

INTERNAL REVENUE SERVICE

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May 29, 2001

Dear [REDACTED]

I am responding to your May 9, 2001, letter on behalf of your constituent, [REDACTED]. [REDACTED] asked why diesel fuel is taxed if it is for a vehicle but not if it is for home heating. He also notes diesel fuel for a vehicle is cheaper per gallon than heating fuel even with the taxes.

In the Revenue Act of 1951, the Congress imposed the tax on any liquid not taxed, at that time, under section 3412 of the Internal Revenue Code (relating to gasoline, naphtha, etc.) sold to any owner, lessee, or operator of a diesel-powered highway vehicle for use as fuel in the vehicle. The Congress imposed the tax on the retailer selling the diesel fuel for highway use. According to the report of the House Committee on Ways and Means (House of Representatives Report No. 586), the Congress imposed the tax on diesel fuel to prevent discrimination against vehicles powered by gasoline. Gasoline has been taxed since 1932.

Further, the Revenue Act of 1951 allowed a tax refund if diesel fuel was sold for use in a diesel-powered highway vehicle and later used in a nontaxable manner, for example, as heating fuel. The reports from the House Committee on Ways and Means, Senate Committee on Finance, and the conference committee that accompany the legislation enacted as the Revenue Act of 1951 do not discuss further why diesel fuel was not taxed if sold for uses other than in a diesel-powered highway vehicle, such as home heating.

The Highway Revenue Act of 1956 established the Highway Trust Fund to fund federal-aid highway programs and the new Interstate System. Before establishment of the Trust Fund, the general fund funded highway programs. The Trust Fund was, and continues to be, financed by certain highway user taxes including the tax on diesel fuel.

For information on the reasons for the price difference between diesel fuel sold for a highway vehicle and diesel fuel sold for home heating, [REDACTED] should contact his diesel fuel retailer.

I hope this information is helpful to you in responding to [REDACTED]. If you have any questions, please contact me or [REDACTED]

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By:

Richard A. Kocak  
Chief, Branch 8