

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,

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a court of competent jurisdiction in a bankruptcy or insolvency proceeding.

(c) *Evidence to be submitted by claimant.* No claim for credit of refund of an overpayment, within the meaning of section 6416(b)(5) and paragraph (b) of this section, of tax under section 4216(d)(1) shall be allowed unless the person who paid the tax submits with the claim a statement supported by sufficient available evidence, indicating—

(1) The name and address of the person to whom the installment account was sold,

(2) The amount of tax due under section 4216(d)(1) by reason of the sale of the installment account, the amount of the tax paid under section 4216(d)(1) with respect to the sale, and the date of payment,

(3) The amount for which the installment account was sold,

(4) The amount which was repaid or credited to the purchaser of the account by reason of the return of the account to the person claiming the credit or refund, and

(5)(i) The fact that the amount repaid or credited to the purchaser of the account was so repaid or credited pursuant to the agreement under which the account was sold, and

(ii) The fact that the account was returned to the manufacturer pursuant to that agreement.

[T.D. 8043, 50 FR 32033, Aug. 8, 1985]

§ 48.6416(c)-1 Credit for tax paid on tires or, prior to January 1, 1984, inner tubes.

(a) *Allowance of credit against tax on sale of taxable article.* If tax has been paid under section 4071 on the sale, or under section 4218 on the use, of a tire or inner tube, and the manufacturer of a another article taxable under chapter 32 sells the tire or inner tube on or in connection with the sale of that other article, a credit in respect of the tire or inner tube is allowable under section 6416(c) against the tax imposed on the sale of that other article. The amount of the credit is to be determined as provided in paragraph (b) or (c) of this section.

(b) *Tires or tubes purchased by manufacturer of the other article.* If the manufacturer of the other article purchased

the tire or inner tube tax-paid, the amount of the credit shall be determined by applying to the purchase price of the tire or inner tube the percentage rate of tax applicable to the sale of the other article. For this purpose, the purchase price shall be determined by including any tax passed on to the manufacturer and, in the case of a tire, by excluding any part of the price attributable to the metal rim or rim base. For example, if the selling price of an automobile truck is \$24,000, tax equivalent to 10 percent of the price (*i.e.*, \$2,400) is imposed under section 4601(a) on the sale (before April 1, 1983) of the automobile truck. If the tires or inner tubes sold on or in connection with the automobile truck are purchased by the manufacturer of the automobile truck for \$1,500 (computed as provided in this paragraph) a credit of \$150 (10 percent of \$1,500) is allowable against the tax imposed on the sale of the automobile truck.

(c) *Tires or tubes manufactured by manufacturer of other articles.* If the manufacturer of the other article is also the manufacturer of the tire or inner tube and incurs tax liability under section 4218 on the use by that manufacturer of the tire or inner tube, the amount of the credit shall be determined by applying to the fair market price of the tire or inner tube, the percentage rate of tax applicable to the sale of the other article. For this purpose, the fair market price of the tire or inner tube shall be the price at which the same or similar tires or inner tubes are sold by manufacturers of tires or inner tubes in the ordinary course of trade, as determined by the Commissioner, and by excluding, in the case of a tire, any part of the price attributable to the metal rim or rim base. The determination of the Commissioner shall be made in the same manner as determinations made under section 4218.

(d) *Other applicable rules.* (1) For purposes of this section, the term “manufacturer” includes the original manufacturer of the other article and any succeeding purchaser of the article who further manufactures the article so as to become liable as a manufacturer of an article taxable under chapter 32. Therefore, the credit provided by section 6416(c) and this section is available