

as a fuel in a motor vehicle. Tax at the rates specified in that section applies regardless of whether the motor vehicle is a highway vehicle. However, a reduced rate of tax from that imposed by paragraphs (b)(2)(i)(A) of § 48.4041-1 is allowed by paragraph (b)(2)(i)(C) of § 48.4041-1 if special motor fuel is sold for use in a qualified business use. An exemption from the tax imposed by paragraph (b)(2)(ii)(A) of § 48.4041-1 is allowed by paragraph (b)(2)(ii)(C) of § 48.4041-1 if the special motor fuel is sold for use in an off-highway business use.

(3) *Special motor fuel sold for use as fuel in a motorboat.* Tax at the rates specified in paragraphs (b)(2)(i)(A) and (ii)(A) of § 48.4041-1 applies in the case of the sale of special motor fuel for use as fuel in a motorboat. The qualified business use reduced rate of tax set forth in paragraph (b)(2)(i)(C) of § 48.4041-1 and the off-highway business use exemption set forth in paragraph (b)(2)(ii)(C) of § 48.4041-1 are not applicable to motorboats unless the motorboat is a vessel employed in the fisheries or whaling business. See section 6421(d)(2)(B).

(d) *Example.* Application of the tax to the sale of special motor fuels may be illustrated by the following example.

Example. The N Company is engaged in the manufacture of ceramic products. It has a vehicle which is used to haul clay from a clay pit to its factory. This vehicle has not been registered for highway use and under the applicable State law is not required to be registered for highway use since none of the hauling of clay is done on public highways. The N Company also uses a ditch digging machine in the vicinity of the clay pit for the construction of drains. A fork lift truck is used to move cartons of merchandise from place to place inside the company's warehouse and to assist in the loading of merchandise onto the company's highway trucks for delivery to purchasers. The highway trucks are registered by the State for use on highways. Special motor fuel is used for the operation of all of these items of equipment. Before April 1, 1983, the special motor fuel sold for use as a fuel in the registered highway trucks is subject to tax at the rate specified in § 48.4041-1(b)(2)(i)(A). On or after January 1, 1979, and before April 1, 1983, the special motor fuel sold for use as a fuel in the unregistered truck used to haul clay from the pit to the factory and in the fork lift truck, assuming both of these are used in qualified business uses, is subject to tax at

the rate specified in § 48.4041-1(b)(2)(i)(C). If the unregistered truck and forklift are not used in qualified business uses, then the special motor fuel sold for use in these vehicles is taxable at the rate specified in § 48.4041-1(b)(2)(i)(A) since both are motor vehicles. No tax is payable with respect to the special motor fuel sold for use in the ditch digging machine since that machine is not a motor vehicle. On and after April 1, 1983, and before October 1, 1988, special motor fuel sold for use in the registered trucks is taxable at the rate specified in § 48.4041-1(b)(2)(ii)(A) because the trucks are motor vehicles. On and after April 1, 1983, and before October 1, 1988, special motor fuel sold for use in the unregistered truck and the fork lift, assuming that both vehicles are used in off-highway business uses, is exempt from tax as specified in § 48.4041-1(b)(2)(ii)(C). If the unregistered truck and fork lift are not used in off-highway business uses, then the special motor fuel sold for use in these vehicles is taxable at the rate specified in § 48.4041-1(b)(2)(ii)(A) since both are motor vehicles. No tax is payable with respect to the special motor fuel sold for use in the ditch digging machine since that machine is not a motor vehicle.

(e) *Cross reference.* (1) For the tax applicable in certain cases based on the use of special motor fuel as a fuel in a motor vehicle or motorboat, see § 48.4041-6.

(2) For the definition of the terms "highway", "motor vehicle", "special motor fuel", and "registered", see paragraphs (a), (c), (f), and (i) of § 48.4041-8. For the definition of the term "off-highway business use", see section 6421(d)(2).

(3) For the exemption from tax with respect to special motor fuel sold for use on a farm for farming purposes or as supplies for vessels, see §§ 48.4041-9 and 48.4041-10, respectively.

(4) For credit or refund of tax paid on special motor fuel resold or used otherwise than for the purpose for which purchased, see section 6427(a).

[T.D. 8066, 51 FR 14, Jan. 2, 1986]

§ 48.4041-4 Application of tax on sales of liquid for use as fuel in aircraft in noncommercial aviation.

(a) *In general.* The taxes imposed by subparagraphs (1)(A) and (2)(A) of section 4041(c) apply to the taxable sale of any liquid by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in the aircraft in non-commercial aviation.

(b) *Liability of tax.* The tax on the taxable sale of any liquid used as fuel in aircraft in noncommercial aviation is payable by the person who sells the liquid to the owner, lessee, or operator of an aircraft in noncommercial aviation.

(c) *Rate of tax.* Tax is imposed on the sale of liquids used as fuel in aircraft in noncommercial aviation at the rate applicable on the date on which the liquid is sold. See § 48.4041-1(b)(3) for rates.

(d) *Cross references.* (1) For the tax applicable on the basis of the use of fuel in an aircraft in noncommercial aviation, see § 48.4041-6.

(2) For the definition of the term “noncommercial aviation”, see paragraph (j) of § 48.4041-8.

(3) For the exemption of tax with respect to liquids used as fuel in aircraft in noncommercial aviation sold for use on a farm for farming purposes or as supplies for vessels or aircraft, see §§ 48.4041-9 and 48.4041-10, respectively. For tax-free sales if sellers and purchasers are registered, see § 48.4041-11.

(4) For credit or refund of tax paid on fuel used in noncommercial aviation that is resold or used otherwise than for the purpose for which purchased, see section 6427(a).

(e) *Effective date.* The provisions of this section shall apply to sales or uses occurring before October 1, 1980, and to sales or uses occurring on or after September 1, 1982, and ending before January 1, 1988.

[T.D. 8066, 51 FR 15, Jan. 2, 1986]

§ 48.4041-5 Sales of diesel and special motor fuels and fuel for use in aircraft; rules of general application.

(a) *Taxability of liquid fuel delivered into purchaser's tanks*—(1) *Fuel supply tanks.* (i) The sale of diesel fuel to an owner, lessee, or other operator of a diesel-powered highway vehicle, or of special motor fuel to an owner, lessee, or other operator of a motor vehicle or motorboat, or of fuel to an owner, lessee, or other operator of an aircraft used in noncommercial aviation is considered a taxable sale of the liquid fuel if the liquid fuel is delivered by the seller into the fuel supply tank of the vehicle, motorboat, or aircraft. For purpose of this paragraph (a), liquid fuel sold at a location unattended by

the seller (such as under a cardlock or meter system) on or after January 2, 1986, is considered to be delivered into the fuel supply tank by the seller except as provided in paragraph (a)(1)(ii) of this section. In this regard, see section 6427(a) for credit or refund of tax if liquid fuel acquired in a transaction subject to tax is used in a nontaxable use.

(ii) If the seller maintains special devices at the unattended location to account accurately for sales of liquid fuel for nontaxable uses (such as assigning a separate “nontaxable” meter or, in a cardlock system, issuing a special “nontaxable” card to a customer who regularly purchases fuel for nontaxable uses), then such sales of liquid fuel shall be considered nontaxable. The seller must maintain sufficient records of such nontaxable sales and include in these records the name of the purchaser, the date of the purchase, and the quantity of fuel purchased in each sale.

(2) *Bulk tanks.* The sale of diesel fuel to an owner, lessee, or other operator of a diesel-powered highway vehicle, or of special motor fuel to an owner, lessee, or other operator of a motor vehicle or motorboat, or of fuel to an owner, lessee, or other operator of an aircraft used in noncommercial aviation is considered a taxable sale of the liquid fuel if—

(i) The liquid fuel is delivered by the seller into a bulk supply tank (or other container) that is not the fuel supply tank of a vehicle, motorboat, or aircraft; and

(ii) The purchaser furnishes a written statement to the seller before or at the time of the sale stating that the entire quantity of the liquid fuel covered by the sale is for a taxable purpose as a fuel in such a vehicle, motorboat, or aircraft.

If the purchaser fails to provide the written statement required by paragraph (a)(2)(ii) of this section, the purchaser is liable for the tax on the later taxable sale or use. If a purchaser acquires both fuel that is to be used for taxable purposes and fuel that is to be used for nontaxable purposes, and the fuel that is to be used for taxable purposes is stored in a different storage tank (or container) from the tank used