

calendar quarters ending June 30 and September 30, it may file a claim for payment in respect of the gasoline used during the calendar quarters ending June 30, and September 30, 1981, and take a credit of \$900 on its income tax return for the short taxable year in respect of the gasoline used during the calendar quarter ending March 31, 1982.

(ii) A claim for payment on behalf of a decedent may be filed by the decedent's executor, administrator, or any other person charged with responsibility for the decedent's affairs. Such a claim must be accompanied by copies of the letters testamentary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Person Claiming Refund Due a Deceased Taxpayer). The claim may cover only gasoline in respect of which the decedent would have been entitled to claim payment. For example, if an individual dies on July 15, 1982, prior to claiming payment under § 48.6421-1 or \$1,000 or more applicable to gasoline purchased and used in a qualified business use during the calendar quarter ending June 30, 1982, the decedent's executor or other legal representative may file a claim for payment covering that calendar quarter, and take the credit provided by section 39(a)(2) against the decedent's income tax on the income tax return for the short taxable year in respect of gasoline purchased by the decedent and so used during the period from July 1, 1982 to July 15, 1982, the date of death.

(e) *Restrictions on claims for credit or payment.* Credits or payments are allowable only in respect of gasoline that was sold by the producer or importer in a transaction that was subject to tax under section 4081. For example, a State or local government may not file a claim with respect to any gasoline which it purchased tax free from the producer, even though the State or local government used the gasoline as a fuel for the purposes described in paragraph (a) of this section. Similarly, a governmental unit or tax-exempt organization that is the ultimate purchaser of gasoline may not file a claim for payment if it is known that another person is entitled to claim

credit, payment, or refund with respect to the same gasoline. For example, a State or local government may not file a claim for payment if it has executed, or intends to execute, a written consent, or other documentation, to enable the producer to claim credit or refund for the tax that was paid. See, for example, §§ 48.6416(a)-3 and 48.6416(b)(2)-3(b)(1).

[T.D. 8043, 50 FR 32041, Aug. 8, 1985, as amended by T.D. 8659, 61 FR 10463, Mar. 14, 1996; T.D. 8748, 63 FR 26, Jan. 2, 1998]

**§ 48.6421-4 Meaning of terms.**

For purposes of the regulations under section 6421, unless otherwise expressly indicated—

(a) *Gasoline.* The term “gasoline” has the same meaning given to such term by section 4082(b) and regulations thereunder.

(b) *Qualified business use.* (1) The term “qualified business use” means any use by a person in a trade or business of the person or in an activity of the person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) That at the time of the use is registered, or is required to be registered, for highway use under the laws of any state, the District of Columbia, or a foreign country, or

(ii) That, in the case of a highway vehicles owned by the United States, is used on the highway.

The term “qualified business use” does not include any use in a motorboat, other than a vessel used in the fisheries or whaling business. See paragraph (c) of this section for the definition of “highway vehicle.” See paragraph (d) of this section for the definition of “highway.”

(2) Any highway vehicle operated under a dealer's tag, license, or permit will be considered to be registered. A highway vehicle is not considered to be “registered” solely because there has been issued a special permit for operation of the vehicle at particular times and under specified conditions. However, a highway vehicle that is required to be registered and that is also issued a special permit for operation of the vehicle under specified conditions, such as carrying an oversize load, is still considered to be “registered.”

(3) Nonbusiness, off-highway use of gasoline by such vehicles and equipment as minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment does not qualify as gasoline used a qualified business use.

(4) Examples of gasoline used in a qualified business use include:

(i) Gasoline used (in a trade or business or for the production of income) in stationary engines to operate pumps, generators, compressors, and power saws;

(ii) Gasoline used (in a trade or business or for the production of income) for cleaning purposes;

(iii) Gasoline used (in a trade or business or for the production of income) in forklift trucks, bulldozers, and earthmovers; and

(iv) Gasoline used by a nonhighway vehicle in connection with the trade or business of construction, mining or logging.

(5) *Illustration.* The application of this paragraph (b) may be illustrated by the following example:

*Example.* M Corporation, a logging company, files its income tax return on the basis of the calendar year. During 1982, the company used 20,000 gallons of gasoline in its logging business. Of this amount, 12,000 gallons were used as fuel in registered highway vehicles which were operated both on the public highways and on the company's private roads. Of the remaining 8,000 gallons, 6,000 were used in nonhighway vehicles, such as tractors and bulldozers, and 2,000 gallons were used in highway vehicles, such as heavy trucks which, at the time of use, were neither registered nor required to be registered under state law for highway use by reason of being operated entirely on the company's property. As the ultimate purchaser, M may take a credit on its income tax return for 1982 under this section in respect of the 6,000 gallons used in the nonhighway vehicles and the 2,000 gallons used in the unregistered highway vehicles. However, no credit may be allowed with respect to the 12,000 gallons used in the registered highway vehicles even though a portion of this gasoline was used in operating the vehicles on the company's own property.

(c) *Highway vehicle.* The term "highway vehicle" has the same meaning assigned to this term under § 48.4061(a)-1(d).

(d) *Highway.* The term "highway" includes any road, whether a Federal highway, State highway, city street, or

otherwise, in the United States which is not a private roadway.

(e) *Noncommercial aviation.* The term "non-commercial aviation" has the same meaning given to such term by section 4041(c)(4).

(f) *Calendar quarter.* The term "calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(g) *Taxable year.* The "taxable year" of a governmental unit or tax-exempt organization described in § 48.6421-1(c) or § 48.6421-2(c) is the calendar or fiscal year on the basis of which it regularly keeps its books. The "taxable year" of persons subject to income tax shall have the meaning it has under section 7701(a)(23).

[T.D. 8043, 50 FR 32042, Aug. 8, 1985]

#### § 48.6421-5 Exempt sales; other payments or refunds available.

(a) *Exempt sales.* No credit or payment shall be allowed or made under § 48.6421-1 or § 48.6421-2 with respect to gasoline which was exempt from the tax imposed by section 4081. For example, credit or payment may not be allowed or made with respect to gasoline purchased tax free for use as supplies for certain vessels and airplanes, or with respect to gasoline purchased by a State tax free for its exclusive use, as provided in section 4221.

(b) *Other payments or refunds available.* Any amount which, without regard to the second sentence of section 6421(e)(1) and this paragraph (b), would be allowable as a credit or payable to any person under § 48.6421-1 or § 48.6421-2 is reduced by any other amount which is allowable as a credit or payable under section 6421, or is refundable under any other provision of the Code, to any person with respect to the same gasoline.

(c) *Gasoline used on farms.* Payments with respect to gasoline used on a farm for farming purposes shall be claimed under section 6420 and § 48.6420-1, and no claim in respect of that gasoline may be made under section 6421 and the regulations thereunder.

[T.D. 8043, 50 FR 32042, Aug. 8, 1985]