

gallons of alcohol mixture fuel taxed at the rate of 3 cents per gallon under section 4041(k) and later separates the fuel into 900 gallons of special motor fuel and 100 gallons of alcohol, the separation is treated as a sale of 900 gallons of special motor fuel, taxed at the rate of 9 cents per gallon under section 4041(a), and a sale of 100 gallons of alcohol, exempt from tax under section 4041(b)(2). The tax of \$81 on the deemed sale of special motor fuel is reduced by the tax of \$30 previously paid on the sale of the alcohol mixture fuel.

(d) *Exemption from tax for alcohol mixture fuels sold or used in an aircraft in noncommercial aviation*—(1) *In general.* No tax is imposed upon the sale or use of any liquid fuel described in section 4041 (a)(1) or (a)(2) which consists of at least 10% alcohol if such fuel is sold to or used by an owner, lessee or other operator of an aircraft as fuel in such aircraft in noncommercial aviation. See section 4041(c)(4) and the regulations thereunder for the definition of noncommercial aviation.

(2) *Failure to use alcohol mixture fuel in an aircraft in noncommercial aviation.* If fuel which is exempt from tax under paragraph (d)(1) of this section is not used as fuel in an aircraft in noncommercial aviation, any other use or sale of such fuel will be considered the use or sale of an alcohol mixture fuel subject to tax according to the rules of this section.

(e) *Refunds relating to diesel, special motor and noncommercial aviation 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 fuels to produce an alcohol mixture fuel.

(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(k) and § 48.4041-18 at the reduced rate must attach a statement to the return indicating the total number of gallons of alcohol mixture fuels containing at least 10 percent alcohol and the total number of gallons of alcohol mixture fuels containing less than 10 percent alcohol but more than 9.802 percent alcohol. However, the taxpayer does not have to specify the precise

mixture ratio for every mixture blended for which tax is being paid. For example, the taxpayer pays tax for 10,000 gallons of alcohol mixture fuels. Of these mixtures, 1,000 gallons contain 9.9 percent alcohol, 1,500 gallons contain 9.91 percent alcohol and 7,500 gallons contain 10 percent alcohol. The taxpayer seeks to have all of the mixtures described above qualify for taxation at the reduced rate under the rules of paragraph (b) of this section. The blender must attach a statement to the return of tax filed for these mixtures indicating that of the 10,000 gallons, 7,500 gallons contain at least 10 percent alcohol and 2,500 gallons contain less than 10 percent alcohol.

(g) *Alcohol mixture fuel within the tank of a vehicle*—(1) *Mixtures within the tank of a vehicle before April 1, 1983.* If an alcohol mixture fuel is put into the tank of a vehicle prior to April 1, 1983, the fuel is considered used prior to that date. Thus, such fuel will not be subject to the tax described in paragraph (a)(2) of this section and will be exempt from tax according to the provision of paragraph (a)(3) of this section.

(2) *Mixture within the tank of a vehicle before January 1, 1985.* If an alcohol mixture is put into the tank of a vehicle prior to January 1, 1985, the fuel is considered used prior to that date. Thus, such fuel is subject to the tax described in paragraph (a)(2) of this section.

[T.D. 8152, 52 FR 31616, Aug. 21, 1987]

§ 48.4041-19 Exemption for qualified methanol and ethanol fuel.

(a) *In general.* Under section 4041(b)(2), the tax imposed upon the sale or use of motor fuels under section 4041(a) does not apply to the sale or use of qualified methanol or ethanol fuel.

(b) *Qualified methanol or ethanol fuel defined.* For purposes of section 4041(b)(2) and this section, qualified methanol or ethanol fuel is liquid motor fuel, 85% of the volume of which consists of alcohol, as defined in section 4081(c) and § 48.4081-2(a)(4) of the regulations as modified by the following sentence. For purposes of section 4041(b)(2) and this section, the alcohol contained in a qualified methanol or ethanol fuel may be produced from coal. The actual gallonage of each

component of the mixture (without adjustment for temperature) shall be used in determining whether the 85 percent alcohol 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.

(c) *Mixtures which do not qualify as qualified methanol or ethanol fuel.* If a methanol or ethanol fuel does not qualify as qualified methanol or ethanol fuel under this section, the entire mixture is taxed at the rate of tax applicable to sales of special motor fuels under section 4041(a)(2) of the Code.

(d) *Refunds relating to fuels used to produce qualified 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 fuels to produce a qualified 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 qualified methanol or ethanol fuel.

(e) *Later blending.* If a qualified 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 alcohol mixture fuel is taxable under the provisions of section 4041 or section 4081 subject to the requirements, limitations and exemptions of those sections. Thus, if the alcohol mixture fuel is at least 10% alcohol by volume, sale or use of the fuel is taxed at the rates provided in section 4041(k) or section 4081(c), but if the fuel is less than 10% alcohol, sale or use of the fuel is taxed at the rates provided in section 4041(a) or section 4081(a).

(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