

§ 40.6302(c)-4

26 CFR Ch. I (4-1-01 Edition)

(ii) For the period September 1, 1992, through December 31, 1992, X's separate account reflects the following amounts of tax:

Sept. 1st-15th	\$4,000
Sept. 16th-30th	4,000
Oct. 1st-15th	7,000
Oct. 16th-31st	7,000
Nov. 1st-15th	5,000
Nov. 16th-30th	5,000
Dec. 1st-15th	9,000
Dec. 16th-31st	9,000

(iii) During the period October 1992 through January 1993, X made the following deposits:

Date	Amount
Oct. 13th	\$4,000
Oct. 27th	4,000
Nov. 12th	7,000
Nov. 26th	7,000
Dec. 10th	5,000
Dec. 28th	5,000
Jan. 12th	9,000
Jan. 27th	9,000

(iv) X credited the October deposits (relating to tickets sold in September) to the third quarter of 1992 and reported the tax included in tickets sold in September as third quarter collections on the Form 720 for the third quarter. Following the same procedure, X credited the November, December, and January deposits (relating to the October, November, and December tickets sold) to the fourth quarter.

(b) *Transitional rule.* In order to use the alternative method beginning with the first calendar quarter of 1993, X must deposit and report the amount of tax that is considered as collected in the quarter rather than the amount of tax included in tickets sold during the quarter. Under paragraph (g)(2)(i) of this section, X's January deposits (relating to the tickets sold in December) will be credited to the first quarter of 1993. X must report on the Form 720 for the fourth quarter only the \$24,000 of tax included in the October and November tickets sold. The amount of tax included in the tickets sold in December must be reported on the Form 720 for the first quarter of 1993.

(h) *Effective date.* Except as otherwise provided, this section is effective January 1, 1993, for deposits of taxes that are considered as collected after December 31, 1992. (i.e., tax with respect to amounts billed or tickets sold after November 30, 1992), and for returns of tax for quarters beginning after September 30, 1992. The provisions that apply in the case of semimonthly deposits under the considered collected method before the effective date of this

section are contained in 26 CFR § 49.6302(c)-1(a)(1) (revised as of April 1, 1992).

[T.D. 8442, 57 FR 48177, Oct. 22, 1992, as amended by T.D. 8685, 61 FR 58006, Nov. 12, 1996; 63 FR 15292, Mar. 31, 1998]

§ 40.6302(c)-4 Special rule for use of Government depositaries under section 4081.

(a) *Overview.* This section sets forth a special rule for deposits of taxes imposed by section 4081. The general rules, including the amount to deposit and safe harbors, are set forth in § 40.6302(c)-1 and apply unless inconsistent with the rules set forth below.

(b) *Time to deposit under the 14-day rule.* (1) In the case of taxes imposed by section 4081, a qualified person may make deposits of the tax for a semi-monthly period by the fourteenth day following the semimonthly period if the deposit is made by electronic funds transfer (the "14-day rule"). Thus, under the 14-day rule generally, the deposit of tax for the first semimonthly period in a month is due by the 29th day of that month and the deposit of tax for the second semimonthly period in a month is due by the 14th day of the following month.

(2) If the due date under paragraph (b)(1) of this section falls on a Saturday, Sunday, or legal holiday in the District of Columbia, the due date of the deposit is the immediately preceding day which is not a Saturday, Sunday, or legal holiday in the District of Columbia.

(c) *Qualified person defined*—(1) *In general.* The term "qualified person" means—

(i) Any independent refiner (within the meaning of section 4995(b)(4) (as in effect on January 6, 1983)); or

(ii) Any person whose average daily production of crude oil for the preceding calendar quarter did not exceed 1,000 barrels.

(2) *Related groups.* In determining whether a person's production exceeds 1,000 barrels per day, the rules of section 4992(e) (as in effect on January 6, 1983) relating to allocation within related groups shall apply. Thus, for persons who are members of the same related group (within the meaning of section 4992(e)(2)) at any time during the

preceding calendar quarter, the 1,000 barrel amount will be reduced for each such person by allocating that amount among all such persons in accordance with the rules of section 4992(e).

(d) *Special rules for September.* Deposits of 14-day rule taxes for the second semimonthly period in September must be made in the manner prescribed by § 40.6302(c)-1(e) applied with the following modifications:

(1) Each reference to 9-day rule taxes is treated, instead, as a reference to 14-day rule taxes.

(2) The deposit required for the period ending September 30th must be made at the time prescribed in paragraph (b) of this section (rather than at the time prescribed in § 40.6302(c)-1(b)(6)(i)).

(e) *Effective date and termination date.* This section is effective April 1, 1991, for deposits that relate to calendar quarters beginning after March 31, 1991. This section terminates on the date that section 518 of the Highway Revenue Act of 1982 terminates.

[T.D. 8442, 57 FR 48177, Oct. 22, 1992, as amended by T.D. 8685, 61 FR 58007, Nov. 12, 1996]

§ 40.9999-1 Examples.

The following examples illustrate the rules of this part 40.

Example 1. Luxury tax; one-time filing. (i) *Facts.* On March 20, 1991, A, an individual, purchases a new automobile outside the United States for \$102,000. In April of 1991, A imports the automobile into the U.S. and uses it for personal use. At the time of importation, the automobile's retail value is \$100,000. Thus, A is liable for the luxury tax imposed by section 4001. The amount of A's section 4001 tax liability is \$7,000, 10% of the amount by which the \$100,000 retail value exceeds \$30,000. The liability is incurred in the second calendar quarter of 1991, the quarter during which the automobile is imported and used. The fuel economy of the automobile's model type is at least 22.5 miles per gallon, so that A is not liable for the gas guzzler tax imposed by section 4064. A did not import the automobile in the course of its trade or business, does not engage in any activities with respect to which tax is reportable on Form 720 in the course of a trade or business, and was not required to file a Form 720 for the preceding calendar quarter.

(ii) *Filing requirement.* A must file a return of the luxury tax on Form 720 (§ 40.6011(a)-1(a)(1)) for the second calendar quarter of

1991 (§ 40.6011(a)-1(a)(2)) reporting A's \$7,000 luxury tax liability. The Form 720 is due by July 31, 1991, the last day of the first month following the calendar quarter (§ 40.6071(a)-1(a)(1)). A's Form 720 for the second calendar quarter of 1991 is a first return (§ 40.6011(a)-1(a)(2)(ii)). Because A did not import the automobile in the course of its trade or business and is not otherwise required to file a Form 720 for the calendar quarter on account of transactions in the course of a trade or business, the return is a one-time filing (§ 40.6011(a)-2(b)). As a one-time filing, A's Form 720 also constitutes a final return. Therefore, in accordance with the instructions for Form 720, A checks the box marked "Final Return."

(iii) *Payment requirement.* Because A's Form 720 is a one-time filing, A is not required to make deposits of tax (§ 40.6302(c)-1(f)(2)). Instead, A pays the \$7,000 of tax with the return.

Example 2. Luxury tax; deposit requirement; safe harbor based on current liability. (i) *Facts.* On March 16, 1993, B, an individual in the business of automobile dealing, sells in a first retail sale a new automobile subject to the luxury tax imposed by section 4001. The amount of B's section 4001 tax liability is \$12,000. The sale of the automobile is in the course of B's business, but B does not expect to sell any other automobiles subject to the luxury tax. B is not required to file a Form 720 for the first calendar quarter of 1993 by reason of any other activity, and has not in the past filed a Form 720.

(ii) *Filing requirement.* B must file a return of the luxury tax (§ 40.6011(a)-1(a)(1)) on Form 720 for the first calendar quarter of 1993 (§ 40.6011(a)-1(a)(2)) reporting B's \$12,000 luxury tax liability. The Form 720 is due by April 30, 1993, the last day of the first month following the calendar quarter (§ 40.6071(a)-1(a)(1)). Although B does not ordinarily engage in transactions giving rise to a luxury tax liability in B's business, the tax is due with respect to a transaction engaged in by B in the course of a trade or business. Thus, the return is not a one-time filing under § 40.6011(a)-2(b), and B must file a Form 720 for each subsequent calendar quarter until B files a final return in accordance with § 40.6011(a)-2 (§ 40.6011(a)-1(a)(2)). However, if B does not expect to incur liability for luxury tax in subsequent quarters (i.e., has permanently ceased all operations with respect to which liability for tax was incurred), B's Form 720 also constitutes a final return (§ 40.6011(a)-2(a)(1)), and B is not required to file a return reporting zero tax liability in subsequent quarters. If B's Form 720 is also a final return, B checks the box marked "Final Return" in accordance with the instructions for the return.

(iii) *Deposit requirement; in general.* Because the return is not a one-time filing, B is required to make a deposit of tax (§ 40.6302(c)-