

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 602

[T.D. 8442]

RIN 1545-A097; 1545-AQ04

Procedural Rules for Excise Taxes  
Currently Reportable on Form 720*Correction*

In rule document 92-25429 beginning on page 48174 in the issue of Thursday, October 22, 1992, make the following corrections:

## § 40.0-1 [Corrected]

1. On page 48177, in the second column, in § 40.0-1(b), in the second line, "for" should read "to a".

2. On the same page, in the same column, in § 40.0-1(e), in the third line, "to" should read "or".

## § 40.6071(a)-2 [Corrected]

3. On page 48178, in the second column, in § 40.6071(a)-2(a), in the first line, "return" should read "returns".

## § 40.6302(c)-0 [Corrected]

4. On page 48179, in the first column, in § 40.6302(c)-0, in the second line,

"40.6302-2(c)-1" should read "40.6302(c)-2".

## § 40.9999-1 [Corrected]

5. On page 48184, in the second column, in § 40.9999-1, in Example 3, in paragraph (3), in the ninth line, insert "is" between "1991" and "as".

## § 602.101 [Corrected]

6. On page 48187, in the 2d column, in § 602.101, in the 24th entry, under the "Current OMB control number" for 48.6302(c)-1, add "1545-0257" beneath "1545-0023".

BILLING CODE 1505-01-0

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

26 CFR Parts 40, 43, 44, 46, 48, 49, 51, 52, 145, 148, 150, and 602

[T.D. 8442]

RIN 1545-AO97; 1545-AQ04

**Procedural Rules for Excise Taxes  
Currently Reportable on Form 720**

**AGENCY:** Internal Revenue Service,  
Treasury.

**ACTION:** Final regulations and removal  
of obsolete regulations.

**SUMMARY:** This document contains final regulations relating to requirements for returns, payments, and deposits of tax for excise taxes currently reportable on Form 720, including special rules for use of Government depositories under chapter 33 of the Internal Revenue Code. Existing procedural regulations under 26 CFR parts 43, 46, 48, 49, and 52 are amended and consolidated in a new part 40. These regulations also reflect changes to the law made by the Omnibus Budget Reconciliation Acts of 1989 and 1990. The regulations affect persons required to report liability for excise taxes currently reportable on Form 720. This document also removes various obsolete excise tax regulations.

**EFFECTIVE DATES:** These regulations are effective April 1, 1991, except that §§ 40.6302(c)-1(c)(2)(iii), 40.6302(c)-1(c)(2)(iv), 40.6302(c)-1(c)(3), 40.6302(c)-1(e)(3), 40.6302(c)-2(b)(3), and 40.6302(c)-3 are effective January 1, 1993.

**FOR FURTHER INFORMATION CONTACT:**  
Ruth Hoffman, (202) 622-3130 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the

Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545-1296. The estimated average annual burden per recordkeeper is 60 hours. The estimated average annual burden per respondent is 0.5 hour.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents and recordkeepers may require more or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

#### Background

On September 6, 1990, temporary regulations (T.D. 8311) relating to returns, payments, and deposits of tax under sections 4661 and 4682 (relating to the tax imposed on ozone-depleting chemicals) were published in the Federal Register (55 FR 36612). A notice of proposed rulemaking (PS-73-89) cross-referencing the temporary regulations was published in the Federal Register for the same day (55 FR 36659). A public hearing was not requested and none was held.

On October 12, 1990, temporary regulations (T.D. 8314) relating to returns, payments, and deposits of tax under section 4471 (relating to the tax imposed on transportation by water) were published in the Federal Register (55 FR 41519). A notice of proposed rulemaking (PS-3-90) cross-referencing the temporary regulations was published in the Federal Register for the same day (55 FR 41546). A public hearing was held on April 8, 1991.

On January 3, 1991, temporary regulations (T.D. 8328) relating to returns, payments, and deposits of taxes under subtitle D (relating to miscellaneous excise taxes) were published in the Federal Register (56 FR 79). A notice of proposed rulemaking (PS-65-90) cross-referencing the temporary regulations was published in the Federal Register for the same day (56 FR 233). A public hearing was not requested and none was held.

On January 31, 1992, a notice of proposed rulemaking (PS-27-91) relating to special rules for deposits of taxes proposed under chapter 33 (relating to

communications services and air transportation) was published in the Federal Register (57 FR 3734). A public hearing was scheduled, but the sole request to speak was withdrawn and the public hearing was not held.

Written comments responding to the notices were received. After consideration of all the comments, the regulations proposed by PS-65-90 and PS-27-91, and the procedural regulations proposed as part of PS-73-89 and PS-3-90 are adopted as revised by this Treasury decision and the corresponding temporary regulations are withdrawn. The revisions are discussed below.

#### Explanation of Revisions

##### *Final Return Based on Change in Law*

The proposed regulations provide for the filing of a final return when a person liable for tax has permanently ceased all operations with respect to which liability for tax was incurred. The final regulations clarify that a person that is still conducting the same operations but is no longer liable for tax because of a change in the law also files a final return. For example, a final return is filed by a person that is no longer liable for a tax because the point of imposition of the tax has moved (assuming that the person has no other tax liability reportable on Form 720).

##### *Books Kept on a Monthly Basis*

The proposed regulations do not require books to be kept on a semimonthly basis, but do not explain how semimonthly liability is to be calculated if a person keeps books on a monthly basis. To reflect the common business practice of keeping books on a monthly basis, the final regulations clarify that the liability for a semimonthly period is equal to one-half of monthly liability if this method of determining semimonthly liability is used consistently for the entire quarter.

##### *De Minimis Exception to the Deposit Requirement*

The proposed regulations require deposits of tax to be made on a semimonthly basis, no matter how small the tax liability, unless the special rule for one-time filers applies or no deposit of that tax is required. Commenters suggested that persons with small tax liabilities be exempted from the deposit requirement.

The final regulations provide that the deposit requirement does not apply if the net tax liability for the quarter does not exceed \$2,000. The de minimis exception is effective for deposits that

relate to calendar quarters beginning after December 31, 1992.

##### *Safe Harbor Rules*

Under the proposed regulations, deposits of tax for a semimonthly period generally must equal the amount of tax liability incurred (or in the case of collected taxes, the amount of tax collected) during that semimonthly period. However, the proposed regulations provide one general safe harbor rule, and one special safe harbor rule for new filers based on current liability. The general safe harbor rule applies to persons that have filed a Form 720 reporting tax for the look-back quarter (the second calendar quarter preceding the current calendar quarter). Under this safe harbor rule, a person is considered to have met the semimonthly deposit requirement if the person's deposit for each semimonthly period in the current quarter is not less than  $\frac{1}{2}$  of the total net tax liability reported on Form 720 for the look-back quarter.

The special safe harbor rule applies to persons (generally new return filers) that did not file a Form 720 reporting tax for the look-back quarter. Under this safe harbor rule, a person is considered to have met the semimonthly deposit requirement if the person's deposit for each semimonthly period in the current quarter is not less than 90 percent of the net tax liability incurred during the semimonthly period.

##### *Modification of Safe Harbor Based on Current Liability*

Commenters requested that the special safe harbor rule based on current liability be extended to all filers.

The final regulations extend to all filers a safe harbor rule based on current net tax liability. However, the safe harbor rule provided by the final regulations is based on 95 percent of the liability for a semimonthly period. Thus, under the final regulations, a person is considered to have met the semimonthly deposit requirement for the current quarter if the deposit for each semimonthly period in the current quarter is not less than 95 percent of the net tax liability incurred during the semimonthly period. The new current liability safe harbor is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

##### *Modification of Safe Harbor Based on Look-back Quarter Liability To Adjust for Tax Rate Increases*

Under the proposed regulations, an increase in the rate of a tax generally is not reflected in deposits made by persons using the look-back quarter safe

harbor rule until the second quarter after the quarter for which the increased rate is effective (although the increased rate is reflected in catch-up payments for each quarter). There is an exception in the case of ozone-depleting chemicals taxes; for purposes of the safe harbor, the look-back quarter liability is modified to take into account increases in tax liability due to increases in the base tax amount or due to the phase-in of tax on Halons and ozone-depleting chemicals used in the manufacture of rigid foam insulation.

The final regulations extend the tax rate increase rule to other taxes. Under the final regulations, the safe harbor deposit amounts for the first and second quarters beginning on or after the effective date of a tax rate increase must be calculated as if the new tax rate had been in effect during the look-back quarter. Thus, persons using the safe harbor in these quarters must deposit  $\frac{1}{2}$  of the amount for which they would have been liable in the look-back quarter had the higher rate applied at that time. This rule ensures that the statutory effective date of tax rate changes will be appropriately reflected in deposits.

Look-back quarter liability is adjusted for safe harbor purposes only where tax rates are increased, not where there is some other change that would have resulted in higher taxes in the look-back quarter. The change is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

#### *Withdrawal of Right To Use Safe Harbor Rules*

The Internal Revenue Service may withdraw the right to make deposits of tax using safe harbor rules from any person that does not comply with the conditions of those rules.

#### *Special Rules for Use of Government Depositories Under Chapter 33*

Currently, special rules for deposits of taxes imposed on communications services and air transportation by chapter 33 (the "considered collected" method) are provided under § 49.6302(c)-1(a)(1). The considered collected method, including the semimonthly deposit exceptions, continues to apply until January 1, 1993, the effective date of § 40.6302(c)-3 of the final regulations.

PS-65-90 did not propose any changes to the special rules for chapter 33 filers. Proposed changes to the considered collected method are contained in PS-27-91. The proposed regulations provide that the amount of the deposit of tax under chapter 33 for each semimonthly period may be computed based on

amounts billed or tickets sold (the "alternative method").

As proposed, the alternative method does not provide any safe harbor rules. Commenters on PS-27-91 requested that the safe harbor rules proposed by PS-65-90 for other excise taxes be extended to chapter 33 filers. The final regulations provide the same safe harbor rules for chapter 33 filers using the alternative method as are provided for other filers.

The regulations set forth in PS-27-91 were proposed to be effective July 1, 1992. Contrary to the proposed effective date, the special rules provided under § 40.6302(c)-3 of the final regulations are effective January 1, 1993, for deposits of taxes that are considered as collected after December 31, 1992, (i.e., tax with respect to amounts billed or tickets sold after November 30, 1992), and for returns of tax for quarters beginning after September 30, 1992.

#### *Penalty Calculations*

Failure-to-deposit penalties under section 6656 may apply if required deposits are not timely made in the correct amount with an authorized Government depository.

Commenters suggested that, as illustrated in the examples provided in the proposed regulations, the calculation of penalties might have overly harsh results, particularly when a deposit is only late by a day or is only short by a few dollars.

The final regulations do not provide any examples of the application of section 6656 to excise tax deposits. Instead, the new Penalty Handbook published by the Internal Revenue Service provides uniform guidance on the application of section 6656.

#### *Gasoline Tax Deposits for the Period September 16th-22nd*

Section 6302(f) provides that a deposit of gasoline tax must be made for the period September 16th-22nd and that this additional deposit generally is due by September 27. The proposed regulations do not provide guidance with respect to the calculation of the amount of gasoline tax to deposit for the period September 16th-22nd. The final regulations provide that guidance.

Under the final regulations, a person liable for the gasoline tax must make one gasoline tax deposit for the period September 16th-22nd and a second gasoline tax deposit for the period September 23rd-30th. In general, the deposit for each of those periods must be not less than the amount of net gasoline tax liability for that period.

The final regulations also modify the safe harbor rules for these September gasoline deposits. In general, persons

using the look-back quarter liability safe harbor must make two separate deposits of  $\frac{1}{2}$  of the look-back quarter liability for the class of tax that includes the gasoline tax, and persons using the current liability safe harbor must make two separate deposits of 47.5 percent of their gasoline tax liability for the second semimonthly period in September. The safe harbors are effective after December 31, 1992.

#### *Special Analyses*

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### *Drafting Information*

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

#### *List of Subjects*

##### *26 CFR part 40*

Administrative practice and procedure, Excise taxes.

##### *26 CFR part 43*

Excise taxes, Gambling, Transportation by Water, Vessels.

##### *26 CFR part 44*

Excise taxes, Gambling.

##### *26 CFR part 46*

Banks and banking, Excise taxes, Insurance.

##### *26 CFR part 48*

Agriculture, Aircraft, Boats, Coal, Excise taxes, Furs, Jewelry, Motor fuels, Motor vehicles, Sporting goods, Tires.

##### *26 CFR part 49*

Excise taxes, Telegraph, Telephone, Transportation.

**3 CFR part 51**

Crude Oil Windfall Profit Tax Act of 1980, Excise taxes, Petroleum.

**3 CFR part 52**

Chemicals, Excise taxes, Petroleum

**3 CFR part 145**

Excise taxes, Excise Tax Reduction Act of 1965.

**3 CFR part 148**

Excise taxes, Excise Tax Technical Changes Act of 1958.

**3 CFR part 150**

Crude Oil Windfall Profit Tax Act of 1980, Excise taxes, Petroleum.

**3 CFR part 602**

Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR parts 40, 43, 44, 5, 48, 49, 51, 52, 145, 148, 150, and 602 are amended as follows:

Paragraph 1. Part 40 is revised to read as follows:

**ART 40—EXCISE TAX PROCEDURAL REGULATIONS****40.0-1 Introduction.**

40.6011(a)-1 Returns.

40.6011(a)-2 Final returns.

40.6071(a)-1 Time for filing returns.

40.6071(a)-2 Time for filing quarterly returns under chapter 33 and sections 4681 and 4682(h).

40.6091-1 Place for filing returns.

40.6101-1 Period covered by returns.

40.6109(a)-1 Identifying numbers.

40.6151(a)-1 Time and place for paying tax shown on return.

40.6302(c)-0 Table of contents.

40.6302(c)-1 Use of Government depositories.

40.6332(c)-2 Special rules for use of Government depositories under section 4681.

40.6332(c)-3 Special rules for use of Government depositories under chapter 33.

40.6302(c)-4 Special rule for use of Government depositories under section 4081.

40.9999-1 Examples.

Authority: 26 U.S.C. 7805.

Sections 40.6011(a)-1 and 40.6011(a)-2 also issued under 26 U.S.C. 6011(a).

Sections 40.6071(a)-1 and 40.6071(a)-2 also issued under 26 U.S.C. 6071(a).

Section 40.6091-1 also issued under 26 U.S.C. 6091.

Section 40.6101-1 also issued under 26 U.S.C. 6101.

Section 40.6109(a)-1 also issued under 26 U.S.C. 6109(a).

Sections 40.6302(c)-1, 40.6302(c)-2, 40.6302(c)-3, and 40.6302(c)-4 also issued under 26 U.S.C. 6302(a).

**§ 40.0-1 Introduction.**

(a) *In general.* The regulations in this part 40 are designated "Excise Tax Procedural Regulations." The regulations set forth administrative provisions relating to the excise taxes imposed by chapters 31, 32, 33, 34, 36, 38, and 39 (except for the chapter 32 tax imposed by section 4181 (firearms tax) and the chapter 36 taxes imposed by sections 4461 (harbor maintenance tax), 4481 (heavy vehicle use tax), and 4495 (deep seabed mineral removal tax)). Chapter 31 relates to retail excise taxes; chapter 32 to manufacturers' excise taxes; chapter 33 to taxes imposed on communications services and air transportation; chapter 34 to taxes imposed on policies issued by foreign insurers; chapter 36 to taxes imposed on transportation by water; chapter 38 to environmental taxes; and chapter 39 to taxes imposed on registration-required obligations. See parts 43, 46, 48, 49, and 52 of this chapter for regulations relating to the imposition of tax.

(b) *References to forms.* Any reference for form in this part is also a reference to any other form designated for the same use by the Commissioner after October 22, 1992.

(c) *Definition of semimonthly period.* The term "semimonthly period" means the first 15 days of a calendar month (the "first semimonthly period") or the portion of a calendar month following the 15th day of the month (the "second semimonthly period").

(d) *Examples.* See § 40.9999-1 for examples illustrating the rules of this part 40.

(e) *Cross references.* For provisions relating to penalties for failure to file a return to pay tax, see section 6651. For provisions relating to penalties for failure to make deposit of taxes, see section 6656. For provisions relating to timely mailing treated as timely filing and paying, see section 7502. For provisions relating to time for performance of acts where the last day for performance falls on Saturday, Sunday, or a legal holiday, see section 7503.

(f) *Effective date.* Except as otherwise provided, this part is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991, and for deposits that relate to calendar quarters beginning after March 31, 1991. In the case of taxes for which rules are provided in this part, the administrative provisions that apply to such taxes before the effective date of this part are contained in 26 CFR parts 43, 46, 48, 49

and 52 (each revised as of April 1, 1992).  
**§ 40.6011(a)-1 Returns.**

(a) *In general—(1) Return required.* The return of any tax to which this part 40 applies must be made on Form 720, *Quarterly Federal Excise Tax Return*, according to the instructions applicable to the form. The requirement for filing a return under this part 40 applies separately to each tax listed by IRS Number on Form 720. Except as provided in this paragraph (a)(1), an entry must be made on the line for the IRS Number in order to file a return of the tax corresponding to that number. The entry on an IRS Number line of the word "none," "zero," or comparable entry clearly indicating a denial of liability constitutes a return of that tax. The entry of the word "none" across the return or in the summary portion, provided it clearly indicates a denial of liability for all taxes, constitutes a return of all taxes listed on Form 720.

(2) *Period covered by return—(i) In general.* Except as provided in paragraph (b) of this section, the return must be made for a period of one calendar quarter. A return must be filed for the first calendar quarter in which liability for tax is incurred (or in which tax must be collected and paid over) and for each subsequent calendar quarter, whether or not liability is incurred (or tax must be collected and paid over) during that subsequent quarter, until a final return under § 40.6011(a)-2 is filed. In the case of one-time filings (as defined in § 40.6011(a)-2(b)) and returns of floor stocks taxes under § 40.6011(a)-2(c), a first return is also a final return.

(ii) *First return.* A person's return is a first return if the person was not required under this part 40 to file a return (other than a final return) for the preceding period.

(3) *Person required to file the return.* Except in the case of a tax required to be collected and paid over, the person incurring liability for tax must file the return. In the case of a tax required to be collected and paid over, the person required to collect the tax (and not the person incurring liability) must file the return.

(b) *Monthly and semimonthly returns.* If the district director determines that any person that is required under this section to file returns has failed to comply in a timely manner with the requirements of this part 40 relating to returns, payments, and deposits of tax, that person will be required, if so notified in writing by the district director, to make a return for a monthly or semimonthly period (as defined in § 40.0-1(c)). Each person so notified by the district director must make a return

for the calendar month or semimonthly period in which the notice is received and for each calendar month or semimonthly period thereafter until the person has filed a final return or until the person is notified by the district director to resume making quarterly returns.

(c) *Cross reference.* For provisions relating to the time to file returns, see §§ 40.6071(a)-1 and 40.6071(a)-2. For provisions relating to the place for filing returns, see § 40.6091-1. For provisions relating to time and place for paying tax, see § 40.6151(a)-1. For provisions relating to use of Government depositories, see §§ 40.6302(c)-1, 40.6302(c)-2, 40.6302(c)-3, and 40.6302(c)-4.

(d) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6011(a)-2 Final returns.

(a) *In general—(1) Permanent cessation of operations.* Any person that is required under § 40.6011(a)-1 to make returns and that permanently ceases all operations with respect to which liability for tax was incurred (or with respect to which tax had to be collected and paid over) must make a final return in accordance with the instructions applicable to the form on which the return is made. A person does not make a final return if only a temporary or partial cessation of such operations occurs and must continue to file returns as required under § 40.6011(a)-1.

(2) *Change in law without cessation of operations.* Any person that is required under § 40.6011(a)-1 to make returns must make a final return in accordance with the instructions applicable to the form on which the return is made if, by reason of a change in law, that person is no longer liable for any tax (or, in the case of a collected tax, is no longer responsible for collecting and paying over any tax). For example, if the tax on a product is changed from a retail tax to a manufacturers tax, a retailer formerly liable for the tax but now buying the product tax-paid from its supplier must make a final return (assuming that the retailer has no other tax liability reportable on the return).

(b) *Special rule for one-time filings—(1) In general.* A first return is also a final return if it is a one-time filing. A return is a one-time filing if the person reporting tax does not engage in any activity with respect to which tax is reportable on the return in the course of a trade or business.

(2) *Deposits not required.* See § 40.6302(c)-1(e)(2) for a rule providing

that no deposit of taxes reported on a one-time filing is required.

(c) *Special rule for floor stocks taxes.* A first return reporting only floor stocks taxes under this part 40 is also a final return.

(d) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6071(a)-1 Time for filing returns.

(a) *Quarterly returns—(1) In general.* Except as provided in paragraph (a)(2) of this section and in § 40.6071(a)-2 (relating to quarterly returns under chapter 33 and sections 4681 and 4682(h)), each quarterly return required under § 40.6011(a)-1(a)(2) must be filed by the last day of the first calendar month following the quarter for which it is made:

(2) *Special rule.* A person must file only one return for a quarter. If under § 40.6071(a)-2 a person is required to file a return for a quarter by a date that is later than the date provided in paragraph (a)(1) of this section, the person must file a single return for the quarter by the filing date provided under § 40.6071(a)-2. This rule does not extend the time for making deposits or paying any excise tax.

(b) *Monthly and semimonthly returns—(1) Monthly returns.* Each monthly return required under § 40.6011(a)-1(b) must be filed by the fifteenth day of the month following the month for which it is made.

(2) *Semimonthly returns.* Each semimonthly return required under § 40.6011(a)-1(b) must be filed by the ninth day of the semimonthly period (as defined in § 40.0-1(c)) following the semimonthly period for which it is made.

(c) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6071(a)-2 Time for filing quarterly returns under chapter 33 and sections 4681 and 4682(h).

(a) *In general.* In the case of return of tax imposed by chapter 33 (relating to communications services and air transportation) or section 4681 (relating to ozone-depleting chemicals), each quarterly return required under § 40.6011(a)-1(a)(2) must be filed by the last day of the second calendar month following the quarter for which it is made.

(b) *Special rule for floor stocks tax imposed by section 4682(h).* In the case of floor stocks taxes imposed by section

4682(h) on January 1 of a calendar year, each return required under § 40.6011(a)-1(a) must be filed by August 31 of the year the tax is imposed. Each of these returns will be a return for the second calendar quarter of the year in which the tax is imposed.

(c) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6091-1 Place for filing returns.

(a) *Quarterly returns.* Except as provided in paragraph (b) of this section, quarterly returns must be filed in accordance with the instructions applicable to the form on which the return is made.

(b) *Hand-carried returns—(1) Persons other than corporations.* Returns of persons other than corporations that are filed by hand carrying must be filed with the district director for the Internal Revenue district in which is located the principal place of business or legal residence of the person.

(2) *Corporations.* Returns of corporations that are filed by hand carrying must be filed with the district director for the Internal Revenue district in which is located the principal place of business or principal office or agency of the corporation.

(c) *Monthly and semimonthly returns.* Monthly and semimonthly returns required under § 40.6011(a)-1(b) must be filed in accordance with the instructions of the district director requiring that filing.

(d) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6101-1 Period covered by returns.

(a) *In general.* See § 40.6011(a)-1(a)(2) for the rules relating to the period covered by the return.

(b) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

#### § 40.6109(a)-1 Identifying numbers.

(a) *In general.* Every person required under § 40.6011(a)-1 to make a return must provide the identifying number required by the instructions applicable to the form on which the return is made.

(b) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

**40.6071(a)-1 Time and place for paying shown on return.**

a) *In general.* Except as provided by statute, the tax must be paid at the time prescribed in § 40.6071(a)-1 or 6071(a)-2 for filing the return, and at the place prescribed in § 40.6091-1 for the return.

b) *Special rule for floor stocks tax imposed by section 4682(h).* The floor stocks tax imposed by section 4682(h) [relating to ozone-depleting chemicals] January 1 of a calendar year, must be paid by June 30 of the year the tax is imposed. Payments must be accompanied by Form 8109, *Federal Tax Deposit Coupon*, and deposited in accordance with the instructions applicable to that form. In accordance with the instructions to Form 8109, mark the boxes on Form 8109 for "720" and "4 Quarter."

c) *Cross reference.* For provisions relating to use of Government depositaries, see §§ 40.6302(c)-1, 6302(c)-2, 40.6302(c)-3, and 40.6302(c)-4.

d) *Effective date.* This section is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991.

**40.6302(c)-0 Table of contents.**

This section lists captions contained §§ 40.6302(c)-1, 40.6302-2(c)-1, 6302(c)-3, and 40.6302(c)-4.

**40.6302(c)-1 Use of Government depositaries.****Overview.****In general.**

- 1) Semimonthly deposits required.
- (i) General rule.
- (ii) Special rule for gasoline tax deposits for September.
- (iii) Treatment of taxes imposed by chapter 33.
- 2) Definition of net tax liability.
- 3) Computation of net tax liability
- 4) Failure to comply with deposit requirements.
- 5) Amount of deposit.
  - (i) In general.
  - (ii) Special rule for gasoline tax deposits for September.
  - (iii) Exceptions; cross references.
- 6) Time to deposit.
  - (i) In general.
  - (ii) Exceptions; cross references.
- 7) Special rule for gasoline tax deposits for September.
  - (i) Amount of deposit; safe harbor rules.
  - (ii) Applicability.
    - (i) In general.
    - (ii) Separate applicability to each class of tax.
  - (iii) Safe harbor rule based on look-back quarter liability.
    - (i) In general.
    - (ii) Amount of special deposit.
    - (iii) Modification for tax rate increases.

- (A) Applicability.
- (E) Modification.
- (C) Effective date.
- (iv) Modification for gasoline tax deposits for September.

- (A) Applicability.
- (B) Modification.
- (C) Effective date.
- (3) Safe harbor rule based on current liability.
  - (i) In general.
  - (ii) Amount of special deposit.
  - (iii) Modification for gasoline tax deposits for September.
- (A) Applicability.
- (B) Modification.
- (iv) Effective date.
- (d) Remittance of deposits.
- (e) Exceptions.
  - (1) Taxes excluded.
  - (2) One-time filings.
  - (3) De minimis exception.
    - (i) In general.
    - (ii) Effective date.
- (f) Cross references.
- (g) Effective date.

**40.6302(c)-2 Special rules for use of Government depositaries under section 4681.****(a) Overview.****(b) In general.**

- (1) Time to deposit.
- (2) Amount of deposit; safe harbor rule based on look-back quarter liability.
  - (i) In general.
  - (ii) Modification for tax rate increases.
- (A) Applicability.
- (B) Modification.
- (3) Amount of deposit; safe harbor rule based on current liability.
  - (i) In general.
  - (ii) Effective date.

**40.6302(c)-3 Special rules for use of Government depositaries under chapter 33.****(a) Overview.****(b) Alternative method for computing deposits.**

- (1) In general.
  - (i) Alternative method.
  - (ii) Using more than one method to compute deposits.
- (2) Applicability.
  - (i) In general.
  - (ii) Separate account.
  - (iii) Change of method.
- (3) Period during which tax is considered as collected.
- (4) When amounts are billed.
- (c) Time to deposit.
- (d) Amount of deposit
- (e) Reporting of tax.
- (f) Transitional rule for first calendar quarter of 1993.
  - (1) Applicability.
  - (2) Rule.
    - (i) Crediting of deposits.
    - (ii) Return of tax for fourth calendar quarter of 1992.
  - (3) Example.
- (g) Effective date.

**40.6302(c)-4 Special rule for use of Government depositaries under section 4081.****(a) Overview.**

- (b) Time to deposit under the 14-day rule.

**(c) Qualified person defined.**

- (1) In general.
  - (2) Related groups.
- (d) Effective date and termination date.

**40.6302(c)-1 Use of Government depositaries.**

(a) *Overview.* This section sets forth the general rule that any person required to file a quarterly return under § 40.6011(a)-1(a)(2) must make deposits of taxes reported on the return. Rules relating to the time for making a deposit and its amount are provided, including safe harbor rules for computing the amount of a deposit. Return filers generally have an obligation to make semimonthly deposits of tax in advance of the due date of the return. Under this section, taxes that are required to be deposited on the same schedule are grouped together into classes of tax and referred to collectively as "9-day rule taxes," "30-day rule taxes," "alternative method taxes," or "14-day rule taxes." Paragraph (b)(6) of this section sets forth the general rule that the deposit of tax for a semimonthly period is due by the ninth day of the following semimonthly period (the "9-day rule"). Most of the taxes to which this part 40 relates are required to be deposited in accordance with this rule (the "9-day rule taxes"). Exceptions to the 9-day rule are set forth in other sections. Unless otherwise provided, the safe harbor rules set forth in this section apply as well to deposits of alternative method and 14-day rule taxes. Section 40.6302(c)-2 (relating to taxes imposed on ozone-depleting chemicals by section 4681) provides special rules for the time to make deposits of section 4681 taxes (the "30-day rule" and "30-day rule taxes") and the safe harbor rules for computing the amount of those deposits. Section 40.6302(c)-3 (relating to taxes imposed on communications services and air transportation by chapter 33) provides an alternative method for computing the amount of deposits of chapter 33 taxes (the "alternative method" and "alternative method taxes"). Section 40.6302(c)-4 (relating to taxes imposed on gasoline by section 4081) provides a special rule under which qualified persons may make deposits of section 4081 taxes (the "14-day rule" and "14-day rule taxes").

(b) *In general—(1) Semimonthly deposits required—(i) General rule.* Except as provided by statute or by paragraph (e) of this section, each person required under § 40.6011(a)-1(a)(2) to file a quarterly return must make a deposit of tax for each semimonthly period (as defined in § 40.0-1(c)) in which liability is incurred.

(ii) *Special rule for gasoline tax deposits for September.* In the case of deposits of taxes imposed by section 4081 (relating to gasoline) for the second semimonthly period in September, separate deposits are required for the period September 16th-22nd and the period September 23rd-30th.

(iii) *Treatment of taxes imposed by chapter 33.* For purposes of this part 40, a tax imposed by chapter 33 (relating to communications services and air transportation) is treated as a tax liability incurred during the semimonthly period in which that tax is collected (or, in the case of the alternative method, is considered as collected).

(2) *Definition of net tax liability.* The term "net tax liability" means the tax liability for the specified period plus or minus any adjustments allowable in accordance with the instructions applicable to the form on which the return is made.

(3) *Computation of net tax liability.* The net tax liability for a semimonthly period may be computed by dividing by two the net tax liability incurred during the calendar month that includes that semimonthly period, provided that this method of computation is used for all semimonthly periods in the calendar quarter.

(4) *Failure to comply with deposit requirements.* If a person fails to make deposits as required under this part 40, that failure may be reported to the appropriate district director and the Internal Revenue Service may withdraw the person's right to use the safe harbor rules of paragraph (c) of this section and § 40.6302(c)-2(b)(2) and (3) in computing deposits.

(5) *Amount of deposit—(i) In general.* The deposit of tax for each semimonthly period must be not less than the amount of net tax liability incurred during that semimonthly period. Except as provided under paragraph (c)(2) of this section and § 40.6302(c)-2(b)(2) (relating to safe harbor rules based on look-back quarter liability), no deposit is required for any semimonthly period in which no tax liability is incurred.

(ii) *Special rule for gasoline tax deposits for September.* Each deposit of taxes imposed by section 4081 (relating to gasoline) for the periods September 16th-22nd and September 23rd-30th must be not less than the amount of net tax liability incurred under section 4081 during the period. However, if net tax liability is computed on the basis of the rule provided in paragraph (b)(3) of this section, the deposit for each period must not be less than one-fourth of the September net tax liability under section 4081.

(iii) *Exceptions; cross references.* Special rules for determining the amount to deposit are provided in paragraph (c) of this section (relating to safe harbor rules), paragraph (e)(3) of this section (relating to the de minimis exception), § 40.6302(c)-2(b)(2) and (3) (relating to safe harbor rules for section 4601 taxes), and § 40.6302(c)-3(d) (relating to the alternative method for chapter 33 taxes).

(6) *Time to deposit—(i) In general.* The deposit of tax for any semimonthly period must be made by the ninth day of the following semimonthly period (the "9-day rule"). Thus, under the 9-day rule generally, the deposit of tax for the first semimonthly period in a month is due by the 24th day of that month and the deposit of tax for the second semimonthly period in a month is due by the 9th day of the following month.

(ii) *Exceptions; cross references.* The 9-day rule does not apply to deposits for which rules are prescribed by paragraph (b)(6)(iii) of this section (relating to deposits of gasoline tax for September), § 40.6302(c)-2 (relating to deposits of section 4681 taxes ("30-day rule taxes")), § 40.6302(c)-3 (relating to the alternative method for computing deposits of chapter 33 taxes ("alternative method taxes")), or § 40.6302(c)-4 (relating to deposits by qualified persons of section 4081 taxes ("14-day rule taxes")).

(iii) *Special rule for gasoline tax deposits for September—(A)* The deposit of taxes imposed by section 4081 (relating to gasoline) for the period September 16th-22nd is due by September 27th. If September 27th falls on a Saturday, Sunday, or legal holiday in the District of Columbia, the due date of the deposit is the immediately preceding day which is not a Saturday, Sunday, or legal holiday in the District of Columbia. Section 40.6302(c)-4 (relating to the 14-day rule) does not apply to extend the due date of this deposit.

(B) The deposit of taxes imposed by section 4081 (relating to gasoline) for the period September 23rd-30th is due as provided under paragraph (b)(6)(i) of this section or § 40.6302(c)-4.

(c) *Amount of deposit; safe harbor rules—(1) Applicability—(i) In general.* This paragraph (c) provides the safe harbor rules for deposits of 9-day rule taxes, alternative method taxes, and 14-day rule taxes.

(ii) *Separate applicability to each class of tax.* The rules of this paragraph (c) are applied separately to each class of tax. For this purpose, all 9-day rule taxes are treated as one class of tax, all alternative method taxes are treated as a second class of tax, and all 14-day rule taxes are treated as a third class of tax.

(2) *Safe harbor rule based on look-back quarter liability—(i) In general.* Except as provided in paragraph (c)(2)(iii) of this section, any person that made a return of tax reporting a class of tax to which this paragraph (c) applies for the second preceding calendar quarter (the "look-back quarter") is considered to have complied with the requirement of this part 40 for deposit of taxes in that class for the current calendar quarter if—

(A) The deposit of those taxes for each semimonthly period in the current calendar quarter is not less than  $\frac{1}{4}$  (16.67 percent) of the net tax liability reported for the class of tax for the look-back quarter;

(B) Each deposit is made on time;

(C) In any case in which the due date of the return is extended under § 40.6071(a)-1(a)(2) (relating to filing a single return), a special deposit (the amount of which is determined under paragraph (c)(2)(ii) of this section) is made by the last day of the first calendar month following the end of the quarter; and

(D) The amount of any underpayment of those taxes is paid by the due date of the return.

(ii) *Amount of special deposit.* The amount of the special deposit required under paragraph (c)(2)(i)(C) of this section with respect to a class of tax is not less than the lesser of—

(A) The amount by which net tax liability with respect to taxes in that class (other than taxes imposed by chapter 33) for the current calendar quarter exceeds that net tax liability for the look-back quarter; and

(B) The amount of any underpayment of taxes in that class for the current calendar quarter.

(iii) *Modification for tax rate increase—(A) Applicability.* The safe harbor rule of paragraph (c)(2)(i) of this section is modified for the first and second calendar quarters beginning on or after the effective date of an increase in the rate of any tax to which this part 40 applies.

(B) *Modification.* The safe harbor rule of paragraph (c)(2)(i) of this section does not apply to a class of tax for those calendar quarters unless the deposit of taxes in that class for each semimonthly period in the calendar quarter is not less than  $\frac{1}{4}$  (16.67 percent) of the tax liability the person would have had with respect to that class for the look-back quarter if the increased rate of tax had been in effect for that look-back quarter.

(C) *Effective date.* This paragraph (c)(2)(iii) is effective for deposits that relate to calendar quarters beginning after December 31, 1992.



(iv) *Modification for gasoline tax deposits for September*—(A) *Applicability.* In the case of a class of tax that includes taxes imposed by section 4081 (relating to gasoline), the safe harbor rule of paragraph (c)(2)(i) of this section is modified for deposits of tax for the second semimonthly period in September.

(B) *Modification.* The safe harbor rule of paragraph (c)(2)(i) of this section does not apply to that class of tax for the third calendar quarter unless each deposit of taxes in that class for the periods September 16th–22nd and September 23rd–30th is not less than 1/2 (34 percent) of the net tax liability reported for that class of tax for the look-back quarter.

(C) *Effective date.* This paragraph (c)(2)(iv) is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

(3) *Safe harbor rule based on current liability*—(i) *In general.* A person is considered to have complied with the requirement of this part 40 for deposit of a class of tax to which this paragraph (c) applies for a calendar quarter if—

(A) The deposit of those taxes for each semimonthly period in the calendar quarter is not less than 95 percent of the net tax liability incurred with respect to those taxes during the semimonthly period;

(B) Each deposit is made on time; and

(C) In any case in which the due date the return is extended under 40.6071(a)–1(a)(2) (relating to filing a single return), a special deposit (the amount of which is determined under paragraph (c)(3)(ii) of this section) is made by the last day of the first calendar month following the end of the quarter; and

(D) The amount of any underpayment of those taxes is paid by the due date of the return.

(ii) *Amount of special deposit.* The amount of the special deposit required under paragraph (c)(3)(i)(C) of this section with respect to a class of tax is less than the lesser of—

(A) An amount equal to 5 percent of the net tax liability with respect to taxes in that class (other than taxes imposed by section 4081) for the current calendar quarter; and

(B) The amount of any underpayment of those taxes in that class for the current calendar quarter.

(ii) *Modification for gasoline tax deposits for September*—(A) *Applicability.* In the case of a class of tax that includes taxes imposed by section 4081 (relating to gasoline), the safe harbor rule of paragraph (c)(3)(i) of this section is modified for deposits for

the second semimonthly period in September.

(B) *Modification.* The safe harbor rule of paragraph (c)(3)(i) of this section does not apply to that class of tax for the third calendar quarter unless—

(1) The deposit of taxes in that class for the period September 16th–22nd is not less than 47.5 percent of the net tax liability for section 4081 taxes for the second semimonthly period in September; and

(2) The total deposit of taxes in that class for the semimonthly period is not less than 95 percent of the net tax liability for that class of tax for the semimonthly period.

(iv) *Effective date.* This paragraph (c)(3) is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

(d) *Remittance of deposits.* A completed Form 8109, *Federal Tax Deposit Coupon*, must accompany each deposit. The deposit must be remitted, in accordance with the instructions applicable to the form, to a financial institution authorized as a depository for federal taxes (as provided in 31 CFR part 214) or to a Federal Reserve bank.

(e) *Exceptions*—(1) *Taxes excluded.* No deposit is required in the case of the taxes imposed by section 4042 (relating to fuel used on inland waterways), section 4161 (relating to sport fishing equipment and bows and arrows), and section 4682(h) (relating to floor stocks tax on ozone-depleting chemicals).

(2) *One-time filings.* No deposit is required in the case of any taxes reportable on a one-time filing (as defined in § 40.6011(a)–2(b)).

(3) *De minimis exception*—(i) *In general.* For any calendar quarter, no deposit is required if the net tax liability for the quarter does not exceed \$2,000.

(ii) *Effective date.* This paragraph (e)(3) is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

(f) *Cross references.* For provisions relating to penalties for failure to make deposit of taxes, see section 6656.

(g) *Effective date.* Except as otherwise provided, this section is effective April 1, 1991, for deposits that relate to calendar quarters beginning after March 31, 1991.

#### § 40.6302(c)–2 Special rules for use of Government depositories under section 4681.

(a) *Overview.* This section sets forth special rules for deposits of tax imposed by section 4681 (relating to ozone-depleting chemicals), including rules relating to the time to deposit and safe harbors. The general rules relating to deposits are set forth in § 40.6302(c)–1

and apply unless inconsistent with the rules set forth below.

(b) *In general*—(1) *Time to deposit.* In the case of tax imposed by section 4681 (section 4681 tax), the deposit of tax for a semimonthly period must be made by the last day of the second following semimonthly period (the “30-day rule”). Thus, under the 30-day rule generally, the deposit of tax for the first semimonthly period in a month is due by the 15th day of the following month and the deposit of tax for the second semimonthly period in a month is due by the end of the following month.

(2) *Amount of deposit; safe harbor rule based on look-back quarter liability*—(i) *In general.* Except as

provided in paragraph (b)(2)(ii) of this section, any person that made a return of section 4681 tax for the second preceding calendar quarter (the “look-back quarter”) is considered to have complied with the requirement of this part 40 for deposit of that tax for the current calendar quarter if—

(A) The deposit of that tax for each semimonthly period in the current calendar quarter is not less than 1/6 (16.67 percent) of the net tax liability under section 4681 reported for the look-back quarter;

(B) Each deposit is made on time; and

(C) The amount of any underpayment of that tax for the current calendar quarter is paid by the due date of the return.

(ii) *Modification for tax rate increases*—(A) *Applicability.* The safe harbor rule of paragraph (b)(2)(i) of this section is modified for the first and second calendar quarters beginning on or after the effective date of—

(1) An increase in the base tax amount under section 4681(b); or

(2) A change in the tax treatment of ozone-depleting chemicals that are described in section 4682(g).

(B) *Modification.* The safe harbor rule in paragraph (b)(2)(i) of this section does not apply for those calendar quarters unless the deposit of section 4681 taxes for each semimonthly period in the calendar quarter is not less than 1/6 (16.67 percent) of the tax liability the person would have had under section 4681 for the look-back quarter if the increased base tax amount or the change in treatment had been in effect for that look-back quarter.

(3) *Amount of deposit; safe harbor rule based on current liability*—(i) *In general.* A person is considered to have complied with the requirement of this part 40 for deposit of section 4681 tax for a calendar quarter if—

(A) The deposit of that tax for each semimonthly period in the calendar

quarter is not less than 95 percent of the net tax liability incurred under section 4681 during the semimonthly period;

(B) Each deposit is made on time; and

(C) The amount of any underpayment of that tax for the calendar quarter is paid by the due date of the return.

(ii) *Effective date.* This paragraph (b)(3) is effective for deposits that relate to calendar quarters beginning after December 31, 1992.

(c) *Effective date.* Except as otherwise provided, this section is effective April 1, 1991, for deposits that relate to calendar quarters beginning after March 31, 1991.

**§ 40.6302(c)-3 Special rules for use of Government depositaries under chapter 33.**

(a) *Overview.* This section sets forth an alternative method for computing the amount of deposits of taxes imposed by chapter 33, and provides rules relating to the time for making a deposit and the amount of tax to be reported on the return of tax for each quarter by persons using the alternative method. The safe harbor rules for computing deposits of tax using the alternative method and the general rules relating to deposits are set forth in § 40.6302(c)-1 and apply unless inconsistent with the rules set forth below.

(b) *Alternative method for computing deposits—(1) In general—(i) Alternative method.* Any person required to collect and pay over any tax imposed by chapter 33 may compute the amount of that tax to be deposited on the basis of amounts considered as collected (the "alternative method") instead of on the basis of actual collections of tax.

(ii) *Using more than one method to compute deposits.* A person may compute deposits of tax imposed by one or more sections of chapter 33 using the alternative method provided by this section and compute deposits to taxes imposed by other sections of chapter 33 on the basis of amounts actually collected using the 9-day rule of § 40.6302(c)-1(b)(6). For purposes of this paragraph (b)(1)(ii), the taxes imposed by section 4261(a) and (b) are treated as taxes imposed by the same section.

(2) *Applicability—(i) In general.* A person may use the alternative method with respect to a tax only if the person—

(A) Separately accounts for the tax in accordance with paragraph (b)(2)(ii) of this section; and

(B) Makes a return of the tax on the basis of the amount of the tax that is considered as collected.

(ii) *Separate account.* The account required under paragraph (b)(2)(i)(A) of this section (the "separate account") must reflect for each month—

(A) All items of the tax that are included in amounts billed or tickets sold to customers during the month, and

(B) Items of adjustment (including bad debts and errors) relating to the tax for prior months within the period of limitations on credits or refunds.

(iii) *Change of method.* The method of computing deposits of tax imposed by a section of chapter 33 (as described in paragraph (b)(1)(ii) of this section) may be changed only at the beginning of a calendar quarter. Before a person changes the method used to compute the amount of tax to be deposited and reported for a calendar quarter, the person must notify the Commissioner so that proper adjustments may be made in order to properly reflect that person's collections of excise tax.

(3) *Period during which tax is considered as collected.* For purposes of this section, the tax included in amounts billed or tickets sold during a semimonthly period (as defined in § 40.0-1(c)) is considered as collected during the first seven days of the second following semimonthly period. Thus, the tax included in amounts billed or tickets sold during the first semimonthly period of a calendar month is considered as collected during the period of the 1st day through the 7th day of the following month; the tax included in amounts billed or tickets sold during the second semimonthly period of a calendar month is considered as collected during the period of the 6th day through the 22nd day of the following month.

(4) *When amounts are billed.* For purposes of this section, an amount is billed on the earlier of the date the amount is received or the date a bill for the amount is rendered.

(c) *Time to deposit.* Under the alternative method, the deposit of tax for any semimonthly period must be made by the third banking day after the seventh day of that semimonthly period. Thus, for example, the deposit for the semimonthly period beginning on January 1, 1993 (relating to amounts billed between December 1st and December 15, 1992) is due by January 12, 1993, three banking days after January 7, the seventh day of the semimonthly period.

(d) *Amount of deposit.* Under the alternative method, the deposit of tax for any semimonthly period must be not less than the net amount of tax that is considered as collected during that semimonthly period. The net amount of tax that is considered as collected during the semimonthly period must be either the net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or one-half the net

amount of tax reflected in the separate account for the preceding month.

(e) *Reporting of tax.* If a tax is deposited under the alternative method for a calendar quarter, the return of tax for the quarter must report the net amount of the tax that is considered as collected during the quarter and not the amount of the tax that is actually collected during the quarter. The amount to be reported for each month is the net amount of tax reflected in the separate account for the preceding month. For example, amounts billed in December, January, and February are considered as collected during January, February, and March, and are reported as the collections of tax for January, February, and March (the first calendar quarter). Thus, the net amount of tax reflected in the separate accounts for December, January, and February is the amount reported as collections for the first quarter.

(f) *Transitional rule for first calendar quarter of 1993—(1) Applicability.* This paragraph (f) applies to a chapter 33 tax if the person—

(i) Erroneously applied the "considered collected" method provided under § 49.6302(c)-1(a)(1) of this chapter in the fourth calendar quarter of 1992 by calculating deposits of that tax on the basis of amounts billed or tickets sold during the quarter rather than on the basis of taxes considered as collected during the quarter; and

(ii) Uses the alternative method provided under this section to calculate deposits and make a return of that tax for the first quarter of 1993.

(2) *Rule—(i) Crediting of deposits.* If this paragraph (f) applies to a tax, any deposits of the tax computed on the basis of amounts billed or tickets sold during December 1992 are credited to the first calendar quarter of 1993.

(ii) *Return of tax for fourth calendar quarter of 1992.* If this paragraph (f) applies to a tax, the amount of the tax to be reported on the person's return for the fourth calendar quarter of 1992 must be the amount of the tax included in amounts billed or tickets sold in October and November 1992.

(3) *Example.* The application of this paragraph (f) may be illustrated by the following example:

(a) *Facts.* (i) X, a corporation, has been providing air transportation subject to tax under section 4261 (a) and (b) for several years and is required to collect and pay over these taxes. X maintains a separate account in which all items of these taxes are recorded. For calendar quarters beginning before January 1, 1993, including the fourth quarter of 1992, X erroneously applied the "considered collected" method of computing

deposits of these taxes by treating the tickets sold during each quarter as the collections for the quarter. For quarters beginning after December 31, 1992, X uses the alternative method provided by this section for computing deposits of these taxes.

(ii) For the period September 1, 1992, through December 31, 1992, X's separate account reflects the following amounts of tax:

Sept. 1st-15th	\$4,000
Sept. 15th-30th	4,000
Oct. 1st-15th	7,000
Oct. 15th-31st	7,000
Nov. 1st-15th	5,000
Nov. 15th-30th	5,000
Dec. 1st-15th	9,000
Dec. 15th-31st	9,000

(iii) During the period October 1992 through January 1993, X made the following deposits:

Date	Amount
Oct. 13th	\$4,000
Oct. 27th	4,000
Nov. 12th	7,000
Nov. 26th	7,000
Dec. 10th	5,000
Dec. 24th	5,000
Jan. 12th	9,000
Jan. 27th	9,000

(iv) X credited the October deposits (relating to tickets sold in September) to the third quarter of 1992 and reported the tax included in tickets sold in September as third quarter collections on the Form 720 for the third quarter. Following the same procedure, X credited the November, December, and January deposits (relating to the October, November, and December tickets sold) to the fourth quarter.

(b) *Transitional rule.* In order to use the alternative method beginning with the first calendar quarter of 1993, X must deposit and report the amount of tax that is considered as collected in the quarter rather than the amount of tax included in tickets sold during the quarter. Under paragraph (f)(2)(i) of this section, X's January deposits (relating to the tickets sold in December) will be credited to the first quarter of 1993. X must report on the Form 720 for the fourth quarter only the \$24,000 of tax included in the October and November tickets sold. The amount of tax included in the tickets sold in December must be reported on the Form 720 for the first quarter of 1993.

(g) *Effective date.* This section is effective January 1, 1993, for deposits of taxes that are considered as collected after December 31, 1992, (i.e., tax with respect to amounts billed or tickets sold after November 30, 1992), and for returns of tax for quarters beginning after September 30, 1992. The provisions that apply in the case of semimonthly deposits under the considered collected method before the effective date of this section are contained in 26 CFR § 49.6302(c)-1(a)(1) (revised as of April 1, 1992).

#### § 40.6302(c)-4 Special rule for use of Government depositaries under section 4081.

(a) *Overview.* This section set forth a special rule for deposits of taxes imposed by section 4081 (relating to gasoline). This section does not apply to the deposit for the period September 16th-22nd required under § 40.6302(c)-1(b)(6)(iii). The general rules, including the amount to deposit and safe harbors, are set forth in § 40.6302(c)-1 and apply unless inconsistent with the rules set forth below.

(b) *Time to deposit under the 14-day rule.*—(1) In the case of taxes imposed by section 4081, a qualified person may make deposits of the tax for a semimonthly period by the fourteenth day following the semimonthly period if the deposit is made by transfer between accounts with the same Government depository (the "14-day rule"). Thus, under the 14-day rule generally, the deposit of tax for the first semimonthly period in a month is due by the 29th day of that month and the deposit of tax for the second semimonthly period in a month is due by the 14th day of the following month.

(2) If the due date under paragraph (b)(1) of this section falls on a Saturday, Sunday, or legal holiday in the District of Columbia, the due date of the deposit is the immediately preceding day which is not a Saturday, Sunday, or legal holiday in the District of Columbia.

(c) *Qualified person defined.*—(1) *In general.* The term "qualified person" means—

(i) Any independent refiner (within the meaning of section 4995(b)(4) (as in effect on January 6, 1983)); or

(ii) Any person whose average daily production of crude oil for the preceding calendar quarter did not exceed 1,000 barrels.

(2) *Related groups.* In determining whether a person's production exceeds 1,000 barrels per day, the rules of section 4992(e) (as in effect on January 6, 1983) relating to allocation within related groups shall apply. Thus, for persons who are members of the same related group (within the meaning of section 4992(e)(2)) at any time during the preceding calendar quarter, the 1,000 barrel amount will be reduced for each such person by allocating that amount among all such persons in accordance with the rules of section 4992(e).

(d) *Effective date and termination date.* This section is effective April 1, 1991, for deposits that relate to calendar quarters beginning after March 31, 1991. This section terminates on the date that section 518 of the Highway Act of 1982 terminates.

#### § 40.9999-1 Examples.

The following examples illustrate the rules of this part 40.

*Example 1. Luxury tax; one-time filing.* (i) *Facts.* On March 20, 1991, A, an individual, purchases a new automobile outside the United States for \$102,000. In April of 1991, A imports the automobile into the U.S. and uses it for personal use. At the time of importation, the automobile's retail value is \$100,000. Thus, A is liable for the luxury tax imposed by section 4001. The amount of A's section 4001 tax liability is \$7,000, 10% of the amount by which the \$100,000 retail value exceeds \$30,000. The liability is incurred in the second calendar quarter of 1991, the quarter during which the automobile is imported and used. The fuel economy of the automobile's model type is at least 22.5 miles per gallon, so that A is not liable for the gas guzzler tax imposed by section 4084. A did not import the automobile in the course of its trade or business, does not engage in any activities with respect to which tax is reportable on Form 720 in the course of a trade or business, and was not required to file a Form 720 for the preceding calendar quarter.

(ii) *Filing requirement.* A must file a return of the luxury tax on Form 720 (§ 40.6011(a)-1(a)(1)) for the second calendar quarter of 1991 (§ 40.6011(a)-1(a)(2)) reporting A's \$7,000 luxury tax liability. The Form 720 is due by July 31, 1991, the last day of the first month following the calendar quarter (§ 40.6071(a)-1(a)(1)). A's Form 720 for the second calendar quarter of 1991 is a first return (§ 40.6011(a)-1(a)(2)(ii)). Because A did not import the automobile in the course of its trade or business and is not otherwise required to file a Form 720 for the calendar quarter on account of transactions in the course of a trade or business, the return is a one-time filing (§ 40.6011(a)-2(b)). As a one-time filing, A's Form 720 also constitutes a final return. Therefore, in accordance with the instructions for Form 720, A checks the box marked "Final Return."

(iii) *Payment requirement.* Because A's Form 720 is a one-time filing, A is not required to make deposits of tax (§ 40.6302(c)-1(e)(2)). Instead, A pays the \$7,000 of tax with the return.

*Example 2. Luxury tax; deposit requirement; safe harbor based on current liability.* (i) *Facts.* On March 16, 1993, B, an individual in the business of automobile dealing, sells in a first retail sale a new automobile subject to the luxury tax imposed by section 4001. The amount of B's section 4001 tax liability is \$12,000. The sale of the automobile is in the course of B's business, but B does not expect to sell any other automobiles subject to the luxury tax. B is not required to file a Form 720 for the first calendar quarter of 1993 by reason of any other activity, and has not in the past filed a Form 720.

(ii) *Filing requirement.* B must file a return of the luxury tax (§ 40.6011(a)-1(a)(1)) on Form 720 for the first calendar quarter of 1993 (§ 40.6011(a)-1(a)(2)) reporting B's \$12,000 luxury tax liability. The Form 720 is due by April 30, 1993, the last day of the first month following the calendar quarter (§ 40.6071(a)-

1(a)(1)). Although B does not ordinarily engage in transactions giving rise to a luxury tax liability in B's business, the tax is due with respect to a transaction engaged in by B in the course of a trade or business. Thus, the return is not a one-time filing under § 40.6011(a)-2(b), and B must file a Form 720 for each subsequent calendar quarter until B files a final return in accordance with § 40.6011(a)-2 (§ 40.6011(a)-1(a)(2)). However, if B does not expect to incur liability for luxury tax in subsequent quarters (i.e., has permanently ceased all operations with respect to which liability for tax was incurred), B's Form 720 also constitutes a final return (§ 40.6011(a)-2(a)(1)), and B is not required to file a return reporting zero tax liability in subsequent quarters. If B's Form 720 is also a final return, B checks the box marked "Final Return" in accordance with the instructions for the return.

(iii) *Deposit requirement; in general.* Because the return is not a one-time filing, B is required to make a deposit of tax (§ 40.6302(c)-1(b)(1)(i)) for the semimonthly period in which the liability was incurred. Under § 40.6302(c)-1(b)(5)(i), B must deposit an amount not less than the net tax liability incurred during the semimonthly period, in this case \$12,000. Deposits of luxury tax for a semimonthly period are due by the 9th day of the following semimonthly period (the 9-day rule under § 40.6302(c)-1(b)(6)(i)). Thus, B must deposit the \$12,000 by April 9, 1993. Form 8109, *Federal Tax Deposit Coupon*, completed in accordance with the instructions to the form must accompany the deposit (§ 40.6302(c)-1(d)).

(iv) *Deposit requirement; safe harbor.* B may also meet the deposit requirement by using a safe harbor rule. B did not file a return for the second preceding calendar quarter, so B does not qualify for the safe harbor based on look-back quarter liability (§ 40.6302(c)-1(c)(2)(i)), but B may use the safe harbor based on current liability (§ 40.6302(c)-1(c)(3)(i)). Under this safe harbor, B's deposit for the semimonthly period must be at least 95% of B's net tax liability for the semimonthly period (§ 40.6302(c)-1(c)(3)(i)(A)). B's deposit must be timely (§ 40.6302(c)-1(c)(3)(i)(B)), and B must pay the amount of any underpayment of tax by the due date of the return (§ 40.6302(c)-1(c)(3)(i)(D)). B meets this safe harbor by depositing \$11,400 (95% of \$12,000) by April 9, 1993, and by paying \$800 (the amount of the underpayment (\$12,000 minus \$11,400)) with the return by April 30, 1993.

*Example 3. Classes of tax (diesel fuel tax, foreign insurance tax, ozone-depleting chemicals tax); books kept on a monthly basis; deposit requirement; safe harbor based on look-back quarter liability.* (i) *Facts.* (1) M, a corporation, is a diesel fuel wholesaler registered under section 4101 with respect to the tax imposed by section 4091, and is therefore treated as a producer for purposes of the section 4091 tax on the sale of diesel fuel by its producer. M's net diesel fuel tax liability in the fourth quarter of 1990 was \$38,000. The diesel fuel tax liability incurred by M during each calendar month in the second calendar quarter of 1991 is as follows:

Apr. 1st-30th.....	\$10,000
May 1st-31st.....	15,000
Jun. 1st-30th.....	12,000
Total.....	\$37,000

(2) M also purchases insurance from a foreign insurer, thereby incurring liability for the tax imposed by section 4371 on policies issued by a foreign insurer. M's net section 4371 tax liability in the fourth quarter of 1990 was \$8,000. The section 4371 liability incurred by M during each calendar month in the second calendar quarter of 1991, is as follows:

Apr. 1st-30th.....	\$0
May 1st-31st.....	0
June 1st-30th.....	8,000
Total.....	\$8,000

(3) In addition, M imports into the United States and sells CFC-12, an ozone-depleting chemical subject to tax under section 4681. M's net ozone-depleting chemicals tax liability for the fourth calendar quarter of 1990 was \$3,300. The ozone-depleting chemicals tax liability incurred by M during each calendar month in the second calendar quarter of 1991 is as follows:

Apr. 1st-30th.....	\$1,300
May 1st-31st.....	1,500
June 1st-30th.....	1,500
Total.....	\$4,300

(4) M keeps its books on a monthly basis. M makes deposits and files Form 720 each quarter to report liability for the diesel fuel tax, the section 4371 tax, and the ozone-depleting chemicals tax. M's total net tax liability for the second calendar quarter of 1991 is \$47,300.

(ii) *Filing requirement.* Because M must report ozone-depleting chemicals tax, M's Form 720 for the second calendar quarter of 1991 is due by Tuesday, September 3, 1991. The Form 720 would ordinarily be due by August 31st (the last day of the second month after the end of the calendar quarter (§ 40.6071(a)-2(a)), but August 31, 1991 is a Saturday, and Monday, September 2, 1991, is Labor Day, a legal holiday. Thus, under section 7503, M has additional time to file. If M had reported only diesel fuel and section 4371 tax liability on M's Form 720 for the second calendar quarter of 1991, the Form 720 would have been due by July 31, 1991, the last day of the first month after the end of the calendar quarter (§ 40.6071(a)-1(a)(1)). However, only one Form 720 is filed for a calendar quarter (§ 40.6071(a)-1(a)(2)). Thus, M's responsibility for reporting ozone-depleting chemicals tax allows M to delay the filing of the Form 720. Although M may delay the filing of its Form 720 until two months after the quarter ends, M must deposit the full amount of the diesel fuel tax and foreign insurance tax for the quarter by the date the return of those taxes would ordinarily be due (i.e. July 31, 1991) (§ 40.6071(a)-1(a)(2)). Under § 40.6011(a)-1(a)(2), M must continue to file a Form 720 for each calendar quarter until M files a final return in accordance with § 40.6011(a)-2.

(iii) *Deposit requirement; in general.* M is required to make a deposit of tax for each semimonthly period in which liability is incurred (§ 40.6302(c)-1(b)(1)(i)). M is required to make deposits of tax because M's liability for the quarter exceeds \$2,000 (§ 40.6302(c)-1(e)(3)). Deposits of diesel fuel tax and section 4371 tax for a semimonthly period are due by the 9th day of the following semimonthly period (the 9-day rule under § 40.6302(c)-1(b)(6)(i)). The 9-day rule does not apply to ozone-depleting chemicals tax (§ 40.6302(c)-1(b)(6)(ii)). Deposits of ozone-depleting chemicals tax for a semimonthly period are due by the last day of the second following semimonthly period (the 30-day rule under § 40.6302(c)-2(b)(1)). M uses the rule provided under § 40.6302(c)-1(b)(3) to compute its net tax liability for each semimonthly period. Thus, M divides monthly net tax liability for each tax by two to determine its semimonthly liability. The amount of M's deposit for a semimonthly period under the 9-day rule must be not less than the total net tax liability for 9-day rule taxes incurred during the semimonthly period (§ 40.6302(c)-1(b)(5)(i)). The amount of M's deposit for a semimonthly period under the 30-day rule must be not less than the total net tax liability for 30-day rule taxes incurred during the semimonthly period (§ 40.6302(c)-1(b)(5)(ii)). Accordingly, M meets the deposit requirement if M makes the following deposits:

Deposit due by	Amount	Class of tax
Apr. 24th.....	\$5,000	9-day rule
May 9th.....	5,000	9-day rule
May 15th.....	650	30-day rule
May 24th.....	7,500	9-day rule
May 31st.....	650	30-day rule
June 10th.....	7,500	9-day rule
June 17th.....	750	30-day rule
June 24th.....	9,000	9-day rule
July 1st.....	750	30-day rule
July 9th.....	9,000	9-day rule
July 15th.....	750	30-day rule
July 31st.....	750	30-day rule

The deposit due on Monday, June 10th would ordinarily be due on June 9th, but June 9, 1991, is a Sunday. Thus, under section 7503, M has additional time to make the required deposit. Similarly, the deposits otherwise due on June 15th and June 30th are due under section 7503 on the next succeeding day that is not a Saturday or Sunday.

(iv) *Deposit requirements; safe harbor.* M may also meet the deposit requirement by using a safe harbor rule. M uses the safe harbor based on look-back quarter liability for both the diesel fuel and section 4371 taxes (9-day rule taxes) and the ozone-depleting chemicals tax (30-day rule tax). This is permitted because M filed a return reporting both of those classes of tax for the fourth quarter of 1990 (the look-back quarter under §§ 40.6302(c)-1(c)(2)(i) and 40.6302(c)-2(b)(2)(i)). The safe harbor rules apply separately to 9-day rule and 30-day rule taxes (§ 40.6302(c)-1(c)(1)(ii)). Therefore, M must compute the amount to deposit separately for each class of tax.

(1) M's combined net tax liability in the look-back quarter for 9-day rule taxes was \$42,000. M computes the amount to deposit or 9-day rule taxes based on M's combined look-back quarter liability for those taxes. Accordingly, M meets the safe harbor for 9-day rule taxes by—

(A) Depositing \$7,000 (1/3 of \$42,000, M's combined net 9-day rule tax liability for the fourth calendar quarter of 1990 (§ 40.6302(c)-1(c)(2)(i)(A))) by the due dates specified above for 9-day rule taxes (§ 40.6302(c)-1(c)(2)(i)(B)); and

(B) Depositing \$1,000 (the amount by which the net 9-day rule tax liability for the second calendar quarter of 1991 (\$43,000) exceeds the net 9-day rule tax liability for the look-back quarter (\$42,000) by July 31, 1991 (§ 40.6302(c)-1(c)(2)(i)(C))).

(2) M's net tax liability in the look-back quarter for 30-day rule taxes was \$3,300. Accordingly, M meets the safe harbor for 30-day rule taxes by—

(A) Depositing \$550 (1/6 of \$3,300, M's ozone-depleting chemicals tax liability for the fourth calendar quarter of 1990 (§ 40.6302(c)-2(b)(2)(i)(A))) by the due dates specified above for 30-day rule taxes (§ 40.6302(c)-2(b)(2)(i)(B)); and

(B) Paying \$1,000 (the amount by which the net 30-day rule tax liability for the second calendar quarter of 1991 (\$4,300) exceeds the net 30-day rule tax liability for the look-back quarter (\$3,300)) by September 3, 1991, the due date of the return (§ 40.6302(c)-2(b)(2)(i)(C)).

*Example 4. Air transportation tax: deposits and reporting based on alternative method.*

(i) *Facts.* (1) P, a corporation engaged in providing air transportation subject to tax under section 4261 (a) and (b), is responsible for collecting and paying over that tax. P maintains a separate account in which all items of air transportation tax included in tickets sold are recorded and makes returns of tax on the basis of amounts considered as collected. P does not compute the amount of deposits of tax on the basis of actual collections. P files Form 720 on a quarterly basis to report the tax. P reported \$54,000 of section 4261 (a) and (b) tax for the third calendar quarter of 1992. P is not required to report any other taxes on its Form 720.

(2) For the last month of 1992 and the first two months of 1993, P's separate account reflects the following:

Tickets sold during	Tax
Dec. 1st-15th.....	\$11,000
Dec. 16th-31st.....	11,000
Jan. 1st-15th.....	7,500
Jan. 15th-31st.....	7,500
Feb. 1st-15th.....	9,500
Feb. 16th-28th.....	9,500
Total.....	\$56,000

(3) The tax is considered as collected during the first week of the second semimonthly period following the semimonthly period in which the tickets were sold to the customers. Accordingly, the tax included in tickets sold during the period December 1992 through February 1993 is considered as collected as follows:

For tickets sold during	Tax is considered as collected during
Dec. 1st-15th.....	Jan. 1st-7th
Dec. 16th-31st.....	Jan. 18th-22nd
Jan. 1st-15th.....	Feb. 1st-7th
Jan. 16th-31st.....	Feb. 16th-22nd
Feb. 1st-15th.....	Mar. 1st-7th
Feb. 16th-28th.....	Mar. 16th-22nd

(ii) *Filing requirement.* Because P is responsible for collecting and paying over air transportation tax, P must file the return of that tax (§ 40.6011(a)-1(a)(3)). P's Form 720 for the first calendar quarter of 1993 is due by Tuesday, June 1, 1993. P's Form 720 would ordinarily be due by May 31, 1993 (the last day of the second month after the end of the calendar quarter (§ 40.6071(a)-2(a)), but May 31, 1993, is Memorial Day, a legal holiday. Thus, under section 7503, P has additional time to file. Under § 40.6011(a)-1(a)(2), P must continue to file a Form 720 for each calendar quarter until P files a final return under § 40.6011(a)-2.

(iii) *Deposit requirement; in general.* Because P maintains the separate account required under § 40.6302(c)-3(b)(2)(ii) and makes returns of tax on the basis of amounts of tax considered as collected, P may use the alternative method to compute the amount of tax to be deposited (§ 40.6302(c)-3(b)(2)). P is required to make a deposit of tax for each semimonthly period in which tax is considered as collected (§ 40.6302(c)-1(b)(1)(iii)). P must deposit an amount not less than the net amount of tax that is considered as collected during the semimonthly period (§ 40.6302(c)-3(d)). Under the alternative method, deposits of air transportation tax are due by the third banking day after the end of the week during which the tax is considered as collected (§ 40.6302(c)-3(c)). Accordingly, P meets the deposit requirement for the first quarter of 1993 if P makes the following deposits:

By Jan. 12th.....	\$11,000
By Jan. 27th.....	11,000
By Feb. 10th.....	7,500
By Feb. 25th.....	7,500
By Mar. 10th.....	9,500
By Mar. 25th.....	9,500

(iv) *Deposit requirement; safe harbor.* P may also meet the deposit requirement by using a safe harbor rule (§ 40.6302(c)-1(c)(1)(i)). P uses the safe harbor based on look-back quarter liability. This is permitted because P filed a return reporting tax imposed on air transportation under section 4261 (a) and (b) for the third quarter of 1992 (the look-back quarter under § 40.6302(c)-1(c)(2)(i)). P meets this safe harbor by—

(1) Depositing \$9,000 (1/6 of \$54,000, P's net tax liability for the third calendar quarter of 1992 (§ 40.6302(c)-1(c)(2)(i)(A))) by the due dates specified above (§ 40.6302(c)-1(c)(2)(i)(B)); and

(2) Paying \$2,000 (the amount by which the net tax liability for the first calendar quarter of 1993 (\$56,000) exceeds the net tax liability for the look-back quarter (\$54,000)) by June 1, 1993, the due date of the return (§ 40.6302(c)-1(c)(2)(i)(D)).

(v) *Reporting requirement.* Under the alternative method, P's Form 720 for the first quarter of 1993 reports the \$56,000 of air transportation taxes considered as collected during that quarter (§ 40.6302(c)-3(e)).

**PART 43—EXCISE TAX ON TRANSPORTATION BY WATER**

Par. 2. Part 43 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

2. Section 43.0-1 is revised to read:

**§ 43.0-1 Introduction.**

The regulations in this part 43 are designated "Excise Tax on Transportation by Water." The regulations relate to the taxes on transportation by water imposed by section 4471 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by section 4471.

3. Sections 43.6011(a)-1T, 43.6011(a)-2T, 43.6071(a)-1T, 43.6091-1T, 43.6101-1T, 43.6109(a)-1T, 43.8151(a)-1T, and 43.6302(c)-1T are removed.

**PART 44—TAXES ON WAGERING; EFFECTIVE JANUARY 1, 1995**

Par. 3. Part 44 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

2. Section 44.4402-1T is redesignated as § 44.4402-1 and the word "(temporary)" is removed from the section heading.

3. The authority citation following § 44.6091-1 is removed.

**PART 46—EXCISE TAX ON POLICIES ISSUED BY FOREIGN INSURERS AND OBLIGATIONS NOT IN REGISTERED FORM**

Par. 4. Part 46 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

2. Section 46.0-1T is removed and § 46.0-1 is added to read:

**§ 46.0-1 Introduction.**

The regulations in this part 46 relate to the taxes on policies issued by foreign insurers imposed by chapter 34 of the Internal Revenue Code and the tax on the issuer of registration-required obligations not issued in registered form imposed by chapter 39 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to

returns, payments, and deposits of taxes imposed by chapters 34 and 39.

3. The authority citation at the beginning of subpart B is removed.

4. The authority citation at the end of § 48.4371-4 is removed.

5. Subparts D and E are removed.

#### PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 5. Part 48 is amended as follows:

1. The general authority citation is revised to read:

Authority: 26 U.S.C. 7805. \* \* \*

##### § 48.0-1T [Removed]

2. Section 48.0-1T is removed and § 48.0-1 is added to read:

##### § 48.0-1 Introduction.

The regulations in this part 48 are designated "Manufacturers and Retailers Excise Tax Regulations." The regulations relate to the excise taxes imposed by chapter 31 and 32 of the Internal Revenue Code. Chapter 31 (relating to retail taxes) imposes tax on certain luxury items, special fuels, fuel used in commercial transportation on inland waterways, and heavy trucks and trailers. Chapter 32 (relating to manufacturers taxes) imposes tax on gas guzzler automobiles, highway-type tires, gasoline, diesel and aviation fuel, coal, certain vaccines, and sporting goods. Although chapter 32 also imposes a tax on firearms, this tax is under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by chapters 31 and 32 [other than the tax on firearms imposed by section 4181].

3. The authority citation following § 48.4041-2T is removed.

##### § § 48.4042-2(d) and 48.4051-1T [Removed]

4. Sections 48.4042-2(d) and 48.4051-1T are removed.

5. The heading for subpart H is revised to read:

#### Subpart H—Motor Vehicles, Tires, Tubes, Tread Rubber, and Gasoline

6. The undesignated center heading preceding § 48.4091 is removed.

##### § § 48.4091, 48.4091-0, 48.4091-1, 48.4091-2, 48.4091-3, 48.4091-4, 48.4091-5, 48.4092-1, 48.4093-1 and 48.4093-2 [Removed]

7. Sections 48.4091, 48.4091-0, 48.4091-1, 48.4091-2, 48.4091-3, 48.4091-4, 48.4091-5, 48.4092-1, 48.4093-1, and 48.4093-2 are removed.

##### § 48.4121-1 [Amended]

8. Section 48.4121-1 is amended by removing paragraph (e).

9. The heading for subpart I is added to read:

#### Subpart I—Coal

10. Section 48.4121-1 is removed from subpart H and added to subpart I.

11. The heading for subpart K is revised to read:

#### Subpart K—Sporting Goods

12. The undesignated center heading preceding § 48.4181(a) is removed.

##### § § 48.4181-1, 48.4181-2, 48.4182-1 and 48.4182-2 [Removed]

13. Sections 48.4181-1, 48.4181-2, 48.4182-1, and 48.4182-2 are removed.

##### § § 48.6011(a)-1, 48.6011(a)-2, 48.6071(a)-1, 48.6081(a)-1, 48.6091-1, 48.6101-1, 48.6109-1, 48.6151-1, 48.6151-1T, 48.6161(a)-1, 48.6302(c)-1, 48.6302(c)-2, 48.6402(a)-1, and 48.6404(a)-1 [Removed]

14. Sections 48.6011(a)-1, 48.6011(a)-2, 48.6071(a)-1, 48.6081(a)-1, 48.6091-1, 48.6101-1, 48.6109-1, 48.6151-1, 48.6151-1T, 48.6161(a)-1, 48.6302(c)-1, 48.6302(c)-2, 48.6402(a)-1, and 48.6404(a)-1 are removed.

#### PART 49—FACILITIES AND SERVICES EXCISE TAXES

Par. 6. Part 49 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

2. Section 49.0-1T is removed and § 49.0-1 is added to read:

##### § 49.0-1 Introduction.

The regulations in this part 49 are designated "Facilities and Services Excise Taxes." The regulations relate to the taxes on communications and transportation by air imposed by chapter 33 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by chapter 33.

3. Section 49.4251-2(c) is revised to read:

##### § 49.4251-2 Rate and application of tax.

(c) *Liability for, and return of, tax.* The taxes imposed by section 4251 are payable by the person paying for the services rendered, and must be paid to the person rendering the services who is required to collect the tax and return and pay over the tax.

##### § 49.4271-1T [Redesignated as § 49.4271-1 and Amended]

4. Section 49.4271-1T is amended by:

a. Redesignating the section as § 49.4271-1 are removing the word "[temporary]" from the section heading.

b. Removing the authority citation at the end of the section.

5. The heading for subpart E is amended by removing the word "[Reserved]".

6. Section 49.4271-1 is removed from subpart D and added to subpart E.

#### Subparts F and G [Removed]

7. Subparts F and G are removed.

#### PART 51—[REMOVED]

Par. 7. Part 51 is removed.

#### PART 52—ENVIRONMENTAL TAXES

Par. 8. Part 52 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

Section 52.4682-3 also issued under 26 U.S.C. 4982(c)(2).

##### § 52.0-1T [Removed]

2. Section 52.0-1T is removed and § 52.0-1 is added to read:

##### § 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.

3. Section 52.4681-1(b)(4) is revised to read:

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

(b) \* \* \*

(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.

##### § § 52.6011(a)-1T, 52.6011(a)-2T, 52.6071(a)-1, 52.6071(a)-2T, 52.6071(a)-3T, 52.6091-1T, 52.6101-1T, 52.6109(a)-1T, 52.6151(a)-1T, 52.6302(c)-1, and 52.6302(c)-2T [Removed]

4. Sections 52.6011(a)-1T, 52.6011(a)-2T, 52.6071(a)-1, 52.6071(a)-2T, 52.6071(a)-3T, 52.6091-1T, 52.6101-1T,

52.6109(a)-1T, 52.6151(a)-1T, 52.6302(c)-1, and 52.6302(c)-2T are removed.

**PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1962 (PUB. L. 97-424)**

Par. 9. Part 145 is amended as follows:  
1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

Sections 145.4051-1 and 145.4052-1 also issued under 26 U.S.C. 4051 and 4052.

§ 145.9000-1 [Removed]

2. Section 145.9000-1 is removed.

**PART 148—CERTAIN EXCISE TAX MATTERS UNDER THE EXCISE TAX TECHNICAL CHANGES ACT OF 1958**

Par. 10. Part 148 is amended as follows:

1. The authority citation is revised to read:

Authority: 26 U.S.C. 7805.

§§ 148.1-3 and 148.1-4 [Removed]

2. Sections 148.1-3 and 148.1-4 are removed.

**PART 150—[REMOVED]**

Par. 11. Part 150 is removed.

**Appendix to Subchapter D— [Removed]**

Par. 12. The appendix to subchapter D is removed.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 13. Part 602 is amended as follows:

1. The authority citation continues to read:

Authority: 26 U.S.C. 7805.

2. Section 602.101(c) is amended by:  
a. Removing the following entries from the table:

§ 602.101 OMB control numbers.

(c) . . .

CFR part or section where identified and described	Current OMB control number	CFR part or section where identified and described	Current OMB control number
46.6151-1	1545-0257	150.4897-2	1545-0222
48.4051-1T	1545-0143	150.6050C-1	1545-0224
48.4091-0	1545-0725	150.6078-1	1545-0222
48.4091-1	1545-0725	150.6232(c)-1	1545-0224
48.4091-2	1545-0725	150.6232(c)-2	1545-0224
48.4091-3	1545-0725	150.6232(c)-3	1545-0224
48.4091-4	1545-0725	150.6232(c)-4	1545-0224
48.4091-5	1545-0725	150.6232(c)-5	1545-0224
48.4092-1	1545-0725	150.6402-1	1545-0226
48.4093-1	1545-0725		1545-0678
			1545-0685
48.4181-1	1545-1076		
48.4181-2	1545-0723		
48.4182-1	1545-0023		
	1545-0723		
48.4182-2	1545-0723		
48.6011(a)-1	1545-0723		
48.6011(a)-2	1545-0023		
	1545-0723		
48.6071(a)-1	1545-0257		
	1545-0723		
48.6081(a)-1	1545-0723		
48.6091-1	1545-0723		
48.6101-1	1545-0723		
48.6109-1	1545-0023		
	1545-0723		
48.6151-1	1545-0257		
48.6151-1T	1545-0143		
48.6302(c)-1	1545-0023		
49.6011(a)-1	1545-0029		
49.6011(a)-2	1545-0023		
49.6109-1	1545-0029		
49.6151-1	1545-0257		
49.6302(c)-1	1545-0257		
51.4988-2	1545-0222		
	1545-0226		
51.4993-1	1545-0230		
51.4993-2	1545-0230		
51.4993-3	1545-0230		
51.4993-4	1545-0230		
51.4994-1	1545-0224		
	1545-0226		
	1545-0912		
51.4995-1	1545-0230		
51.4995-2	1545-0230		
	1545-0912		
51.4995-3	1545-0023		
	1545-0257		
51.4995-4	1545-0023		
	1545-0230		
51.4995-5	1545-0230		
51.4996-1	1545-0023		
51.4997-1	1545-0222		
	1545-0224		
	1545-0225		
51.4997-2	1545-0222		
	1545-0224		
	1545-0230		
51.6402-1	1545-0226		
52.6302(c)-1	1545-0023		
	1545-0257		
148.1-3	1545-0014		
148.1-4	1545-0230		
150.4989-1	1545-0230		
150.4993-1	1545-0230		
150.4995-2	1545-0230		
150.4995-3	1545-0023		
	1545-0257		
150.4995-4	1545-0023		
	1545-0230		
150.4995-5	1545-0230		
150.4996-1	1545-0023		
150.4997-1	1545-0222		

b. Adding the following entries to the table:

§ 602.101 OMB control numbers.

(c) . . .

CFR part or section where identified and described	Current OMB control number
40.6302(c)-3(b)(2)(ii)	1545-1296
40.6302(c)-3(b)(2)(iii)	1545-1296
40.6302(c)-3(e)	1545-1296
40.6302(c)-3(f)(2)(ii)	1545-1296
46.4371-4	1545-0023
49.4271-1(d)	1545-0685

Dated: September 29, 1992.  
Shirley D. Peterson,  
Commissioner of Internal Revenue.  
Fred T. Goldberg, Jr.,  
Assistant Secretary of the Treasury.  
[FR Doc. 92-25429 Filed 10-21-92; 8:45 am]  
BILLING CODE 4830-01-M

CFR part or section where identified and described	Current OMB control number
46.6011(a)-1	1545-0023
46.6011(a)-2	1545-0023
46.6261-1	1545-0023
46.6065-1	1545-0023
46.6071(a)-1	1545-0023
	1545-0257
46.6105-1	1545-0003

estate tax purposes. His executors were not precluded from showing his true residence.

*Est. of J. Bloch-Sulzberger* 6 TCM 1201, Dec 16, 1929(M)

## [¶ 10,340]

## RULES AND REGULATIONS

SEC. 7805 [1986 Code]. (a) AUTHORIZATION.—Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) PREPARATION AND DISTRIBUTION OF REGULATIONS, FORMS, STAMPS, AND OTHER MATTERS.—The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.

(e) TEMPORARY REGULATIONS.—

(1) ISSUANCE.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) 3-YEAR DURATION.—Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

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## CHAPTER 64—COLLECTION

- Subchapter A. General provisions.
- Subchapter B. Receipt of payment.
- Subchapter C. Lien for taxes.
- Subchapter D. Seizure of property for collection of taxes.
- Subchapter E. Collection of state individual income taxes.

## SUBCHAPTER A—GENERAL PROVISIONS

- IRC §6301. Collection authority.
- IRC §6302. Mode or time of collection.
- IRC §6303. Notice and demand for tax.
- IRC §6304. [Collection under the Tariff Act.] Repealed.
- IRC §6305. Collection of certain liability.

## IRC §6301. COLLECTION AUTHORITY.

The Secretary shall collect the taxes imposed by the internal revenue laws.

## IRC §6302. MODE OR TIME OF COLLECTION.

(a) **Establishment by Regulations.**—If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) **Discretionary Method.**—Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) **Use of Government Depositories.**—The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositories or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, or credit unions is to be treated as payment of such tax to the Secretary.

(d) **Time for Payment of Manufacturers' Excise Tax on Sporting Goods.**—The taxes imposed by subsection (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.

(e) **Time for Deposit of Taxes on Communications Services and Airline Tickets.**—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

(f) **Time for Deposit of Taxes on Gasoline.**—

(1) **General rule.**—Notwithstanding section 518 of the Highway Revenue Act of 1982, any person whose liability for tax under section 4081 is payable with respect to

[Footnote IRC §6302] Matter in italics in IRC §6302(b) added by section 11801(c)(2)(X), OBRA '90, P.L. 101-508, 11-5-90, which struck out

(1) "chapter 21, 31, 32, 33, section 4481 of chapter 36, [or] section 4501(a) of chapter 37."

Effective date (Sec. 11821(a), OBRA '90, P.L. 101-508, 11-5-90).—Takes effect on 11-5-90

Matter in italics in IRC §6302(c) added by section 11217(b)(1), OBRA '90.

Effective date (Sec. 11217(b)(2), OBRA '90).—Applies to payments of taxes considered collected during semimonthly periods beginning after 12-31-90