

a claim with respect to any fuel which it purchased tax free from the producer, even though the State or local government used the fuel for the purposes described in paragraph (a) of this section. Similarly, a State or local government may not file a claim with respect to the use of fuel if it is known that another person is entitled to claim a payment, credit, or refund with respect to the same fuel. For example, a State or local government may not file a claim in respect of tax-paid fuel that has been resold by the purchaser to the State or local government.

[T.D. 8043, 50 FR 32048, Aug. 8, 1985, as amended by T.D. 8659, 61 FR 10464, Mar. 14, 1996; T.D. 8748, 63 FR 26, Jan. 2, 1998]

**§ 48.6427-4 Applicable laws.**

(a) *Penalties, excessive claims, etc.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4041 shall, to the extent applicable and consistent with section 6427, apply in respect of the payments provided for in section 6427 to the same extent as if these payments constituted refunds of overpayments of the tax imposed on the sale of fuels by section 4041. For special rules applicable to the assessment and collection of amounts constituting excessive payments under section 6427, see section 6206 and the regulations thereunder. For the civil penalty assessable in the case of excessive claims under section 6427, see section 6675 and the regulations thereunder. For the treatment as an overpayment of an amount allowable as an excessive credit under section 34 with respect to amounts payable under section 6427, see section 6401(b).

(b) *Examination of books and witnesses.* For the purpose of ascertaining (1) the correctness of any claim made under section 6427 or (2) the correctness of any credit or payment made in respect of the claim, the Commissioner shall have the same authority granted by paragraphs (1), (2), and (3) of section 7602, relating to examination of books and witnesses, as if the person claiming credit or payment under section 6427 were the person liable for tax.

[T.D. 8043, 50 FR 32049, Aug. 8, 1985]

**§ 48.6427-5 Records to be kept in substantiation of credits or payments.**

(a) *In general.* Every person making a claim for credit or payment under section 6427 must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under such section and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records must include a copy of the income tax return or claim and a copy of any statement or document submitted with the return or claim. The records must also show with respect to the period covered by the claim—

(1) The number of gallons of fuel purchased and the dates of purchase,

(2) The name and address of each vendor from whom fuel was purchased and the total number of gallons purchased from each,

(3) The number of gallons of fuel purchased by the claimant and used during the period covered by the claim for nontaxable purposes, farming purposes, for other purposes taxable at a lower rate, in local, intercity, or school buses, and

(4) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of fuel, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the fuel dealer or other vendor, and detailed records of all fuel used which show the amount used the prescribed purpose and the amount used for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to support claims for refund of a State tax on fuel, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6427. However, the records must show separately the number of gallons of fuel used for nontaxable purposes, farming purposes, other purposes taxable at a lower rate, or in intercity, local, or school buses during the period covered by the claim.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant

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at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6427 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

[T.D. 8043, 50 FR 32049, Aug. 8, 1985]

### **§ 48.6427-6 Limitation on credit or refund of tax paid on fuel used in intercity, local or school buses after July 31, 1984.**

(a) *Limitation on amount of credit or refund*—(1) *In general.* In the case of fuel sold or used after July 31, 1984, on which tax was imposed under section 4041(a), the amount of credit or refund under section 6427(b)(1) shall not exceed 12 cents per gallon except where fuel is used in a bus while such bus is being operated as a “qualified local bus” in which case the credit or refund shall be the full amount of tax paid under section 4041(a) on such fuel.

(2) *Qualified local bus.* A bus is considered to be operated as a “qualified local bus” if such bus—

(i) Is engaged in furnishing (for compensation) intracity passenger land transportation that is available to the general public and is scheduled and along regular routes,

(ii) Has a seating capacity of at least 20 adults (not including the driver), and

(iii) Is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)(4)) to furnish such transportation.

A company that operates qualified local buses is eligible for a full refund or credit only with respect to fuel used while such buses are operating as qualified local buses. For example, a company that operates its buses along subsidized intracity routes and also on intercity or unsubsidized intracity routes may obtain a full refund or credit only with respect to fuel used while

operating the subsidized intracity routes.

(b) *Meaning of terms*—(1) *Contract with a State or local government.* A bus is under contract with a State or local government only if the contract imposes a bona fide obligation on the operator of the bus to furnish the transportation to which the contract relates.

(2) *More than a nominal subsidy.* A subsidy is more than nominal if the subsidy is reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used while operating on subsidized routes.

(3) *Intracity passenger land transportation.* The term “intracity passenger land transportation” means the land transportation of passengers to and from points located within the same metropolitan area. The term includes transportation along routes that cross State, city or county boundaries provided such routes remain within the metropolitan area.

[T.D. 8027, 50 FR 21252, May 23, 1985]

### **§ 48.6427-8 Diesel fuel and kerosene; claims by ultimate purchasers.**

(a) *Overview.* This section provides rules under which ultimate purchasers of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(1). Generally, these claims relate to diesel fuel and kerosene used in nontaxable uses. Claims relating to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors under § 48.6427-9; claims relating to kerosene sold from a blocked pump are made by registered ultimate vendors (blocked pump) under § 48.6427-10; and claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427-11.

(b) *Conditions to allowance of credit or payment*—(1) *In general.* Except as provided in section 6427(1)(5), a claim for an income tax credit or payment with respect to diesel fuel or kerosene is allowed under section 6427(1) only if—