

Part III - Administrative, Procedural, and Miscellaneous

Modification of Notice 2005-04

Notice 2005-24

Section 1. PURPOSE

This notice modifies Notice 2005-4, 2005-2 I.R.B. 289, by extending the transitional rule related to sales of gasoline on oil company credit cards and by making several corrections to Notice 2005-4. Notice 2005-4 provides guidance on certain excise tax provisions in the Internal Revenue Code that were added or affected by the American Jobs Creation Act of 2004 (Pub. L. 108-357) (Act).

Section 2. GASOLINE; SALES ON OIL COMPANY CREDIT CARDS

Section 7 of Notice 2005-4 provides guidance on § 6416(a)(4), as amended by the Act. Section 7(a)(1)(ii) provides that the pre-2005 rules relating to sales of gasoline to state and local governments and nonprofit educational organizations on oil company credit cards issued to those entities will generally apply to sales before March 1, 2005. The notice also states that Congress may wish to address this issue before March 1,

2005, and that Treasury and the Service would assist Congress in designing an administrable alternative.

In a February 25, 2005, letter to Treasury, the chairman and ranking member of the Finance Committee and the chairman of the Ways and Means Committee noted that the conferees to the Act removed language from the bill that would have changed the administration of refund claims for gasoline sales charged on a credit card. They further noted that the intent of the conferees in removing this language was “to retain the pre-JOBS Act treatment of these claims and not to effect any changes with respect to sales on oil company credit cards.” The letter also notes that, if Treasury concludes that a technical correction is needed to preserve the rules in effect prior to 2005, the signatories “will facilitate the enactment of such technical legislation at the earliest opportunity.”

Treasury and the Service believe that it would be appropriate to continue to apply the oil company credit card rule until Congress has had an opportunity to address the issue. Accordingly, the oil company credit card rule will remain in effect until modified by a statutory change or by future guidance on this issue.

Section 3. CORRECTIONS TO NOTICE 2005-4

(a) Aviation-grade kerosene; certificate for commercial aviation and exempt use.

In § 4(g)(2), which contains a model certificate for persons buying aviation-grade kerosene for commercial aviation or nontaxable use, “___ for export;” is removed from the list in the certificate of possible uses of the aviation-grade kerosene to which the certificate relates.

(b) Aviation-grade kerosene; claims by registered ultimate vendors (nontaxable uses)--(i) In § 4(h)(6)(ii), which contains a model waiver for ultimate purchasers of aviation-grade kerosene used in nontaxable uses, “___ for use on a farm for farming purposes;” and “___ for the exclusive use of a state;” are removed from the list in the waiver of possible uses of the aviation-grade kerosene to which the waiver relates. For rules relating to claims by registered ultimate vendors of kerosene (including aviation-grade kerosene) for farming and state use, see § 48.6427-9 of the Manufacturers and Retailers Excise Tax Regulations.

(ii) In § 4(h)(6)(ii), “___ other nontaxable use (Describe nontaxable use) _____;” is added to the waiver immediately before the last item in the list of possible uses of the aviation-grade kerosene to which the waiver relates.

(c) Gasoline; claims by registered ultimate vendors. In § 7(a)(1)(ii), first sentence, the language “based on a price that excludes the tax” is removed and “based on a price that includes the tax” is added in its place.

Section 4. EFFECT ON OTHER DOCUMENTS

Notice 2005-4 is modified as described in §§ 2 and 3 of this notice.

Section 5. EFFECTIVE DATE

This notice is effective January 1, 2005, the effective date of Notice 2005-4.

Section 6. DRAFTING INFORMATION

The principal authors of this notice are Susan Athy and Deborah Karet of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Karet (concerning aviation-

grade kerosene) or Ms. Athy (concerning all other issues) at (202) 622-3130 (not a toll-free call).