, Y, AB, AF, AL, AM, BC, CA, CC, CN, NB, QR, SA, SB, UA, UB, UP, or UV only if the examiner determines that the applicant meets the Activity Test and the applicant and all related persons have a Satisfactory Tax History, including claim history.
- (19) In addition to the registration tests, the examiner must obtain samples to determine that agri-biodiesel, biodiesel, renewable diesel, or SAF producers (AB, NB, or SA applicants and registrants) are adhering to the ASTM International requirements. For renewable diesel samples, examiners must follow procedures in IRM 4.24.2.3.1.1 prior to requesting or obtaining samples. If the applicant is not yet producing the fuel, but anticipates

production within a reasonable amount of time, samples do not need to be obtained to approve the registration. The examiner will obtain group manager's consent and complete a follow-up review within 6 months of approval of the application to obtain a sample.

- (27) In addition to the registration tests, CA and CN applicants must meet the requirements of IRC 45Z(d)(5)(A) that define transportation fuel to mean a fuel which:
- Is suitable for use in a highway vehicle or aircraft,
  - Has an emissions rate which is not greater than 50 kilograms of CO<sub>2</sub>e per mmBTU, and
  - Is not derived from co-processing an applicable material (or materials derived from an applicable material) with a feedstock which is not biomass.

**Note:** The term "transportation fuel" includes SAF and non-SAF transportation fuel.

- (28) Samples of clean transportation fuel which is SAF are required to be tested to determine if the fuel meets the requirements of IRC 45Z.
- (29) Samples of certain transportation fuels that are not SAF are required for testing. Refer to IRM 4.24.2.3.1.1, Fuel Sampling for additional information.
- (30) Approval or continuation of registration for CA or CN will be granted only if the results from fuel samples and/or other documentation submitted by the applicant or registrant meet the requirements of IRC 45Z. If the applicant is not yet producing the fuel, but anticipates production within a reasonable amount of time, samples do not need to be obtained to approve the registration. The examiner will obtain group manager's consent and complete a follow-up review within 6 months of approval of the application to obtain a sample.
- (31) CA and CN applicants that produce fuel eligible for the IRC 45Z credit may have additional registration requirements, including the following:
- Activity Letter S (enterer, position holder, refiner, terminal operator, or throughputter of gasoline, diesel fuel (including a diesel-water fuel emulsion), or kerosene, or industrial user of gasoline);
  - Activity Letter M (blenders of gasoline, diesel fuel (including a diesel-water fuel emulsion) or kerosene, producing a taxable fuel outside the bulk transfer/terminal system, including blenders of alcohol fuel mixtures, alternative fuel mixtures, biodiesel mixtures, and renewable diesel mixtures);
  - Activity Letter AB (producers and importers of agri-biodiesel);
  - Activity Letter AF (producers and importers of alcohol);
  - Activity Letter NB (producers and importers of biodiesel (other than agri-biodiesel) and renewable diesel); and
  - Activity Letter SA (producers of SAF as defined in IRC 40B);
  - Activity Letter SB (producers of second generation biofuel).

**4.24.2.3.1.1 , Fuel Sampling** (this subsection has been added as follows)

- (1) In addition to the registration tests, certain registrations require fuel samples to be obtained and analyzed by the EFL to determine if the fuel qualifies for the specific registration.
- (2) Agri-biodiesel, biodiesel and SAF require fuel samples be obtained and analyzed by the EFL to determine if the fuel qualifies for the specific registration.
- (3) Certain other fuels may also require fuel samples to be obtained.

- (4) Prior to requesting a sample of fuel, other than agri-biodiesel, biodiesel or SAF, examiners must contact the designated Excise Tax Policy Analyst to determine if it is safe for a fuel sample to be obtained. The examiner must forward the following items to sbse.excise.policy@irs.gov with the subject line "Fuel sample request":
- Copy of the Certificate of Analysis (COA)
  - Copy of the Safety Data Sheet (SDS)
  - List of all feedstocks used in the production of the fuel
- (5) The designated Excise Tax Policy Analyst will notify the examiner if a sample can be obtained.
- (6) If a fuel sample can be obtained, examiners will request an FCO through their group manager. The group manager will forward the request, along with approval from the Excise Tax Policy Analyst to the local FCO group manager. If an FCO is not available, then examiners will follow procedures in IRM 4.24.2.3.1(20) to obtain the sample.
- (7) If a fuel sample cannot be obtained, then additional documentation will be used to make the determination whether a fuel qualifies for the registration. The additional documentation must be provided to the designated Excise Tax Policy Analyst.

**4.24.2.3.2 , Visiting Applicants** (paragraph 1 is revised as follows)

- (1) It is required that a field visit be conducted at the principal business location and/or production facility of the applicant for activities K, M, S, X, AB, AF, CA, CN, NB, SA, and SB.

**4.24.2.3.3 , Mandatory Revocation Rules** (paragraph 4 was added as follows)

- (4) The examiner must recommend revoking the registration of any person registered for activities CA and CN, if it is determined the results of samples obtained during a compliance review do not meet the requirements of IRC 45Z(d)(5).

## Attachment B – IRM 4.24.23 Updates

The following changes for IRM 4.24.23 are effective immediately upon issuance.

### 4.24.23.1.1 , **Background** (paragraph 4 is revised as follows)

(4) Letter 3689 does not constitute a determination letter. For example:

- Approval of a Form 637 Registration with activity letters AB, NB, or SA does not mean all future product produced unequivocally qualifies for the biodiesel/renewable diesel mixture credit or SAF credit.
- Approval of a Form 637 Registration with activity letters AL or AM does not mean all future product produced unequivocally qualifies for the alternative fuel/alternative fuel mixture credit.
- Approval of a Form 637 Registration with activity letters CA or CN does not mean all future product produced unequivocally qualifies for the clean fuel production credit under IRC 45Z.

### 4.24.23.1.2 , **Authority** (paragraph 1 is revised as follows)

(1) Form 637 Registrations are processed under the following authorities:

- IRC 4101 - Registration and bond with respect to the tax imposed by IRC 4041(a)(1) or IRC 4081, every person producing or importing biodiesel (as defined in IRC 40A(d)(1)), including renewable diesel (as defined in IRC 40A(f)(3)), or alcohol (as defined in IRC 6426(b)(4)(A), every person producing a fuel eligible for the clean fuel production credit (pursuant to IRC 45Z), every person producing or importing sustainable aviation fuel (SAF) (as defined in IRC 40B), and every person producing second generation biofuel (as defined in IRC 40(b)(6)(E))
  - Note:** The IRS will treat the producer or importer of a SAF synthetic blending component and the United States producer of a SAF co-processed qualified mixture as the persons required to register under IRC 4101.
- Treas. Reg. 48.4082-5 - Registration relating to diesel fuel or kerosene removed, entered or sold in Alaska for ultimate sale or use in an exempt area of Alaska
- IRC 4222 - Registration for certain tax-free sales under IRC 4221
- IRC 4662(b)(10)(C) - Registrations for intermediate hydrocarbon streams containing one or more organic taxable chemicals
- IRC 4662(c)(2)(B) - Registrations for inventory exchanges of taxable chemicals
- Treas. Reg. 52.4682-5(d) - Exports of ozone-depleting chemicals (ODCs)

## Attachment C – IRM 4.24.24 Updates

The following changes for IRM 4.24.24 are effective immediately upon issuance.

### 4.24.24.1.1 , **Background** (paragraph 4 is revised as follows)

(4) Letter 3689 does not constitute a determination letter. For example:

- Approval of a Form 637 Registration with activity letters AB, NB, or SA does not mean all future product produced unequivocally qualifies for the biodiesel/renewable diesel mixture credit or SAF credit.
- Approval of a Form 637 Registration with activity letters AL or AM does not mean all future product produced unequivocally qualifies for the alternative fuel/alternative fuel mixture credit.
- Approval of a Form 637 Registration with activity letters CA or CN does not mean all future product produced unequivocally qualifies for the clean fuel production credit under IRC 45Z.

### 4.24.24.1.2 , **Authority** (paragraph 1 is revised as follows)

(1) Form 637 Registrations are processed under the following authorities:

- IRC 4101 - Registration and bond with respect to the tax imposed by IRC 4041(a)(1) or IRC 4081, every person producing or importing biodiesel (as defined in IRC 40A(d)(1)), including renewable diesel (as defined in IRC 40A(f)(3)), or alcohol (as defined in IRC 6426(b)(4)(A), every person producing a fuel eligible for the clean fuel production credit (pursuant to IRC 45Z), every person producing or importing sustainable aviation fuel (SAF) (as defined in IRC 40B), and every person producing second generation biofuel (as defined in IRC 40(b)(6)(E))
  - Note:** The IRS will treat the producer or importer of a SAF synthetic blending component and the United States producer of a SAF co-processed qualified mixture as the persons required to register under IRC 4101.
- Treas. Reg. 48.4082-5 - Registration relating to diesel fuel or kerosene removed, entered or sold in Alaska for ultimate sale or use in an exempt area of Alaska
- IRC 4222 - Registration for certain tax-free sales under IRC 4221
- IRC 4662(b)(10)(C) - Registrations for intermediate hydrocarbon streams containing one or more organic taxable chemicals
- IRC 4662(c)(2)(B) - Registrations for inventory exchanges of taxable chemicals
- Treas. Reg. 52.4682-5(d) - Exports of ozone-depleting chemicals (ODCs)