

**§ 48.6416(b)(1)-4**

**26 CFR Ch. I (4-1-01 Edition)**

a portion of the price to the purchaser or any subsequent vendee in reimbursement of expenses for local advertising of the article or any other article sold by the manufacturer which is taxable at the same rate under the same section of chapter 32, the reimbursement will be considered a price readjustment constituting an overpayment which the manufacturer may claim as a credit or refund. The amount of the reimbursement may not, however, exceed the limitation provided by section 4216(e)(2) and § 48.4216(e)-2, determined as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year in which it is made. The term "local advertising", as used in this section, has the same meaning as prescribed by section 4216(e)(4) and includes generally, advertising which is broadcast over a radio station or television station, or appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

(b) *Local advertising charges excluded from taxable price in one year but repaid in following year*—(1) *Determination of price readjustments for year in which charge is repaid.* If the tax imposed by chapter 32 was paid with respect to local advertising charges that were excluded in computing the taxable price of an article sold in any calendar year but are not repaid to the manufacturer's purchaser or any subsequent vendee before May 1 of the following calendar year, the subsequent repayment of those charges by the manufacturer in reimbursement of expenses for local advertising will be considered a price readjustment constituting an overpayment which the manufacturer may claim as a credit or refund. The amount of the reimbursement may not, however, exceed the limitation provided by section 4216(e)(2) and § 48.4216(e)-2, determined as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year in which it is made.

(2) *Redetermination of price readjustments for year in which charge was made.* If the tax imposed by chapter 32 was

paid with respect to local advertising charges that were excluded in computing the taxable price of an article sold in any calendar year but are not repaid to the manufacturer's purchaser or any subsequent vendor before May 1 of the following calendar year, the manufacturer may make a redetermination, in respect of the calendar year in which the charge was made, of the price readjustments constituting an overpayment which the manufacturer may claim as a credit or refund. This redetermination may be made by excluding the local advertising charges made in the calendar year that became taxable as of May 1 of the following calendar year.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985]

**§ 48.6416(b)(1)-4 Supporting evidence required in case of price readjustments.**

No credit or refund of an overpayment arising by reason of a price readjustment described in § 48.6416(b)(1)-2 or § 48.6416(b)(1)-3 shall be allowed unless the manufacturer who paid the tax submits a statement, supported by sufficient available evidence—

- (a) Describing the circumstances which gave rise to the price readjustment,
- (b) Identifying the article in respect of which the price readjustment was allowed,
- (c) Showing the price at which the article was sold, the amount of tax paid in respect of the article, and the date on which the tax was paid,
- (d) Giving the name and address of the purchaser to whom the article was sold, and
- (e) Showing the amount repaid to the purchaser or credited to the purchaser's account.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985]

**§ 48.6416(b)(2)-1 Certain exportations, uses, sales, or resales causing overpayments of tax.**

In the case of any payment of tax under section 4041 (a)(1) or (a)(2) (diesel fuel and special fuels tax) or under chapter 32 (manufacturers tax) that is determined to be an overpayment by reason of certain exportations, uses, sales, or resales described in section

6416(b)(2) and § 48.6416(b)(2)-2, the person who paid the tax may file a claim for refund of the overpayment or, in the case of overpayments under chapter 32, may claim credit for the overpayment on any return of tax under this subpart which the person subsequently files. However, under the circumstances described in section 6416(c) and § 48.6416(e)-1, the overpayments under chapter 32 may be refunded to an exporter or shipper. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund under this section, see § 301.6402-2 of this chapter (Regulations on Procedure and Administration) and §§ 48.6416(b)(2)-3 and 48.6416(b)(2)-4. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(d) and § 48.6416(f)-1.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985, as amended by T.D. 8879, 65 FR 17160, Mar. 31, 2000]

**§ 48.6416(b)(2)-2 Exportations, uses, sales, and resales included.**

(a) *In general.* The tax paid under chapter 32 (or under section 4041(a) or (d) in respect of sales or under section 4051) with respect to any article is considered to be an overpayment in the case of any exportation, use, sale, or resale described in this section. This section applies only in those cases in which the exportation, use, sale, or resale (or any combination thereof) referred to in this section occurs before any other use. In addition, the following restrictions must be taken into account in applying the regulations under section 6416(b)(2):

(1) Sections 6416(b)(2)(C) and (D) do not apply to any tax paid under section 4064 (gas guzzler tax).

(2) Sections 6416(b)(2)(B), (C), and (D) do not apply to any tax paid under section 4131 (vaccine tax) and section 6416(b)(2)(A) applies only to the extent prescribed in paragraph (b)(2) of this section.

(3) Section 6416(b)(2) does not apply to any tax paid under section 4041(a)(1) or 4081 on diesel fuel or kerosene, section 4091 (aviation fuel tax), or section 4121 (coal tax).

(b) *Exportation of tax-paid articles—(1) In general.* Subject to the limitations of

section 6416(b)(2) and paragraph (b)(2) of this section, tax paid under chapter 31 or 32 on the sale of any article will be considered to be an overpayment under section 6416(b)(2)(A) if the article is exported by any person. Except in the case of articles subject to the tax imposed by section 4061(a), prior to April 1, 1983, it is immaterial for purposes of this paragraph (b), whether the person who made the taxable sale had knowledge at the time of the sale that the article or fuel was being purchased for export to a foreign country or shipment to a possession of the United States. See § 48.6416(e)-1 for the circumstances under which a claim for refund by reason of the exportation of an article may be claimed by the exporter or shipper, rather than by the person who paid the tax. For definition of the term “possession of the United States”, see § 48.0-2(a)(11).

(2) *Rule for exportation of vaccines.* Paragraph (b)(1) of this section applies to tax paid under section 4131 on the sale of a vaccine, but only if the sale by the manufacturer occurs after August 10, 1993, and, in the case of vaccine sold to the United States or any of its agencies or instrumentalities, the condition of § 48.4221-3(e)(2) is satisfied.

(c) *Supplies for vessels or aircraft.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (a)(2) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(B) if the article or fuel is used by any person, or is sold by any person for use by the purchaser, as supplies for vessels or aircraft.

The term “supplies for vessels or aircraft”, as used in this paragraph, has the same meaning as when used in sections 4041(g), 4221(a)(3), 4221(d)(3), and 4221(e)(1), and the regulations thereunder.

(d) *Use by State or local government.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (a)(2) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(C) if the article of fuel is sold by any person to a State, any political subdivision thereof, or