

§ 48.4041-20

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(f) *Effective date.* Section 4041(b)(2) applies to sales or uses after March 31, 1983, and before October 1, 1988.

[T.D. 8152, 52 FR 31617, Aug. 21, 1987]

§ 48.4041-20 Partially exempt methanol and ethanol fuel.

(a) *In general.* Under section 4041(m), the sale or use of partially exempt methanol or ethanol fuel is taxed at the rate of 4½ cents per gallon of fuel sold or used. The amount of tax is based upon the total volume of fuel and not merely upon the nonalcohol portion of the fuel.

(b) *Partially exempt methanol or ethanol fuel defined.* For purposes of section 4041(m) and this section, partially exempt methanol or ethanol fuel is liquid motor fuel, 85% of which by volume consists of alcohol, as defined in section 4081 and § 48.4081-2(a)(4) of the regulations, as modified by the following sentence. For purposes of section 4041(m) and this section, the alcohol contained in partially exempt methanol or ethanol fuel must be produced from natural gas. The actual gallonage of each component of the mixture (without adjustment for temperature) shall be used in determining whether the 85 percent alcohol requirement has been met. Further, in determining whether a particular mixture containing less than 85 percent alcohol satisfies this percentage requirement, the District Director shall take into account the existence of any facts and circumstances that establish that but for the commercial and operational realities of the blending process, it may reasonably be concluded that the mixture would have contained at least 85 percent alcohol. The necessary facts and circumstances will not be found to exist if over a period of time the mixtures blended by a blender show a consistent pattern of failing to contain 85 percent alcohol. See paragraph (f) of this section for rules relating to information required to be attached to the taxpayer's return of the tax imposed by chapter 31 relating to the alcohol content of the partially exempt methanol or ethanol fuel for which tax is paid.

(c) *Mixtures which do not qualify as partially exempt methanol or ethanol fuel.* If methanol or ethanol fuel does not qualify as partially exempt methanol

or ethanol fuel under this section, the entire mixture is taxed at the rate of tax applicable under section 4041(a)(2) of the Code.

(d) *Refunds relating to fuels.* See section 6427 for rules which relate to the allowance of a refund or credit to a person who uses tax-paid diesel, special motor or noncommercial aviation fuel to produce a partially exempt methanol or ethanol fuel and section 6416 for rules which relate to the allowance of a refund or credit to a person who uses tax-paid gasoline to produce a partially exempt methanol or ethanol fuel.

(e) *Later blending.* If a partially exempt methanol or ethanol fuel is blended with other motor fuel in a mixture less than 85 percent of which consists of alcohol, the subsequent sale or use of such blended motor fuel is taxable under the provisions of section 4041(a) or section 4081(a), subject to the requirements, limitations and exemptions of those sections.

(f) *Records required to be furnished by the taxpayer.* A taxpayer making a return of the tax imposed by chapter 31 indicating payment of the tax under section 4041(m) and § 48.4041-20 at the reduced rate must attach a statement to the return indicating the total number of gallons of partially exempt methanol or ethanol fuel containing at least 85 percent alcohol and the total number of gallons of partially exempt methanol or ethanol fuel containing less than 85 percent alcohol, but qualifying for taxation at the reduced rate under the rules of paragraph (b) of this section. However, the taxpayer does not have to specify the precise mixture ratio of every mixture blended for which tax is being paid.

(g) *Effective date.* Section 4041(m) applies to sales and uses after July 31, 1984. If methanol or ethanol fuel meeting the requirements of paragraph (b) of this section was put into the tank of a vehicle prior to August 1, 1984, the fuel is considered used prior to that date and is subject to the tax described in paragraph (a) of section 4041.

[T.D. 8152, 52 FR 31617, Aug. 21, 1987]

§ 48.4041-21 Compressed natural gas (CNG).

(a) *Delivery of CNG into the fuel supply tank of a motor vehicle or motorboat—(1)*

Imposition of tax. Tax is imposed on the delivery of compressed natural gas (CNG) into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat unless tax was previously imposed on the CNG under paragraph (b) of this section.

(2) *Liability for tax.* If the delivery of the CNG is in connection with a sale, the seller of the CNG is liable for the tax imposed under paragraph (a)(1) of this section. If the delivery of the CNG is not in connection with a sale, the operator of the motor vehicle or motorboat, as the case may be, is liable for the tax imposed under paragraph (a)(1) of this section.

(b) *Bulk sales of CNG—(1) In general.* Tax is imposed on the sale of CNG that is not in connection with the delivery of the CNG into the fuel supply tank of the propulsion engine of a motor vehicle or motorboat if, by the time of the sale—

(i) The buyer has given the seller a written statement stating that the entire quantity of the CNG covered by the statement is for use by the buyer for a taxable use as a fuel in a motor vehicle or motorboat; and

(ii) The seller has given the buyer a written acknowledgement of receipt of the statement described in paragraph (b)(1)(i) of this section.

(2) *Liability for tax.* The seller of the CNG is liable for the tax imposed under this paragraph (b).

(c) *Exemptions—(1) In general.* The taxes imposed under this section do not apply to a delivery or sale of CNG for a use described in section 4041(a)(3)(B), (b)(1), (f), (g), or (h). However, if the person otherwise liable for tax under this section is the seller of the CNG, the exemption under this section applies only if, by the time of sale, the seller receives an unexpired certificate (as described in this paragraph (c)) from the buyer and has no reason to believe any information in the certificate is false.

(2) *Certificate; in general.* The certificate to be provided by a buyer of CNG is to consist of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, should be in substantially the same form as the model certificate provided in paragraph (c)(4) of this sec-

tion, and should contain all information necessary to complete the 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:

(i) The date one year after the effective date of the certificate (which may be no earlier than the date it is signed).

(ii) The date a new certificate is provided to the seller.

(iii) The date the seller is notified by the Internal Revenue Service or the buyer that the buyer's right to provide a certificate has been withdrawn.

(3) *Withdrawal of the right to provide a certificate.* The Internal Revenue Service may withdraw the right of a buyer of CNG to provide a certificate under this paragraph (c) if the buyer uses CNG to which a certificate applies in a taxable use. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(4) *Model certificate.*

CERTIFICATE OF PERSON BUYING COMPRESSED NATURAL GAS (CNG) FOR A NONTAXABLE USE

(To support tax-free sales of CNG under section 4041 of the Internal Revenue Code.)

Name, address, and employer identification number of seller

("Buyer") certifies the following under penalties of perjury:

The CNG to which this certificate relates will be used in a nontaxable use.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here _____ and enter:

1. Invoice or delivery ticket number _____

2. _____ (number of MCFs) _____

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date _____

2. Expiration date _____ (period not to exceed 1 year after the effective date)

3. Buyer account or order number _____

Buyer will not claim a credit or refund under section 6427 of the Internal Revenue Code for any CNG to which this certificate relates.

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Buyer will provide a new certificate to the seller if any information in this certificate changes.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer 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 Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells CNG tax free.

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

Printed or typed name of person signing

Title of person signing

Employer identification number

Address of Buyer

Signature and date signed

(d) *Rate of tax.* The rate of the tax imposed under this section is the rate prescribed by section 4041(a)(3).

(e) *Effective date.* This section is effective October 1, 1995.

[T.D. 8609, 60 FR 40082, Aug. 7, 1995; 60 FR 50245, Sept. 28, 1995; T.D. 8659, 61 FR 10453, Mar. 14, 1996; T.D. 8879, 65 FR 17155, Mar. 31, 2000; T.D. 9051, 69 FR 15941, Apr. 2, 2003]

Subpart G—Fuel Used on Inland Waterways

SOURCE: T.D. 7536, 43 FR 13516, Mar. 31, 1978, unless otherwise noted.

§ 48.4042-1 Tax on fuel used in commercial waterway transportation.

(a) *In general.* Section 4042(a) imposes an excise tax on the use of liquid fuel in the propulsion system of commercial transportation vessels while traveling on certain inland and intra-coastal waterways (see § 48.4042-1 (f)). The tax applies generally to all types of vessels, including ships, barges, and tugboats. It is in addition to all other taxes imposed on the sale or use of fuel.

(b) *Amount of tax.* For the amount of tax, see section 4042(b).

(c) *Person liable for tax.* The person operating the vessel in which the propulsion fuel is consumed is the user of liquid fuel for purposes of section 4042(a). Thus, a person who operates (or whose employees operate) a vessel is responsible for filing returns and paying the tax. If a vessel owner (or lessee) contracts with an independent contractor to operate the vessel, the independent contractor is the user of liquid fuel for purposes of section 4042(a), regardless of who purchases the fuel.

(d) *Time of use.* Fuel is not taxed by section 4042(a) when put into a vessel's tanks. For purposes of section 4042(a), fuel is used when it is actually consumed by a vessel's engine.

(e) *Liquid fuel.* For purposes of the tax imposed under this section, liquid fuel means any liquid fuel including gasoline, diesel fuel, special motor fuel, or Bunker C residual fuel oil.

(f) *Commercial waterway transportation—(1) In general.* For purposes of section 4042(a) and § 48.4042-2(c)(1), the term "commercial waterway transportation" means the use of a vessel on the waterways specified in paragraphs (g) (1) through (27) of this section if:

(i) Use of the vessel is in the business of transporting property for compensation or hire, or

(ii) Use of the vessel is in transporting property in the business of the owner, lessee, or operator of the vessel (whether or not a fee is charged).

Except for the operation of certain fishing vessels, the operation of all vessels satisfying the requirements of paragraph (f)(1)(i) or (1)(ii) of this section will be deemed "commercial waterway transportation," regardless of whether the vessel is actually engaged in the transportation of property on a particular voyage. Thus, "commercial waterway transportation" includes the operation of vessels while moving empty of cargo, while awaiting passage through locks, while dislodging vessels grounded on a sandbar, while moving to or from a repair facility, while maneuvering around loading and unloading docks, and while fleeting barges into a single tow.

(2) *Fishing vessels exception.* A vessel does not transport property in the business of the owner, lessee, or operator, for purposes of paragraph (f)(1)(ii)