

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 \_\_\_\_

**§ 48.4041-12**

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

The undersigned signifies that he/she, or the

\_\_\_\_\_  
(Name of purchaser if other than undersigned)  
of which the undersigned is

\_\_\_\_\_  
(Title)  
holds Certificate of Registry No. \_\_\_\_\_  
or has not registered because

\_\_\_\_\_  
(Brief statement of exception from registration relied upon)  
delivered into a supply tank of the subject aircraft may be purchased free of tax because the fuel will be used

\_\_\_\_\_  
(Brief statement of tax-free use)  
The undersigned understands that if the fuel is used otherwise than as stated above and for a purpose taxable under section 4041 of the Internal Revenue Code, the undersigned will be liable for the tax upon such use, and that the undersigned must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

The undersigned also 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.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

(3) Except as provided in paragraph (d)(4) of this section, a separate exemption certificate must be furnished for each sale of fuel delivered into a fuel supply tank of an aircraft. If a portion of the fuel is intended to be used for a nontaxable purpose, the entire amount of the fuel may be sold tax free. Exemption certificates and proper supporting records such as invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(4) If the purchaser of fuel to be used in an aircraft has reasonable grounds to believe that 90 percent or more of

the total of the fuel to be purchased by it during a specified period not to exceed 12 calendar quarters will be used in a tax-free use, it may furnish each of its suppliers an exemption certificate covering all purchases for the specified period. The certificate shall be substantially in the same form as the certificate in paragraph (d)(2) of this section, except that in place of the date the purchaser shall specify the period covered by the certificate, and the purchaser shall give a brief explanation of its grounds for belief that 90 percent or more of its total fuel will be used in a tax-free use.

(5) The presumption under section 4041(i) that any liquid delivered into a fuel supply tank of an aircraft is taxable places the duty on the seller of the liquid fuel to use reasonable diligence to satisfy itself that a tax-free sale of fuel to the purchaser is allowed by law. In the absence of circumstances surrounding a sale that would raise a question as to whether a tax-free sale is allowable, the requirement of reasonable diligence is satisfied if the seller receives and retains the required certificate evidencing the right of the purchaser to buy the fuel tax free. However, if the circumstances are such as to indicate the seller has failed to use reasonable diligence, it is not relieved of liability for the tax imposed by section 4041(c). In addition, if the seller fails to obtain and retain the evidence of tax-free sales as required by this paragraph (d), it is not relieved of liability for the tax imposed by section 4041(c).

[T.D. 8066, 51 FR 19, Jan. 2, 1986]

**§ 48.4041-12 Sales by United States, etc.**

The taxes imposed by section 4041 apply to the sale at retail of taxable liquid fuels by the United States or by any agency or instrumentality of the United States, unless by statute specifically exempted from these taxes. However, the exemptions from these taxes provided by section 4041 (f), (g), and (h) and the regulations thereunder contained in this subpart F are available to the extent therein provided.

[T.D. 8066, 51 FR 20, Jan. 2, 1986]