

highways is not to be taken into account in computing the payment for which a claim is filed, since such gasoline was used off the farm.

[T.D. 6433, 24 FR 10395, Dec. 22, 1959]

**§ 48.6421-0 Off-highway business use.**

For purposes of the regulations under section 6421, after March 31, 1983, the term "off-highway business use" is used in lieu of the term "qualified business use" and has the same meaning as "qualified business use" under § 48.6421-4(b).

[T.D. 8043, 50 FR 32039, Aug. 8, 1985]

**§ 48.6421-1 Credits or payments to ultimate purchaser of gasoline used for certain nonhighway purposes.**

(a) *In general.* (1) If gasoline is used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the gasoline shall be allowed or made to the ultimate purchaser of the gasoline. For gasoline used in a qualified business use prior to April 1, 1983, the credit or payment under this section shall be an amount equal to 1 cent for each gallon of gasoline so used on which the tax was paid at the rate of 3 cents a gallon, and 2 cents for each gallon of gasoline so used on which the tax was paid at the rate of 4 cents a gallon. For gasoline used in an off-highway business use after March 31, 1983, the credit or payment under this section shall be an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. For gasoline used as a fuel in an aircraft (other than aircraft in noncommercial aviation) the credit or payment under this section shall be an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on the gasoline under section 4081. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section

6401) arising from a credit allowed under paragraph (b) of this section. See section 34(a), relating to credit for certain uses of gasoline and special fuels (and lubricating oil used prior to January 7, 1983). See § 48.6421-3 for the time within which a claim for credit or payment must be made under this section. See § 48.6421-4 for the meaning of the terms "gasoline," "qualified business use," "noncommercial aviation," and "taxable year."

(2) For purposes of determining the allowable credit or payment in respect of gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), gasoline on hand shall be considered used in the order in which it was purchased. Thus, if the ultimate purchaser has on hand gasoline acquired in two purchases made at different times and subject to different rates of tax, in determining credit or payment for the gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), it will be assumed that the gasoline first purchased was the first gasoline used, and the rate applicable to that purchase will apply in determining the credit or payment, until all that gasoline is accounted for.

(b) *Allowance of income tax credit in lieu of payment.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4081 on gasoline used in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6421 with respect to gasoline used during the taxable year in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) if section 6421(i) and paragraph (c) of this section did not apply. See section 34(a)(2).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used in a qualified business use or as a fuel