

SUPPORTING STATEMENT
(T.D.8043)

(1) CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Chapters 31 and 32 of the Internal Revenue Code impose retailers and manufacturers excise taxes on the sale or use of certain articles.

Section 6416(a) of the Code provides that no credit or refund of any overpayment of tax imposed by chapter 31 or chapter 32 shall be allowed or made unless the person that paid the tax establishes that certain conditions have been met.

Section 6416(b) of the Code lists certain circumstances under which the payment of chapter 31 and 32 taxes will be considered as overpayments of tax giving rise to a claim for credit or refund of tax by the person that paid the tax.

Sections 48.6416(a)-2(a)(2), 48.6416(a)-2(b)(2), 48.6416(a)-3(a)(2), 48.6416(a)-3(a)(3), 48.6416(a)-3(b)(2), 48.6416(b)(1)-4, 48.6416(b)(2)-3(a), 48.6416(b)(2)-3(b), 48.6416(b)(2)-4, 48.6416(b)(3)-3, 48.6416(b)(5)-1(c), 48.6416(e)-1, and 48.6416(f)-1, of the regulations require claimants to submit specified evidence in support of a claim for credit or refund of tax. In addition, these sections require claimants to obtain and retain certificates provided by purchasers of specified articles and to retain other supporting evidence.

Sections 48.6416(b)(2)-3(b)(1) and (2), 48.6416(b)(2)-4(b), and 48.6416(b)(3)-3(b) of the regulations set forth the form of the certificates to be provided by purchasers.

Section 6416(d) of the Code provides that any person entitled to a refund of the tax imposed by chapters 31 and 32 may claim a credit against the tax imposed by chapters 31 and 32 instead of filing a claim for refund.

Sections 48.6416(a)-1, 48.6416(b)(3)-1, and 48.6416(f)-1 of the regulations provide rules for filing a claim for credit.

Section 6416(e) of the Code provides that the Secretary may

prescribe regulations relating to accounting procedures for like articles.

Section 48.6416(h)-1 of the regulations prescribes the methods of accounting for like articles that do not have to be approved by the district director and the methods that do require prior approval.

Section 6420 of the Code allows the ultimate purchaser of gasoline used on a farm for farming purposes to claim a credit or refund of the tax and provides rules relating to those claims.

Section 6421 of the Code allows the ultimate purchaser of gasoline for specified nontaxable purposes to claim a credit or refund of the tax and provides rules relating to those claims.

Section 6427 of the Code allows the ultimate purchaser of certain fuels for specified nontaxable purposes to claim a credit or refund of the tax and provides rules relating to those claims.

Sections 48.6420-6, 48.6421-7, and 48.6427-5 of the regulations require claimants to keep records relating to the claims.

Sections 48.6421-1(f), 48.6421-2(d), 48.6427-1(e), and 48.6427-2(d) of the regulations require claimants to submit a statement in support of a claim for credit or refund of tax.

Sections 48.6420-4(l)(6) and 48.6427-1(a)(2)(iv) of the regulations require certain aerial applicators to obtain and retain a written waiver of the farm owner's or operator's right to claim a credit or refund of tax in order for the applicator to be treated as the ultimate purchaser.

(2) USE OF DATA

The data is used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported or excluded.

(3) USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, regulations, notices and letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

(4) **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

(5) **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

We have been unable to reduce burden specifically for small businesses.

(6) **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

(7) **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

(8) **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

A notice of proposed rulemaking (LR-115-72) was published in the Federal Register on January 5, 1983. Written comments responding to the notice were received. No public hearing was requested or held. The proposed regulations were adopted as revised by the final regulations (T.D. 8043) published in the Federal Register on August 8, 1985 (50 FR 32012).

In response to the **Federal Register Notice** dated **April 15, 2011, (76 FR 21428)**, we received no comments during the comment period regarding T.D. 8043.

(9) **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

(10) ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential under 26 U.S.C. 6103.

(11) JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

(12) ESTIMATED BURDEN OF INFORMATION COLLECTION

In order to ensure that claims for credit or refund of excise tax are paid properly, the IRS requires that specified information relating to the sale and use of specified articles be retained by persons claiming credits and refunds of tax. In addition, information must be reported to claimants by purchasers of those articles. Also, claimants must file claims with the IRS and supply supporting information with the claims. This information is extremely important to the IRS. The required information is necessary to verify that claims submitted are correct and that the claimants are entitled to receive a credit or refund of tax from the IRS. It has not been too difficult for claimants to comply with the recordkeeping requirements because the records are kept in the ordinary course of business.

Sections 48.6420-2(d)(2), 48.6421-3(d)(2), and 48.6427-3(d)(2) require a claim for refund to be filed on Form 8849. The burden for this reporting requirement is reflected on Form 8849.

Sections 48.6420-2(d)(1), 48.6421-3(d)(1), and 48.6427-3(d)(1) require a claim for credit against income tax to be filed on Form 4136. The burden for this reporting requirement is reflected on Form 4136.

Sections 48.6416(a)-1, 48.6416(b)(3)-1, and 48.6416(f)-1 require a claim for credit to be filed on Form 720. The burden for this reporting requirement is reflected on Form 720.

Sections 48.6416(b)(2)-3(b), 48.6416(b)(2)-4(b), 48.6416(b)(3)-3(b), 48.6416(b)(4)-1(d), 48.6416(f)-1, 48.6416(g)-1, 48.6420-4, 48.6420-6, 48.6421-7, 48.6427-1(a)(2)(iv), and 48.6427-5 require that records relating to claims be

retained. We estimate that there are 400,000 recordkeepers and it will take them 0.25 hour to retain records. The total burden for this recordkeeping requirement is 100,000 hours.

Sections 48.6416(a)-2(a)(2), 48.6416(a)-2(b)(2), 48.6416(a)-3(a)(2) and (3), 48.6416(a)-3(b)(2), 48.6416(b)(1)-4, 48.6416(b)(2)-3(a) and (b), 48.6416(b)(2)-4(a), 48.6416(b)(3)-3(a), 48.6416(b)(5)-1(c), 48.6416(e)-1, 48.6421-1(f), 48.6421-2(d), 48.6427-1(e), and 48.6427-2(d) impose reporting requirements. We estimate that there are 1,500,000 respondents and it will take them 0.25 hour to report. The total burden for these reporting requirements is 375,000 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

(13) ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated **April 15, 2011, (76 FR 21428)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

(14) ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

(15) REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

(16) PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

(17) REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

(18) EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.