

nonestablished lines) or 4282 (transportation of members of affiliated group).

[T.D. 8066, 51 FR 17, Jan. 2, 1986, as amended by T.D. 8609, 60 FR 40081, Aug. 7, 1995]

§ 48.4041-9 Exemption for farm use.

(a) *In general.* The tax imposed by section 4041 does not apply to diesel fuel or special motor fuel, or fuel used in noncommercial aviation, sold for use or used on a farm in the United States for farming purposes. The tax applies in the case of diesel fuel delivered into the fuel supply tank of a highway vehicle, or special motor fuel delivered into the fuel supply tank of a motor vehicle or motorboat, even if it is known that the liquid fuel is to be used on a farm for farming purposes. Credit or refund of the tax paid in such case may be claimed as provided by section 6427(c) upon proof that the taxable liquid was used on a farm for farming purposes. A tax-free sale of fuel delivered into the fuel supply tank of an aircraft in noncommercial aviation where such fuel is to be used on the farm for farming purposes may be made only if the requirements of § 48.4041-11 are met. The terms “used on a farm for farming purposes”, and related terms, have the same meaning for purposes of the exemption in section 4041(f) and the regulations in this section as these terms are defined in paragraphs (1), (2), and (3) of section 6420(c) and the regulations contained in § 48.6420-4.

(b) *Application of exemption.* The exemption referred to in paragraph (a) of this section does not apply with respect to diesel fuel or special motor fuel or fuel used in noncommercial aviation sold for use or used for non-farming purposes, or diesel fuel or special motor fuel or fuel used in noncommercial aviation sold for use or used off a farm, regardless of the nature of the use. Thus, if a vehicle, motorboat, or aircraft is used both on a farm and off the farm, or if it is used on a farm both for farming and non-farming purposes, the exemption applies only with respect to that portion of the diesel fuel or special motor fuel or fuel used in noncommercial aviation which is sold for use or used “on a farm for farming purposes”. For purposes of this exemption, it is immaterial

whether or not a vehicle is registered for highway use. However, the actual use of the vehicle and the place where it is used are material. For example, if a truck used on a farm for farming purposes is also used on the highways (even though in connection with operating the farm), tax applies to that diesel fuel or special motor fuel which is sold for use or used in operating the truck on the highways, since the fuel was used off the farm.

(c) *Termination of exemption.* The exemption referred to in paragraph (a) of this section shall not apply on and after October 1, 1988.

[T.D. 8066, 51 FR 18, Jan. 2, 1986]

§ 48.4041-10 Exemption for use as supplies for vessels or aircraft.

(a) *Application of exemption.* The tax imposed by section 4041 does not apply to any fuels which are sold for use or used as supplies for vessels or aircraft within the meaning of section 4221(a)(3) and (d)(3), and § 48.4221-4. In the case of a liquid sold for use as fuel in an aircraft, a tax-free sale may be made only if the requirements of § 48.4041-11 are met. For credit or refund of tax paid on fuels which have been sold or used as supplies for vessels or aircraft, see section 6416(b)(2)(B), section 6427, and paragraph (f) of this section.

(b) *Evidence required to establish exemption.* (1) In order to establish exemption from tax in the case of a sale of fuels for use as supplies for vessels or aircraft, it is necessary that the seller obtain from the owner, charterer, or authorized agent of the vessel or aircraft and retain in its possession a property executed exemption certificate in the form prescribed by paragraph (c) of this section. If fuel is sold tax free for use as supplies for civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered.

(2) If only occasional sales of fuels are made to a purchaser for use which is exempt from tax as provided in this section, a separate exemption certificate must be furnished for each order. However, if sales are regularly or frequently made to a purchaser for such

§ 48.4041-10

26 CFR Ch. I (4-1-02 Edition)

exempt use, a certificate covering all orders for a specified period not to exceed 12 calendar quarters is acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001. If a seller's records with respect to any sale claimed to be tax free do not include a proper certificate, with supporting invoices and such other evidence as may be necessary to establish the exempt character of the sale, tax is payable by the seller on the sale.

(c) *Acceptable form of exemption certificate.* The following form of exemption certificate, which must be adhered to in substance, is acceptable for the purposes of this section.

EXEMPTION CERTIFICATE

(For use by purchasers of fuels for use as supplies for certain vessels or aircraft (section 4041(g) of the Internal Revenue Code of 1954).)

(Date), 19—

The undersigned purchaser hereby certifies that he/she is the

(owner, charterer, or authorized agent of owner or charterer) of

(Name of company and vessel)

and that the fuel specified in the accompanying order, or as specified below or on the reverse side hereof, will be used only as fuel supplies for a vessel belonging to one of the following classes of vessels (including aircraft) to which section 4041(g) of the Internal Revenue Code applies: (Check class to which vessel belongs):

(1) Vessels (including aircraft) engaged in foreign trade.

(2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.

(3) Vessels (including aircraft) engaged in trade between the United States and any of its possessions.

(4) Vessels employed in the fisheries or whaling business.

(5) Vessels (including aircraft) of war of the United States or a foreign nation.

The undersigned understands that if the fuels are sold or used otherwise than as stated above and for a taxable purpose specified in section 4041 of the Internal Revenue Code, the undersigned will be liable for the tax upon such sale or use. It is also understood that this certificate may not be used in purchasing fuels, if such fuels are for use as fuels in pleasure vessels, or of any type of

aircraft except (1) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and otherwise entitled to exemption, and (2) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

The undersigned understands that the fraudulent use of this certificate to secure exemption will subject the undersigned and all others making fraudulent use to a penalty equivalent to the amount of tax due on the sale of the fuel and, upon conviction, to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that it must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

(Signature) _____

(Address) _____

Registration Number if fuel used as supplies for civil aircraft engaged in foreign trade or in trade between the United States and any of its possessions.

(d) *Exemption certificate not obtained prior to filing of seller's excise tax return.* If the exemption certificate is not obtained prior to the time the seller files a return covering taxes due for the period during which the sale was made, the seller must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed on Form 843, or a credit for the tax paid may be taken upon a subsequent return as provided by section 6416(b)(2)(B) and § 48.6416(b)-2(c).

(e) *Liability of purchaser.* The person who purchases fuels tax free as provided in this section is liable for the tax imposed by section 4041 if the person sells or uses such fuel in a sale or use that is not exempt under any provision of law applicable to the taxes imposed by section 4041.

(f) *Credit or refund.* (1) If diesel fuel or special motor fuel upon which the tax imposed by section 4041(a) (1) or (2), has been paid, is sold or used as supplies for vessels, a credit or refund of the tax is available under section 6416(b)(2)(B) to the retail dealer who paid the tax. As an alternative, a credit or refund of tax is available under section 6427 to the operator of the vessel who used the

fuel. Where the retail dealer claims refund of the tax, the dealer, in accordance with section 6416(a), must reimburse the operator of the vessel for the amount of tax or obtain the written consent of the operator to the filing of such claim.

(2) If aviation fuel upon which the tax imposed by section 4041(c) has been paid is sold or used as supplies for aircraft, credit or refund of the tax is available only as a payment under section 6427 to the operator of the aircraft who uses the fuel or to the person who resells the fuel for such use.

[T.D. 8066, 51 FR 18, Jan. 2, 1986]

§ 48.4041-11 Tax-free sales of fuel for use in noncommercial aviation only if sellers and certain purchasers are registered.

(a) *In general.* Any sale of liquid fuel for delivery into a fuel supply tank of an aircraft is presumed to be subject to tax under section 4041(c), unless both the seller and purchaser of the liquid fuel are registered as provided in paragraph (b) of this section or are within one of the exceptions provided in paragraph (c) of this section.

(b) *Form of registration.* Except as provided in paragraph (c) of this section (relating to exceptions for State and local governments, for fuel purchased from customs bonded warehouses or continuous customs custody, and for fuel purchased for use in certain aircraft of the United States or of any foreign nation), tax-free sales under section 4041(c) may be made only if both the seller and the purchaser have registered as required by section 4041(i) and this paragraph (b). If fuel is purchased tax paid for use in noncommercial aviation but is used for a non-taxable purpose, see section 6427(a) for provisions relating to refunds or credits of tax for tax-paid fuels not used for the purpose for which sold. Any person desiring to be registered in order to sell or purchase fuel free of the tax imposed by section 4041(c) must, before making any tax-free sale or purchase, file Form 637A, in duplicate. Form 637A must be filed with the District Director of Internal Revenue for the district in which the principal place of business of the applicant is located (or if the applicant has no principal place of business

in the United States, with the Director of International Operations, Internal Revenue Service, Washington, DC 20224). The person who receives a validated Certificate of Registry (Validated Form 637A) is considered to be registered for purposes of selling or purchasing fuel tax free as provided in this section.

(c) *Transactions excepted from registration.* (1) A State or local government purchasing fuel delivered into a fuel supply tank of an aircraft it operates for its exclusive use may, but is not required to, register as provided in this section.

(2) Any purchaser of aircraft fuel who purchases fuel from any customs bonded warehouse or from continuous customs custody elsewhere than in a bonded warehouse is not required to register to purchase aircraft fuel from these sources tax free.

(3) Any purchaser of fuel for use in an aircraft which is owned by the United States or any foreign country and constitutes a part of the armed forces thereof is not required to register to purchase aircraft fuel tax free.

(4) The exceptions from registration in paragraphs (c) (1), (2), and (3) of this section do not relieve purchasers from the requirement of furnishing an exemption certificate as required by paragraph (d) of this section.

(d) *Evidence of tax-free sale.* (1) To establish the right of a purchaser to purchase fuel delivered into the fuel supply tank of an aircraft tax free, the seller must obtain from the purchaser and retain in its possession a certificate, properly executed and signed by or on behalf of the purchaser, containing the following information:

- (i) Date of purchase,
- (ii) The purchaser's registration number (or the exception from registration which is relied upon), and
- (iii) A brief statement of the intended tax-free use of the fuel (for example, by an airline in the business of transporting persons or property for hire).

(2) The following form of certificate, which must be adhered to in substance, is acceptable for the purposes of this paragraph.

(Date) _____, 19 ____