

Instructions

Section references are to the Internal Revenue Code.

Purpose of Schedule

A person who paid the second tax to the government uses Schedule 5 to make a claim for refund.

Section 4081(e) Claims

Section 4081(e) applies to gasoline, gasohol, aviation gasoline, diesel fuel, and kerosene.

If two taxes were paid on the fuel for which the claim is filed, then a claim for refund of the second tax may be made.

Example. Acme is a taxable fuel registrant that owns 10,000 gallons of gasoline that is being transported on a vessel in the United States. On June 1, 2002, Acme sells the gasoline to Bravo, a person that is not a taxable fuel registrant. Acme is liable for tax on this sale. Acme prepares a First Taxpayer's Report related to this sale and gives a copy of the report to Bravo.

On June 4, 2002, Bravo sells the same gallons of gasoline to Charlie, a taxable fuel registrant. Bravo also gives Charlie a copy of Acme's First Taxpayer's Report and a Statement of Subsequent Seller. On June 9, 2002, the gasoline is removed from a terminal at the rack. Charlie is the position holder of the gasoline at the time of the removal and thus is liable for tax on the removal. Charlie pays this tax to the government.

After Charlie has filed a return of this second tax, Charlie files Form 8849 and Schedule 5 for a refund for the second tax and includes a copy of the First Taxpayer's Report and Statement of Subsequent Seller. In Part I of Schedule 5, Charlie enters "1840.00" in column 1(a). In Part II, Charlie enters "1" in column (c); "06092002" in column (d); "10000.00" in column (e); and "1840.00" in column (f).

Claimant

The person who paid the second tax to the government is the only person eligible to make this claim.

Claim Requirement

Generally, the claim must be filed within 3 years from the time the return for the second tax was filed or 2 years from the time the second tax was paid to the government, whichever is later.

Total Refund

Add all amounts in column (a) and enter the result in the total refund box at the top of the Schedule.

Part I

For each type of fuel, enter the total of all amounts from column (f), Part II.

Part II

For each payment of a second tax, complete all the information required.

Information to be Attached

1. A copy of the First Taxpayer's Report that relates to the fuel covered by each claim, and
2. If the fuel covered by the claim was bought from someone other than the first taxpayer, a copy of the Statement of Subsequent Seller that the claimant received with respect to that fuel.

The report must contain all the information as shown in Model Certificates A and B in Appendix C of Pub. 510.

How To File

Attach Schedule 5 to Form 8849. On the envelope write "Section 4081(e) Claim" and mail to the IRS at the address under **Where To File** in the Form 8849 instructions.

