

(8) The rate of tax per cubic yard determined by the California Debris Commission applicable to the particular mine; and

(9) The amount of tax due and payable (cubic yards mined multiplied by the rate of tax per cubic yard).

(c) *Supporting statement.* With each return there must be submitted a supporting statement of the person who made the surveys at the mine for the mining season covered by the return (see §50.6), stating that such surveys were made in accordance with requirements prescribed by the California Debris Commission.

(d) *Verification of return and supporting statement.* The return and the supporting statement shall be verified by written declarations that they are made under the penalties of perjury.

§ 50.8 Due date and place for filing returns and paying tax.

The return for a taxable year shall be filed with, and the tax shall be paid to, the district director at San Francisco, California, on or before September 30 of the calendar year in which the taxable year ends. The tax is due and payable on such date without assessment by, or notice from, the district director.

PART 52—ENVIRONMENTAL TAXES

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AUTHORITY: 26 U.S.C. 7805.

Section 52.4682-3 also issued under 26 U.S.C. 4682(c)(2);

Section 52.4682-5 also issued under 26 U.S.C. 4662(e)(4).

§ 52.0-1 Introduction.

The regulations in this part 52 are designated "Environmental Tax Regulations." The regulations relate to the environmental taxes imposed by chapter 38 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments,

and deposits of taxes imposed by chapter 38.

[T.D. 8442, 57 FR 48186, Oct. 22, 1992]

§ 52.4681-1 Taxes imposed with respect to ozone-depleting chemicals.

(a) *Taxes imposed.* Sections 4681 and 4682 impose the following taxes with respect to ozone-depleting chemicals (ODCs):

(1) *Tax on ODCs.* Section 4681(a)(1) imposes a tax on ODCs that are sold or used by the manufacturer or importer thereof. Except as otherwise provided in §52.4682-1 (relating to the tax on ODCs), the amount of the tax is equal to the product of—

(i) The weight (in pounds) of the ODC;

(ii) The base tax amount (determined under section 4681(b)(1) (B) or (C)) for the calendar year in which the sale or use occurs; and

(iii) The ozone-depletion factor (determined under section 4682(b)) for the ODC.

(2) *Tax on imported taxable products.* Section 4681(a)(2) imposes a tax on imported taxable products that are sold or used by the importer thereof. Except as otherwise provided in §52.4682-3 (relating to the tax on imported taxable products), the tax is computed by reference to the weight of the ODCs used as materials in the manufacture of the product. The amount of tax is equal to the tax that would have been imposed on the ODCs under section 4681(a)(1) if the ODCs had been sold in the United States on the date of the sale or use of the imported product. The weight of such ODCs is determined under §52.4682-3.

(3) *Floor stocks tax—(i) Imposition of tax.* Section 4682(h) imposes a floor stocks tax on ODCs that—

(A) Are held by any person other than the manufacturer or importer of the ODC on a date specified in paragraph (a)(3)(ii) of this section; and

(B) Are held on such date for sale or for use in further manufacture.

(ii) Dates on which tax imposed. The floor stocks tax is imposed on January 1 of each calendar year after 1989.

(iii) *Amount of tax.* Except as otherwise provided in §52.4682-4 (relating to the floor stocks tax), the amount of the

floor stocks tax is equal to the excess of—

(A) The tax that would be imposed on the ODC under section 4681(a)(1) if a sale or use of the ODC by its manufacturer or importer occurred on the date the floor stocks tax is imposed (the tentative tax amount), over

(B) The sum of the taxes previously imposed (if any) on the ODC under sections 4681 and 4682.

(b) *Cross-references*—(1) *Tax on ODCs*. Additional rules relating to the tax on ODCs are contained in §§ 52.4682-1 and 52.4682-2.

(2) *Tax on imported taxable products*. Additional rules relating to the tax on imported taxable products are contained in § 52.4682-3.

(3) *Floor stocks tax*. Additional rules relating to the floor stocks tax are contained in § 52.4682-4.

(4) *Returns, payments, and deposits of tax*. Rules requiring returns reporting the taxes imposed by sections 4681 and 4682 are contained in part 40 of this chapter. Part 40 of this chapter also provides rules relating to the use of Government depositaries and to the time for filing returns and making payments of tax.

(c) *Definitions of general application*. The following definitions set forth the meaning of certain terms for purposes of the regulations under sections 4681 and 4682:

(1) *Ozone-depleting chemical*. The term “ozone-depleting chemical” (ODC) means any chemical listed in section 4682(a)(2).

(2) *United States*. The term “United States” has the meaning given such term by section 4612(a)(4). Under section 4612(a)(4)—

(i) The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(ii) The term includes—

(A) Submarine seabed and subsoil that would be treated as part of the United States (as defined in paragraph (c)(2)(i) of this section) under the principles of section 638 relating to continental shelf areas; and

(B) Foreign trade zones of the United States.

(3) *Manufacture; manufacturer*. The term “manufacture” when used with respect to any ODC or imported product includes its production, and the term “manufacturer” includes a producer.

(4) *Entry into United States for consumption, use, or warehousing*—(i) *In general*. Except as otherwise provided in this paragraph (c)(4), the term “entered into the United States for consumption, use, or warehousing” when used with respect to any goods means—

(A) Brought into the customs territory of the United States (the customs territory) if applicable customs law requires that the goods be entered into the customs territory for consumption, use, or warehousing;

(B) Admitted into a foreign trade zone for any purpose if like goods brought into the customs territory for such purpose would be entered into the customs territory for consumption, use, or warehousing; or

(C) Imported into any other part of the United States (as defined in paragraph (c)(2) of this section) for any purpose if like goods brought into the customs territory for such purpose would be entered into the customs territory for consumption, use, or warehousing.

(ii) *Entry for transportation and exportation*. Goods entered into the customs territory for transportation and exportation are not goods entered for consumption, use, or warehousing.

(iii) *Entries described in two or more provisions*. In the case of any goods with respect to which entries are described in two or more provisions of paragraph (c)(4)(i) of this section, only the first such entry is taken into account. Thus, if the admission of goods into a foreign trade zone is an entry into the United States for consumption, use, or warehousing, the subsequent entry of such goods into the customs territory will not be treated as an entry into the United States for consumption, use, or warehousing.

(iv) *Certain imported products not entered for consumption, use, or warehousing*. Imported products that are entered into the United States for consumption, use, or warehousing do

not include any imported products that—

(A) Are entered into the customs territory under Harmonized Tariff Schedule (HTS) heading 9801, 9802, 9803, or 9813;

(B) Would, if entered into the customs territory, be entered under any such heading; or

(C) Are brought into the United States by an individual if the product is brought in for use by the individual and is not expected to be used in a trade or business other than a trade or business of performing services as an employee.

(5) *Importer.* The term “importer” means the person that first sells or uses goods after their entry into the United States for consumption, use, or warehousing (within the meaning of paragraph (c)(4) of this section).

(6) *Sale.* The term “sale” means the transfer of title or of substantial incidents of ownership (whether or not delivery to, or payment by, the buyer has been made) for consideration which may include money, services, or property. The determination as to the time a sale occurs shall be made under applicable local law.

(7) *Use—(i) In general.* Except as otherwise provided in regulations under sections 4681 and 4682, ODCs and imported taxable products are used when they are—

(A) Used as a material in the manufacture of an article, whether by incorporation into such article, chemical transformation, release into the atmosphere, or otherwise; or

(B) Put into service in a trade or business or for production of income.

(ii) *Loss, destruction, packaging, warehousing, and repair.* The loss, destruction, packaging (including re-packaging), warehousing, or repair of ODCs and imported taxable products is not a use of the ODC or product lost, destroyed, packaged, warehoused, or repaired.

(iii) *Cross-references to exceptions.* For exceptions to the rule contained in paragraph (c)(7)(i) of this section, see—

(A) Section 52.4682-1(b)(2)(iii) (relating to mixture elections), §52.4682-1(b)(2)(iv) (relating to mixtures for export), and §52.4682-1(b)(2)(v) (relating to mixtures for use as a feedstock);

(B) Section 52.4682-3(c)(2) (relating to the election to treat entry of an imported taxable product as use); and

(C) Section 52.4682-3(c)(3) (relating to treating sale of an article incorporating an imported taxable product as the first sale or use of the product).

(8) *Pound.* The term “pound” means a unit of weight that is equal to 16 avoirdupois ounces.

(9) *Post-1990 ODC; post-1989 ODC.* The term “post-1990 ODC” means any ODC that is listed below Halon-2402 in the table contained in section 4682(a)(2). The term “post-1989 ODC” means any ODC other than a post-1990 ODC.

(d) *Effective date.* Sections 52.4681-0, 52.4681-1, 52.4682-1, 52.4682-2, 52.4682-3, and 52.4682-4 are effective as of January 1, 1990, and apply to—

(1) Post-1989 ODCs that the manufacturer or importer thereof first sells or uses after December 31, 1989, and post-1990 ODCs that the manufacturer or importer thereof first sells or uses after December 31, 1990;

(2) Imported taxable products that the importer thereof first sells or uses after December 31, 1989 (but, in the case of products first sold or used before January 1, 1991, by taking into account only the post-1989 ODCs used as materials in their manufacture); and

(3) Post-1989 ODCs held for sale or for use in further manufacture by any person other than the manufacturer or importer thereof on January 1, 1990, and post-1989 and post-1990 ODCs that are so held on January 1 of each calendar year after 1990.

[T.D. 8370, 56 FR 56305, Nov. 4, 1991, as amended by T.D. 8442, 57 FR 48186, Oct. 22, 1992; T.D. 8622, 60 FR 52849, Oct. 11, 1995]

§ 52.4682-1 Ozone-depleting chemicals.

(a) *Overview.* This section provides rules relating to the tax imposed on ozone-depleting chemicals (ODCs) under section 4681, including rules for identifying taxable ODCs and determining when the tax is imposed, and rules prescribing special treatment for certain ODCs. See § 52.4681-1(a)(1) and (c) for general rules and definitions relating to the tax on ODCs.

(b) *Taxable ODCs; taxable event—(1) Taxable ODCs—(i) In general.* Except as provided in paragraphs (c) through (g) of this section, an ODC is taxable if—