
Excise Taxes Other Than Fuel Taxes

Environmental Taxes

Environmental taxes are imposed on crude oil and petroleum products (oil spill liability), the sale or use of ozone-depleting chemicals (ODCs), and imported products containing or manufactured with ODCs. In addition, a floor stocks' tax is imposed on ODCs held on January 1 by any person (other than the manufacturer or importer of the ODCs) for sale or for use in further manufacture.

Figure the environmental tax on Form 6627. Enter the tax on the appropriate lines of Form 720 and attach Form 6627 to Form 720.

For environmental tax purposes, United States includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the continental shelf areas (applying the principles of Internal Revenue Code Section 638), and foreign trade zones. No one is exempt from the environmental taxes, including the federal government, state and local governments, Indian tribal governments, and nonprofit educational organizations.

Oil Spill Liability Tax

The oil spill liability tax is reported on Form 6627, Environmental Taxes, and Form 720, Quarterly Federal Excise Tax Return (IRS Nos. 18 and 21). The oil spill liability tax rate is \$.05 per barrel and generally applies to crude oil received at a U.S. refinery and to petroleum products entered into the United States for consumption, use, or warehousing. The tax also applies to certain uses and the exportation of domestic crude oil.

Crude oil includes crude oil condensates and natural gasoline. Petroleum products include crude oil, refined and residual oil, and other liquid hydrocarbon refinery products.

Crude oil. Tax is imposed on crude oil when it is received at a United States refinery. The operator of the refinery is liable for the tax.

Tax is imposed on domestic crude oil used or exported before it is received at a United States refinery. However, the use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced is not taxable. The user or exporter is liable for the tax.

Imported petroleum products. Tax is imposed on petroleum products when they enter the United States for consumption, use, or warehousing. The person entering the petroleum product into the country is liable for the tax.

Petroleum tax is imposed only once on any imported petroleum product. However, the operator of a U.S. refinery that receives imported crude oil must establish that the petroleum tax has already been imposed on such crude oil in order not to be liable for the tax.

ODCs

For a list of the taxable ODCs and tax rates, see the Form 6627 instructions.

Taxable Event

Tax is imposed on an ODC when it is first used or sold by its manufacturer or importer. The manufacturer or importer is liable for the tax.

Use of ODCs. You use an ODC if you put it into service in a trade or business or for the production of income. Also, an ODC is used if you use it in the making of an article, including incorporation into the article, chemical transformation, or release into the air. The loss, destruction, packaging, repackaging, or warehousing of ODCs is not a use of the ODC.

The creation of a mixture containing an ODC is treated as the use of that ODC. An ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Generally, tax is imposed when the mixture is created and not on its sale or use. However, you can choose to have the tax imposed on its sale or use by checking the appropriate box on Form 6627. You can revoke this choice only with IRS consent.

The creation of a mixture for export or for use as a feedstock is not a taxable use of the ODCs contained in the mixture.

Exceptions. The following may be exempt from the tax on ODCs:

- Metered-dose inhalers
- Recycled ODCs
- Exported ODCs
- ODCs used as feedstock

Metered-dose inhalers. There is no tax on ODCs used or sold for use as propellants in metered-dose inhalers. For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form set forth in Regulations section 52.4682-2(d)(5). The certificate may be included as part of the sales documentation. Keep the certificate with your records.

Recycled ODCs. There is no tax on any ODC diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process). There is no tax on recycled Halon-1301 or recycled Halon-2402 imported from a country that has signed the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol).

The Montreal Protocol is administered by the United Nations (U.N.). To determine if a country has signed the Montreal Protocol, contact the U.N. The internet address is <http://untreaty.un.org>.

Exported ODCs. Generally, there is no tax on ODCs sold for export if certain requirements are met. For a sale to be nontaxable, you and the purchaser must be registered. See Form 637, Application for Registration (for Certain Excise Tax Activities). Also, you must obtain from the purchaser an exemption certificate that you rely on in good faith. Keep the certificate with your records. The certificate must be in substantially the form set forth in Regulations Section 52.4682-5(d)(3). The tax benefit of this exemption is limited. For more information, see Regulations Section 52.4682-5.

ODCs used as feedstock. There is no tax on ODCs sold for use or used as a feedstock. An ODC is used as a feedstock only if the ODC is entirely consumed in the manufacture of another chemical. The transformation of an ODC into one or more new compounds qualifies as use as a feedstock, but use of an ODC in a mixture does not qualify.

For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the form set forth in Regulations Section 52.4682-2(d)(2). Keep the certificate with your records.

Credits or Refunds

A credit or refund (without interest) of tax paid on ODCs may be claimed if a taxed ODC is:

- Used as a propellant in a metered-dose inhaler, then the person who used the ODC as a propellant may file a claim
- Exported, then the manufacturer may file a claim
- Used as a feedstock, then the person who used the ODC may file a claim

For information on how to file for credits or refunds, see the Instructions for Form 720 or Schedule 6 (Form 8849).

Conditions to allowance for ODCs exported. To claim a credit or refund for ODCs that are exported, you must have repaid or agreed to repay the tax to the exporter, or obtained the exporter's written consent to allowance of the credit or refund. You must also have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

Imported Taxable Products

An imported product containing or manufactured with ODCs is subject to tax if it is entered into the United States for consumption, use, or warehousing and is listed in the Imported Products Table. The Imported Products Table is listed in Regulations Section 52.4682-3(f)(6).

The tax is based on the weight of the ODCs used in the manufacture of the product. Use the following methods to figure the ODC weight:

- The actual (exact) weight of each ODC used as a material in manufacturing the product.
- If the actual weight cannot be determined, the ODC weight listed for the product in the Imported Products Table.

If you cannot determine the actual weight, and the table does not list an ODC weight for the product, the rate of tax is 1% of the entry value of the product.

Taxable Event

Tax is imposed on an imported taxable product when the product is first sold or used by its importer. The importer is liable for the tax.

Use of imported products. You use an imported product if you put it into service in a trade or business or for the production of income or use it in the making of an article, including incorporation into the article. The loss, destruction, packaging, repackaging, warehousing, or repair of an imported product is not a use of that product.

Entry as use. The importer may choose to treat the entry of a product into the United States as the use of the product. Tax is imposed on the date of entry instead of when the product is sold or used. The choice applies to all imported taxable products that you own and have not used when you make the choice and all later entries. Make the choice by checking the box in Part II of Form 6627. The choice is effective as of the beginning of the calendar quarter to which the Form 6627 applies. You can revoke this choice only with IRS consent.

Sale of article incorporating imported product. The importer may treat the sale of an article manufactured or assembled in the United States as the first sale or use of an imported taxable product incorporated in that article if both the following apply:

- The importer has consistently treated the sale of similar items as the first sale or use of similar taxable imported products.
- The importer has not chosen to treat entry into the United States as use of the product.

Imported Products Table

The table lists all the products that are subject to the tax on imported taxable products and specifies the ODC weight (discussed later) of each product.

Each listing in the table identifies a product by name and includes only products that are described by that name. Most listings identify a product by both name and Harmonized Tariff Schedule (HTS) heading. In those cases, a product is included in that listing only if the product is described by that name and the rate of duty on the product is determined by reference to that HTS heading. A product is included in the listing even if it is manufactured with or contains a different ODC than the one specified in the table.

Part II of the table lists electronic items that are not included within any other list in the table. An imported product is included in this list only if the product meets one of the following tests:

- It is an electronic component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits.
- It contains components described in (1), which account for more than 15% of the cost of the product.

These components do not include passive electrical devices, such as resistors and capacitors. Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic item are not themselves included in the listing for electronic items.

Rules for listing products. Products are listed in the table according to the following rules:

1. A product is listed in Part I of the table if it is a mixture containing ODCs.
2. A product is listed in Part II of the table if the Commissioner has determined that the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.
3. A product is listed in Part III of the table if the Commissioner has determined that the product meets both of the following tests:
 - a. It is not an imported taxable product.
 - b. It would otherwise be included within a list in Part II of the table.

For example, floppy disk drive units are listed in Part III because they are not imported taxable products and would have been included in the Part II list for electronic items not specifically identified, but for their listing in Part III.

ODC weight. The Table ODC weight of a product is the weight, determined by the Commissioner, of the ODCs used as materials in the manufacture of the product under the predominant method of manufacturing. The ODC weight is listed in Part II in pounds per single unit of product unless otherwise specified.

Modifying the table. A manufacturer or importer of a product may request that the IRS add a product and its ODC weight to the table. They also may request that the IRS remove a product from the table, or change or specify the ODC weight of a product. To request a modification, see Regulations Section 52.4682-3(g) for the mailing address and the information that must be included in the request.

Floor Stocks Tax

Tax is imposed on any ODC held (other than by the manufacturer or importer of the ODC) on January 1 for sale or use in further manufacturing. The person holding title (as determined under local law) to the ODC is liable for the tax, whether or not delivery has been made.

These chemicals are taxable without regard to the type or size of storage container in which the ODCs are held. The tax may apply to an ODC whether it is in a 14-ounce can or a 30-pound tank.

You are liable for the floor stocks tax if you hold any of the following on January 1:

1. At least 400 pounds of ODCs other than halons or methyl chloroform
2. At least 50 pounds of halons
3. At least 1,000 pounds of methyl chloroform

If you are liable for the tax, prepare an inventory on January 1 of the taxable ODCs held on that date for sale or for use in further manufacturing. You must pay this floor stocks tax by June 30 of each year. Report the tax on Form 6627 and Part II of Form 720 for the second calendar quarter. For the tax rates, see the Form 6627 instructions.

ODCs not subject to floor stocks tax. The floor stocks tax is not imposed on any of the following ODCs:

1. ODCs mixed with other ingredients that contribute to achieving the purpose for which the mixture will be used, unless the mixture contains only ODCs and one or more stabilizers
2. ODCs contained in a manufactured article in which the ODCs will be used for their intended purpose without being released from the article
3. ODCs that have been reclaimed or recycled
4. ODCs sold in a qualifying sale for:
 - a. Use as a feedstock
 - b. Export
 - c. Use as a propellant in a metered-dose inhaler