

**§ 48.6416(a)-1**

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

**§ 48.6416(a)-1 Claims for credit or refund of overpayments of taxes on special fuels and manufacturers taxes.**

Any claims for credit or refund of an overpayment of a tax imposed by chapter 31 or chapter 32 shall be made in accordance with the applicable provisions of this subpart and the applicable provisions of § 301.6402-2 of this chapter (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering that amount as a credit on a return of tax under this subpart filed by the person making the claim. In this regard, see § 48.6416(f)-1.

[T.D. 8043, 50 FR 32022, Aug. 8, 1985]

**§ 48.6416(a)-2 Credit or refund of tax on special fuels.**

(a) *Overpayments not described in section 6416(b)(2)—(1) Claims included.* This paragraph applies only to claims for credit or refund of an overpayment of tax imposed by section 4041(a)(1)(A) (relating to tax on the sale of diesel fuel), section 4041(a)(2)(A) (relating to tax on the sale of special motor fuels), section 4041(c)(1)(A) (relating to tax on the sale of fuel for use in noncommercial aviation), or section 4041(c)(2)(A) (relating to the tax on sale of gasoline for use in noncommercial aviation). It does not apply, however, to a claim for credit or refund of any overpayment described in paragraph (b) of this section which arises by reason of the application of section 6416(b)(2).

(2) *Supporting evidence required.* No credit or refund of any overpayment to which this paragraph (a) applies shall be allowed unless the person who paid the tax submits with the claim a written consent of the ultimate purchaser to the allowance of the credit or refund, or submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person has neither included the tax in the price of the fuel with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid the amount of the tax to the ultimate purchaser of the fuel.

(3) *Ultimate purchaser.* The term “ultimate purchaser”, as used in paragraph (a)(2) of this section, means the vendee to whom the fuel was sold tax-paid by the person claiming credit or refund.

(b) *Overpayments determined under section 6416(b)(2)—(1) Claims included.* This paragraph applies only to claims for credit or refund of amounts paid as tax under section 4041(a)(1)(A) (relating to tax on the sale of diesel fuel) or section 4041(a)(2)(A) (relating to tax on the sale of special motor fuels) that are determined to be overpayments by reason of section 6416(b)(2) (relating to tax payments in respect of certain uses, sales, or resales of a taxable article).

(2) *Supporting evidence required.* No credit or refund of an overpayment to which this paragraph (b) applies shall be allowed unless the person who paid the tax submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person has neither included the tax in the price of the fuel with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid, or agreed to repay, the amount of the tax to the ultimate vendor of the fuel, or

(iii) The person has secured, and will submit upon request of the Service, the written consent of the ultimate vendor to the allowance of the credit or refund.

(3) *Ultimate vendor.* The term “ultimate vendor”, as used in paragraph (b)(2) of this section, means the seller making the sale which gives rise to the overpayment or which last precedes the exportation or use which gives rise to the overpayment.

(c) *Nonapplication to tax on use of special fuels.* This section shall not have any effect on overpayments of tax under section 4041(a)(1)(B) (relating to tax on the use of diesel fuel), section 4041(a)(2)(B) (relating to tax on the use of special motor fuels), section 4041(c)(1)(B) (relating to tax on the use