

**§ 48.6416(b)(3)-3**

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

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

**Internal Revenue Service, Treasury**

**§ 48.6416(b)(5)-1**

6416(b)(3)(C)(ii) and § 48.6416(b)(3)-2(d)(1)(ii).

(b) *Evidence required to be in possession of claimant*—(1) *In general.* The evidence required to be retained by the person claiming credit or refund, as provided in paragraph (a)(7) of this section, must, in the case of an exportation of the second article, consist of proof of exportation of the second article in the form prescribed in the regulations under section 4221, or must, in other cases (except when the second article is an automobile bus chassis or automobile bus body), consist of a certificate, executed and signed by the ultimate purchaser of the second article, in the form prescribed in paragraph (b)(2) of this section. However, if the second article has passed through a chain of sales from the manufacturer of the second article to the ultimate purchaser of the second article, the evidence may consist of a certificate, executed and signed by the ultimate vendor of the second article, in the form provided in paragraph (b)(3) of this section, rather than the proof of exportation itself of the second article or the certificate of the ultimate purchaser of the second article.

(2) *Certificate of ultimate purchaser of second article.* The certificate executed and signed by the ultimate purchaser of the second article must contain the same information as that required in paragraph (b)(1)(ii) of § 48.6416(b)(2)-3, except that the information must be furnished in respect of the second article, rather than the article to which the claim relates.

(3) *Certificate of ultimate vendor of second article.* Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person claiming credit or refund must be executed in the same form and manner as that provided in paragraph (b)(2)(iii) and § 48.6416(b)(2)-3.

(4) *Repayment or consent of ultimate vendor.* If the person claiming credit or refund of an overpayment to which this section applies has repaid, or agreed to repay, the amount of the overpayment to the ultimate vendor or if the ultimate vendor consents to the allowance of the credit or refund, a statement to that effect, signed by the ultimate vendor, must be shown on, or made a part

of, the evidence required to be retained by the person claiming the credit or refund. In this regard, see § 48.6416(a)-3(b)(2).

[T.D. 8043, 50 FR 32032, Aug. 8, 1985]

**§ 48.6416(b)(5)-1 Return of installment accounts causing overpayments of tax.**

(a) *In general.* In the case of any payment of tax under section 4216(d)(1) in respect of the sale of any installment account that is determined to be an overpayment under section 6416(b)(5) and paragraph (b) of this section upon return of the installment account, the person who paid the tax may file a claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart which that person subsequently files. 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 paragraph (c) of this section. 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.

(b) *Overpayment of tax allocable to repaid consideration.* The payment of tax imposed by section 4216(d)(1) on the sale of an installment account by the manufacturer will be considered to be an overpayment under section 6416(b)(5) to the extent of the tax allocable to any consideration repaid or credited to the purchaser of the installment account upon the return of the account to the manufacturer pursuant to the agreement under which the account originally was sold, if the readjustment of the consideration occurs pursuant to the provisions of the agreement. The tax allocable to the repaid or credited consideration is the amount which bears the same ratio to the total tax paid under section 4216(d)(1) with respect to the installment account as the amount of consideration repaid or credited to the purchaser bears to the total consideration for which the account was sold. This paragraph (b) does not apply where an installment account is originally sold pursuant to the order of, or subject to the approval of,