
State of South Carolina
Department of Revenue
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Website Address: <http://www.sctax.org>

SC INFORMATION LETTER #05-26

SUBJECT: Extended Tax Relief to Victims of Hurricane Katrina
Waiver of Dyed Diesel Fuel Penalty

DATE: September 19, 2005

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
SC Revenue Procedure #03-1

SCOPE: An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. **An Information Letter has no precedential value, and is not binding on the public or the Department.**

Extension of Tax Relief to Victims of Hurricane Katrina

The Internal Revenue Service has extended until January 3, 2006 the period for special tax relief for taxpayers in the Presidential Disaster Area affected by Hurricane Katrina. This applies to any return, tax payment or tax deposit with an original or extended due date that fell on or after August 29, 2005 (August 24, 2005 for affected Florida residents.)

The disaster areas designated for individual relief include:

- 64 Louisiana parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Calcasieu, Cameron, Catahoula, Claiborne, Concordia, Desoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, Lafourche, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Pointe Coupee, Plaquemines, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Mary, St. Martin, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana and Winn;

- 52 Mississippi counties: Adams, Amite, Attala, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Monroe, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Webster, Wilkinson, and Winston;
- Six Alabama counties: Baldwin, Clarke, Choctaw, Mobile, Sumter and Washington; and
- Three Florida counties: Broward, Miami-Dade and Monroe.

In response, the South Carolina Department of Revenue is also extending its tax relief to provide the same relief to individuals and businesses located in the disaster area, taxpayers who have businesses in South Carolina with offices in the disaster area whose operations have been affected by the hurricane, those whose tax records are located in the disaster area, those whose returns are prepared by tax professionals in the affected areas, and relief workers. The Department will grant the same relief period granted by the Internal Revenue Service. If the Internal Revenue Service grants relief to other areas affected by the hurricane or grants an additional relief period, then the Department will grant the same relief and period.

To qualify for this relief, affected taxpayers should write “Hurricane Katrina” at the top of the return relying on this relief. Individuals or businesses located in the disaster area, or taxpayers outside the area that were directly affected by the disaster, should notify the Department if they receive penalties for filing returns or paying taxes late for waiver of these penalties. Taxpayers with relief questions should contact the Department at 803-898-5709.

Extension of Dyed Diesel Fuel Penalty Relief

The IRS has also extended through October 5, 2005 the period in which it will not impose the fuel penalty when dyed diesel fuel is sold for use or used on the highway. Similarly, the Department of Revenue will not impose penalties when dyed fuel is sold for use or used on the highway. In South Carolina, federal penalty relief began on August 31, 2005 and will remain in effect through October 5, 2005. This penalty relief is available to any person that sells or uses dyed diesel fuel for highway use, but is only available if the federal motor fuel tax of 24.4 cents per gallon has been paid by either the person selling the dyed diesel fuel or by the operator of the vehicle that is using the dyed diesel fuel.

South Carolina will grant similar penalty relief from August 31, 2005 through October 5, 2005 to any person that sells or uses dyed diesel fuel for highway use, but this penalty relief is only available if the state motor fuel tax of 16 cents per gallon has been paid by either the person selling the dyed diesel fuel or by the operator of the vehicle that is using the dyed diesel fuel.

The injection of red dye into diesel fuel indicates that no motor fuel tax has been paid, that the fuel contains high sulfur content, or both. Dyed diesel fuel is ordinarily not taxed since it is used for non-taxable off-road uses (e.g., farming) or other exempt uses. Therefore, its use in a highway vehicle is normally subject to a penalty (in addition to the motor fuel taxes).

Retailers, suppliers and other sellers of dyed fuel are expected to collect and pay the motor fuel tax on the sale of dyed fuel. If tax is not collected, the consumer is expected to pay motor fuel tax on the fuel.

For more detailed information concerning the waiver of dyed diesel fuel penalties and high sulfur fuel penalties, see IRS News Release IR-2005-104 (attached).

IRS Extends Diesel Fuel Penalty Relief Due to Hurricane Katrina

IR-2005-104, Sept. 15, 2005

WASHINGTON – The Internal Revenue Service, in response to the continued shortages of diesel fuel caused by Hurricane Katrina, will extend the penalty relief when dyed diesel fuel is sold for use or used on the highway. The penalty relief will apply throughout the United States.

In IR-2005-89, released September 2, 2005, the IRS announced that it would not impose the dyed fuel penalty when dyed diesel fuel is sold for use or used on the highway and that this relief would remain in effect through September 15, 2005. Today's announcement extends that penalty relief through October 5, 2005. Any dyed diesel fuel held by retailers or users on October 5, 2005, can be used on the highway after that date.

This relief is available to any person that sells or uses dyed diesel fuel for highway use. In the case of fuel that is dyed at the terminal to meet IRS standards, the relief is available to the operator of the vehicle in which the fuel is used only if the operator or the person selling the fuel pays the tax of 24.4 cents per gallon.

To the extent permitted by EPA rules, dyed high sulfur fuel received by retailers, including fuel received after October 5, 2005, may be sold for highway use if the dye is added only at the refinery but not if dye is added at the terminal to meet IRS standards. IRS will waive penalties for highway use of high sulfur fuel that is dyed only at the refinery. Retailers may rely on the representations of their suppliers that fuel received after October 5, 2005, has not been dyed at the terminal.

Position holders are reminded that they are required to pay tax on any high sulfur diesel fuel that has not been dyed at the terminal to meet IRS standards. Terminal operators should not dye, or add additional dye, to any fuel on which tax is paid.

Ordinarily, dyed diesel fuel is not taxed, because it is sold for uses exempt from excise tax, such as to farmers for farming purposes and to local governments for buses.

The IRS is also extending the penalty relief on the recently enacted tax penalty on a failure to meeting the requirements of EPA highway diesel fuel sulfur content regulations if EPA has waived those requirements. This relief will remain in effect until the date the EPA waiver or any extension of that waiver expires.