

(8) The rate of tax per cubic yard determined by the California Debris Commission applicable to the particular mine; and

(9) The amount of tax due and payable (cubic yards mined multiplied by the rate of tax per cubic yard).

(c) *Supporting statement.* With each return there must be submitted a supporting statement of the person who made the surveys at the mine for the mining season covered by the return (see § 50.6), stating that such surveys were made in accordance with requirements prescribed by the California Debris Commission.

(d) *Verification of return and supporting statement.* The return and the supporting statement shall be verified by written declarations that they are made under the penalties of perjury.

#### § 50.8 Due date and place for filing returns and paying tax.

The return for a taxable year shall be filed with, and the tax shall be paid to, the district director at San Francisco, California, on or before September 30 of the calendar year in which the taxable year ends. The tax is due and payable on such date without assessment by, or notice from, the district director.

### PART 52—ENVIRONMENTAL TAXES

Sec.

52.0-1 Introduction.

52.4681-1 Taxes imposed with respect to ozone-depleting chemicals.

52.4682-1 Ozone-depleting chemicals.

52.4682-2 Qualifying sales.

52.4682-3 Imported taxable products.

52.4682-4 Floor stocks tax.

52.4682-5 Exports.

AUTHORITY: 26 U.S.C. 7805.

Section 52.4682-3 also issued under 26 U.S.C. 4682(c)(2).

Section 52.4682-5 also issued under 26 U.S.C. 4662(e)(4).

#### § 52.0-1 Introduction.

The regulations in this part 52 are designated "Environmental Tax Regulations." The regulations relate to the environmental taxes imposed by chapter 38 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments,

and deposits of taxes imposed by chapter 38.

[T.D. 8442, 57 FR 48186, Oct. 22, 1992]

#### § 52.4681-1 Taxes imposed with respect to ozone-depleting chemicals.

(a) *Taxes imposed.* Sections 4681 and 4682 impose the following taxes with respect to ozone-depleting chemicals (ODCs):

(1) *Tax on ODCs.* Section 4681(a)(1) imposes a tax on ODCs that are sold or used by the manufacturer or importer thereof. Except as otherwise provided in § 52.4682-1 (relating to the tax on ODCs), the amount of the tax is equal to the product of—

(i) The weight (in pounds) of the ODC;

(ii) The base tax amount (determined under section 4681(b)(1) (B) or (C)) for the calendar year in which the sale or use occurs; and

(iii) The ozone-depletion factor (determined under section 4682(b)) for the ODC.

(2) *Tax on imported taxable products.* Section 4681(a)(2) imposes a tax on imported taxable products that are sold or used by the importer thereof. Except as otherwise provided in § 52.4682-3 (relating to the tax on imported taxable products), the tax is computed by reference to the weight of the ODCs used as materials in the manufacture of the product. The amount of tax is equal to the tax that would have been imposed on the ODCs under section 4681(a)(1) if the ODCs had been sold in the United States on the date of the sale or use of the imported product. The weight of such ODCs is determined under § 52.4682-3.

(3) *Floor stocks tax—(i) Imposition of tax.* Section 4682(h) imposes a floor stocks tax on ODCs that—

(A) Are held by any person other than the manufacturer or importer of the ODC on a date specified in paragraph (a)(3)(ii) of this section; and

(B) Are held on such date for sale or for use in further manufacture.

(ii) Dates on which tax imposed. The floor stocks tax is imposed on January 1 of each calendar year after 1989.

(iii) *Amount of tax.* Except as otherwise provided in § 52.4682-4 (relating to the floor stocks tax), the amount of the

floor stocks tax is equal to the excess of—

(A) The tax that would be imposed on the ODC under section 4681(a)(1) if a sale or use of the ODC by its manufacturer or importer occurred on the date the floor stocks tax is imposed (the tentative tax amount), over

(B) The sum of the taxes previously imposed (if any) on the ODC under sections 4681 and 4682.

(b) *Cross-references*—(1) *Tax on ODCs*. Additional rules relating to the tax on ODCs are contained in §§ 52.4682-1 and 52.4682-2.

(2) *Tax on imported taxable products*. Additional rules relating to the tax on imported taxable products are contained in § 52.4682-3.

(3) *Floor stocks tax*. Additional rules relating to the floor stocks tax are contained in § 52.4682-4.

(4) *Returns, payments, and deposits of tax*. Rules requiring returns reporting the taxes imposed by sections 4681 and 4682 are contained in part 40 of this chapter. Part 40 of this chapter also provides rules relating to the use of Government depositories and to the time for filing returns and making payments of tax.

(c) *Definitions of general application*. The following definitions set forth the meaning of certain terms for purposes of the regulations under sections 4681 and 4682:

(1) *Ozone-depleting chemical*. The term “ozone-depleting chemical” (ODC) means any chemical listed in section 4682(a)(2).

(2) *United States*. The term “United States” has the meaning given such term by section 4612(a)(4). Under section 4612(a)(4)—

(i) The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(ii) The term includes—

(A) Submarine seabed and subsoil that would be treated as part of the United States (as defined in paragraph (c)(2)(i) of this section) under the principles of section 638 relating to continental shelf areas; and

(B) Foreign trade zones of the United States.

(3) *Manufacture; manufacturer*. The term “manufacture” when used with respect to any ODC or imported product includes its production, and the term “manufacturer” includes a producer.

(4) *Entry into United States for consumption, use, or warehousing*—(i) *In general*. Except as otherwise provided in this paragraph (c)(4), the term “entered into the United States for consumption, use, or warehousing” when used with respect to any goods means—

(A) Brought into the customs territory of the United States (the customs territory) if applicable customs law requires that the goods be entered into the customs territory for consumption, use, or warehousing;

(B) Admitted into a foreign trade zone for any purpose if like goods brought into the customs territory for such purpose would be entered into the customs territory for consumption, use, or warehousing; or

(C) Imported into any other part of the United States (as defined in paragraph (c)(2) of this section) for any purpose if like goods brought into the customs territory for such purpose would be entered into the customs territory for consumption, use, or warehousing.

(ii) *Entry for transportation and exportation*. Goods entered into the customs territory for transportation and exportation are not goods entered for consumption, use, or warehousing.

(iii) *Entries described in two or more provisions*. In the case of any goods with respect to which entries are described in two or more provisions of paragraph (c)(4)(i) of this section, only the first such entry is taken into account. Thus, if the admission of goods into a foreign trade zone is an entry into the United States for consumption, use, or warehousing, the subsequent entry of such goods into the customs territory will not be treated as an entry into the United States for consumption, use, or warehousing.

(iv) *Certain imported products not entered for consumption, use, or warehousing*. Imported products that are entered into the United States for consumption, use, or warehousing do

not include any imported products that—

(A) Are entered into the customs territory under Harmonized Tariff Schedule (HTS) heading 9801, 9802, 9803, or 9813;

(B) Would, if entered into the customs territory, be entered under any such heading; or

(C) Are brought into the United States by an individual if the product is brought in for use by the individual and is not expected to be used in a trade or business other than a trade or business of performing services as an employee.

(5) *Importer.* The term “importer” means the person that first sells or uses goods after their entry into the United States for consumption, use, or warehousing (within the meaning of paragraph (c)(4) of this section).

(6) *Sale.* The term “sale” means the transfer of title or of substantial incidents of ownership (whether or not delivery to, or payment by, the buyer has been made) for consideration which may include money, services, or property. The determination as to the time a sale occurs shall be made under applicable local law.

(7) *Use—(i) In general.* Except as otherwise provided in regulations under sections 4681 and 4682, ODCs and imported taxable products are used when they are—

(A) Used as a material in the manufacture of an article, whether by incorporation into such article, chemical transformation, release into the atmosphere, or otherwise; or

(B) Put into service in a trade or business or for production of income.

(ii) *Loss, destruction, packaging, warehousing, and repair.* The loss, destruction, packaging (including re-packaging), warehousing, or repair of ODCs and imported taxable products is not a use of the ODC or product lost, destroyed, packaged, warehoused, or repaired.

(iii) *Cross-references to exceptions.* For exceptions to the rule contained in paragraph (c)(7)(i) of this section, see—

(A) Section 52.4682-1(b)(2)(iii) (relating to mixture elections), §52.4682-1(b)(2)(iv) (relating to mixtures for export), and §52.4682-1(b)(2)(v) (relating to mixtures for use as a feedstock);

(B) Section 52.4682-3(c)(2) (relating to the election to treat entry of an imported taxable product as use); and

(C) Section 52.4682-3(c)(3) (relating to treating sale of an article incorporating an imported taxable product as the first sale or use of the product).

(8) *Pound.* The term “pound” means a unit of weight that is equal to 16 avoirdupois ounces.

(9) *Post-1990 ODC; post-1989 ODC.* The term “post-1990 ODC” means any ODC that is listed below Halon-2402 in the table contained in section 4682(a)(2). The term “post-1989 ODC” means any ODC other than a post-1990 ODC.

(d) *Effective date.* Sections 52.4681-0, 52.4681-1, 52.4682-1, 52.4682-2, 52.4682-3, and 52.4682-4 are effective as of January 1, 1990, and apply to—

(1) Post-1989 ODCs that the manufacturer or importer thereof first sells or uses after December 31, 1989, and post-1990 ODCs that the manufacturer or importer thereof first sells or uses after December 31, 1990;

(2) Imported taxable products that the importer thereof first sells or uses after December 31, 1989 (but, in the case of products first sold or used before January 1, 1991, by taking into account only the post-1989 ODCs used as materials in their manufacture); and

(3) Post-1989 ODCs held for sale or for use in further manufacture by any person other than the manufacturer or importer thereof on January 1, 1990, and post-1989 and post-1990 ODCs that are so held on January 1 of each calendar year after 1990.

[T.D. 8370, 56 FR 56305, Nov. 4, 1991, as amended by T.D. 8442, 57 FR 48186, Oct. 22, 1992; T.D. 8622, 60 FR 52849, Oct. 11, 1995]

#### § 52.4682-1 Ozone-depleting chemicals.

(a) *Overview.* This section provides rules relating to the tax imposed on ozone-depleting chemicals (ODCs) under section 4681, including rules for identifying taxable ODCs and determining when the tax is imposed, and rules prescribing special treatment for certain ODCs. See § 52.4681-1(a)(1) and (c) for general rules and definitions relating to the tax on ODCs.

(b) *Taxable ODCs; taxable event—(1) Taxable ODCs—(i) In general.* Except as provided in paragraphs (c) through (g) of this section, an ODC is taxable if—

(A) It is listed in section 4682(a)(2) on the date it is sold or used by its manufacturer or importer; and

(B) It is manufactured in the United States or entered into the United States for consumption, use, or warehousing.

(ii) *Storage containers.* An ODC described in paragraph (b)(1)(i) of this section is taxable without regard to the type or size of storage container in which the ODC is held.

(iii) *Example.* The application of this paragraph (b)(1) may be illustrated by the following example:

*Example.* A brings CFC-12, an ODC listed in section 4682(a)(2), into the customs territory and enters the CFC-12 for transportation and exportation. The ODC is not taxable because it is not entered for consumption, use, or warehousing. The ODC also would not be taxable if it were admitted to a foreign trade zone (rather than brought into the customs territory) for transportation and exportation.

(2) *Taxable event—(i) In general—(A) General rule.* The tax on an ODC is imposed when the ODC is first sold or used (as defined in § 52.4681-1(c)(6) and (7)) by its manufacturer or importer.

(B) *Example.* The application of this paragraph (b)(2)(i) may be illustrated by the following example:

*Example.* A enters CFC-113, an ODC listed in section 4682(a)(2), into the United States for consumption, use, or warehousing. A warehouses the CFC-113 and then decides to ship the ODC to its factory outside the United States (as defined in § 52.4681-1(c)(2)). The CFC-113 is a taxable ODC because the requirements of paragraph (b)(1)(i) of this section have been met. However, tax is not imposed on the ODC because there is no taxable event. A did not sell the ODC and, under § 52.4681-1(c)(7), warehousing is not a use.

(ii) *Mixtures.* Except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section, the creation of a mixture containing two or more ingredients is treated as a taxable use of the ODCs contained in the mixture. For this purpose, a mixture cannot be represented by a chemical formula, and an ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Thus, except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section—

(A) The tax on the post-1989 ODCs (as defined in § 52.4681-1(c)(9)) contained in

mixtures created after December 31, 1989, or on the post-1990 ODCs (as defined in § 52.4681-1(c)(9)) contained in mixtures created after December 31, 1990, is imposed when the mixture is created and not on any subsequent sale or use of the mixture; and

(B) No tax is imposed under section 4681 on the post-1989 ODCs contained in mixtures created before January 1, 1990, or on the post-1990 ODCs contained in mixtures created before January 1, 1991.

(iii) *Mixture elections—(A) Permitted elections.* The only elections permitted under this paragraph (b)(2)(iii) are—

(1) An election for the first calendar quarter beginning after December 31, 1989, and all subsequent periods (the 1990 election); and

(2) An election for the first calendar quarter beginning after December 31, 1990, and all subsequent periods (the 1991 election).

(B) *In general.* A manufacturer or importer may elect to treat the sale or use of mixtures containing ODCs as the first sale or use of the ODCs contained in the mixtures. If a 1990 election is made under this paragraph (b)(2)(iii), the tax on post-1989 ODCs contained in a mixture sold or used after December 31, 1989 (including any such mixture created before January 1, 1990) is imposed on the date of such sale or use. Similarly, if a 1991 election is made under this paragraph (b)(2)(iii), the tax on post-1990 ODCs contained in a mixture sold or used after December 31, 1990 (including any such mixture created before January 1, 1991) is imposed on the date of such sale or use.

(C) *Applicability of elections.* An election under this paragraph (b)(2)(iii) applies—

(1) In the case of a 1990 election, to all post-1989 ODCs contained in mixtures sold or used by the manufacturer or importer after December 31, 1989 (including any such mixture created before January 1, 1990); and

(2) In the case of a 1991 election, to all post-1990 ODCs contained in mixtures sold or used by the manufacturer or importer after December 31, 1990 (including any such mixture created before January 1, 1991).

(D) *Making the election; revocation.* An election under this paragraph (b)(2)(iii)

shall be made in accordance with the instructions for the return on which the manufacturer or importer reports liability for tax under section 4681. After October 9, 1990, the election may be revoked only with the consent of the Commissioner.

(iv) *Special rule for exports.* The creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. If a manufacturer or importer sells a mixture for export, § 52.4682-5 applies to the ODCs contained in the mixture. See § 52.4682-5(e) for rules relating to liability of a purchaser for tax if the mixture is not exported.

(v) *Special rule for use as a feedstock.* The creation of a mixture for use as a feedstock (within the meaning of paragraph (c) of this section) is not a taxable use of the ODCs contained in the mixture.

(c) *ODCs used as a feedstock—(1) Exemption from tax.* No tax is imposed on an ODC if the manufacturer or importer of the ODC—

(i) Uses the ODC as a feedstock in the manufacture of another chemical; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (c)(4) of this section) for use as a feedstock.

(2) *Excess payments—(i) In general.* Under section 4682(d)(2)(B), a credit or refund is allowed to a person if—

(A) The person uses an ODC as a feedstock; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 was not determined under section 4682(d)(2)(A).

(ii) *Procedural rules.* See section 6402 and the regulations thereunder for rules relating to claiming a credit or refund of tax paid with respect to ODCs that are used as a feedstock. A credit against the income tax is not allowed for the amount determined under section 4682(d)(2)(B).

(3) *Definition.* An ODC is used as a feedstock only if the ODC is entirely consumed (except for trace amounts) in the manufacture of another chemical. Thus, the transformation of an ODC into one or more new compounds (such as the transformation of CFC-113 into chlorotrifluoroethylene (CTFE or 1113), of CFC-113 into CFC-115 and CFC-116, or of carbon tetrachloride into hydro-

chloric acid during petroleum refining or incineration) is treated as use as a feedstock. On the other hand, the ODCs used in a mixture (including an azeotrope such as R-500 or R-502) are not used as a feedstock.

(4) *Qualifying sale.* A sale of ODCs for use as a feedstock is a qualifying sale if the requirements of § 52.4682-2(b)(1) are satisfied with respect to such sale.

(d) *ODCs used in the manufacture of rigid foam insulation—(1) Phase-in of tax—(i) In general.* The amount of tax imposed on an ODC is determined under section 4682(g) if the manufacturer or importer of the ODC—

(A) Uses the ODC during 1990, 1991, 1992, or 1993 in the manufacture of rigid foam insulation; or

(B) Sells the ODC in a qualifying sale (within the meaning of paragraph (d)(5) of this section) during 1990, 1991, 1992, or 1993.

(ii) *Amount of tax.* Under section 4682(g), ODCs described in paragraph (d)(1)(i) of this section are not taxed if sold or used during 1990 and are taxed at a reduced rate if sold or used during 1991, 1992, or 1993.

(2) *Excess Payments—(i) In general.* Under section 4682(g)(3), a credit against income tax or a refund is allowed to a person if—

(A) The person uses an ODC during 1990, 1991, 1992, or 1993 in the manufacture of rigid foam insulation; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 was not determined under section 4682(g).

(ii) *Procedural rules—(A)* The amount determined under section 4682(g)(3) shall be treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations thereunder for rules relating to claiming a credit or refund of the tax paid with respect to ODCs that are used in the manufacture of rigid foam insulation.

(3) *Definition—(i) Rigid foam insulation.* The term “rigid foam insulation” means any rigid foam that is designed for use as thermal insulation in buildings, equipment, appliances, tanks, railcars, trucks, or vessels, or on pipes, including any such rigid foam actually

used for purposes other than insulation. Information such as test reports on R-values and advertising material reflecting R-value claims for a particular rigid foam may be used to show that such rigid foam is designed for use as thermal insulation.

(ii) *Rigid foam*—(A) *In general.* The term “rigid foam” means any closed cell polymeric foam (whether or not rigid) in which chlorofluorocarbons are used to fill voids within the polymer.

(B) *Examples of rigid foam products.* Rigid foam includes extruded polystyrene foam, polyisocyanurate foam, spray and pour-in-place polyurethane foam, polyethylene foam, phenolic foam, and any other product that the Commissioner identifies as rigid foam in a pronouncement of general applicability. The form of a product identified under this paragraph (d)(3)(ii)(B) does not affect its character as rigid foam. Thus, such products are rigid foam whether in the form of a board, sheet, backer rod, or wrapping, or in a form applied by spraying, pouring, or frothing.

(4) *Use in manufacture.* An ODC is used in the manufacture of rigid foam insulation if it is incorporated into such product or is expended as a propellant or otherwise in the manufacture or application of such product.

(5) *Qualifying sale.* A sale of an ODC for use in the manufacture of rigid foam insulation is a qualifying sale if the requirements of § 52.4682-2(b)(2) are satisfied with respect to such sale.

(e) *Halons; phase-in of tax.* The amount of tax imposed on Halon-1211, Halon-1301, or Halon-2402 (Halons) is determined under section 4682(g) if the manufacturer or importer of Halons sells or uses Halons during 1990, 1991, 1992, or 1993. Under section 4682(g), Halons are not taxed if sold or used during 1990 and are taxed at a reduced rate if sold or used during 1991, 1992, or 1993.

(f) *Methyl chloroform; reduced rate of tax in 1993.* The amount of tax imposed on methyl chloroform is determined under section 4682(g)(5) if the manufacturer or importer of the methyl chloroform sells or uses it during 1993.

(g) *ODCs used as medical sterilants*—(1) *Phase-in of tax.* The amount of tax imposed on an ODC is determined under

section 4682(g)(4) if the manufacturer or importer of the ODC—

(i) Uses the ODC during 1993 as a medical sterilant; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (g)(4) of this section) during 1993.

(2) *Excess payments*—(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC during 1993 as a medical sterilant; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules.* (A) The amount determined under section 4682(g)(4)(B) and paragraph (g)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of use as a medical sterilant.* An ODC is used as a medical sterilant if it is used in the manufacture of sterilant gas.

(4) *Qualifying sale.* A sale of an ODC for use as a medical sterilant is a qualifying sale if the requirements of § 52.4682-2(b)(3) are satisfied with respect to the sale.

(h) *ODCs used as propellants in metered-dose inhalers*—(1) *Reduced rate of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—

(i) Uses the ODC after 1992 as a propellant in a metered-dose inhaler; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (h)(4) of this section) after 1992.

(2) *Excess payments*—(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC after 1992 as a propellant in a metered-dose inhaler; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules*—(A) The amount determined under section 4682(g)(4)(B) and paragraph (h)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of metered-dose inhaler.* A metered-dose inhaler is an aerosol device that delivers a precisely-measured dose of a therapeutic drug.

(4) *Qualifying sale.* A sale of an ODC for use as a propellant for a metered-dose inhaler is a qualifying sale if the requirements of § 52.4682-2(b)(4) are satisfied with respect to the sale.

(i) [Reserved]

(j) *Exports; cross-reference.* For the treatment of exports of ODCs, see § 52.4682-5.

(k) *Recycling.* [Reserved]

[T.D. 8370, 56 FR 56307, Nov. 4, 1991, as amended by T.D. 8622, 60 FR 52849, Oct. 11, 1995]

#### § 52.4682-2 Qualifying sales.

(a) *In general*—(1) *Special rules applicable to certain sales.* Special rules apply to sales of ODCs in the following cases:

(i) Under section 4682(d)(2), § 52.4682-1(c), and § 52.4682-4(b)(2)(v) (relating to ODCs used as a feedstock), ODCs sold in qualifying sales are not taxed.

(ii) Under section 4682(g), § 52.4682-1(d), and § 52.4682-4(d)(2) (relating to

ODCs used in the manufacture of rigid foam insulation), ODCs sold in qualifying sales are not taxed in 1990 and are taxed at a reduced rate in 1991, 1992, and 1993.

(iii) Under section 4682(g)(4) and § 52.4682-1(g) (relating to ODCs used as medical sterilants), ODCs sold in qualifying sales are taxed at a reduced rate in 1993.

(iv) Under section 4682(g)(4) and § 52.4682-1(h) (relating to ODCs used as propellants in metered-dose inhalers), ODCs sold in qualifying sales are taxed at a reduced rate in years after 1992.

(2) *Qualifying sales.* A sale of ODCs is not a qualifying sale unless the requirements of this section are satisfied. Although registration with the Internal Revenue Service is not required to establish that a sale of ODCs is a qualifying sale, the certificates required by this section shall be made available for inspection by internal revenue agents and officers.

(b) *Requirements for qualification*—(1) *Use as a feedstock.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682-1(c) and 52.4682-4(b)(2)(v) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(2) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

(2) *Use in the manufacture of rigid foam insulation.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682-1(d) and 52.4682-4(d)(2) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(3) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

(3) *Use as medical sterilants.* A sale of ODCs is a qualifying sale for purposes of § 52.4682-1(g) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(4) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

§ 52.4682-2

26 CFR Ch. I (4-1-03 Edition)

(4) *Use as propellants in metered-dose inhalers.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682-1(h) and 52.4682-4(b)(2)(vii) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(5) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

(c) *Good faith reliance*—(1) *In general.* The requirements of paragraph (b) of this section are not satisfied with respect to a sale of ODCs and the sale is not a qualifying sale if at the time of the sale—

(i) The manufacturer or importer has reason to believe that the purchaser will use the ODCs other than for the purpose set forth in the certificate; or

(ii) The Internal Revenue Service has notified the manufacturer or importer that the purchaser's right to provide a certificate has been withdrawn.

(2) *Withdrawal of right to provide a certificate.* The Internal Revenue Service may withdraw the right of a purchaser to provide a certificate to its supplier if such purchaser uses the ODCs to which its certificate applies other than for the purpose set forth in such certificate, or otherwise fails to comply with the terms of the certificate. The Internal Revenue Service may notify the supplier to whom the purchaser provided the certificate that the purchaser's right to provide a certificate has been withdrawn.

(d) *Certificate*—(1) *In general*—(i) *Rules relating to all certificates.* This paragraph (d) sets forth certificates that satisfy the requirements of paragraphs (b)(1) through (4) of this section. The certificate shall consist of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser. A certificate provided under paragraph (d)(2) or (5) of this section may apply to a single purchase or to multiple purchases and need not specify an expiration date. A certificate provided under paragraph (d)(3) or (4) of this section may apply to a single purchase or multiple purchases, and will expire as of December 31, 1993, unless an earlier expiration date is specified in the certificate. A new certificate must be given to the

supplier if any information on the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

(ii) *Special rule relating to certificates executed before January 1, 1992.* Certificates provided under this paragraph (d)(2) and executed before January 1, 1992, satisfy the requirements of paragraph (b) of this section if they are in substantially the same form as certificates set forth in § 52.4682-2T.

(2) *Certificate relating to ODCs used as a feedstock*—(i) *ODCs that will be resold for use by the second purchaser as a feedstock.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as a feedstock, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS A FEEDSTOCK

(To support tax-free sales under section 4682(d)(2) of the Internal Revenue Code.)

Date \_\_\_\_\_  
 The undersigned purchaser ("Purchaser") hereby certifies the following under penalties of perjury:  
 The following percentage of ozone-depleting chemicals purchased from

\_\_\_\_\_  
 (name and address of seller)  
 will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as a feedstock (as defined in § 52.4682-1(c)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11.	
CFC-12.	
CFC-113.	
CFC-114.	
CFC-115.	
Carbon tetrachloride.	
Methyl chloroform.	
Other (specify).	

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_



**§ 52.4682-2**

**26 CFR Ch. I (4-1-03 Edition)**

Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as a feedstock of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address

\_\_\_\_\_  
Taxpayer Identifying Number

(3) *Certificate relating to ODCs used in the manufacture of rigid foam insulation—(1) ODCs that will be resold to a second purchaser for use by the second purchaser in the manufacture of rigid foam insulation.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser in the manufacture of rigid foam insulation, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER IN THE MANUFACTURE OF RIGID FOAM INSULATION

(To support tax-free or tax-reduced sales under section 4682(g) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
Expiration Date \_\_\_\_\_  
(not after 12/31/93)

The undersigned purchaser ("Purchaser") hereby certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from

\_\_\_\_\_  
(name and address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser

that they are purchasing the ozone-depleting chemicals for use in the manufacture of rigid foam insulation (as defined in §52.4682-1(d)(3) and (4) of the Environmental Tax Regulations).

Product	Percentage
CFC-11.	
CFC-12.	
CFC-113.	
CFC-114.	
CFC-115.	
Carbon tetrachloride.	
Methyl chloroform.	
Other (specify).	

This certificate applies to (check and complete as applicable):

\_\_\_\_\_  
All shipments to Purchaser at the following location(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
One or more shipments to Purchaser identified as follows:

\_\_\_\_\_

\_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(3) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-

**Internal Revenue Service, Treasury**

**§ 52.4682-2**

depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address

\_\_\_\_\_  
Taxpayer Identifying Number

(ii) *ODCs that will be used by the purchaser in the manufacture of rigid foam insulation.* If the purchaser will use the ODCs in the manufacture of rigid foam insulation, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER IN THE MANUFACTURE OF RIGID FOAM INSULATION**

(To support tax-free or tax-reduced sales under section 4682(g) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
Expiration Date \_\_\_\_\_  
(not after 12/31/93)

The undersigned purchaser ("Purchaser") hereby certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from

\_\_\_\_\_  
(name and address of seller)  
will be used by Purchaser in the manufacture of rigid foam insulation (as defined in § 52.4682-1(d) (3) and (4) of the Environmental Tax Regulations).

Product	Percentage
CFC-11.	
CFC-12.	
CFC-113.	
CFC-114.	
CFC-115.	
Carbon tetrachloride.	
Methyl chloroform.	
Other (specify).	

This certificate applies to (check and complete as applicable):

\_\_\_\_\_  
All shipments to Purchaser at the following location(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
One or more shipments to Purchaser identified as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(3) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than in the manufacture of rigid foam insulation may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use in the manufacture of rigid foam insulation of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address

\_\_\_\_\_  
Taxpayer Identifying Number

(4) *Certificate relating to ODCs used as medical sterilants—(1) ODCs that will be*

§ 52.4682-2

26 CFR Ch. I (4-1-03 Edition)

resold for use by the second purchaser as medical sterilants. If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_
Expiration Date \_\_\_\_\_ (not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_

(Address of seller) \_\_\_\_\_

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as medical sterilants (as defined in §52.4682-1(g)(3) of the Environmental Tax Regulations).

Table with 2 columns: Product, Percentage. Row 1: CFC-12

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals

to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_

Address of Purchaser \_\_\_\_\_

Taxpayer Identifying Number of Purchaser \_\_\_\_\_

Title of person signing \_\_\_\_\_

Printed or typed name of person signing \_\_\_\_\_

Signature \_\_\_\_\_

(ii) ODCs that will be used by the purchaser as medical sterilants. If the purchaser will use the ODCs as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_
Expiration Date \_\_\_\_\_ (not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_

(Address of seller) \_\_\_\_\_

**Internal Revenue Service, Treasury**

**§ 52.4682-2**

will be used by Purchaser as medical sterilants (as defined in §52.4682-1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-12 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):

\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:

\_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as medical sterilants may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as medical sterilants of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address of Purchaser

\_\_\_\_\_  
Taxpayer Identifying Number of Purchaser

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Printed or typed name of person signing

Signature

(5) *Certificate relating to ODCs used as propellants in metered-dose inhalers*—(i) *ODCs that will be resold for use by the second purchaser as propellants in metered-dose inhalers.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date \_\_\_\_\_

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

\_\_\_\_\_  
(Name of seller)

\_\_\_\_\_  
(Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as propellants in metered-dose inhalers (as defined in §52.4682-1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-114 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):

\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:

\_\_\_\_\_

§ 52.4682-2

26 CFR Ch. I (4-1-03 Edition)

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_  
 Address of Purchaser \_\_\_\_\_  
 Taxpayer Identifying Number of Purchaser \_\_\_\_\_  
 Title of person signing \_\_\_\_\_  
 Printed or typed name of person signing \_\_\_\_\_  
 Signature \_\_\_\_\_

(ii) ODCs that will be used by the purchaser as propellants in metered-dose inhalers. If the purchaser will use the ODCs as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)  
 Date \_\_\_\_\_

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_

(Address of seller) \_\_\_\_\_

will be used by Purchaser as propellants in metered-dose inhalers (as defined in § 52.4682-1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-114 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as propellants in metered-dose inhalers may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as propellants in metered-dose inhalers of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment,

**Internal Revenue Service, Treasury**

**§ 52.4682-3**

or both, together with the costs of prosecution.

---

Name of Purchaser

---

Address of Purchaser

---

Taxpayer Identifying Number of Purchaser

---

Title of person signing

---

Printed or typed name of person signing

---

Signature

[T.D. 8370, 56 FR 56308, Nov. 4, 1991, as amended by T.D. 8622, 60 FR 52850, Oct. 11, 1995]

**§ 52.4682-3 Imported taxable products.**

(a) *Overview; references to Tables; special rule for 1990*—(1) *Overview.* This section provides rules relating to the tax imposed on imported taxable products under section 4681, including rules for identifying imported taxable products, determining the weight of the ozone-depleting chemicals (ODCs) used as materials in the manufacture of such products, and computing the amount of tax on such products. See § 52.4681-1(a)(2) and (c) for general rules and definitions relating to the tax on imported taxable products.

(2) *References to Tables.* When used in this section—

(i) The term *Imported Products Table* (Table) refers to the Table set forth in paragraph (f)(6) of this section; and

(ii) The term *current Imported Products Table* (current Table) used with respect to a product refers to the Table in effect on the date such product is first sold or used by the importer thereof.

(3) *Special rule for 1990.* In the case of products first sold or used before January 1, 1991, post-1990 ODCs (as defined in § 52.4681-1(c)(9)) shall not be taken into account in applying the rules of this section.

(b) *Imported taxable products*—(1) *In general*—(i) *Rule.* Except as provided in paragraph (b)(2) of this section, the term “imported taxable product” means any product that—

(A) Is entered into the United States for consumption, use, or warehousing; and

(B) Is listed in the current Table.

(ii) *Example.* The application of this paragraph (b)(1) may be illustrated by the following example:

*Example.* A brings a light truck with a Harmonized Tariff Schedule classification of 8704 into the customs territory and enters the truck for transportation and exportation. Although the truck is listed in the current Table, it is not an imported taxable product because it is not entered for consumption, use, or warehousing. The truck also would not be an imported taxable product if it were admitted to a foreign trade zone (rather than brought into the customs territory) for transportation and exportation.

(2) *Exceptions*—(i) *In general.* A product is not treated as an imported taxable product if—

(A) The product is listed in Part I of the current Table and the adjusted tax with respect to the product is *de minimis* (within the meaning of paragraph (b)(2)(ii) of this section); or

(B) The product is listed in Part II of the current Table, the adjusted tax with respect to the product is *de minimis* (within the meaning of paragraph (b)(2)(ii) of this section), and the ODCs (other than methyl chloroform) used as materials in the manufacture of the product were not used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

(ii) *De minimis adjusted tax.* The adjusted tax with respect to a product is *de minimis* if such tax is less than one-tenth of one percent of the importer’s cost of acquiring such product. The term *adjusted tax* means the tax that would be imposed under section 4681 on the ODCs used as materials in the manufacture of such product if such ODCs were sold in the United States and the base tax amount were \$1.00.

(c) *Taxable event*—(1) *In general.* Except as otherwise provided in paragraphs (c) (2) and (3) of this section, the tax on an imported taxable product is imposed when the product is first sold or used (as defined in § 52.4681-1(c) (6) and (7)) by its importer. Thus, for example, imported taxable products that are warehoused or repackaged after entry and then exported without being sold or used in the United States are not subject to tax.

(2) *Election to treat importation as use*—(i) *In general.* An importer may elect to treat the entry of products

into the United States as the use of such products. In the case of imported taxable products to which an election under this paragraph (c)(2) applies—

(A) Tax is imposed on the products on the date of entry (as determined under paragraph (c)(2)(ii) of this section) if the products are entered into the United States after the election becomes effective;

(B) Tax is imposed on the products on the date the election becomes effective if the products were entered into the United States after December 31, 1989, and before the election becomes effective; and

(C) No tax is imposed if the products were entered into the United States before January 1, 1990.

(ii) *Date of entry.* The date of entry is determined by reference to customs law. If the actual date is unknown, the importer may use any reasonable and consistent method to determine the date of entry, provided that such date is within 10 business days of arrival of products in the United States.

(iii) *Applicability of election.* An election under this paragraph (c)(2) applies to all imported taxable products that are owned (and have not been used) by the importer at the time the election becomes effective and all imported taxable products that are entered into the United States by the importer after the election becomes effective. An election under this paragraph (c)(2) becomes effective at the beginning of the first calendar quarter to which the election applies. After October 9, 1990, the election may be revoked only with the consent of the Commissioner.

(iv) *Making the election.* An election under this paragraph (c)(2) shall be made in accordance with the instructions for the return on which the importer is required to report liability for tax under section 4681.

(3) *Treating the sale of an article incorporating an imported taxable product as the first sale or use of such product—(i) In general.* In the case of articles to be sold, an importer may treat the sale of an article manufactured or assembled in the United States as the first sale or use of an imported taxable product incorporated in such article, but only if the importer—

(A) Has consistently treated the sale of similar articles as the first sale or use of similar imported taxable products; and

(B) Has not made an election under paragraph (c)(2) of this section.

(ii) *Similar articles and imported taxable products.* An importer may establish any reasonable criteria for determining whether articles or imported taxable products are similar for purposes of this paragraph (c)(3).

(iii) *Establishment of consistent treatment.* An importer has consistently treated the sale of similar articles as the first sale or use of similar imported taxable products only if such treatment is reflected in the computation of tax on the importer's returns for all prior calendar quarters in which such treatment would affect tax liability.

(iv) *Example.* The application of this paragraph (c)(3) may be illustrated by the following example:

*Example.* (a) An importer of printed circuits and other electronic components uses those products in assembling television receivers in the United States and also uses the printed circuits in assembling VCRs in the United States. Under the importer's criteria for determining similarity, printed circuits are similar to other printed circuits, but not to the other electronic components. In addition, television receivers are similar to other television receivers, but not to VCRs. The importer has not made an election under paragraph (c)(2) of this section.

(b) Under this paragraph (c)(3), the importer may treat the sale of the television receivers as the first sale or use of the imported printed circuits incorporated into the television receivers. In that case, the tax on the printed circuits would be imposed when the television receivers are sold rather than when the printed circuits are used in assembling the television receivers.

(c) The importer may treat the sale of the television receivers as the first sale or use of the printed circuits incorporated into the television receivers even if the sale of the television receivers is not treated as the first sale or use of the other electronic components incorporated into the television receivers and even if the sale of VCRs is not treated as the first sale or use of the printed circuits incorporated into the VCRs. Under paragraph (c)(3)(i)(A) of this section, however, the importer must have consistently treated the sale of television receivers as the first sale or use of printed circuits incorporated into the receivers. Thus, in the case of television receivers that were assembled

before January 1, 1990, and sold after December 31, 1989, the importer must have treated the sale of the television receivers as the first sale or use of the printed circuits incorporated into the television receivers when reporting tax under section 4681 with respect to such printed circuits.

(d) *ODCs used as materials in the manufacture of imported taxable products*—(1) *ODC weight.* The tax imposed on an imported taxable product under section 4681 is computed by reference to the weight of the ODCs used as materials in the manufacture of the product (ODC weight). The ODC weight of a product includes the weight of ODCs used as materials in the manufacture of any components of the product.

(2) *ODCs used as materials in the manufacture of a product.* Except as provided in paragraph (d)(3) of this section, an ODC is used as a material in the manufacture of a product if the ODC is—

- (i) Incorporated into the product;
- (ii) Released into the atmosphere in the process of manufacturing the product; or
- (iii) Otherwise used in the manufacture of the product (but only to the extent the cost of the ODC is properly allocable to the product).

(3) *Protective packaging.* ODCs used in the manufacture of the protective material in which a product is packaged are not treated as ODCs used as materials in the manufacture of such product.

(4) *Examples.* The provisions of this paragraph (d) may be illustrated by the following examples:

*Example 1.* A, a manufacturer located outside the United States, uses ODCs as a solvent to clean the printed circuits it manufactures and as a coolant in the air-conditioning system of the factory in which the printed circuits are manufactured. The ODCs used as a solvent are released into the atmosphere, and, under paragraph (d)(2)(ii) of this section, are used as materials in the manufacture of the printed circuits. The ODCs used as a coolant in the air-conditioning system are also used in the manufacture of the printed circuits. Under paragraph (d)(2)(iii) of this section, these ODCs are used as materials in the manufacture of the printed circuits only to the extent the cost of the ODCs is properly allocable to the printed circuits.

*Example 2.* B manufactures television receivers outside the United States and wraps them for shipping in a protective packing material manufactured with ODCs. Under

paragraph (d)(3) of this section, the ODCs used in the manufacture of the protective packing material are not treated as ODCs used as a material in the manufacture of the television receivers.

(e) *Methods of determining ODC weight; computation of tax*—(1) *In general.* This paragraph (e) sets forth the methods to be used for determining the ODC weight of an imported taxable product and a method to be used in computing the tax when the ODC weight cannot be determined. The amount of tax is computed separately for each imported taxable product and the method to be used in determining the ODC weight or otherwise computing the tax is separately determined for each such product. Thus, an importer may use one method in computing the tax on some imported taxable products and different methods in computing the tax on other products. For example, an importer of telephone sets may compute the tax using the exact method described in paragraph (e)(2) of this section for determining the ODC weight of telephone sets supplied by one manufacturer and using the Table method described in paragraph (e)(3) of this section for telephone sets supplied by other manufacturers that have not provided sufficient information to allow the importer to use the exact method.

(2) *Exact method.* If the importer determines the weight of each ODC used as a material in the manufacture of an imported taxable product and supports that determination with sufficient and reliable information, the ODC weight of the product is the weight so determined. Under this method, the ODC weight of a mixture is equal to the weight of the ODCs contained in the mixture. Representations by the manufacturer of the product to the importer as to the weight of the ODCs used as materials in the manufacture of the product may be sufficient and reliable information for this purpose. Thus, a letter to the importer signed by the manufacturer may constitute sufficient and reliable information if the letter adequately identifies the product and states the weight of each ODC used as a material in the product's manufacture.

(3) *Table method*—(i) *In general.* If the ODC weight of an imported taxable product is not determined using the exact method described in paragraph (e)(2) of this section and the current Table specifies an ODC weight for the product, the ODC weight of the product is the Table ODC weight, regardless of what ODCs were used in the manufacture of the product. In computing the amount of tax, the Table ODC weight shall not be rounded.

(ii) *Special rules*—(A) *Articles assembled in the United States.* An importer that assembles finished articles in the United States may compute the amount of tax imposed on the imported taxable products incorporated into the finished article by using the Table ODC weight specified for the article instead of the Table ODC weights specified for the components. In order to compute the tax under this special rule, the importer must determine the actual number of articles manufactured. For example, if an importer manufactures 100 camcorders using imported subassemblies, the importer may compute the amount of tax on the subassemblies by using the Table ODC weight specified for camcorders. Thus, the tax imposed on the subassemblies is equal to the tax that would be imposed on 100 camcorders.

(B) *Combination method.* This paragraph (e)(3)(ii)(B) applies to an imported taxable product if the current Table specifies weights for two or more ODCs with respect to the product and the importer of the product can determine the weight of any such ODC (and of any ODC used as a substitute for such ODC) and can support such determination with sufficient and reliable information. In determining the ODC weight of any such product, the importer may replace the weight specified in the Table for such ODC with the weight (as determined by the importer) of such ODC and its substitutes. For example, if an importer has sufficient and reliable information to determine the amount of CFC-12 included in a product as a coolant (and to determine that no ODCs have been used as substitutes for CFC-12) but cannot determine the amount of CFC-113 used in manufacturing the product's electronic components, the importer may use the

weight specified in the Table for CFC-113 and the actual weight determined by the importer for CFC-12 in determining the ODC weight of the product.

(C) *ODCs used in the manufacture of rigid foam insulation.* In computing the tax using the method described in this paragraph (e)(3), any ODC for which the Table specifies a weight followed by an asterisk (\*) shall be treated as an ODC used in the manufacture of rigid foam insulation (as defined in § 52.4682-1(d)(3) and (4)).

(4) *Value method*—(i) *General rule.* If the importer cannot determine the ODC weight of an imported taxable product under the exact method described in paragraph (e)(2) of this section and the Table ODC weight of the product is not specified, the tax imposed on the product under section 4681 is one percent of the entry value of the product.

(ii) *Special rule for mixtures.* If, in the case of an imported taxable product that is a mixture, the tax was determined under the method described in this paragraph (e)(4), the Commissioner may redetermine the tax based on the ODC weight of the mixture.

(5) *Adjustment for prior taxes*—(i) *In general.* If any manufacture with respect to an imported taxable product occurred in the United States or the product incorporates a taxed component or a taxed chemical was used in its manufacture, the product's ODC weight (or value) attributable to manufacture within the United States or to taxed components or taxed chemicals shall be disregarded in computing the tax on such product using a method described in paragraph (e) (2), (3), or (4) of this section.

(ii) *Taxed component.* The term "taxed component" means any component that previously was subject to tax as an imported taxable product or that would have been so taxed if section 4681 had been in effect for periods before January 1, 1990.

(iii) *Taxed chemical.* The term "taxed chemical" means any ODC that previously was subject to tax.

(6) *Examples.* The application of this paragraph (e) may be illustrated by the following examples:

*Example 1.* A is an importer (as defined in § 52.4681-1(c)(5)) of VCRs. The HTS classification for the VCRs is 8528.10.40. VCRs classified under HTS heading 8528.10.40 are imported taxable products because they are listed in the Table (contained in paragraph (f)(6) of this section) by name and HTS heading (as described in paragraph (f)(3)(i) of this section). Each VCR is wrapped in protective packing material manufactured with ODCs. A imports and sells 100 VCRs during the first calendar quarter of 1991. A may determine the ODC weight for the VCRs by reference to the Table. The Table ODC weight specified for VCRs classified under HTS heading 8528.10.40 is 0.0586 pound of CFC-113. This weight does not take protective packaging into account. The amount of tax for the first quarter of 1991 is \$6.42 (0.0586 (the ODC weight)  $\times$  100 (the number of VCRs sold in the quarter)  $\times$  \$1.37 (the base tax amount for CFC-113 in 1991)  $\times$  0.8 (the ozone-depletion factor for CFC-113)). If A uses the exact method (as described in paragraph (e)(2) of this section) to determine the ODC weight for the VCRs, A does not take into account the ODCs used in the manufacture of the protective packaging. (Imported protective packaging containing foams made with ODCs other than foams defined in § 52.4682-1(d)(3) is subject to tax, however, if the packaging is sold as packaging or first used as packaging in the United States.)

*Example 2.* The facts are the same as in *Example 1*, except that A's VCRs are manufactured using methyl chloroform as the solvent instead of CFC-113. If A does not use the exact method to determine the weight of the methyl chloroform used in the manufacture of the VCRs, A must, under paragraphs (e)(3)(i) and (e)(4)(i) of this section, determine the ODC weight by reference to the Table. If A uses the Table ODC weight, the computation of tax is the same as in *Example 1*, using the base tax amount and ozone-depletion factor for CFC-113. A does not substitute the base tax amount and ozone-depletion factor of methyl chloroform for those of CFC-113.

*Example 3.* B imports and sells mixtures of ethylene oxide and CFC-12. The mixture is 88 percent CFC-12 by weight. B also imports and sells R-502. The R-502 is 51 percent CFC-115 by weight. In the first calendar quarter of 1991 B sells 100 pounds of imported ethylene oxide/CFC-12 mixture and 10,000 pounds of imported R-502. The ethylene/CFC-12 mixture and the R-502 are imported taxable products because they are listed in Part I of the Table (contained in paragraph (f)(6) of this section). Under the exact method described in paragraph (e)(2) of this section, B computes the tax based on 88 pounds of CFC-12, the amount of ODCs contained in the imported ethylene oxide mixture, and based on 5100 pounds of CFC-115, the amount of ODCs in the imported R-502.

(f) *Imported Products Table*—(1) *In general.* This paragraph (f) contains rules relating to the Imported Products Table (Table) and sets forth the Table. The Table lists all the products that are subject to the tax on imported taxable products and specifies the Table ODC weight of each product for which such a weight has been determined.

(2) *Applicability of Table*—(i) *In general.* Except as provided in paragraph (f)(2)(ii) of this section, the Table contained in paragraph (f)(6) of this section is effective on January 1, 1990.

(ii) *Treatment of certain products*—(A) Products included in a listing that is preceded by a double asterisk (\*\*) in the Table shall not be treated as imported taxable products until October 1, 1990.

(B) Products included in a listing that is preceded by a triple asterisk (\*\*\*) in the Table shall not be treated as imported taxable products until January 1, 1992.

(3) *Identification of products*—(i) *In general.* Each listing in the Table identifies a product by name and includes only products that are described by that name. Most listings (other than listings for mixtures) identify a product by both name and HTS heading. In such cases, a product is included in that listing only if the product is described by that name and the rate of duty on the product is determined by reference to that HTS heading. However, the product is included in that listing even if it is manufactured with or contains a different ODC than the ODC specified in the Table.

(ii) *Electronic items not listed by specific name*—(A) *In general.* Part II of the Table contains listings for electronic items that are not included within any other listing in the Table. An imported product is included in these listings only if such imported product—

(1) Is an electronic component listed in chapters 84, 85, or 90 of the Harmonized Tariff Schedule; or

(2) Contains components described in paragraph (f)(3)(ii)(A)(1) of this section and more than 15 percent of the cost of the imported product is attributable to such components.

(B) *Electronic component.* For purposes of this paragraph (f)(3)(ii), an electronic component is a component

whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits. Such components do not include passive electrical devices such as resistors and capacitors.

(C) *Certain items not included.* Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic item are not themselves included in the listing for electronic items not otherwise listed in the Table.

(iii) *Examples.* The application of this paragraph (f)(3) may be illustrated by the following examples:

*Example 1.* The Table lists “electronic integrated circuits and microassemblies; HTS heading 8542.” A bipolar transistor under HTS heading 8542.11.00.05 is included in this listing because a bipolar transistor is a type of electronic integrated circuit and HTS heading 8542.11.00.05 is included within HTS heading 8542.

*Example 2.* The Table lists “radios; HTS heading 8527.19,” “radio combinations; HTS heading 8527.11” and “radio combinations; HTS heading 8527.31.” A radio classified under HTS heading 8527.19 is not included within either listing for radio combinations. However, a radio classified under HTS heading 8527.19.00.20 is included within the listing for radios; HTS heading 8527.19. A radio combination classified under HTS heading 8527.11.20 is included within the listing for radio combinations; HTS heading 8527.11 but not the listing for radio combinations; HTS heading 8527.31. Any radio or radio combination not classified under the HTS heading for any other listing is included in the listing for electronic items not otherwise listed.

(4) *Rules for listing products.* Products are listed in the Table in accordance with the following rules:

(i) *Listing in part I.* A product is listed in part I of the Table if it is a mixture containing ODCs. In addition, a product other than a mixture containing

ODCs will be listed in part I of a revised Table if the Commissioner has determined that—

(A) The ODC weight of the product is not *de minimis* when the product is produced using the predominant method of manufacturing the product; and

(B) None of the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

(ii) *Listing in part II.* A product is listed in part II of the Table if the Commissioner has determined that the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

(iii) *Listing in part III.* A product is listed in part III of the Table if the Commissioner has determined that the product is not an imported taxable product and the product would otherwise be included within a listing in part II of the Table. For example, floppy disk drive units are listed in part III because they are not imported taxable products and they would, but for their listing in part III, be included within the part II listing for electronic items not specifically identified.

(5) *Table ODC weight.* The Table ODC weight of a product is the weight, determined by the Commissioner, of the ODCs that are used as materials in the manufacture of the product under the predominant method of manufacturing. The Table ODC weight is given in pounds per single unit of product unless otherwise specified.

(6) *Table.* The Table is set forth below:

IMPORTED PRODUCTS TABLE

Product name	Harmonized tariff schedule heading	ODC	ODC weight
--------------	------------------------------------	-----	------------

Part I—Products that are mixtures containing ODCs:

Mixtures containing ODCs, including but not limited to:

- anti-static sprays .....
- automotive products such as “carburetor cleaner,” “stop leak,” and “oil charge” .....
- cleaning solvents .....

IMPORTED PRODUCTS TABLE—Continued

Product name	Harmonized tariff schedule heading	ODC	ODC weight
—contact cleaners .....			
—degreasers .....			
—dusting sprays .....			
—electronic circuit board coolants .....			
—electronic solvents .....			
—ethylene oxide/CFC-12 .....			
—fire extinguisher preparations and charges .....			
—flux removers for electronics .....			
—insect and wasp sprays .....			
—mixtures of ODCs .....			
—propellants .....			
—refrigerants .....			

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Part II—Products in which ODCs are used for purposes of refrigeration or air conditioning, creating an aerosol or form or manufacturing electronic components:			
Rigid foam insulation defined in § 52.4682-1(d)(3).			
Foams made with ODCs, other than foams defined in § 52.4682-1(d)(3).			
Scrap flexible foams made with ODCs .....			
Medical products containing ODCs:			
Surgical staplers .....			
Cryogenic medical instruments .....			
Drug delivery systems .....			
Inhalants .....			
Dehumidifiers, household .....	8415.82.00.50	CFC-12 .....	0.344
Chillers:	8415.82.00.65		
Charged with CFC-12 .....		CFC-12 .....	1600.
Charged with CFC-114 .....		CFC-114 .....	1250.
Charged with R-500 .....		CFC-12 .....	1920.
Refrigerator-freezers, household:			
Not > 184 liters .....	8418.10.00.10	CFC-11 .....	11.08
.....		CFC-12 .....	0.13
> 184 liters but not > 269 liters .....	8418.10.00.20	CFC-11 .....	11.32
.....		CFC-12 .....	0.26
> 269 liters but not > 382 liters .....	8418.10.00.30	CFC-11 .....	11.54
.....		CFC-12 .....	0.35
> 382 liters .....	8418.10.00.40	CFC-11 .....	11.87
.....		CFC-12 .....	0.35
Refrigerators, household:			
Not > 184 liters .....	8418.21.00.10	CFC-11 .....	11.08
.....		CFC-12 .....	0.13
> 184 liters but not > 269 liters .....	8418.21.00.20	CFC-11 .....	11.32
.....		CFC-12 .....	0.26
> 269 liters but not > 382 liters .....	8418.21.00.30	CFC-11 .....	11.54
.....		CFC-12 .....	0.35
> 382 liters .....	8418.21.00.90	CFC-11 .....	11.87
.....		CFC-12 .....	0.35
Freezers, household .....	8418.30	CFC-11 .....	12.0
.....		CFC-12 .....	0.4
Freezers, household .....	8418.40	CFC-11 .....	12.0
.....		CFC-12 .....	0.4
Refrigerating display counters not > 227 kg .....	8418.50	CFC-11 .....	150.0
.....		CFC-12 .....	260.0
Icemaking machines .....	8418.69		
Charged with CFC-12 .....		CFC-12 .....	1.4

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Charged with R-502 .....	.....	CFC-115 .....	3.39
Drinking water coolers .....	8418.69 .....	.....	.....
Charged with CFC-12 .....	.....	CFC-12 .....	0.21
Charged with R-500 .....	.....	CFC-12 .....	0.22
Centrifugal chillers, hermetic .....	8418.69 .....	.....	.....
Charged with CFC-12 .....	.....	CFC-12 .....	1600.
Charged with CFC-114 .....	.....	CFC-114 .....	1250.
Charged with R-500 .....	.....	CFC-12 .....	1920.
Reciprocating chillers .....	8418.69 .....	.....	.....
Charged with CFC-12 .....	.....	CFC-12 .....	200.
Mobile refrigeration systems .....	8418.99 .....	.....	.....
Containers .....	.....	CFC-12 .....	15.
Trucks .....	.....	CFC-12 .....	11.
Trailers .....	.....	CFC-12 .....	20.
Refrigeration condensing units:			
not > 746W .....	8418.99.00.05 .....	CFC-12 .....	0.3
> 746W but not > 2.2KW .....	8418.99.00.10 .....	CFC-12 .....	1.0
> 2.2KW but not > 7.5KW .....	8418.99.00.15 .....	CFC-12 .....	3.0
> 7.5KW but not > 22.3KW .....	8418.99.00.20 .....	CFC-12 .....	8.5
> 22.3 KW .....	8418.99.00.25 .....	CFC-12 .....	17.0
Fire extinguishers, charged w/ODCs .....	8424 .....	.....	.....
Electronic typewriters and word processors .....	8469 .....	CFC-113 .....	0.2049
Electronic calculators .....	8470.10 .....	CFC-113 .....	0.0035
Electronic calculators w/printing device .....	8470.21 .....	CFC-113 .....	0.0057
Electronic calculators .....	8470.29 .....	CFC-113 .....	0.0035
Account machines .....	8470.40 .....	CFC-113 .....	0.1913
Cash registers .....	8470.50 .....	CFC-113 .....	0.1913
Digital automatic data processing machines w/ cathode ray tube, not included in subheading 8471.20.00.90.	8471.20 .....	CFC-113 .....	0.3663
Laptops, notebooks, and pocket computers .....	8471.20.00.90 .....	CFC-113 .....	0.03567
Digital processing units w/entry value:			
Not > \$100K .....	8471.91 .....	CFC-113 .....	0.4980
> \$100K .....	8471.91 .....	CFC-113 .....	27.6667
Combined input/output units (terminals) .....	8471.92 .....	CFC-113 .....	0.3600
Keyboards .....	8471.92 .....	CFC-113 .....	0.0742
Display units .....	8471.92 .....	CFC-113 .....	0.0386
Printer units .....	8471.92 .....	CFC-113 .....	0.1558
Input or output units .....	8471.92 .....	CFC-113 .....	0.1370
Hard magnetic disk drive units not included in subheading 8471.93.10 for a disk of a diam- eter:			
Not > 9 cm (3½ inches) .....	8471.93 .....	CFC-113 .....	0.2829
> 9 cm (3½ inches) but not > 21 cm (8¼ inches).	8471.93 .....	CFC-113 .....	1.1671
Nonmagnetic storage units w/ entry value > \$1,000.	8471.93 .....	CFC-113 .....	2.7758
Magnetic disk drive units for a disk of a diameter over 21 cm (8¼ inches).	8471.93.10 .....	CFC-113 .....	4.0067
Power supplies .....	8471.99.30 .....	CFC-113 .....	0.0655
Electronic office machines .....	8472 .....	CFC-113 .....	0.001
Populated cards for digital processing units in subheading 8471.91 w/value:			
Not > \$100K .....	8473.30 .....	CFC-113 .....	0.1408
> \$100K .....	8473.30 .....	CFC-113 .....	4.82
Automatic goods-vending machines with refrig- erating device.	8476.11 .....	CFC-12 .....	0.45
Microwave ovens with electronic controls, with capacity of.	8516.50 .....	.....	.....
0.99 cu. ft. or less .....	.....	CFC-113 .....	0.0300
1.0 through 1.3 cu. ft .....	.....	CFC-113 .....	0.0441
1.31 cu. ft. or greater .....	.....	CFC-113 .....	0.0485

Internal Revenue Service, Treasury

§ 52.4682-3

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Microwave oven combinations with electronic controls.	8516.60.40.60	CFC-113 .....	0.0595
Telephone sets w/entry value:			
Not > \$11.00 .....	8517.10	CFC-113 .....	0.0225
> \$11.00 .....	8517.10	CFC-113 .....	0.1
Teleprinters and teletypewriters .....	8517.20	CFC-113 .....	0.1
Switching equipment not included in subheading 8517.30.20.	8517.30	CFC-113 .....	0.1267
Private branch exchange switching equipment ....	8517.30.20	CFC-113 .....	0.0753
Modems .....	8517.40	CFC-113 .....	0.0225
Intercoms .....	8517.81	CFC-113 .....	0.0225
Facsimile machines .....	8517.82	CFC-113 .....	0.0225
Loudspeakers, microphones, headphones, and electric sound amplifier sets, not included in subheading 8518.30.10.	8518	CFC-113 .....	0.0022
Telephone handsets .....	8518.30.10	CFC-113 .....	0.042
Turntables, record players, cassette players, and other sound reproducing apparatus.	8519	CFC-113 .....	0.0022
Magnetic tape recorders and other sound recording apparatus, not included in subheading 8520.20.	8520	CFC-113 .....	0.0022
Telephone answering machines .....	8520.20	CFC-113 .....	0.1
Color video recording/reproducing apparatus .....	8521.10.00.20	CFC-113 .....	0.0586
Videodisc players .....	8521.90	CFC-113 .....	0.0106
Cordless handset telephones .....	8525.20.50	CFC-113 .....	0.1
Cellular communication equipment .....	8525.20.60	CFC-113 .....	0.4446
TV cameras .....	8525.30	CFC-113 .....	1.423
Camcorders .....	8525.30	CFC-113 .....	0.0586
Radio combinations .....	8527.11	CFC-113 .....	0.0022
Radios .....	8527.19	CFC-113 .....	0.0014
Motor Vehicle radios with or w/o tape player .....	8527.21	CFC-113 .....	0.0021
Radio combinations .....	8527.31	CFC-113 .....	0.0022
Radios .....	8527.32	CFC-113 .....	0.0014
Tuners w/o speaker .....	8527.39.00.20	CFC-113 .....	0.0022
Television receivers .....	8528	CFC-113 .....	0.0386
VCRs .....	8528.10.40	CFC-113 .....	0.0586
Home satellite earth stations .....	8528.10.80.55	CFC-113 .....	0.0106
Electronic assemblies for HTS headings 8525, 8527, & 8528.	8529.90	CFC-113 .....	0.0816
Indicator panels incorporating liquid crystal devices or light emitting diodes.	8531.20	CFC-113 .....	0.0146
Printed circuits .....	8534	CFC-113 .....	0.001
Computerized numerical controls .....	8537.10.00.30	CFC-113 .....	0.1306
Diodes, crystals, transistors and other similar discrete semiconductor devices.	8541	CFC-113 .....	0.0001
Electronic integrated circuits and microassemblies.	8542	CFC-113 .....	0.0002
Signal generators .....	8543.20	CFC-113 .....	0.6518
Avionics .....	8543.90.40	CFC-113 .....	0.915
Signal generators subassemblies .....	8543.90.80	CFC-113 .....	0.1265
Insulated or refrigerated railway freight cars .....	8606	CFC-11 .....	1100.
Passenger automobiles .....	8703	.....	.....
Foams (interior) .....	.....	CFC-11 .....	0.8
Foams (exterior) .....	.....	CFC-11 .....	0.7
With charged a/c .....	.....	CFC-12 .....	2.0
Without charged a/c .....	.....	CFC-12 .....	0.2
Electronics .....	.....	CFC-113 .....	0.5
Light trucks .....	8704	.....	.....
Foams (interior) .....	.....	CFC-11 .....	0.6
Foams (exterior) .....	.....	CFC-11 .....	0.1
With charged a/c .....	.....	CFC-12 .....	2.0
Without charged a/c .....	.....	CFC-12 .....	0.2
Electronics .....	.....	CFC-113 .....	0.4

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Heavy trucks and tractors, GVW 33,001 lbs or more: <sup>2</sup>	8704	.....	
Foams (interior) .....	.....	CFC-11 .....	0.6
Foams (exterior) .....	.....	CFC-11 .....	0.1
With charged a/c .....	.....	CFC-12 .....	3.0
Without charged a/c .....	.....	CFC-12 .....	0.2
Electronics .....	.....	CFC-113 .....	0.4
Motorcycles with seat foamed with ODCs .....	8711	CFC-11 .....	0.04
Bicycles with seat foamed with ODCs .....	8712	CFC-11 .....	0.04
Seats foamed with ODCs .....	8714.95	CFC-11 .....	0.04
Aircraft .....	8802	CFC-12 .....	0.25 lb/1000 lbs Operating Empty Weight (OEW).
.....	.....	CFC-113 .....	30.0 lbs./1000 lbs.OEW
Optical fibers .....	9001	CFC-12 .....	0.005 lb/thou- sand feet.
Electronic cameras .....	9006	CFC-113 .....	0.01
Photocopiers .....	9009	CFC-113 .....	0.0426
Avionics .....	9014.20	CFC-113 .....	0.915
Electronic drafting machines .....	9017	CFC-113 .....	0.12
Complete patient monitoring systems .....	9018.19.80	CFC-12 .....	0.94
.....	.....	CFC-113 .....	3.4163
Complete patient monitoring systems; sub- assemblies thereof.	9018.19.80.60	CFC-113 .....	1.9320
Physical or chemical analysis instruments .....	9027	CFC-12 .....	0.0003
.....	.....	CFC-113 .....	0.0271
Oscilloscopes .....	9030	CFC-11 .....	0.49
.....	.....	CFC-12 .....	0.5943
.....	.....	CFC-113 .....	0.2613
Foam chairs .....	9401	CFC-11 .....	0.30
Foam sofas .....	9401	CFC-11 .....	0.75
Foam mattresses .....	9404.21	CFC-11 .....	1.60
Electronic games and electronic components thereof.	9504	CFC-113 .....	
Electronic items not otherwise listed in the Table:			
Included in HTS chapters 84, 85, 90 .....		CFC-113 .....	0.0004 pound/ \$1.00 of entry value.
Not included in HTS chapters 84, 85, 90 <sup>3</sup> .....		CFC-113 .....	0.0004 pound/ \$1.00 of entry value.
PART III—Products that are not Imported Taxable Prod- ucts:			
Room air conditioners .....	8415.10.00.60	.....	
Dishwashers .....	8422.11	.....	
Clothes washers .....	8450.11	.....	
Clothes dryers .....	8451.21	.....	
Floppy disk drive units .....	8471.93	.....	
Transformers and inductors .....	8504	.....	
Toasters .....	8516.72	.....	
Unrecorded media .....	8523	.....	
Recorded media .....	8524	.....	
Capacitors .....	8532	.....	
Resistors .....	8533	.....	
Switching apparatus .....	8536	.....	
Cathode tubes .....	8540	.....	

<sup>1</sup> See paragraph (e)(3)(ii)(C) of this section. Denotes an ODC used in the manufacture of rigid foam insulation.

<sup>2</sup> See paragraph (f)(2)(ii)(A) of this section. Denotes product for which the effective date is October 1, 1990.

<sup>3</sup> See paragraph (f)(2)(ii)(B) of this section. Denotes products for which the effective date is January 1, 1992.

(g) *Requests for modification of Table—*  
 (1) *In general.* Any manufacturer or importer of a product may request that the Secretary modify the Table in any of the following respects:

(i) Adding a product to the Table and specifying its Table ODC weight.

(ii) Removing a product from the Table.

(iii) Changing or specifying the Table ODC weight of a product.

(2) *Form of request.* The Secretary will consider a request for modification that includes the following:

(i) The name, address, taxpayer identifying number, and principal place of business of the requester.

(ii) For each product with respect to which a modification is requested:

(A) The name of the product;

(B) The HTS heading or subheading;

(C) The type of modification requested;

(D) The Table ODC weight that should be specified for the product if the request relates to adding a product or changing or specifying its Table ODC weight; and

(E) The data supporting the request.

(3) *Address.* The address for submission of requests under this paragraph (g) is: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (Imported Products Table), room 5228, Washington, DC 20044.

(4) *Public inspection and copying.* Requests submitted under this paragraph (g) will be available in the Internal Revenue Service Freedom of Information Reading Room for public inspection and copying.

[T.D. 8370, 56 FR 56311, Nov. 4, 1991, as amended by T.D. 8370, 58 FR 14518, Mar. 18, 1993]

#### § 52.4682-4 Floor stocks tax.

(a) *Overview.* This section provides rules for identifying ozone-depleting chemicals (ODCs) that are subject to the floor stocks tax imposed by section 4682(h)(1), determining the person that is liable for the tax, and computing the amount of the tax. See § 52.4681-1(a)(3) and (c) for general rules and definitions relating to the floor stocks tax.

(b) *Identifying rules—*(1) *ODCs subject to floor stocks tax; ODCs held for sale or for use in further manufacture—*(i) *In general.* The floor stocks tax is imposed

only on an ODC that is held for sale or for use in further manufacture on the date the tax is imposed. This paragraph (b)(1) provides rules for identifying ODCs held for sale or for use in further manufacture.

(ii) *Held for sale—*(A) *In general.* For purposes of determining whether an ODC is held for sale, the term *sale* shall have the meaning set forth in § 52.4681-1(c)(6). ODCs held for sale include ODCs that will be sold in connection with the provision of services or in connection with the sale of a manufactured article and, in such cases, include ODCs that will be sold without the statement of a separate charge for those ODCs.

(B) *ODCs held by a government.* An ODC that is held by a government for its own use is not held for sale even if the ODC will be transferred between agencies or other subdivisions that have or are required to have different employer identification numbers.

(iii) *Held for use in further manufacture.* Except as otherwise provided in paragraph (b)(2)(v) of this section, an ODC is held for use in further manufacture if—

(A) The ODC will be used as a material (within the meaning of paragraph (b)(1)(iv) of this section) in the manufacture of an article; and

(B) Such article will be held for sale.

(iv) *Use as material—*(A) *In general.* Except as provided in paragraph (b)(1)(iv)(B) of this section, an ODC will be used as a material in the manufacture of an article if the ODC will be—

(1) Incorporated into the article; or

(2) Released into the atmosphere in the process of manufacturing the article.

(B) *ODCs used in equipment.* For purposes of the floor stocks tax, an ODC is not used as a material in the manufacture of an article if the ODC is (or will be) contained in equipment used in such manufacture and the ODC will be used for its intended purpose without being released from such equipment. Thus, ODCs that are (or will be) used as coolants in a factory's air-conditioning system are not used as materials in the manufacture of articles produced in the factory.

(v) *Storage containers.* The floor stocks tax is imposed on an ODC without regard to the type or size of the

storage container in which the ODC is held. Thus, the tax may apply to an ODC whether it is in a 14-ounce can or a 30-pound tank.

(vi) *Examples.* The provisions of this paragraph (b)(1) may be illustrated by the following examples:

*Example 1.* A, a manufacturer of air conditioners, holds an ODC for use in air conditioners that it will manufacture and sell. A holds the ODC for use in further manufacture.

*Example 2.* B, a manufacturer of electronic components, holds an ODC for use as a solvent to clean printed circuits that it will sell to computer manufacturers. B holds the ODC for use in further manufacture.

*Example 3.* C, an automobile dealer, holds an ODC for use in charging air conditioners installed in automobiles that it sells to retail customers. C does not hold the ODC for use in further manufacture. C does, however, hold the ODC for sale, even if the customers are not separately charged for ODCs used in the automobile air conditioners.

*Example 4.* D operates an air-conditioning repair service and holds an ODC for use in repairing air conditioners for its customers. D holds the ODC for sale even if the customers are not separately charged for ODCs used in the repairs.

*Example 5.* E, a grocery-store chain, holds an ODC for use in its refrigeration units. E does not hold the ODC for sale or for use in further manufacture.

*Example 6.* F, a bank, holds an ODC for use in its fire extinguishers to protect the computer system. F does not hold the ODC for sale or for use in further manufacture.

*Example 7.* G, a government agency, holds an ODC for use in the refrigeration equipment of its various units. The units have separate employer identification numbers. The ODC is stored in a central warehouse until needed by a unit and then transferred to the unit upon request. G does not hold the ODC for sale or for use in further manufacture.

(2)(i) *Mixtures—(A) Tax imposed on January 1, 1990.* In the case of the floor stocks tax imposed on January 1, 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients.

(B) *Taxes imposed after 1990—(1) In general.* In the case of the floor stocks tax imposed on January 1 of a calendar year after 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients, but only if it is established that such ingredients contribute to the accomplishment of the purpose for which the mixture will be

used. A mixture is not exempt from tax under this paragraph (b)(2)(i)(B), however, if it contains only an ODC and an inert ingredient that does not contribute to the accomplishment of the purpose for which the mixture will be used.

(2) *Exception.* In the case of a floor stocks tax imposed on or after January 1, 1992, a mixture is not exempt from floor stocks tax under this paragraph (b)(2)(i)(B) if it contains only ODCs and one or more stabilizers. For this purpose, the term *stabilizer* means an ingredient needed to maintain the chemical integrity of the ODC.

(C) *Examples.* The provisions of this paragraph (b)(2)(i) may be illustrated by the following examples:

*Example 1.* The floor stocks tax is not imposed on the ODCs contained in refrigerants such as R-500 and R-502 because such products are mixtures of ODCs and other chemicals that contribute to the accomplishment of the purpose for which the mixture will be used.

*Example 2.* The floor stocks tax is not imposed on the ODCs contained in automotive products used for checking for leaks because such products are a mixture of ODCs and small amounts of dyes and oils that contribute to the accomplishment of the purpose for which the mixture will be used.

*Example 3.* The floor stocks tax is not imposed on Halon 1301 pressurized with nitrogen. Although nitrogen is an inert ingredient, it contributes to the accomplishment of the purpose for which the mixture will be used.

*Example 4.* On January 1, 1993, the floor stocks tax is imposed on methyl chloroform that is stabilized to prevent hydrolyzation or chemical reaction during transportation or use, unless the stabilized methyl chloroform has also been mixed with other ingredients that contribute to the accomplishment of the purpose for which the mixture will be used.

(ii) *Manufactured articles.* The floor stocks tax is not imposed on an ODC that is contained in a manufactured article in which the ODC will be used for its intended purpose without being released from such article. For example, the tax is not imposed on the ODCs contained in the cooling coils of a refrigerator even if the refrigerator is held for sale. However, the tax is imposed on a can of ODC used to recharge an air conditioning unit because the ODC must be expelled from the can in

order to be used. Similarly, beginning in 1991, the tax is imposed on Halons contained in a fire extinguisher held for sale because such ODCs must be expelled from the fire extinguisher in order to be used.

(iii) *Recycled ODCs.* The floor stocks tax is not imposed on ODCs that have been reclaimed or recycled. For example, the tax is not imposed on an ODC that is held for use in further manufacture after being used as a solvent and recycled.

(iv) *ODCs held by the manufacturer or importer.* The floor stocks tax is not imposed on ODCs held by their manufacturer or importer.

(v) *ODCs used as a feedstock—(A) In general.* The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for use as a feedstock (as defined in § 52.4682-1(c)).

(B) *Post-1989 ODCs sold before January 1, 1990; post-1990 ODCs sold before January 1, 1991.* A post-1989 ODC that was sold by its manufacturer or importer before January 1, 1990, or a post-1990 ODC that was sold by its manufacturer or importer before January 1, 1991, shall be treated, for purposes of this paragraph (b)(2)(v), as an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(c) if the ODC will be used as a feedstock (within the meaning of § 52.4682-2(c)(3)).

(vi) *ODCs to be exported—(A) In general.* The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for export (as defined in § 52.4682-5(d)(1)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vi), as an ODC that was sold in a qualifying sale for export for purposes of § 52.4682-5(d)(1) if the ODC will be exported.

(vii) *ODCs used as propellants in metered-dose inhalers; years after 1992—(A) In general.* The floor stocks tax is not imposed on January 1 of calendar years after 1992 on any ODC that was sold in a qualifying sale for use as a propellant in a metered-dose inhaler (as defined in § 52.4682-1(h)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1,

1993, is treated, for purposes of this paragraph (b)(2)(vii), as an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(h) if the ODC will be used as a propellant in a metered-dose inhaler (within the meaning of § 52.4682-1(h)).

(viii) *ODCs used as medical sterilants; 1993.* The floor stocks tax is not imposed in 1993 on any ODC held for use as a medical sterilant (as defined in § 52.4682-1(g)).

(c) *Person liable for tax—(1) In general.* The person liable for the floor stocks tax on an ODC is the person that holds the ODC on a date on which the tax is imposed. The person who holds the ODC is the person who has title to the ODC (whether or not delivery to such person has been made) as of the first moment of such date. The person who has title at such time is determined under applicable local law.

(2) *Special rule.* Each business unit that has, or is required to have, its own employer identification number is treated as a separate person for purposes of the floor stocks tax. For example, a chain of automotive parts stores that has one employer identification number is one person for purposes of the floor stocks tax, and a parent corporation and subsidiary corporation that each have a different employer identification number are two persons for purposes of the floor stocks tax.

(d) *Computation of tax; tentative tax amount—(1) In general—(i) Generally applicable rules.* This paragraph (d) provides rules for determining the tentative tax amount and the amount of the floor stocks tax. Section 52.4681-1(a)(3) provides that the amount of the floor stocks tax on an ODC is determined by reference to a tentative tax amount. The tentative tax amount is the amount of tax that would be imposed on the ODC under section 4681(a)(1) if a sale of the ODC by the manufacturer or importer had occurred on the date the floor stocks tax is imposed. The amount of the floor stocks tax imposed on the ODCs contained in a nonexempt mixture is computed on the basis of the weight of the ODCs in that mixture.

(ii) *Floor stocks tax imposed on post-1989 ODCs on January 1, 1990.* The floor stocks tax imposed on post-1989 ODCs

(as defined in § 52.4681-1(c)(9)) on January 1, 1990, is equal to the tentative tax amount. See paragraph (d)(2) of this section for rules relating to the floor stocks tax imposed on ODCs used in the manufacture of rigid foam insulation. See paragraph (d)(3) of this section for rules relating to the floor stocks tax imposed on Halons.

(iii) *Floor stocks tax imposed on post-1990 ODCs on January 1, 1991.* The floor stocks tax imposed on post-1990 ODCs (as defined in § 52.4681-1(c)(9)) on January 1, 1991, is equal to the tentative tax amount.

(iv) *Other floor stocks taxes—(A) In general.* The following rules apply for floor stocks taxes imposed on post-1989 ODCs after January 1, 1990, and on post-1990 ODCs after January 1, 1991:

(1) The tentative tax amount is determined, except as provided in paragraph (d)(2), (3), or (4) of this section, by reference to the rate of tax prescribed in section 4681(b)(1)(B) and the ozone-depletion factors prescribed in section 4682(b).

(2) The amount of the floor stocks tax on an ODC is equal to the amount by which the tentative tax amount exceeds the amount of taxes previously imposed on the ODC.

(B) *Example.* The application of this paragraph (d)(1)(iv) may be illustrated by the following example:

*Example.* The floor stocks tax imposed on one pound of CFC-12 held for sale on January 1, 1992, is \$0.30 (the amount by which \$1.67, the tentative tax, exceeds \$1.37, the tax previously imposed on CFC-12).

(2) *ODCs used in the manufacture of rigid foam insulation; 1990, 1991, 1992, and 1993—(i) In general.* In the case of an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(d) (relating to use in the manufacture of rigid foam insulation) the tentative tax amount is determined under section 4682(g) for purposes of computing the floor stocks tax imposed on the ODC on January 1, 1990, 1991, 1992 or 1993. For purposes of computing the floor stocks tax imposed on the ODC on January 1, 1990, the tentative tax amount is zero. The floor stocks tax is not imposed on ODCs for use in the manufacture of rigid foam insulation in 1992 and 1993.

(ii) *Post-1989 ODCs sold before January 1, 1990; post-1990 ODCs sold before Janu-*

*ary 1, 1991.* A post-1989 ODC that was sold by its manufacturer or importer before January 1, 1990, or a post-1990 ODC that was sold by its manufacturer or importer before January 1, 1991, shall be treated, for purposes of paragraphs (d)(2) and (e) of this section, as an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(d) if the ODC will be used in the manufacture of rigid foam insulation (within the meaning of §§ 52.4682-1(d) (3) and (4)).

(3) *Halons; 1990, 1991, 1992, and 1993.* In the case of Halon-1211, Halon-1301, or Halon-2402 (Halons), the tentative tax amount is determined under section 4682(g) for purposes of computing the floor stocks tax imposed on Halons on January 1, 1990, 1991, 1992, or 1993. For purposes of computing the floor stocks tax imposed on Halons on January 1, 1990, the tentative tax amount is zero. The floor stocks tax is not imposed on Halons in 1992 and 1993.

(4) *Methyl chloroform; 1993.* In the case of methyl chloroform, the tentative tax amount is determined under section 4682(g)(5) for purposes of computing the floor stocks tax imposed on January 1, 1993.

(e) *De minimis exception—(1) 1990 and 1992.* In the case of the floor stocks tax imposed on January 1, 1990 or 1992, a person is liable for the tax only if, on the date the tax is imposed, the person holds at least 400 pounds of post-1989 ODCs that are not described in paragraph (d) (2) or (3) of this section and are otherwise subject to tax.

(2) *1991.* In the case of the floor stocks tax imposed on January 1, 1991, a person is liable for the tax only if, on such date, the person holds at least 400 pounds of ODCs subject to the 1991 floor stocks tax. For this purpose, ODCs subject to the 1991 floor stocks tax are—

(i) Post-1990 ODCs that are subject to tax; and

(ii) Post-1989 ODCs that are described in paragraph (d) (2) or (3) of this section and are otherwise subject to tax.

(3) *1993.* In the case of the floor stocks tax imposed on January 1, 1993, a person is liable for the tax only if, on such date, the person holds at least 400 pounds of ODCs that are not described in paragraph (d) (2) or (3) of this section and are otherwise subject to tax.

(4) *1994*. In the case of the floor stocks tax imposed on January 1, 1994, a person is liable for the tax only if, on such date, the person holds—

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(2) or (d)(3) of this section and are otherwise subject to tax;

(ii) At least 200 pounds of ODCs that are described in paragraph (d)(2) of this section and are otherwise subject to tax; or

(iii) At least 20 pounds of ODCs that are described in paragraph (d)(3) of this section and are otherwise subject to tax.

(5) *Calendar years after 1994*. In the case of the floor stocks tax imposed on January 1 of 1995 and each following calendar year, a person is liable for the tax only if, on such date, the person holds—

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(3) or (d)(4) of this section and are otherwise subject to tax;

(ii) At least 50 pounds of ODCs that are described in paragraph (d)(3) of this section and are otherwise subject to tax; or

(iii) At least 1000 pounds of ODCs that are described in paragraph (d)(4) of this section and are otherwise subject to tax.

(6) *Examples*. The rules of this paragraph (e) may be illustrated by the following examples:

*Example 1.* On January 1, 1990, A holds for sale 300 pounds of CFC-12 (a post-1989 ODC not described in paragraph (d)(2) or (d)(3) of this section) and 500 pounds of R-500 (a mixture). A does not hold at least 400 pounds of ODCs that are taken into account under paragraph (e)(1) of this section and, under paragraph (b)(2)(i) of this section, mixtures are not subject to the floor stocks tax. Thus, A is not liable for the floor stocks tax imposed on January 1, 1990.

*Example 2.* On January 1, 1990, B holds for sale 250 pounds of CFC-12 and 250 pounds of CFC-113 (post-1989 ODCs not described in paragraph (d) (2) or (3) of this section). B holds 500 pounds of ODCs that are taken into account under paragraph (e)(1) of this section. Thus, B is liable for the floor stocks tax imposed on January 1, 1990, because B holds at least 400 pounds of ODCs for sale.

*Example 3.* On January 1, 1990, C holds 200 pounds of post-1990 ODCs and 500 pounds of post-1989 ODCs for use in further manufacture. C will use 300 pounds of the post-1989 ODCs in the manufacture of rigid foam insu-

lation (as defined in § 52.4682-1(d) (3) and (4)). The remainder of the ODCs are not described in paragraph (d) (2) or (3) of this section. Under paragraph (e)(1) of this section, post-1990 ODCs and ODCs that will be used in the manufacture of rigid foam insulation are disregarded in determining whether the *de minimis* exception is applicable in 1990. Thus, C holds only 200 pounds of ODCs that are taken into account under paragraph (e)(1) of this section and is not liable for the floor stocks tax imposed on January 1, 1990.

*Example 4.* (a) The facts are the same as in *Example 3*, except that the ODCs are held on January 1, 1991. Under paragraph (e)(2) of this section, the 200 pounds of post-1990 ODCs and the 300 pounds of post-1989 ODCs that will be used in the manufacture of rigid foam insulation are taken into account in determining whether the *de minimis* exception is applicable in 1991. Under paragraph (b)(2) of this section, the remaining 200 pounds of post-1989 ODCs are not taken into account because the base tax amount applicable to post-1989 ODCs does not increase in 1991. Thus, C holds 500 pounds of ODCs that are taken into account under paragraph (e)(2) of this section and is liable for the floor stocks tax imposed on January 1, 1991.

(b) The amount of the floor stocks tax imposed on the 200 pounds of post-1990 ODCs and the 300 pounds of post-1989 ODCs that will be used in the manufacture of rigid foam insulation is equal to the tentative tax amount because those ODCs were not previously subject to tax.

*Example 5.* (a) On January 1, 1994, D holds for sale 300 pounds of CFC-113 (an ODC not described in paragraph (d)(2) or (d)(3) of this section) and 25 pounds of Halon-1301 (an ODC described in paragraph (d)(3) of this section). D is liable for the floor stocks tax imposed on January 1, 1994, because 25 pounds of Halon-1301 exceeds the *de minimis* amount specified in paragraph (e)(4)(iii) of this section. The 300 pounds of CFC-113 is less than the amount specified in paragraph (e)(4)(i) of this section. Nevertheless, tax is imposed on both the 25 pounds of Halon-1301 and the 300 pounds of CFC-113.

(b) The amount of the floor stocks tax is determined separately for the 300 pounds of CFC-113 and the 25 pounds of Halon-1301 and is equal to the difference between the tentative tax amount and the amount of tax previously imposed on those ODCs. For Halon-1301, for example, the tax is determined as follows. The tentative tax amount is \$1,087.50 (\$4.35 (the base tax amount in 1994)  $\times$  10 (the ozone-depletion factor for Halon-1301)  $\times$  25 (the number of pounds held)). The tax previously imposed on the Halon-1301 is \$6.28 (\$3.35 (the base tax amount in 1993)  $\times$  10 (the ozone-depletion factor for Halon-1301)  $\times$  0.75 percent (the applicable percentage determined under section 4682(g)(2)(A)))  $\times$  25 (the number of pounds

held)). Thus, the floor stocks tax imposed on the 25 pounds of Halon-1301 in 1994 is \$1,081.22, the difference between \$1,087.50 (the tentative tax amount) and \$6.28 (the tax previously imposed).

(f) *Inventory*—(1) *In general.* If, on the date on which the floor stocks tax is imposed, a person holds ODCs for sale or for use in further manufacture and the ODCs were not manufactured or imported by such person, the following rules apply:

(i) The person shall prepare an inventory of all such ODCs that the person holds on the date on which the tax is imposed.

(ii) The inventory shall be taken as of the first moment of the date on which the tax is imposed, but work-back or work-forward inventories will be acceptable if supported by adequate commercial records of receipt, use, and disposition of ODCs held for sale or for use in further manufacture.

(iii) The person must maintain records of the inventory and make such records available for inspection and copying by internal revenue agents and officers. Records of the inventory are not to be filed with the Internal Revenue Service.

(2) *Circumstances in which an inventory is not required.* The inventory requirement of paragraph (f)(1) of this section does not apply to any person holding, on a date on which floor stocks tax is imposed, only ODCs that are not subject to tax by reason of a statutory exemption (*e.g.*, use as a feedstock) or regulatory exclusion other than the *de minimis* exception provided by paragraph (e) of this section (*e.g.*, mixtures). In addition, any person that holds ODCs subject to the floor stocks tax and also holds ODCs that are nontaxable under the provisions of paragraph (b)(2) of this section, is not required to inventory the nontaxable ODCs. However, any person that holds any ODCs that either are subject to the floor stocks tax or would be subject to the floor stocks tax but for the *de minimis* exception must inventory those ODCs.

(3) *Examples.* The rules of this paragraph (f) may be illustrated by the following examples:

*Example 1.* On January 1, 1990, A holds for sale 300 pounds of CFC-12 (a post-1989 ODC

not described in paragraph (d)(2) or (d)(3) of this section) and 500 pounds of R-500 (a mixture). As required by paragraph (f)(1) of this section, A must prepare an inventory of the CFC-12 A holds for sale on that date even though, under paragraph (e)(1) of this section, the 300 pounds of CFC-12 is not taken into account because it is *de minimis*. However, as provided in paragraph (f)(2) of this section, A is not required to inventory the R-500 because, under paragraph (b)(2) of this section, mixtures are not subject to the floor stocks tax.

*Example 2.* On January 1, 1991, B holds for sale 1,000 pounds of CFC-12 (a post-1989 ODC not described in paragraph (d)(2) or (d)(3) of this section). As provided under paragraph (f)(2) of this section, B is not required to prepare an inventory because CFC-12 is not subject to the floor stocks tax in 1991.

(g) *Time for paying tax.* The floor stocks tax imposed under section 4682(h) shall be paid without assessment or notice. In the case of the floor stocks tax imposed on January 1, 1990, the tax shall be paid by April 1, 1990. In the case of floor stocks taxes imposed after January 1, 1990, the tax shall be paid by June 30 of the year in which the tax is imposed.

[T.D. 8370, 56 FR 56317, Nov. 4, 1991, as amended by T.D. 8622, 60 FR 52852, Oct. 11, 1995]

#### § 52.4682-5 Exports.

(a) *Overview.* This section provides rules relating to the tax imposed under section 4681 on ozone-depleting chemicals (ODCs) that are exported. In general, tax is not imposed on ODCs that a manufacturer or importer sells for export, or for resale by the purchaser to a second purchaser for export, if the procedural requirements set forth in paragraph (d) of this section are met. The tax benefit of this exemption is limited, however, to the manufacturer's or importer's exemption amount. Thus, if the tax that would otherwise be imposed under section 4681 on ODCs that a manufacturer or importer sells for export exceeds this exemption amount, a tax equal to the excess is imposed on the ODCs. The exemption amount, which is determined separately for post-1989 ODCs and post-1990 ODCs, is calculated for each calendar year in accordance with the rules of paragraph (c) of this section. This section also provides rules under which a

tax imposed under section 4681 on exported ODCs may be credited or refunded, subject to the same limit on tax benefits, if the procedural requirements set forth in paragraph (f) of this section are met. See § 52.4681-1(c) for definitions relating to the tax on ODCs.

(b) *Exemption or partial exemption from tax*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, no tax is imposed on an ODC if the manufacturer or importer of the ODC sells the ODC in a qualifying sale for export (within the meaning of paragraph (d)(1) of this section).

(2) *Tax imposed if exemption amount exceeded*—(i) *Post-1989 ODCs.* The tax imposed on post-1989 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1989 ODC exemption amount for the calendar year determined under paragraph (c)(1) of this section.

(ii) *Post-1990 ODCs.* The tax imposed on post-1990 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1990 ODC exemption amount for the calendar year determined under paragraph (c)(2) of this section.

(iii) *Allocation of tax*—(A) *Post-1989 ODCs.* The tax (if any) determined under paragraph (b)(2)(i) of this section may be allocated among the post-1989 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1989 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(B) *Post-1990 ODCs.* The tax (if any) determined under paragraph (b)(2)(ii) of this section may be allocated among the post-1990 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1990 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(c) *Exemption amount*—(1) *Post-1989 ODC exemption amount.* A manufacturer's or importer's post-1989 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1986 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1989 ODCs that the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency (40 CFR part 82).

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs imported by the person during the calendar year.

(2) *Post-1990 ODC exemption amount.* A manufacturer's or importer's post-1990 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1989 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1990 ODCs the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency.

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1990 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1990 ODCs imported by the person during the calendar year.

(3) *Definitions*—(i) *1986 export percentage*. See section 4682(d)(3)(B)(ii) for the meaning of the term *1986 export percentage*.

(ii) *1989 export percentage*. See section 4682(d)(3)(C) for the meaning of the term *1989 export percentage*.

(d) *Procedural requirements relating to tax-free sales for export*—(1) *Qualifying sales*—(i) *In general*. A sale of ODCs is a qualifying sale for export if—

(A) The seller is the manufacturer or importer of the ODCs and the purchaser is a purchaser for export or for resale to a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—

(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii) of this section from the purchaser; and

(2) Relies on the certificate in good faith.

(ii) *Qualifying resale*. A sale of ODCs is a qualifying resale for export if—

(A) The seller acquired the ODCs in a qualifying sale for export and the purchaser is a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—

(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii)(A) of this section from the purchaser of the ODCs; and

(2) Relies on the certificate in good faith.

(iii) *Special rule relating to sales made before July 1, 1993*. If a sale for export made before July 1, 1993, satisfies all the requirements of paragraph (d)(1)(i) or (ii) of this section other than those relating to registration, the sale will be treated as a qualifying sale (or resale) for export. Thus, a sale made before July 1, 1993, may be a qualifying sale (or resale) even if the parties to the sale are not registered and the required certificate does not contain statements regarding registration.

(iv) *Registration*. Application for registration is made on Form 637 (or any other form designated for the same use by the Commissioner) according to the

instructions applicable to the form. A person is registered only if the district director has issued that person a letter of registration and it has not been revoked or suspended. The effective date of the registration must be no earlier than the date on which the district director signs the letter of registration. Each business unit that has, or is required to have, a separate employer identification number is treated as a separate person.

(2) *Good faith reliance*. The requirements of paragraph (d)(1) of this section are not satisfied with respect to a sale of ODCs and the sale is not a qualifying sale (or resale) if, at the time of the sale—

(i) The seller has reason to believe that the ODCs are not purchased for export; or

(ii) The Internal Revenue Service has notified the seller that the purchaser's registration has been revoked or suspended.

(3) *Certificate*—(i) *In general*. The certificate required under paragraph (d)(1) of this section consists of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser, in substantially the same form as model certificates provided in paragraph (d)(3)(ii) of this section, and containing all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates—

(A) The date one year after the effective date of the certificate;

(B) The date the purchaser provides a new certificate to the seller; or

(C) The date the seller is notified by the Internal Revenue Service or the purchaser that the purchaser's registration has been revoked or suspended.

(ii) *Model certificates*—(A) *ODCs sold for export by the purchaser*. If the purchaser will export the ODCs, the certificate must be in substantially the following form:

**Internal Revenue Service, Treasury**

**§ 52.4682-5**

**CERTIFICATE OF PURCHASER OF CHEMICALS FOR EXPORT BY THE PURCHASER**

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
 Expiration Date \_\_\_\_\_  
 (not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number \_\_\_\_\_. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_

(Address of seller) \_\_\_\_\_

(Taxpayer identifying number of seller) \_\_\_\_\_ are purchased for export by Purchaser.

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-113 .....	_____
CFC-114 .....	_____
CFC-115 .....	_____
Halon-1211 .....	_____
Halon-1301 .....	_____
Halon-2402 .....	_____
Carbon tetrachloride .....	_____
Methyl chloroform .....	_____
Other (specify) .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
 \_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
 \_\_\_\_\_

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if

Purchaser does not export the ODCs to which this certificate applies.

Purchaser understands that any use of the ODCs to which this certificate applies other than for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the export of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_

Address of Purchaser \_\_\_\_\_

Taxpayer Identifying Number of Purchaser \_\_\_\_\_

Title of person signing \_\_\_\_\_

Printed or typed name of person signing \_\_\_\_\_

Signature \_\_\_\_\_

(B) ODCs sold by the purchaser for resale for export by the second purchaser. If the purchaser will resell the ODCs to a second purchaser for export by the second purchaser, the certificate must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS FOR RESALE FOR EXPORT BY THE SECOND PURCHASER**

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
 Expiration Date \_\_\_\_\_  
 (not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number \_\_\_\_\_. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

§ 52.4682-5

26 CFR Ch. I (4-1-03 Edition)

(Name of seller) \_\_\_\_\_

(Address of seller) \_\_\_\_\_

(Taxpayer identifying number of seller) \_\_\_\_\_

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are (1) registered with the Internal Revenue Service as purchasers of ozone-depleting chemicals for export and (2) purchasing the ozone-depleting chemicals for export.

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-113 .....	_____
CFC-114 .....	_____
CFC-115 .....	_____
Halon-1211 .....	_____
Halon-1301 .....	_____
Halon-2402 .....	_____
Carbon tetrachloride .....	_____
Methyl chloroform .....	_____
Other (specify) .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not resell the ODCs to which this certificate applies to a Second Purchaser for export or export those ODCs.

Purchaser understands that any use of the ODCs to which this certificate applies other than for resale to Second Purchasers for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the sales to Second Purchasers for export covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended. In addition, the Internal Revenue Service has not notified Purchaser of the revocation or suspension of the registration of any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
 Name of Purchaser

\_\_\_\_\_  
 Address of Purchaser

\_\_\_\_\_  
 Taxpayer Identifying Number of Purchaser

\_\_\_\_\_  
 Title of person signing

\_\_\_\_\_  
 Printed or typed name of person signing

\_\_\_\_\_  
 Signature

(4) *Documentation of export*—(i) *After December 31, 1992.* After December 31, 1992, to document the exportation of any ODCs, a person must have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

(ii) *Before January 1, 1993.* Before January 1, 1993, to document the exportation of any ODCs, a person must have evidence substantially similar to that required by the Environmental Protection Agency as proof that the ODCs were exported.

(e) *Purchaser liable for tax*—(1) *Purchaser in qualifying sale.* The purchaser of ODCs in a qualifying sale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or §52.4682-1) when it sells or uses the ODCs if that purchaser does not—

(i) Export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section; or

(ii) Sell the ODCs in a qualifying resale for export.

(2) *Purchaser in qualifying resale.* The purchaser of ODCs in a qualifying resale for export is treated as the manufacturer of the ODC and is liable for

any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682-1) when it sells or uses the ODCs if that purchaser does not export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section.

(f) *Credit or refund*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, a manufacturer or importer that meets the conditions of paragraph (f)(3) of this section is allowed a credit or refund (without interest) of the tax it paid to the government under section 4681 on ODCs that are exported. Persons other than manufacturers and importers of ODCs cannot file claims for credit or refund of tax imposed under section 4681 on ODCs that are exported.

(2) *Limitation.* The amount of credits or refunds of tax under this paragraph (f) is limited—

(i) In the case of tax paid on post-1989 ODCs sold during a calendar year, to the amount (if any) by which the post-1989 exemption amount for the year exceeds the tax benefit provided to such post-1989 ODCs under paragraph (b) of this section; and

(ii) In the case of tax paid on post-1990 ODCs sold during a calendar year, to the amount (if any) by which the post-1990 exemption amount for the year exceeds the tax benefit provided to such post-1990 ODCs under paragraph (b) of this section.

(3) *Conditions to allowance of credit or refund.* The conditions of this paragraph (f)(3) are met if the manufacturer or importer—

(i) Documents the exportation of the ODCs in accordance with paragraph (d)(4) of this section; and

(ii) Establishes that it has—

(A) Repaid or agreed to repay the amount of the tax to the person that exported the ODC; or

(B) Obtained the written consent of the exporter to the allowance of the credit or the making of the refund.

(4) *Procedural rules.* See section 6402 and the regulations under that section for procedural rules relating to filing a claim for credit or refund of tax.

(g) *Examples.* The following examples illustrate the provisions of this section. In each example, the sales are

qualifying sales for export (within the meaning of paragraph (d)(1) of this section), all registration, certification, and documentation requirements of this section are met, and the ODCs sold for export are exported:

*Example 1.* (i) *Facts.* D, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, D manufactures 100,000 pounds of CFC-11, the maximum quantity D is allowed to manufacture in 1993 under EPA regulations. D has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. D's 1986 export percentage for post-1989 ODCs is 50%. In 1993, D sells 80,000 pounds of CFC-11 in qualifying sales for export. The remainder of D's production is not exported.

(ii) *Components of limit on tax benefit.* Under paragraph (c)(1) of this section, D's exemption amount for 1993 is equal to the sum of—

(A) D's 1986 export percentage multiplied by the aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on the maximum quantity of post-1989 ODCs D is permitted to manufacture during 1993;

(B) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs that D manufactures during 1993 under an additional production allowance; and

(C) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs imported by D during 1993.

(iii) *Limit on tax benefit.* The amounts described in paragraphs (ii)(B) and (C) of this *Example 1* are equal to zero. Thus, D's 1993 exemption amount is \$167,500 (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)).

(iv) *Application of limit on tax benefit.* Under paragraph (b)(2) of this section, the tax imposed on the CFC-11 D sells for export is equal to the excess of the tax that would have been imposed on those ODCs but for section 4682(d) and § 52.4682-5, over D's 1993 exemption amount. But for § 52.4682-5, \$268,000 ( $\$3.35 \times 80,000$ ) of tax would have been imposed on the CFC-11 sold for export. Thus, \$100,500 ( $\$268,000 - \$167,500$ ) of tax is imposed on the CFC-11 sold for export.

*Example 2.* (i) *Facts.* E, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, E manufactures 100,000 pounds of CFC-11, the maximum quantity E is allowed to manufacture in 1993 under EPA regulations. E has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. E's 1986 export percentage for post-1989 ODCs is 50%. In 1993, E sells 45,000 pounds of CFC-11 tax free in

qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of E's production is not exported.

(ii) *Limit on tax benefit.* E's 1993 exemption amount is \$167,500, (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)). The credit or refund allowed to E under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which E's 1993 exemption amount exceeds E's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because E sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, E's 1993 tax benefit under paragraph (b) of this section is \$150,750 ( $\$3.35 \times 45,000$ ). Thus, the credit or refund allowed to E under paragraph (f) of this section is limited to \$16,750 ( $\$167,500 - \$150,750$ ).

*Example 3.* (i) *Facts.* F, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture any other ODCs. F also imports CFC-11. In 1993, F manufactures 60,000 pounds of CFC-11 (100,000 pounds is the maximum quantity F is allowed to manufacture in 1993 under EPA regulations) and imports 40,000 pounds. F has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. F's 1986 export percentage for post-1989 ODCs is 50%. In 1993, F sells 45,000 pounds of CFC-11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of F's production is not exported.

(ii) *Limit on tax benefit.* F's 1993 exemption amount is \$301,500, ( $\$167,500$  (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993) plus \$134,000 (the tax that would otherwise be imposed on the 40,000 pounds imported)). The credit or refund allowed to F under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which F's 1993 exemption amount exceeds F's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because F sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, F's 1993 tax benefit under paragraph (b) of this section is \$150,750 ( $\$3.35 \times 45,000$ ). Thus, the credit or refund allowed to F under paragraph (f) of this section is limited to \$150,750 ( $\$301,500 - \$150,750$ ). The limitation does not affect F's credit or refund because the tax F paid on exported ODCs is only \$117,250 ( $\$3.35 \times 35,000$ ).

(h) *Effective date.* This section is effective January 1, 1993.

[T.D. 8622, 60 FR 52853, Oct. 11, 1995]

## PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

### Subpart A—Taxes on Investment Income

Sec.

53.4940-1 Excise tax on net investment income.

### Subpart B—Taxes on Self-Dealing

53.4941(a)-1 Imposition of initial taxes.  
 53.4941(b)-1 Imposition of additional taxes.  
 53.4941(c)-1 Special rules.  
 53.4941(d)-1 Definition of self-dealing.  
 53.4941(d)-2 Specific acts of self-dealing.  
 53.4941(d)-3 Exceptions to self-dealing.  
 53.4941(d)-4 Transitional rules.  
 53.4941(e)-1 Definitions.  
 53.4941(f)-1 Effective dates.

### Subpart C—Taxes on Failure To Distribute Income

53.4942(a)-1 Taxes for failure to distribute income.  
 53.4942(a)-2 Computation of undistributed income.  
 53.4942(a)-3 Qualifying distributions defined.  
 53.4942(b)-1 Operating foundations.  
 53.4942(b)-2 Alternative tests.  
 53.4942(b)-3 Determination of compliance with operating foundation tests.

### Subpart D—Taxes on Excess Business Holdings

53.4943-1 General rule; purpose.  
 53.4943-2 Imposition of tax on excess business holdings of private foundations.  
 53.4943-3 Determination of excess business holdings.  
 53.4943-4 Present holdings.  
 53.4943-5 Present holdings acquired by trust or a will.  
 53.4943-6 Five-year period to dispose of gifts, bequests, etc.  
 53.4943-7 Special rules for readjustments involving grandfathered holdings.  
 53.4943-8 Business holdings; constructive ownership.  
 53.4943-9 Business holdings; certain periods.  
 53.4943-10 Business enterprise; definition.  
 53.4943-11 Effective date.

### Subpart E—Taxes on Investments Which Jeopardize Charitable Purpose

53.4944-1 Initial taxes.  
 53.4944-2 Additional taxes.  
 53.4944-3 Exception for program-related investments.  
 53.4944-4 Special rules.  
 53.4944-5 Definitions.