

§ 48.6420-1

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

(3) Any method by which the actual manufacturer of the article is in fact identified.

Any other method of determining the manufacturer of a particular article must be approved by the district director before its adoption. After any method for identifying the manufacturer has been properly adopted, it may not be changed without first securing the consent of the district director.

(b) *Determining amount of tax paid.* In applying section 6416 and the regulations thereunder, if the identity of the manufacturer of any article has been determined by a person pursuant to a method prescribed in paragraph (a) of this section, that manufacturer of the article must determine the tax paid under chapter 32 with respect to that article consistently with the method used in identifying the manufacturer.

[T.D. 8043, 50 FR 32035, Aug. 8, 1985]

§ 48.6420-1 Credits or payments to ultimate purchaser of gasoline used on a farm.

(a) *In general.* If gasoline is used on a farm for farming purposes after June 30, 1965, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the gasoline shall be allowed or made to the ultimate purchaser of the gasoline in an amount determined by multiplying (1) the number of gallons of gasoline so used by (2) the rate of tax on gasoline under section 4081 that applied on the date the gasoline was purchased by the ultimate purchaser. No interest shall be paid on any payment, allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit allowed under paragraph (b) of this section. See section 34(a), relating to credit for certain uses of gasoline and special fuels, and lubricating oil used prior to January 7, 1983). See § 48.6420-2 for the time within which a claim for credit or payment must be made. See section 4081 and the regulations thereunder for the rates of tax on gasoline. See § 48.6420-2 for meaning of the terms "Used on a farm for farming purposes," "farm,"

"gasoline," "ultimate purchaser," and "taxable year."

(b) *Allowance of income tax credit in lieu of payment.* With respect to persons subject to income tax, repayment of the tax paid under section 4081 on gasoline used on a farm for farming purposes may be obtained only by claiming a credit for the amount of this tax against the income tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6420 with respect to gasoline used during the taxable year on a farm for farming purposes if section 6420(g)(1) and paragraph (c) of this section did not apply. See section 34(a)(1).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used on a farm for farming purposes shall be made only to—

(1) The United States or agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia, or

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year.

(d) *Use of gasoline.* (1) The credit or payment described in paragraph (a) of this section is allowable only in respect of gasoline used on a farm in the United States for farming purposes. The credit or payment is not allowable with respect to gasoline used for non-farming purposes, or gasoline used off a farm, regardless of the nature of the use. If a vehicle or other equipment is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, the credit or payment is allowable only with respect to that portion of the gasoline which was "used on a farm for farming purposes" as defined in paragraph (a) of § 48.6420-4. In determining if this requirement is met, neither the type of equipment or vehicle used nor its registration for highway use is material. However, the actual use of the equipment or vehicle and the place where it is used are material. For example, if a

truck used on a farm for farming purposes is also used on the highways, gasoline used in connection with operating the truck on the highways is not taken into account in computing the credit or payment.

(2) For purposes of determining the allowable credit or payment in respect of gasoline used on a farm for farming purposes, gasoline on hand shall be considered used in the order in which it was purchased. Thus, if the owner, tenant, or operator of a farm has on hand gasoline acquired in two purchases made at different times and subject to different rates of tax, in determining credit or payment for gasoline used on a farm for farming purposes, it will be assumed that the gasoline purchased first was the first gasoline used, and the rate applicable to that purchase will apply in determining the credit or payment, until all that gasoline is accounted for.

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§ 48.6420-2 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6420-1 with respect to gasoline used after June 30, 1965, on a farm for farming purposes, shall cover only gasoline used during the taxable year on a farm for farming purposes. Therefore, gasoline on hand at the end of a taxable year as, for example, in fuel supply tanks of farm machinery or in storage tanks or drums, must be excluded from a claim filed for that taxable year (but may be included in a claim filed for a later taxable year if used during that later year on a farm for farming purposes). Gasoline used during a taxable year may be covered by a claim filed for that taxable year although the gasoline was not paid for at the time the claim is filed. For purposes of applying this section, a governmental unit or exempt organization described in § 48.6420-1 (c) is considered to have as its taxable year, the calendar year or fiscal year on the basis of which it regularly keeps its books; see paragraph (h) of this section.

(b) *Time for filing.* (1) A claim for credit with respect to gasoline used on a farm for farming purposes shall not be allowed unless it is filed no later than the time prescribed by section

6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(2) A claim for payment of a governmental unit or exempt organization described in § 48.6420-1(c) must be filed no later than 3 years following the close of its taxable year. (See paragraph (h) of this section.)

(3) See § 301.7502-1 of this chapter (Regulations on Procedure and Administration) for provisions treating timely mailing as timely filing and § 301.7502-1 of this chapter for time for performance of an act where the last day falls on Saturday, Sunday, or a legal holiday.

(c) *Limit of one claim per taxable year.* Not more than one claim may be filed under section 6420 by any person with respect to gasoline used during the same taxable year.

(d) *Form and content of claim.*—(1) *Claim for credit.* (i) The claim for credit with respect to gasoline used on a farm for farming purposes must be made by attaching a Form 4136 to the income tax return of an individual or a corporation. Form 4136 must be executed in accordance with the instructions prescribed for the preparation of the form. A partnership may not file Form 4136. When a partnership files Form 1065, U.S. Partnership Return of Income, it must include a statement showing how many gallons of gasoline are allocated to each partner and the use made of the gasoline.

(ii) If an individual dies during the taxable year, the claim for credit may be made only for that portion of the individual's taxable year ending with the date of death. If a sole proprietorship, a partnership or corporation is terminated or liquidated during the taxable year, the claim for credit may be made only for the portion of its year ending with the date of the termination or liquidation.

(2) *Claim for payment.* The claim for payment with respect to gasoline used on a farm for farming purposes by a governmental unit or exempt organization described in § 48.6420-1(c) must be made on Form 843 in accordance with the instructions prescribed for the preparation of the form. The claim by such a unit or organization must be