

§ 48.6416(b)(3)-1

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(4) Indicating that the fuel has been exported, or has been used, sold, or resold in a manner or for a purpose which gives rise to an overpayment within the meaning of section 6416(b)(2) and § 48.6416(b)(2)-2.

(b) *Evidence required to be in possession of claimant.* (1) The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(4) of this section, must, in the case of fuel exported, consist of proof of exportation or must, in the case of other fuel sold tax-paid by that person, consist of a certificate, executed and signed by the person who purchased the fuel in a resale or for the use which gave rise to the overpayment.

(2) The certificate must identify the fuel, both as to nature and quantity, in respect of which credit or refund is claimed; show the address of the purchaser; show the name and address of the person from whom the fuel was purchased and the date or dates on which the fuel was purchased; and show that the fuel was resold and the date of the resale.

(3) If the claim is not based on resale of the fuel, the certificate must describe the use actually made of the fuel in sufficient detail to establish that credit or refund is due. However, the use to be made of the fuel must be described in lieu of actual use if the claim is made by reason of the sale of the fuel for a specified use which gives rise to an overpayment under § 48.6416(b)(2)-2.

(4) If the certificate sets forth the use to be made of the fuel, rather than its actual use, it must show that the purchaser has agreed to notify the claimant if the fuel is not in fact used as specified in the certificate.

(5) The certificate must also contain a statement that the purchaser has not previously executed a certificate in respect of the fuel and understands that any party may, for fraudulent use of the certificate, be subject under section 7201 to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

[T.D. 8043, 50 FR 32030, Aug. 8, 1985]

§ 48.6416(b)(3)-1 Tax-paid articles used for further manufacture and causing overpayments of tax.

In the case of any payment of tax under chapter 32 that is determined to be an overpayment under section 6416(b)(3) and § 48.6416(b)(3)-2 by reason of the sale of an article (other than coal taxable under section 4121), directly or indirectly, by the manufacturer of the article to a subsequent manufacturer who uses the article in further manufacture of a second article or who sells the article with, or as a part of, the second article manufactured or produced by the subsequent manufacturer, the subsequent manufacturer may file claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart subsequently filed. 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, see § 301.6402-2 of this chapter (Regulations on Procedure and Administration) and §§ 48.6416(a)-3 and 48.6416(b)(3)-3. 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 32030, Aug. 8, 1985]

§ 48.6416(b)(3)-2 Further manufacture included.

(a) *In general.* The payment of tax imposed by chapter 32 on the sale of any article (other than coal taxable under section 4121) by a manufacturer of the article will be considered to be an overpayment by reason of any use in further manufacture, or sale as part of a second manufactured article, described in any one of paragraphs (b) through (f) of this section. This section applies in those cases where the exportation, use, or sale (or any combination of those activities) referred to in any one or more of those paragraphs occurs before any other use. For provisions relating to overpayments arising by reason of resales of tax-paid articles for use in further manufacture as provided in this section, see section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)-2.

(b) *Use of tax-paid articles in further manufacture described in section 6416(b)(3)(A).* A payment of tax under

chapter 32 on the sale of any article (other than coal taxable under section 4121), directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(A) if the article is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the subsequent manufacturer which is—

(1) Taxable under chapter 32, or

(2) An automobile bus chassis or an automobile bus body.

For this purpose it is immaterial whether the second article is sold or otherwise disposed of, or if sold, whether the sale is a taxable sale. Any article to which this paragraph (b) applies which would have been used in the manufacture or production of a second article, except for the fact that it was broken or rendered useless in the process of manufacturing or producing the second article, will be considered to have been used as a component part of the second article. This paragraph (b) does not apply to articles sold and used as provided in any of paragraphs (c) through (f) of this section.

(c) *Use of truck, bus, etc., parts or accessories.* A payment of tax under section 4061 (b) on the sale prior to January 7, 1983, of any truck, bus, etc., part or accessory, directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(B) if the part or accessory is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the subsequent manufacturer. For this purpose it is immaterial whether the second article is or is not taxable under chapter 32. Any article to which this paragraph (c) applies which would have been used in the manufacture or production of a second article, except for the fact that it was broken or rendered useless in the process of manufacturing or producing the second article, will be considered to have been used as a component part of the second article.

(d) *Tax-paid tires or inner tubes used in further manufacture.* (1) A payment of

tax under section 4071 on the sale prior to January 1, 1984, of a tire or inner tube, directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(C) if the subsequent manufacturer sells the tire or inner tube on or in connection with, or with the sale of, any other article manufactured or produced by the subsequent manufacturer and if the other article is—

(i) An automobile bus chassis or automobile bus body, or

(ii) By any person (A) exported to a foreign country or to a possession of the United States, (B) sold to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia, (C) sold to a nonprofit educational organization for its exclusive use, or (D) used or sold for use as supplies to vessels or aircraft.

For tax-paid tires used in further manufacture after December 31, 1983, see section 6416(b)(3)(A) and the regulations thereunder.

(2) The overpayment in this paragraph (d) is to be distinguished from that overpayment described in section 6416(b)(2)(E) and § 48.6416(b)(2)-2(f) in that this overpayment arises from the “use” described in this paragraph, whereas the overpayment under section 6416(b)(2)(E) arises from the “re-sale” of tax-paid tires or inner tubes by any person to a subsequent manufacturer who disposes of the articles on or in connection with, or with the sale of, a second article manufactured or produced by the subsequent manufacturer which is disposed of on the basis of one of the exemptions set forth in section 6416(b)(3)(C).

(3) If the second article is exported or shipped as provided in this paragraph (d), it is immaterial whether the subsequent manufacturer sold the article with the knowledge that it would be exported or shipped.

(4) An overpayment arises under paragraph (d)(1) of this section only if the tire or inner tube constitutes a part of, or is associated with, the second article at the time the second article is exported, shipped, sold, used, or

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sold for use, as prescribed in this paragraph.

(5) For definition of certain terms used in this paragraph, see section 4221 and the regulations thereunder.

(6) For provisions relating to overpayments arising by reason of tires or inner tubes sold tax-paid by the manufacturer of the same, on or in connection with, or with the sale of, any article manufactured or produced by that manufacturer and exported, sold, or used or sold for use, as provided in this paragraph (d), see section 6416(b)(4).

(7) For provisions relating to credit allowable in respect of tires and inner tubes sold on or in connection with, or with the sale of, another article taxable under chapter 32, prior to January 1, 1984, see section 6416(c) and § 48.6416(c)-1.

(8) If a second article referred to in paragraph (d)(1) of this section is sold for a use described in that paragraph and is not so used, this paragraph (d) is in all respects inapplicable.

(e) *Use of bicycle tires or tubes in further manufacture.* A payment of tax under section 4071 on the sale, prior to January 1, 1984, of a bicycle or tricycle tire or inner tube, directly or indirectly, by the manufacturer of the same to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(E) if the tire or tube is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a bicycle or tricycle manufactured or produced by the subsequent manufacturer which is not a rebuilt or reconditioned bicycle or tricycle. For definition of the term "bicycle tire", see section 4221(e)(4)(B) and the regulations thereunder.

(f) *Use of gasoline in further manufacture.* A payment of tax under section 4081 on the sale of gasoline, directly or indirectly, by the manufacturer of the same to a subsequent manufacturer will be considered an overpayment under section 6416(b)(3)(B) if the gasoline is used for nonfuel purposes by the subsequent manufacturer as a material in the manufacture or production of any other article manufactured or produced by the subsequent manufacturer. For this purpose it is immaterial whether the other article is or is not

taxable under chapter 32. For provisions relating to the use of gasoline for nonfuel purposes, see section 4221 and the regulations thereunder.

[T.D. 8043, 50 FR 32030, Aug. 8, 1985, as amended by T.D. 8748, 63 FR 15292, Mar. 31, 1998]

§ 48.6416(b)(3)-3 Supporting evidence required in case of tax-paid articles used for further manufacture.

(a) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(3) and § 48.6416(b)(3)-2 shall be allowed unless the subsequent manufacturer submits with the claim the evidence required by § 48.6416(a)-3 and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, or sales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(3) and § 48.6416(b)(3)-1,

(2) Showing the name and address of the manufacturer, producer, or importer of the article in respect of which credit or refund is claimed,

(3) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(4) Showing the amount of tax paid in respect of the article by the manufacturer or producer of the article and the date of payment,

(5) Indicating that the article was used by the claimant as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the manufacturer or was sold on or in connection with, or with the sale of, a second article manufactured or produced by the manufacturer,

(6) Identifying the second article, both as to nature and quantity, and

(7) In the case of an overpayment determined under section 6416(b)(3)(C) as it existed prior to January 1, 1984, and paragraph (d)(1) of § 48.6416(b)(3)-2 in respect of a tire or inner tube taxable under section 4071, indicating that the manufacturer has evidence available (as set forth in paragraph (b) of this section) that the second article is an automobile bus chassis or automobile bus body, or has been exported, used, or sold as provided in section