



American
Petroleum
Institute

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API
202-682-8481

December 6, 2024

Via Electronic Submission www.reginfo.gov/public/do/PRAMain

Re: Comments to Form 637, Application for Registration (For Certain Excise Tax Activities) and Questionnaires and IRS Notice 2023-06, IRS Notice 2024-06, Notice 2024-37, and IRS Notice 2024-49

Dear Sir or Madam:

The American Petroleum Institute ("API") is the national trade association representing America's oil and natural gas industry. Our industry supports more than 11 million U.S. jobs and accounts for approximately 8 percent of U.S. GDP. API's nearly 600 members, from fully integrated oil and natural gas companies to independent companies, comprise all segments of the industry. API's members are producers, refiners, suppliers, retailers, pipeline operators, and marine transporters as well as service and supply companies providing much of our nation's energy. API was formed in 1919 as a standards setting organization and is the global leader convening subject matter experts from across the industry to establish, maintain, and distribute consensus standards for the oil and natural gas industry. API has developed more than 800 standards to enhance operational safety, environmental protection, and sustainability in the industry.

On behalf of our member companies, we submit this letter in response to the Treasury Department's request for public input to the request for comments relating to Form 637, Application for Registration.

- 1) On September 9, 2019, the Treasury Inspector General for Tax Administration (TIGTA) issued its results of an audit performed on the excise tax registration process titled, "Excise Tax Registrations Are Not Always Timely or Accurately Processed." In the audit report, many deficiencies were identified and recommendations were made, which the IRS had agreed to rectify. The IRS responded to the audit by recognizing the importance of timely processing and, consequently, completed two enhancements: (1) the inclusion

of a website that provides information on the Form 637 registration program, and (2) the online registration status check for Form 637 registrants. While these initiatives are helpful to taxpayers, they have no direct correlation to improving the timeliness of registrations. In the subsequent years since the issuance of the 2019 report and the implementation of the aforementioned enhancements, API members still have noted that the timeliness of the registration process has progressively declined. What used to take an estimated 12-16 weeks from the date of filing to obtaining an approved activity letter, has now, in many cases, extended to well over a year. With the harsh penalties for operating without certain registrations, taxpayers are placed in the unwelcome circumstance of doing business without the registration in hand. Further, API notes that taxpayers are faced with the penalizing consequence of having to delay business activities until registration is approved.

- 2) API members have noted that information requested through Information Document Requests (IDRs) is excessive and duplicative, especially for known taxpayers who already have 637 registration. The information requested spans from providing historically filed tax returns, detailed documentation of business operations, internal controls, accounting systems, financial analysis, corporate officer social security numbers, to other trivial information as the name of the person who opens the mail and location of the cash register. Taxpayers with an existing 637 registration have already sufficiently provided relevant information to be issued the initial 637 registration. API notes that a simplified process focused on a taxpayer's new activity would lessen the burden on both the taxpayer and the service's resources, while also improving processing time.
- 3) API members have noted that multiple levels of review by different agents is often repetitive and inefficient. Taxpayers are asked to provide the same information to multiple agents at different points in the process related to the same application.
- 4) In instances where a taxpayer was already actively registered and doing business under prior suffixes but applies for a new activity letter, the taxpayer has been subjected to reviews of all prior activity letters before the new registration could be approved. It is understandable that certain activities need to be confirmed periodically, however, this should be scheduled separately from a new activity letter. API notes that this would significantly reduce cycle processing times.

- 5) Historically, there have been situations where new activity letters were added (recently, G, CA, CN) that seemed to take precedence over other registrations that had previously been submitted. API applauds the IRS's desire to process the registrations for the new activities, however, would like to emphasize that this should not further delay other registrations already being processed.
- 6) Unfortunately, API notes that the issuance of new activity letters has caused concern due to the lack of timely guidance provided by the IRS. Updated forms are typically delayed, which causes taxpayer confusion. For example, for a CN registration, the IRS instructed taxpayers to use the non-updated Form 637 and write in the new activity letter. Nevertheless, there is certain information that is required based on the activity letter; therefore, the taxpayer may or may not know whether to include that information.
- 7) With the most recent CN activity letter, IDRs were issued with several questions that were not applicable to the activity. API notes that it would be beneficial to align the IDR questions to relevant operations. Due to the IDR questions not being aligned to the relevant activity, taxpayers have seen negative impacts in the processing times of their applications. This has led the IRS to state that the CA/CN registrations would be issued on a contingency basis to meet their promise of issuing registrations prior to January 2025.
- 8) Regarding the contingency basis noted in #7, API believes that this has been a positive approach to more timely processed registrations. In an effort not to penalize taxpayers, API recommends that registration should not take a year or more to process. For taxpayers who have a 637 registration for an activity, it is suggested that any subsequent registration be issued on a contingent basis after some reasonable time. API welcomes further discussions on what a reasonable time is, but the current process of waiting for more than a year is unacceptable.



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We appreciate the opportunity to comment and look forward to continued interaction as this process moves forward. To the extent you have any questions, please do not hesitate to contact me at horton-diazn@api.org or 202-682-8481.

Sincerely,

A handwritten signature in black ink that reads 'Nicole Horton-Diaz'. The signature is written in a cursive, flowing style.

Nicole Horton-Diaz

API

Senior Advisor, Tax & Accounting

Policy, Economics and Regulatory Affairs