§ 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)(i) 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.

(b) 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 to store the fuel to be used for nontaxable purposes, the written statement described in paragraph (a)(2)(ii) of this section will relate to the fuel to be used for taxable purposes if proper records are kept by the purchaser that sufficiently identify the tanks (or containers) into which tax-paid fuel is delivered and the quantities of fuel delivered into those tanks (or containers). If only occasional sales for delivery into a bulk storage tank (or other container) are made to a purchaser, a separate statement must be furnished for each order. However, if sales are regularly or frequently made to a purchaser, a written statement covering all orders for a specified period not to
§ 48.4041–6 Application of tax on use of taxable liquid fuel.

(a) In general—(1) Diesel fuel. (i) If, before April 1, 1983, a person acquires any diesel fuel by any means other than through a transaction subject to tax under section 4041(a)(1) and uses it as a fuel in a diesel-powered highway vehicle, the person is liable for a tax under section 4041(a)(2) on the quantity of diesel fuel so used. See § 48.4041–1(b)(1)(i)(E), (F), or (G) for the applicable rate of tax. See section 6427(a) for credit or refund of tax where diesel fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(1)(i) (A) or (B) of § 48.4041–1 is used as described in paragraph (b)(1)(i) (C) or (D) of § 48.4041–1 or in a nontaxable use.

(ii) On or after April 1, 1983, and before August 1, 1984, if a person acquires any diesel fuel by any means other than through a transaction subject to tax under section 4041(a)(1)(A) and uses it as a fuel in a diesel-powered highway vehicle, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of diesel fuel so used at the appropriate rate set forth in paragraph (b)(1)(ii) of § 48.4041–1. If a person acquired any diesel fuel through a transaction for which no tax is imposed by reason of paragraph (b)(1)(ii)(C) of § 48.4041–1 and uses it in other than a nontaxable use, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of fuel so used. See paragraph (b)(1)(ii) (D) or (E) of § 48.4041–1 for the applicable rate of tax. See section 6427(a) for credit or refund of tax where diesel fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(1)(ii) of § 48.4041–1 is used as described in paragraph (b)(1)(ii)(C) of § 48.4041–1 or in another nontaxable use.

(iii) On or after August 1, 1984, and before October 1, 1988, if a person acquires any diesel fuel by any means other than through a transaction subject to tax under section 4041(a)(1)(A) and uses it as a fuel in a diesel-powered highway vehicle, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of diesel fuel so used at the appropriate rate set forth in paragraph (b)(1)(iii) of § 48.4041–1. If a person acquired any diesel fuel through a transaction for which no tax is imposed by reason of paragraph (b)(1)(iii)(C) of § 48.4041–1 and uses it in other than a nontaxable use, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of fuel so used. See paragraph (b)(1)(iii)(D) of § 48.4041–1 for the applicable rate of tax. See section 6427(a) for credit or refund of tax where diesel fuel acquired in a transaction subject to tax at the rate set forth in paragraph