

§ 48.6416(b)(1)-4

26 CFR Ch. I (4-1-13 Edition)

manufacturer may make a redetermination, in respect of the calendar year in which the charge was made, of the price readjustments constituting an overpayment which the manufacturer may claim as a credit or refund. This redetermination may be made by excluding the local advertising charges made in the calendar year that became taxable as of May 1 of the following calendar year.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985]

§ 48.6416(b)(1)-4 Supporting evidence required in case of price readjustments.

No credit or refund of an overpayment arising by reason of a price readjustment described in § 48.6416(b)(1)-2 or § 48.6416(b)(1)-3 shall be allowed unless the manufacturer who paid the tax submits a statement, supported by sufficient available evidence—

(a) Describing the circumstances which gave rise to the price readjustment,

(b) Identifying the article in respect of which the price readjustment was allowed,

(c) Showing the price at which the article was sold, the amount of tax paid in respect of the article, and the date on which the tax was paid,

(d) Giving the name and address of the purchaser to whom the article was sold, and

(e) Showing the amount repaid to the purchaser or credited to the purchaser's account.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985]

§ 48.6416(b)(2)-1 Certain exportations, uses, sales, or resales causing overpayments of tax.

In the case of any payment of tax under section 4041 (a)(1) or (a)(2) (diesel fuel and special fuels tax) or under chapter 32 (manufacturers tax) that is determined to be an overpayment by reason of certain exportations, uses, sales, or resales described in section 6416(b)(2) and § 48.6416(b)(2)-2, the person who paid the tax may file a claim for refund of the overpayment or, in the case of overpayments under chapter 32, may claim credit for the overpayment on any return of tax under this subpart which the person subsequently files. However, under the cir-

cumstances described in section 6416(c) and § 48.6416(e)-1, the overpayments under chapter 32 may be refunded to an exporter or shipper. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund under this section, see § 301.6402-2 of this chapter (Regulations on Procedure and Administration) and §§ 48.6416(b)(2)-3 and 48.6416(b)(2)-4. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(d) and § 48.6416(f)-1.

[T.D. 8043, 50 FR 32026, Aug. 8, 1985, as amended by T.D. 8879, 65 FR 17160, Mar. 31, 2000]

§ 48.6416(b)(2)-2 Exportations, uses, sales, and resales included.

(a) *In general.* The tax paid under chapter 32 (or under section 4041(a) or (d) in respect of sales or under section 4051) with respect to any article is considered to be an overpayment in the case of any exportation, use, sale, or resale described in this section. This section applies only in those cases in which the exportation, use, sale, or resale (or any combination thereof) referred to in this section occurs before any other use. In addition, the following restrictions must be taken into account in applying the regulations under section 6416(b)(2):

(1) Sections 6416(b)(2)(C) and (D) do not apply to any tax paid under section 4064 (gas guzzler tax).

(2) Sections 6416(b)(2)(B), (C), and (D) do not apply to any tax paid under section 4131 (vaccine tax) and section 6416(b)(2)(A) applies only to the extent prescribed in paragraph (b)(2) of this section.

(3) Section 6416(b)(2) does not apply to any tax paid under section 4041(a)(1) or 4081 on diesel fuel or kerosene, section 4091 (aviation fuel tax), or section 4121 (coal tax).

(4) Beginning on January 1, 2013, sections 6416(b)(2)(B), (C), (D), and (E) do not apply to any tax paid under section 4191 (medical device tax).

(b) *Exportation of tax-paid articles*—(1) *In general.* Subject to the limitations of section 6416(b)(2) and paragraph (b)(2) of this section, tax paid under chapter 31 or 32 on the sale of any article will be considered to be an overpayment

under section 6416(b)(2)(A) if the article is exported by any person. Except in the case of articles subject to the tax imposed by section 4061(a), prior to April 1, 1983, it is immaterial for purposes of this paragraph (b), whether the person who made the taxable sale had knowledge at the time of the sale that the article or fuel was being purchased for export to a foreign country or shipment to a possession of the United States. See § 48.6416(e)-1 for the circumstances under which a claim for refund by reason of the exportation of an article may be claimed by the exporter or shipper, rather than by the person who paid the tax. For definition of the term “possession of the United States”, see § 48.0-2(a)(11).

(2) *Rule for exportation of vaccines.* Paragraph (b)(1) of this section applies to tax paid under section 4131 on the sale of a vaccine, but only if the sale by the manufacturer occurs after August 10, 1993, and, in the case of vaccine sold to the United States or any of its agencies or instrumentalities, the condition of § 48.4221-3(e)(2) is satisfied.

(c) *Supplies for vessels or aircraft.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (a)(2) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(B) if the article or fuel is used by any person, or is sold by any person for use by the purchaser, as supplies for vessels or aircraft.

The term “supplies for vessels or aircraft”, as used in this paragraph, has the same meaning as when used in sections 4041(g), 4221(a)(3), 4221(d)(3), and 4221(e)(1), and the regulations thereunder.

(d) *Use by State or local government.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (a)(2) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(C) if the article of fuel is sold by any person to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia. For provisions relating to tax-free sales to a State, any political subdivision thereof, or the District of Co-

lumbia, see section 4221(a)(4) and the regulations thereunder.

(e) *Use by nonprofit educational organization.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (a)(2) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(D) if the article or fuel is sold by any person to a nonprofit educational organization for its exclusive use. The term “nonprofit educational organization”, as used in this paragraph (e), has the same meaning as when used in section 4221 (a)(5) or (d)(5), whichever applies, and the regulations thereunder.

(f) *Tax-paid tires or inner tubes resold for use in further manufacture.* A payment of tax under section 4071 on the sale of a tire or, prior to January 1, 1984, on the sale of an inner tube will be considered to be an overpayment under section 6416(b)(2)(E) if—

(1) The tire or inner tube is, after the original sale of the article by the manufacturer, resold by any person to another manufacturer;

(2) The other manufacturer sells the tire or inner tube on or in connection with, or with the sale of, any other article manufactured or produced by the other manufacturer; and

(3) That other article is by any person either—

(i) Exported to a foreign country or to a possession of the United States,

(ii) Sold to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia,

(iii) Sold to a nonprofit educational organization for its exclusive use, or

(iv) Used or sold for use as supplies for vessels or aircraft.

The overpayment described in this paragraph (f) is to be distinguished from the overpayment described in section 6416(b)(3)(C) prior to amendment by the Highway Revenue Act of 1982 and section 6416(b)(3) as amended by the Highway Revenue Act of 1982, and § 48.6416(b)(3)-2 (d) in that the overpayment here described arises from a “re-sale” for the use described in this paragraph, while the section 6416(b)(3)(C) overpayment arises from the “use” of tires or inner tubes in the manufacture

of other articles by a subsequent manufacturer who purchases tax-paid tires or tubes and disposes of finished articles on the basis of one of the exemptions set forth in section 6416(B)(3)(C). A manufacturer claiming a credit or refund under this paragraph (f) must have substantially the same information available in support of the claim as is required under § 48.4221-7(c)(2) in support of exempt sales of tires or inner tubes under the provisions of section 4221(e)(2), except that none of the parties involved need be registered under section 4222.

[T.D. 8043, 50 FR 32027, Aug. 8, 1985, as amended by T.D. 8561, 59 FR 43045, Aug. 22, 1994; T.D. 8659, 61 FR 10463, Mar. 14, 1996; T.D. 8879, 65 FR 17160, Mar. 31, 2000; T.D. 9604, 77 FR 72938, Dec. 7, 2012]

§ 48.6416(b)(2)-3 Supporting evidence required in case of manufacturers tax involving exportations, uses, sales, or resales.

(a) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(2) and § 48.6416(b)(2)-2, of tax under chapter 32 shall be allowed unless the person who paid the tax submits with the claim the evidence required by paragraph (b)(2) of § 48.6416(a)-3 and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, sales, or resales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(2) and § 48.6416(b)(2)-1,

(2) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(3) Showing the amount of tax paid in respect of the article or articles and the dates of payment, and

(4) In the case of an overpayment determined under section 6416(b)(2)(A) and paragraph (b) of § 48.6416(b)(2)-2 in respect of an article which was taxable prior to April 1, 1983 under section 4061(a), indicating that, pursuant to section 6416(g), the person claiming a credit or refund possessed at the time that person shipped the article or at the time title to the article passed to the vendee, whichever is earlier, evidence that the article was to be ex-

ported to a foreign country or shipped to a possession of the United States, or

(5) In the case of any overpayment other than an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)-2, indicating that the person claiming a credit or refund possesses evidence (as set forth in paragraph (b)(1) of this section) that the article has been exported, or has been used, sold, or resold in a manner or for a purpose which gives rise to an overpayment within the meaning of section 6416(b)(2) and § 48.6416(b)(2)-2, or

(6) In the case of an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)-2, relating to a tax-paid tire or inner tube sold on or in connection with, or with the sale of, a second article that has been manufactured, indicating that the person claiming credit or refund possesses (i) evidence (as set forth in paragraph (b)(2) of this section) that the second article has been exported, or has been used or sold as provided in § 48.6416(b)(2)-2(f), and (ii) a statement, executed and signed by the ultimate purchaser of the tire or inner tube, that the ultimate purchaser purchased the tire or inner tube from a person other than the person who paid the tax on the sale of the tire or inner tube.

(b) *Evidence required to be in possession of claimant*—(1) *Evidence required under paragraph (a)(5)*—(i) *In general.* The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(5) of this section, must, in the case of an article exported, consist of proof of exportation in the form prescribed in the regulations under section 4221 or must, in the case of other articles sold tax-paid by that person, consist of a certificate, executed and signed by the ultimate purchaser of the article, in the form prescribed in paragraph (b)(1)(ii) of this section. However, if the article to which the claim relates has passed through a chain of sales from the person who paid the tax to the ultimate purchaser, the evidence required to be retained by the person who paid the tax may consist of a certificate, executed and signed by the ultimate vendor of the article, in the form provided in paragraph (b)(1)(iii) of this section, rather than the proof of