
Internal Revenue Service

Excise Tax – Ozone Depleting Chemicals

Audit Techniques Guide (ATG)

NOTE: This document is not an official pronouncement of the law or the position of the Service and can not be used, cited, or relied upon as such. This guide is current through the publication date. Since changes may have occurred after the publication date that would affect the accuracy of this document, no guarantees are made concerning the technical accuracy after the publication date.

The taxpayer names and addresses shown in this publication are hypothetical. They were chosen at random from a list of names of American colleges and universities as shown in *Webster's Dictionary* or from a list of names of counties in the United States as listed in the *U.S. Government Printing Office Style Manual*.



Department of the Treasury
Internal Revenue Service



Internal
Revenue
Service

Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.



Department of the Treasury
Internal Revenue Service
Document 9300 (9-94)
Catalog Number 21066S

Ten Core Ethical Principles *

Honesty
Integrity/Principled
Promise-Keeping
Loyalty
Fairness
Caring and Concern for Others
Respect for Others
Civic Duty
Pursuit of Excellence
Personal Responsibility/Accountability

The Five Principles of Public Service Ethics *

Public Interest
Objective Judgment
Accountability
Democratic Leadership
Respectability

* Used by permission of the Michael and Edna Josephson Institute of Ethics

Excise Tax Ozone Depleting Chemicals Audit Techniques Guide (ATG)

Table of Contents

Chapter	Topic	Page
	Introduction	1-1
1	Chapter 1 - Ozone Depleting Chemicals Tax	1-1
2	Chapter 2 - Sale or Use of ODCs by Manufacturer or Importer	2-1
3	Chapter 3 - Imported Taxable Products	3-1
4	Chapter 4 - Foreign Manufacturer Letters	4-1
5	Chapter 5 - Floor Stocks Tax	5-1
	Appendix A - Imported Products with ODCs Case Information Sheet	
	Appendix B - Laboratory Test Request Form	
	Appendix C - Imported Taxable Products Table	

Excise Tax Ozone Depleting Chemical Audit Techniques Guide (ATG)

Chapter 1 – Introduction and Ozone Depleting Chemicals Tax

Chapter	Topic	Page
Intro	Ozone Depleting Chemicals Defined	1-2
	Ozone Depletion	1-2
	Effects of Ozone Depletion on Humans and on the Earth	1-2
	Legislation to Control Ozone Depletion	1-3
	Ozone Depleting Chemical Tax	
1	Introduction	1-4
	ODC Taxes	1-4
	Listing of ODCs	1-5
	Basic Tax Computation	1-6
	Exemptions	1-8
	Forms	1-9
	Audit Techniques in General	1-11

Introduction - Ozone Depleting Chemicals

Ozone Depleting Chemicals Defined

Ozone depleting chemicals include Chlorofluorocarbons (CFCs) and Halons. CFCs are versatile, and are used as refrigerants, cleaners, solvents, sterilants, and propellants in the manufacture of insulation, fast food cartons, and electronic items. They are organized compounds that are nontoxic, long-lived, and nonflammable.

Halons are close cousins of CFCs that utilize bromine instead of chlorine in their chemical structure. Halons are used in fire extinguishers as they are safe, effective, and gentle to water sensitive materials.

Ozone Depletion

The longevity and stability of CFCs allows them to persist in the atmosphere long enough to rise into the stratosphere 12 to 30 miles above the earth. In the stratosphere, they break down under solar radiation and release a free chlorine or bromine atom. The free atom joins with an ozone molecule, changes its structure, and destroys the ozone molecule.

Effects of Ozone Depletion on Humans and on the Earth

The health effect on humans from ozone depletion is widely varied. Since ozone is the earth's protection against ultraviolet (UV) radiation, a reduction in the ozone layer causes more UV-B wavelengths to reach the surface of the earth. UV-B wavelengths damage both proteins and DNA. The UV-B wavelengths cause skin cancer, sunburn, aging and wrinkling of skin, cataracts, and blindness. The Environmental Protection Agency (EPA) estimates that each 1 percent drop in ozone levels will yield a 2 percent increase in UV-B wavelengths. This will result in a 3 to 6 percent rise in the incidence of skin cancer. The EPA also estimates that there could be an additional 200,000 deaths from skin cancer in the United States over the next 50 years due to the increase in ozone depletion.

An increase in UV-B wavelength radiation also has adverse effects on the earth itself. There is evidence that it affects plant productivity by affecting photosynthesis, and marine organisms such as phytoplankton. Both CFCs and Halons act as greenhouse gases as well as ODCs, thereby increasing global warming.

Legislation to Control Ozone Depletion

Global attempts to protect the ozone layer started with the Vienna Convention for the Protection of the Ozone Layer in 1985. This was followed by the Montreal Protocol on Substances That Deplete the Ozone Layer (The Montreal Protocol). The Montreal Protocol was signed in 1987 to provide a framework for the reduction of chemicals that contribute to the reduction of the ozone layer. The changes became effective in 1989. The Montreal Protocol is a joint effort of governments, scientists, industries, and

environmentalists. The Protocol has been ratified by 68 of the world's sovereign nations, including the United States, which represent greater than 90% of the world's current CFC consumption. Developed countries, including the United States, had until 2006 to fully comply with the provisions of the Protocol. Developing nations, such as China, have until 2010 to comply. The CFC reduction amount is calculated based on 1986 production levels.

To further the effort, the Omnibus Budget Reconciliation Act of 1989 imposed an excise tax on chemicals that deplete the ozone layer. The imposition of the tax began in 1990. Also in 1990, the Clean Air Act Amendments (CAAA) were signed into law. The legislation includes comprehensive guidelines for the production and use of CFCs, Halons, carbon tetrachloride, methyl chloroform, and HCFC/HFC substitutes. The reduced supply of CFCs and the imposition of the excise tax have resulted in a price increase for ODCs. CFC user groups have responded with strategies to reduce their demand which include switching to substitute chemicals, reducing the amount of the chemicals used in manufacturing, and recycling the chemicals during service and disposal.

Chapter 1 - Ozone Depleting Chemicals Tax

Introduction

As noted in the Introduction to the Guide, the United States is a signatory to the Montreal Protocol. In response to the provisions of the Protocol, IRC section 4681 was enacted which provides for the imposition of excise taxes on the importation, sale, or use of ODCs or items manufactured with ODCs. The base amount of tax imposed increases each year. Therefore, there is also a floor stocks tax on ODCs held in inventory at the time of the tax increase.

ODC Taxes

Sections 4681 and 4682 of the Internal Revenue Code (IRC) impose an excise tax on:

- The sale or use of ODCs (as defined in IRC § 4682(a)) by the manufacturer, producer or importer of the ODC. This tax is reported on line number 098 of the Form 720, Quarterly Federal Excise Tax Return, and is discussed further in Chapter 2.
- The sale or use in the United States by the importer of any “imported taxable products” (as defined in IRC § 4681(b)(2)). This tax is reported on line number 019 of Form 720 and is discussed further in Chapter 3.
- A floor stock tax on any person (other than the manufacturer or importer of the ODCs) that holds ODCs for sale or for use in further manufacture on January 1 of each year. This tax is reported on line number 020 of the Form 720 and is discussed further in Chapter 5.

All of the above excise taxes went into effect on January 1, 1990. While production of ODCs ceased in the United States on January 1, 1996, there is no ban on the actual use of ODCs in the United States. However, any legal or illegal importation of ODCs, or of products containing ODCs, are subject to excise tax.

Listing of ODCs

The following ODCs are listed in IRC § 4682(a)(2) which are subject to tax:

Common Name	Chemical Nomenclature
CFC-11	Trichlorofluoromethane
CFC-12	Dichlorodifluoromethane
CFC-113	Trichlorotrifluoroethane
CFC-114	1,2 dichloro 1,1,2,2 tetrafluoroethane
CFC-115	Chloropentafluoroethane
Halon 1211	Bromochlorodifluoromethane
Halon 1301	Bromotrifluoromethane
Halon 2402	Dibromotetrafluoroethane
Carbon tetrachloride	Tetrachloromethane
Methyl chloroform	1,1,1 trichloroethane
CFC 13	CF ₃ C ₁
CFC 111	C ₂ F ₃ C ₁₅
CFC 112	C ₂ F ₂ C ₁₄
CFC 211	C ₃ F ₃ C ₁₇
CFC 212	C ₃ F ₂ C ₁₆
CFC 213	C ₃ F ₃ C ₁₅
CFC 214	C ₃ F ₄ C ₁₄
CFC 215	C ₃ F ₅ C ₁₃
CFC 216	C ₃ F ₆ C ₁₂
CFC 217	C ₃ F ₇ C ₁

Basic Tax Computation

The tax is computed based on each pound or fraction of a pound of ODC. A fraction of a pound shall be taxed at the same fraction of the amount of such tax imposed on a whole pound. **Cite:** IRC § 4682(f). The amount of tax is equal to the base tax amount for the ODC in the year of sale or use, multiplied by the ozone depletion factor (ODF) for that chemical. Therefore, the tax due is computed as:

$$\begin{array}{r} \text{Base tax rate} \\ \text{Times Ozone depletion factor for ODC} \\ \text{Times Number of pounds of ODC} \\ \text{Equals Total tax due} \end{array}$$

NOTE: The Form 6627 and other reference materials may reflect the tax rate already computed as noted above, not the base tax rate and the ozone depletion factor separately. It is important to make sure that the ozone depletion factor is not taken into account twice with the net rates.

All three taxes noted above are computed using variations of the basic formula. Reference the specific chapter for the type of tax under review for additional components of the formula.

Base Tax Rate

The base tax amount is determined based on the year of sale or use of the produced, manufactured, or imported ODC. Under IRC § 4681(b)(1)(B), the base tax amount on the sale or use of an ODC after 1995 is \$5.35 per pound. In each year after 1995, the base tax amount is increased by 45 cents per pound. A table of the base tax rates is presented below:

Calendar Year	Base Tax
2000	\$7.60
2001	\$8.05
2002	\$8.50
2003	\$8.95
2004	\$9.40
2005	\$9.85
2006	\$10.30

Calendar Year	Base Tax
2007	\$10.75
2008	\$11.20
2009	\$11.65
2010	\$12.10

Ozone Depletion Factor

The ozone depletion factor reflects the potential ozone depletion that results from one kilogram of a given chemical compared to the ozone depletion that results from one kilogram of CFC-11 (trichlorofluoromethane). The following table is reproduced from IRC section 4682(b):

Common Name	Ozone-depletion Factor
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon 1211	3.0
Halon 1301	10.0
Halon 2402	6.0
Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC 13	1.0
CFC 111	1.0
CFC 112	1.0
CFC 211	1.0
CFC 212	1.0
CFC 213	1.0
CFC 214	1.0

Common Name	Ozone-depletion Factor
CFC 215	1.0
CFC 216	1.0
CFC 217	1.0

Example:

Burnett Company imported 1,132.5 pounds of Freon (CFC 12) on May 13, 2008, for resale in its auto parts stores. Burnett will be required to file a Form 720 for the quarter ended June 2008 to report and ODC tax liability of \$12,689.60 which is computed as follows:

Base tax rate for 2008		\$11.20
Ozone depletion factor CFC 12	Times	1.0
Number of pounds	Times	1,133
Total tax due	Equals	\$12,689.60

Exemptions

There are exemptions to the imposition of the ODC taxes under IRC § 4681, which includes the tax on ODCs and on imported taxable chemicals. Other than the exemptions listed below, no one is exempt from the environmental taxes, including the federal government, state and local governments, Indian tribal governments, and nonprofit educational organizations.

Recycling

No tax is imposed on any ODC that is diverted or recovered in the United States as a part of a recycling process. The diverted or recovered ODCs may not be a part of the original manufacturing or production process. The exemption also applies to recycled Halon-1301 and recycled Halon-2402 imported from any country that is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer. **Cite:** IRC § 4682(d)(1).

Use in Further Manufacture

No tax is imposed on the sale or use of any ODC as feedstock. An ODC is used as feedstock only if it is entirely consumed in the manufacture of another chemical. The transformation of an ODC into one or more new compounds is treated as use as a feedstock. However, ODCs used in a mixture do not qualify for the exemption. **Cite:** IRC § 4682(d)(2) and Treas. Reg. § 52.4682-1(c).

Exports

ODCs that are sold by the manufacturer, producer, or importer for export are generally exempt from tax. This exemption is limited to the amount equal to the exporter's 1986 export percentage added to the amount of any additional production allowance granted to the exporter by the Environmental Protection Agency (EPA). **Cite:** IRC § 4682(d)(3) and Treas. Reg. § 52.4682-5.

IRC § 4682(d)(3)(B)(ii) defines the term "1986 export percentage" as:

A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ODCs manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ODCs manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be computed by taking into account the sum of such person's direct 1986 exports (as determined by the Environmental Protection Agency) any such person's indirect 1986 exports (as allocated to such person by such Agency in determining such person's consumption and production rights for ODCs).

There are no tax-free exports for finished goods or electronic components that had been previously imported into the United States. There are a number of rules for the ODCs to qualify as a tax-free export. These rules are located at Treas. Reg. § 52.4682-5.

Used as Propellants in Metered Dose Inhalers

IRC § 4682(g)(1) provides that no tax will be imposed on any use of any substance as a propellant in metered-dose inhalers or on the qualified sale by the manufacturer, producer or importer of any substance. A qualified sale is defined in IRC § 4682(g)(2) as any sale by the manufacturer, producer, or importer of any substance for use by the purchaser as a propellant in metered dose inhalers, or for resale by the purchaser to a second purchaser for such use by the second purchaser. The preceding sentence shall apply only if the manufacturer, producer and importer and the first and second purchasers meet registration requirements.

Forms

There are a number of forms which are used to report the importation or production of ODCs or imported products manufactured with ODCs.

Form 720

The Form 720 is used to report the total liability for environmental (ODC) taxes on a quarterly basis. The return is due on the following dates:

Quarter Covered	Due Date
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

IRS Numbers 098 and 019, ODCs and ODC tax on imported products, respectively, are reported under Part I of the Form 720. Therefore, they are subject to the regular deposit rules. Additional information on ODCs and ODC tax on imported products is available in Chapters 2 and 3, respectively.

IRS Number 020, ODC (floor stocks), is reported under Part II of the Form 720. Since it is a floor stocks tax, the amount of tax due is to be paid by June 30th and the return is due on July 31st. Additional information concerning floor stocks taxes is available in Chapter 5.

Form 6627

The Form 6627, Environmental Taxes, is to be completed and attached to the Form 720, Quarterly Federal Excise Tax Return, for each quarter. The Form 6627 is used to compute the environmental (ODC) tax due. The taxpayer's required to complete this form include the following:

- The manufacturer or importer of ODCs who sells or uses ODCs,
- The importer of taxable products who sells or uses the products,
- The person other than the manufacturer or importer of ODCs who holds ODCs for sale or for use in manufacturing on January 1st of each year.

Form 7501

The Department of Customs and Border Protection (CBP) requires that a Form CBP7501 (http://forms.cbp.gov/pdf/CBP_Form_7501.pdf) be completed for all products that are imported into the United States. The form requires that each item be identified by a 10-digit Harmonized Tariff Schedule (HTS) Number. HTS numbers are discussed further below under Definitions.

Information from the Forms 7501 is electronically transmitted from the broker to Customs for imports which are imported at major ports of entry throughout the United

States. For smaller ports of entry which do not accept electronic documentation, the Forms 7501 are collected and later transcribed into an electronic system. Field Agents have access to this information through the Customs Database on the CBRS system.

Broker Statement

A taxpayer who imports products receives a summary of all of the items imported from their Customs Broker. The Broker Statement, which is officially called a U.S. Customs Broker Report, is usually the most accurate of all the import documents available since it is the form from which the Broker is paid by the customer.

Audit Techniques in General

Comparing data from the Broker Statements and the electronic import information from the CBRS system printouts can be very useful. The CBRS Printouts may identify imports from a broker that the taxpayer did not reveal to the excise tax specialist.

The Broker Statements are far more detailed and accurate than the CBRS printouts as all information on the items imported is listed. Given that some of the Forms 7501 are input into the Customs Database by hand, errors and inadvertent omissions may occur. For example, a CBRS printout may only report the first line item import on a Form 7501, while the Broker Statement will note all line item imports on a Form 7501.

Be aware of importers who file extremely small excise tax liabilities. They may be unknowingly understating their tax liability due to the complexity of the tax computation on imported taxable products.

Foreign Insurance Leads

While examining Form 7501 invoices, foreign insurance leads may be found by scanning the invoices for “insurance” charges. Foreign corporations are likely to include insurance charges on the invoices for the purchase of products instead of billing for the insurance costs separately. These charges may be imposed onto a related entity or an unrelated importer.

**Excise Tax
Ozone Depletion Chemical
Audit Techniques Guide (ATG)**

**Chapter 2 – Sale or Use of ODC’s by
Manufacturer or Importer**

Chapter	Topic	Page
2	<u>Sale or Use of ODCs</u>	2-2
	<u>Tax Computation</u>	2-2
	<u>Reporting of Tax</u>	2-3
	<u>Audit Techniques</u>	2-3

Introduction

The first type of tax on ozone depleting chemicals is the tax imposed on the sale or use of ODCs by the manufacturer or importer. IRC § 4681(a)(1).

Sale or Use of ODCs

IRC § 4681(a) imposes a tax on “any ozone-depleting chemical sold or used by the manufacturer, importer or importer thereof.” A tax is also imposed on ODCs that are “manufactured or produced in the United States or entered into the United States for consumption, use or warehousing.” The Code makes no distinction between ODCs that were imported or manufactured legally and those that were manufactured or imported illegally. As a result, any ODC that is sold or used by the manufacturer or importer is subject to the tax.

The tax under IRC § 4681(a) is imposed on the date the ODC is first sold or used by its manufacturer or importer. The tax is imposed on the manufacturer or importer.

Tax Computation

The amount of tax imposed is computed as:

	Base tax rate	
Times	Ozone depletion factor for ODC	
Times	Number of pounds of ODC	
Equals	Total tax due	

Example:

Importer A illegally imported 5,000 cans of Freon. Each can contained 1 pound of Freon for use in regenerating auto air conditioners. Along with the shipment, Importer A imported 500 pounds of carbon tetrachloride for use in cleaning computer boards. Both imports occurred during the first quarter of 2006. Importer A owes \$57,165 in excise taxes to be reported on line 098 of Form 720. The tax due is computed as follows:

Computation for Freon:

Base tax rate for 2006		\$10.30
Ozone depletion factor for CFC 12	Times	1.0
Number of pounds	Times	5,000
Tax due for Freon	Equals	\$51,500 (a)

Computation for Carbon Tetrachloride		
Base tax rate for 2006		\$10.30
Ozone depletion factor for Carbon Tetrachloride	Times	1.1
Number of pounds	Times	500
Tax due for Carbon Tetrachloride	Equals	\$5,665 (b)
Total Tax Due	Addition of (a) and (b)	\$57,165

Reporting of Tax

Form 6627 is used to report the number of pounds of each ODC used or sold which was manufactured or imported during the quarter. The total tax as computed on Form 6627 is reported on line 098 on the Form 720. Form 6627 is to be attached to the Form 720.

Audit Techniques

When examining ODC manufacturers and/or importers, the following items are to be reviewed and information gathered in order to make a determination of the tax liability of the taxpayer:

Information to Gather:

- Determine the location of all ODC production sites.
- Determine all ODC processing methods with chemical inputs.
- Note the types of products by trade name and chemical composition, along with their internal uses, sales methods and types of customers utilizing the products.

Records to Request:

- Work papers used to support the tax reporting on the tax returns.
- Production report records identifying chemical inputs, rations, chemical schematics, sales, uses and inventory figures (by product, production site, etc).
- Identification of ODCs by trade names and chemical content percentages.
- Supporting records on tax excluded sales for recycling, feedstock and export (certificates, registration requirements, export documentation).
- Information of elections made on reporting methods (sale or use, creation of mixture, on importation), refer to Form 6627 (Environmental Taxes), Part II.

What to Look For:

- Inconsistent reporting patterns by product and quarter.
- New processes or additions of production sites. This information can be found in the entity's 10K, corporate minutes, new articles, etc.
- Type of reporting practices and internal control procedures which can be found in reporting manuals, responsible personnel, and inventory turnover information.

Outside Data:

- Query CBRS - Customs Database - for the period under audit. Note all imports with HTS numbers of ozone depleting chemicals.
- Query the Environmental Protection Agency (EPA) to see if the taxpayer has permission to produce or import ozone depleting chemicals.
- Follow up on leads from other excise or income examinations or leads obtained from competitors.

Identify Other Leads:

- Be aware of customers receiving tax-free product.
- Identify related parties with similar activities.
- Identify competitors.

Excise Tax Ozone Depleting Chemical Audit Techniques Guide (ATG)

Chapter 3 – Imported Taxable Products

Chapter	Topic	Page
3	<u>Definitions</u>	3-2
	<u>Introduction</u>	3-2
	<u>Imported Taxable Products</u>	3-3
	<u>De minimis Exception to the Tax</u>	3-3
	<u>Entry into the United States</u>	3-4
	<u>Election to Treat Importation as Use</u>	3-4
	<u>Making the Election</u>	3-5
	<u>Computation of Tax</u>	3-5
	<u>Determination of ODC Weight</u>	3-6
	<u>Exact Method</u>	3-6
	<u>Computation of Tax under the Exact Method</u>	3-7
	<u>Table Method</u>	3-8
	<u>Computation of Tax under the Table Method</u>	3-9
	<u>Harmonized Tariff Schedule (HTS) Table Numbers</u>	3-9
	<u>Change in Assigned HTS Numbers Products Imported after February 2007</u>	3-10
	<u>Electronic Items not Listed by a Specific Name</u>	3-10
	<u>Articles Assembled in the United States</u>	3-11
	<u>Products with Two or More ODCs Listed in the Table</u>	3-11
	<u>Value Method</u>	3-11
	<u>Computation of Tax under the Exact Method</u>	3-12
	<u>Audit Techniques</u>	3-12

Definitions

HTS Number - A Harmonized Tariff Schedule (HTS) number is a statistical import reporting number found in the Harmonized Tariff Schedule of the United States. The HTS number is a ten digit number which is formatted in an NNNN.NN.NN.NN arrangement. This identifies a specific product that is imported into the United States.

Chapter Number - The first two numbers of the HTS Number.

Importer - The term “importer” means the person that first sells or uses goods after their entry into the United States for consumption, use, or warehousing.

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

Use - ODCs and imported taxable products are used when they are (A) used as a material in the manufacture of an article whether by incorporation into such article, chemical transformation, release into the atmosphere, or otherwise; or (B) put into service in a trade or business or for production of income.

Customs Broker - A Customs Broker acts as an agent for an importer in conducting Customs business on their behalf. A Customs Broker can be either a private individual or a company and must be licensed by US Customs and Border Protection, Department of Homeland Security.

Manufacturer’s Letters - Letters provided to the taxpayer from the manufacturer of the product that outlines the process that is used to manufacture the goods. This would include a statement as to when they stopped using ODCs and what process replaced the previous process.

Introduction

The second type of tax on ODCs is the tax imposed on imported taxable products that are sold or used by the importer. [IRC § 4681(a)(2)] Developing countries are not bound by the Montreal Protocol through 2010, and may continue to manufacture and utilize ODCs in their manufacturing processes. Since using ODCs in many manufacturing processes is more cost efficient than using the replacement technology, there is a significant incentive for developing countries to continue to use ODCs. Therefore, imported items, especially electronic items imported from developing countries, have a high potential of having ODCs used in their manufacturing process.

Imported Taxable Product

An imported taxable product is defined as any product (other than an ODC) entered into the United States for consumption, use, or warehousing, and is listed in the current Imported Products Table set forth in Treas. Reg. § 52.4682-3(f), if any ODC was used as material in the manufacture or production of such product. [IRC § 4682(c) and Treas. Reg. § 52.4682-3(b)(1)]. Thus, imported taxable products that are warehoused or repackaged after entry and then exported without being sold or used in the United States are not subject to the tax. [Treas. Reg. § 52.4682-3(c)(1)].

Material is used in the manufacture of a product if the ODC is incorporated into the product, released in to the atmosphere in the process of manufacturing the product, or is otherwise used in the manufacture of the product but only to the extent the cost of the ODC is properly allocable to the product. [Treas. Reg. § 52.4682-3(d)(2)]. Imported products are considered to be used, and taxable, if they are placed into service:

- In a trade or business,
- For the production of income, or
- In the making or incorporation into an article.

ODCs used in the manufacture of the protective material in which a product is packaged are not treated as ODCs used as materials in the manufacture of such product. [Treas. Reg. § 52-4682-3(d)(3)].

The tax is imposed on an imported taxable product when the product is first sold or used by its importer. [Treas. Reg. § 52.4682-3(c)(1)]. An imported taxable product is used when it is either (A) used as a product in the manufacture of an article, whether by incorporation into such article, chemical transformation, release into the atmosphere, or otherwise, or (B) put into service in a trade or business or for production of income. [Treas. Reg. § 52.4681-1(c)(7)(i)]. The loss, destruction, packaging, repackaging, or repair of an imported product is not a use of the ODC. [Treas. Reg. § 52.4681-1(c)(7)(ii)].

De Minimis Exception to the Tax

A product is not an imported taxable product if (A) the product is listed in Part I of the current Imported Products Table and the adjusted tax with respect to the product is de minimis; or (B) the product is listed in Part II of the current Imported Products Table, the adjusted tax with respect to the product is de minimis, and the ODCs (other than methyl chloroform) used as materials in the manufacture of the product were not used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components. [Treas. Reg. § 52.4682-3(b)(2)(i)].

The adjusted tax with respect to a product is considered to be “de minimis” if the tax is less than one-tenth of one percent of the importer’s cost of acquiring the product. The term “adjusted tax” means the tax that would be imposed under IRC § 4681 on the ODCs

used as materials in the manufacture of the imported taxable product if the ODCs were sold in the United States and the base tax amount were \$1.00. [Treas. Reg. § 52.4682-3(b)(2)(B)(ii)].

Entry into the United States

Under Treas. Reg. § 52.4681-1(c)(2), the term United States includes:

- The 50 states and 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,
- Submarine seabed and subsoil that would be treated as part of the United States under the principles of IRC § 638 relating to continental shelf areas; and
- Foreign trade zones of the United States.

Under Treas. Reg. § 52.4681-1(c)(4), entry into the United States for consumption, use, or warehousing when used with respect to any goods means:

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

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

(C) Imported into any other part of the United States for any purpose if like goods brought into the customs territory for such purpose would be entered into the customs territory for consumption, use, or warehousing.

Election to Treat Importation as Use

In general, the tax on an imported taxable product is imposed when the product is first sold or used by its importer. However, an importer may elect to treat the entry of products into the United States as the use of such products. In the case of imported taxable products with respect to which an election has been made:

- Tax is to be imposed on the products on the date of entry (as determined under Treas. Reg. § 52.4682-3(c)(2)(ii)) if the products are entered into the United States after the election becomes effective, and
- Tax is imposed on the products on the date the election becomes effective if the products were entered into the United States before the election becomes effective.

The date of entry of an imported taxable product is determined by reference to customs law. If the actual date is unknown, the importer may use any reasonable and consistent

method to determine the date of entry, provided that such date is within 10 days of arrival of products in the United States. [Treas. Reg. § 52.4682-3(c)(2)(ii)].

An election, when made, applies to all imported taxable products that are owned and have not been used by the importer at the time the election becomes effective and all imported taxable products that are entered into the United States by the importer after the election becomes effective. [Treas. Reg. § 52.4682-3(c)(2)(iii)].

Making the Election

An election is made on the return on which the importer is required to report liability for the tax under IRC § 4681. [Treas. Reg. § 52.4682-3(c)(2)(iv)]. In this case, an election is made by checking the box in Part II of the Form 6627, which is attached to the Form 720. The election is effective as of the beginning of the calendar quarter to which the election applies. The election can only be revoked with IRS consent. [Treas. Reg. § 52.4682-3(c)(2)(iii)]

Example:

DeSoto's Discount Company imports 500 account machines under HTS heading 8470.40 in December 2005, for resale and warehousing. The account machines were placed on the shelf before the year end and were counted in the year end inventory. DeSoto's sells all 500 machines at its Colorado Springs store in February 2006. DeSoto made an election to treat importation of the items as use of the items in the beginning of 2005.

In this case, DeSoto's must report \$753.72 in tax on the Form 720 for the quarter ended December 2005. The tax due is computed as:

	Number of Items Imported	500
Times	ODC Weight per Item (HTS 8470.40- CFC 113)	.1913
Times	Base Tax Amount for Year of Import 2005	\$9.85
Times	Ozone Depletion Factor for ODC Imported	.80
Equals	Tax Due	\$753.72

Computation of Tax

The amount of tax imposed on any imported taxable product is the amount of tax that would have been imposed on the ODCs used as materials in the manufacture or production of the imported taxable product if the ODCs had been sold in the United States on the date of the sale or the imported taxable product. [IRC § 4681(b)(2)]

The computation of the tax due is the product of four items:

Number of Items Imported
Times ODC Weight per Item
Times Base Tax Amount for Year of Import
Times Ozone Depletion Factor for ODC used in the Manufacture of the Item
Equals Tax Due

Items such as the base tax amount for the year of import and the ozone depletion factor for the ODC used in manufacture and deemed to be imported have been discussed previously. The number of items imported can be obtained from import records of the taxpayer or from the Customs Database. The new item in the computation is the ODC weight per item imported.

Determination of ODC Weight

The amount of tax is computed separately for each type of imported taxable product. In addition, the method to be used in determining the ODC weight is separately determined for each product imported. Therefore, an importer may use one method in computing the tax for one type of imported taxable product and a different method for computing the tax due on a second type of imported taxable product. [Treas. Reg. § 52.4682-3(e)(1)].

The ODC weight of an imported item may be determined by one of three methods.

- The Exact Method
- The Table Method
- The Value Method

The method to determine the ODC weight is to be considered in the order as listed above. Therefore, first, consideration is to be given to the exact method. If the exact method cannot be used, the table method is to be considered. If the table method cannot be used, then the value method is to be used. [Treas. Reg. § 52.4682-3(e)].

Exact Method

The first method to consider when determining the ODC weight of an imported taxable product is the exact method. Under the exact method, the ODC weight of a mixture is equal to the weight of the ODCs contained in the mixture.

The exact method can be used if the importer is able to determine the weight of each ODC used as a material in the manufacture of an imported taxable product and supports that determination with sufficient and reliable information. Representations by the foreign manufacturer to the importer as to the weight of the ODCs used in the

manufacture of the product may be sufficient and reliable information for this purpose. Thus, a letter from the foreign manufacturer to the importer which is signed by the foreign manufacturer may constitute sufficient and reliable information. [Treas. Reg. § 52.4682-3(e)(2)]. Note, however, that foreign manufacturer letters have specific requirements in order to be accepted by the Service as certifying the exact weight of the ODC used in the manufacture of the imported product. A further discussion of manufacturer letters and the requirements for foreign manufacturer letters is located at Chapter 4, Foreign Manufacturer Letters.

Computation of Tax under the Exact Method

The computation of the tax due for each type of imported taxable item includes the following items:

	Number of Items Imported
Times	ODC Weight per Item per Accepted Foreign Manufacturer Letters
Times	Base Tax Amount for Year of Import
Times	Ozone Depletion Factor for ODC used in the Manufacture of the Imported Item as Certified by the Foreign Manufacturer
Equals	Tax Due

A separate computation is needed for each item imported for which a foreign manufacturer has properly certified the ODC weight of the item imported and the ODC used in the manufacture of the item. In addition, if the foreign manufacturer's letter does not contain sufficient and reliable information to establish the ODC weight and ODC used in the manufacture of an item, the actual method cannot be used and the table method must be considered.

Example:

A foreign manufacturer properly certified the amount and type of ODCs used in the manufacture of a circuit board to have 0.275 pounds of CFC-113. In this case, the calculation for the tax on 100,000 units imported in 2006 would be:

Number of Units		100,000
Number of pounds of ODC as Certified	Times	0.275
ODC Depletion Factor for CFC-113	Times	0.80
Base Tax Rate for 2006	Times	10.30
Results in the tax of	Equals	\$226,600

Table Method

If the ODC weight of an imported taxable product is not determined using the exact method, the table method is to be used to determine the taxable ODC weight of the product. The ODC weight of the product is the ODC weight set forth in the Imported Products Table, regardless of which ODCs were used in the manufacture of the product. In computing the amount of tax, the Table ODC weight shall not be rounded. [Treas. Reg. § 52.4682-3(e)(3)(i)]. In order to use this method, the Imported Products Table listed in Treas. Reg. § 52.4682-3(f)(6) must be used. A copy of the Table is located in Appendix C.

The table is organized based on the Harmonized Tariff Schedule (HTS) number assigned by the United States Customs Service. Each type of imported item has a unique HTS number. When an item is imported, all import documents, including Form 7501, Entry Summary, must note the HTS number and the quantity or value of the item imported. Once the HTS number assigned to the imported item is located within the table in the regulations, the type of ODC and the number of pounds of ODC for that imported item may be determined.

As noted above, the Imported Products Table is set forth in Treas. Reg. § 52.4682-3(f)(6). The table is divided into three parts:

- **Part I** contains a listing of products that are mixtures containing ODCs. These mixtures are commonly manufactured both in the United States and abroad. These products include “anti-static sprays,” insect and wasp sprays, refrigerants and dusting sprays. These products will use the Value Method (discussed below) as the table method does not assign an ODC weight to these items. In addition, a product other than a mixture containing ODCs will be listed in Part I if the Commissioner has determined that (A) the ODC weight of the product is not de minimis when the product is produced using the predominant method of manufacturing the product; and (B) none of 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.
- **Part II** contains the various products, their HTS number, the ODC chemical and the ODC chemical weight. A product is listed in Part II 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.
- **Part III** contains a listing of products that are not imported taxable products and the product would otherwise be included in Part II of the Table. In other words, no ODCs were expended in the production of these items. For example, Floppy Disk Drive Units with an HTS number of 8471.93 are listed in Part III and are not taxable.

Computation of Tax under the Table Method

The computation of the tax due when the table method is used is a product of the following items:

$$\begin{array}{r} \text{Number of Items Imported} \\ \text{Times ODC Weight per Item as noted in the Table} \\ \text{Times Base Tax Amount for Year of Import} \\ \text{Times Ozone Depletion Factor for ODC noted in the Table} \\ \text{Equals Tax Due} \end{array}$$

Note: In computing the amount of tax, the Table ODC weight shall not be rounded.

Harmonized Tariff Schedule (HTS) Numbers

An HTS number is a 10-digit number assigned based upon the commodity being imported. The first two digits of the HTS number is the chapter number. Most items included in the Imported Products Table are included in HTS chapters 84, 85, and 90. Therefore, taxable imported items manufactured with ODCs will start with 84, 85, or 90 as their first two numbers. A listing of HTS numbers can be found at <http://www.usitc.gov/>.

Some HTS numbers in the Imported Products Table are listed as full 10-digit numbers. In this case, all 10 digits of the HTS number from the taxpayer's records must match the 10 digits in the table listing. Other table listings show 4 or more digits. In matching an HTS number obtained from an import document to the numbers in the table, start with the first four numbers. If there is a match between the two, continue to match each digit until all digits listed in the regulations table are matched.

Example:

Television receivers are assigned an HTS number 8528 in the Imported Products Table. VCRs are assigned an HTS number of 8528.10.40 in the Imported Products Table.

In both cases, the chapter number is 85 (the first 2 digits of the number). If an item is imported with a number 8528.20.50.45, it would fall under the HTS table number of 8528, as the first 4 digits match for television receivers. (The fifth HTS number for the table entry for VCRs does not match).

For an item with an HTS number of 85.10.40.45, the HTS table number for VCRs matches, as the first 8 numbers match.

Example:

An HTS number in the Imported Products Table, on a US Customs Broker Report Form 7501, in CBRS data, and/or in other taxpayer-supplied documents, may show an imported product as 90303100 or 9030.31.00. The HTS number 9030.31.00 is for multimeters, but the full number is not in the Table. However, number 9030 - Oscilloscopes is in the Table. Since the first four numbers of the HTS number match, Table number 9030 is to be used to determine the ODC weight. Table number 9030 lists 3 ODC weights; CFC-11 for 0.49 pounds, CFC-12 for 0.5493 pounds and CFC-113 for 0.2613 pounds. The computation of the tax due will include a computation of all three ODCs listed multiplied by the other factors noted in the computation above.

Change in Assigned HTS Numbers - Products Imported after February 2007

Section 1205 of the Omnibus Trade and Tariff Act of 1988 changed the HTS numbers assigned to various commodities imported into the United States. The changes are effective in February of 2007. The changes affect the HTS numbers and electronic products listed in Treas. Reg. § 52.4682-3(f)(6). At the time of this Field Guide, the Regulations have not been updated for these changes. Until further guidance is provided by Counsel, affected imports are to still use the Imported Products Table set forth in Treas. Reg. § 52.4682-3(f)(6); however, the title of the imported item will be the determining factor. Therefore, if a Taxpayer imports “radios” in March, the old regulations will be used to determine the ODC weight of radios, whether or not the HTS numbers match.

Electronic Items not Listed by a Specific Name

Part II of the Table contains listings for electronic items that are not included within any other listing in the Table. An imported item is included in these listings only if the imported item:

- Is an electronic component listed in chapters 84, 85, or 90 of the Harmonized Tariff Schedule, or
- Contains components listed in chapters 84, 85, or 90 of the Harmonized Tariff Schedule and more than 15 percent of the cost of the imported product is attributable to the electronic components. [Treas. Reg. § 52.4682-3(f)((3)(ii)(A)].

An electronic component is a component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits. Such components do not include passive electrical devices such as resistors and capacitors. [Treas. Reg. § 52.4682-3(f)(3)(2)(B)]. Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic device are not themselves taxable items. [Treas. Reg. § 52.4682-3(f)(3)(ii)(2)(C)].

Articles Assembled in the United States

An importer that assembles finished articles in the United States may compute the amount of tax imposed on the imported taxable products incorporated into the finished article by using the Imported Products Table ODC weight specified for the article instead of the Table ODC weights specified for the components. In order to compute the tax under this special rule, the importer must determine the actual number of articles manufactured. [Treas. Reg. § 52.4682-3(e)(3)(ii)(A)]

Example:

An importer manufactures 100 camcorders using imported subassemblies. The importer may compute the amount of tax on the subassemblies by using the Table ODC weight specified for camcorders. Therefore, the tax imposed on the imported subassemblies is equal to the tax that would be imposed on the 100 camcorders.

Products with Two or More ODCs Listed in the Imported Products Table

In cases where the Imported Products Table specifies weights for two or more ODCs with respect to a product, the importer of the product can separately determine the weight of one or more of the ODCs listed, and the importer can support the determination with sufficient and reliable information, the importer may replace the weight specified in the Table for the ODC with the weight as determined by the importer of the ODC. Sufficient and reliable information must be available from the foreign manufacturer (in the form of a foreign manufacturer letter as discussed in Chapter 4) with regard to the specific weight,. [Treas. Reg. § 52.4682-3(e)(3)(ii)(B)].

Example:

An importer imports a product with two ODCs, CFC-12 and CFC-113, listed in the Imported Products Table. The importer received sufficient and reliable information from the foreign manufacturer to determine the amount of CFC-12 included in the product as a coolant. However, the importer cannot determine the actual amount of CFC-113 used in manufacturing the product's electronic components. In determining the ODC weights of the product, the importer may use the weight specified in the Table for CFC-113, and the importer may use the actual weight (as determined by the importer) for CFC-12.

Value Method

If the ODC weight of an imported taxable product is not determined using the exact method, and the table ODC weight of the product is not specified in the Imported Products Table located in Treas. Reg. § 52.4682-3(f), the value method is to be used to determine the tax. Under the value method, the tax is computed at 1 percent of the entry value of the product.

Computation of Tax under the Value Method

The computation of the tax due for each type of imported taxable item includes the following items:

$$\begin{array}{r} \text{Value of Items Imported} \\ \text{Times } .01 \\ \text{Equals Tax Due} \end{array}$$

The use of the value method occurs in two situations;

- HTS 8424 - fire extinguishers charged with ODC, and
- HTS 9504 - electronic games and electronic components thereof.

For items that match HTS 8424 or HTS 9504, the tax is computed using the value method at 1 percent of the entry value of the fire extinguishers or electronic games, respectively.

Audit Techniques

Examinations of taxpayers who import products in the automotive, computer, and electronics industries often involve imported products containing ODCs. However, imported products manufactured with ODCs may potentially be found during the examination of company that imports products.

What to Look For

A taxpayer who imports products from a foreign country, a foreign subsidiary or a foreign related entity may be subject to the tax. Special attention must be paid to entities with a manufacturing facility in a foreign country. In the case of an LMSB coordinated exam, any taxpayer who has an IRC § 482 issue must be looked at for the imported products containing ODC issue.

Records to Request

- A list of all brokers with whom the taxpayer does business.
- A printout of the U.S. Customs Broker Report. This report is usually furnished to the domestic importer once or twice a month by the taxpayer's broker. The taxpayer may have more than one broker, one for imported products from each seaport, another from each airport, and one from each border crossing.
 - The U.S. Customs Broker Report is a summary of import activity for which a particular broker is responsible. The broker is paid by the taxpayer. The report is a summary of the taxpayer's import documents, Form 7501.
- Statement as to whether the taxpayer elected to be taxed at the time of import as opposed to the time of sale or use.

- Request a copy of Form 6627 (Environmental Taxes), Part II for the quarter in which the election was made. This election covers all products from that point on. This cannot be revoked without prior, written, permission from the IRS.
- Ledgers and journals detailing all products imported.
- Schedule detailing the product numbers assigned to each product for each vendor as well as import and sales figures by quarter.
- Determine if the taxpayer assigns a different product/model number for specific customers.
- Schedule detailing when the products potentially containing ODC were imported into the country, were sold and were discontinued, if applicable.
- Copies of any prior examination reports for Forms 720 and 1120, 1065, or 1040.
- Complete copies of the Form 720 filed for the quarters of the audit, including Form 6627 (Environmental Taxes).
- Work papers used in completing the 720 returns for the quarters of the audit.
- List all related entities including their country of domicile; either by common ownership, parent-subsidiary, brother-sister entities, silent partners, or financial interest ownership.
- Documentation to support how the weight of each ODC is determined for tax purposes (exact method or table method).
 - Obtain an explanation of the taxpayer's method of determining the ODC weight if the taxpayer did not use the table in Appendix A.
- Documentation to support duties paid on chemicals and tracking of imports.
- Copies of Form CBP7501 (http://forms.cbp.gov/pdf/CBP_Form_7501.pdf) and CBP 7502 for the period under audit.
- Documentation to substantiate custom duty refunds (for imported items subsequently exported)
- Explain why any taxable imported products have not been included on the Form 720 for the period
- Obtain a copy of the Foreign Manufacturer's Letters or Statements for period under audit. These letters are to provide the foreign manufacturer's explanation of the manufacturing process in the cases where ODCs are not used in the manufacturing process of the taxable imported item.
- Copies of worksheets or other documentation to verify the following for each imported product:
 - Name of the imported product
 - Harmonized Tariff System (HTS) item number
 - Explanation of the process used to manufacture the item by predominant method (if applicable)
 - List of chemicals used in the production of the substance

Specific Questions which may be used on an IDR:

Provide your imported products report for the period (list period(s) under audit).

Provide all copies of U.S. Customs Broker Report for the period (list period(s) under audit).

Provide schedules detailing the number of units, the type of units, the model number, and the sale amount for all products sold that contain ODCs. Provide substantiation in the form of Journal and Ledger entries.

Provide schedules detailing the number of units, the type of units, the model number(s), and the sale amount for all products used that contain ODCs. Provide substantiation in the form of Journal and Ledger entries.

Provide the dates that each model or product potentially containing ODCs was first imported, as well as the date that each model was first sold.

If a product or model potentially containing ODCs has been discontinued, provide the dates the model or product was last sold and imported.

Audit Steps to Perform:

- Interview the taxpayer in depth to determine the following items:
 - All items imported
 - All brokers used
 - The foreign manufacturers involved in each step of the manufacturing process.
 - Whether there is a foreign assembler or whether parts are imported and assembled in the United States.
 - Explanation of all parties involved in the import process, including any entity that warehouses the products.
 - For each item type imported, the point at which title to the item passes to the taxpayer.
 - Whether the taxpayer considers any imported items as exempt from tax, along with the reason for the exemption.
 - For each type of item imported, the method used for the computation of the tax.
- Review the taxpayer's internal controls
- Tie the import records obtained from the taxpayer to the items reported on the return.
 - Question imports which are not included in the tax computation.
 - Ensure all imports are included in the tax computation.
- Cross check the taxpayer's import records with the listing of imports obtained from CBRS.
- Review all Foreign Manufacturer Letters provided by the taxpayer to prove exemption or a lesser tax rate.
 - Refer to Chapter 4, Foreign Manufacturer Letters, for the requirements to prove exemption.

- See discussion concerning the steps to perform if the Foreign Manufacturer Letters do not provide sufficient and reliable information in Chapter 4.
- Review the taxpayer's computation of the tax due.
 - Ensure that the taxpayer is using the proper method for each type of imported product.
 - Ensure that the taxpayer does not accidentally apply the ozone depletion factor twice.

Excise Tax Ozone Depleting Chemical Audit Techniques Guide (ATG)

Chapter 4 – Foreign Manufacture Letters

Chapter	Topic	Page
4	Introduction	4-2
	Sufficient and Reliable Information	4-2
	History of Consistency	4-2
	Requirements for Foreign Manufacturer Letters	4-2
	Difficulties with Foreign Manufacturer Letters	4-3
	Laboratory Testing	4-4
	Procedures for Laboratory Testing	4-5
	Case Assistance	4-5
	Common Misconceptions Taxpayers Have about the ODC Tax	4-5

Introduction

Examinations of imported products manufactured with ODCs are difficult when the taxpayer utilizes a number of foreign manufacturers. In this case, the examiner must determine the foreign manufacturer responsible for each component of the imported item.

Sufficient and Reliable Information

As noted in Chapter 3, Foreign Manufacturer Letters presented to the taxpayer in order to provide documentation for the actual method must contain sufficient and reliable information. Treas. Reg. § 52.4682-3(e)(2) states,

A letter to the importer signed by the manufacturer may constitute sufficient and reliable information if the letter adequately identifies the product and states the weight of each ODC used as a material in the product's manufacture.

The letter must be from the foreign manufacturer itself. Documentation received from foreign assemblers is not sufficient and reliable because the foreign assembler does not perform the manufacturing process that would potentially utilize the ODC. In the case of electronic components, ODCs are primarily used to clean the electronic boards of dirt and soldering residue.

History of Consistency

Section 52.4682-3(e)(2) of the regulations provides the authority to require information from the taxpayer's foreign manufacturer. During the 1990s, the Service needed to maintain consistency in the application of Treas. Reg. § 52.4682-3(e)(2). In order to establish guidelines for field examiners, the Ozone Depleting Chemicals EIS Team met with Chief Counsel on a number of occasions. The result is an eight item list of requirements for Foreign Manufacturer Letters to be considered sufficient and reliable to document the amount of ODCs expended in the manufacture of a product. This list of requirements has been in use since 1994 for reviewing foreign manufacturer letters presented by taxpayers to prove exemption from the tax on imported products manufactured with ODCs.

Requirements for Foreign Manufacturer Letters

As discussed above, the following items must be present on a foreign manufacturer letter in order to satisfy the 'sufficient and reliable' information criteria:

1. Be from the foreign manufacturer on the foreign manufacturer's company letterhead, which includes the address and phone number of the foreign manufacturer.
2. Be addressed to the taxpayer.
3. Be an original, not a copy.

4. Be signed by an officer of the foreign entity (or a comparable person) who is authorized to bind the foreign entity.
5. Separately identify the weight of each ODC used in the manufacturing process for each product and the model to which it applies.
6. Identify the major cost components of each product and the name and country of the foreign manufacturer of each major cost component.
7. Describe in detail the policy of the foreign manufacturer's country, in response to the Montreal Protocol on Substances that Deplete the Ozone Layer, to encourage the reduction in production and use of ODCs. If the foreign manufacturer is not aware of their country's policy, have them state that fact.
8. Describe, in detail, the new alternative product or the replacement technology used instead of the ODC process. The description should include the type of equipment involved, the month and year the new technology was placed in service, and the name and address of the firm from whom the new technology was purchased.

In addition, an English translation is to be provided for any responses made in a foreign language. Chief Counsel added an additional requirement that the foreign manufacturer provide purchase invoices to establish the acquisition of the replacement technology.

The invoices should note the telephone numbers and addresses for the manufacturers and companies from whom replacement technology was purchased. Chief Counsel also forwarded the opinion that letters should be notarized or sealed by the foreign government official in charge of Trade/Commerce or by the U.S. Consulate.

For products obtained from a foreign assembler with components obtained from other foreign manufacturers, a letter with the above information should be provided from each foreign manufacturer.

Foreign manufacturer letters that are incomplete or do not provide the necessary information to make a determination as to whether the foreign manufacturer utilizes ODCs are not to be accepted. In order to prove either an exemption from the tax or an exact amount of ODCs used in the manufacture of the product, the documentation, i.e. the foreign manufacturer letter, must be 'sufficient and reliable.'

In addition, since the taxpayer is claiming exemption from the tax, it is the taxpayer's duty to obtain the necessary information to document the exemption at the time that they import the product or, at the latest, when they prepare the return. If the taxpayer cannot prove to the Service's satisfaction that the letter provided is sufficient and reliable, the Actual Method cannot be used to determine the ODC weight of the ODCs used in the manufacture of the imported product. Therefore, the Table Method must be considered to determine the amount of tax for the item imported.

Difficulties with Foreign Manufacturer Letters

Prior to the date that the Montreal Protocol was ratified, the use of ODCs was the standard in the electronics industry as well as many other industries. At the time of

ratification, United States entities had difficulty in eliminating ODCs from their manufacturing process. Switching to manufacturing processes that do not contain ODCs is costly. Thus, many foreign manufacturers' letters claim to have never used ODCs or to have eliminated them on January 1, 1990, the first day that the Montreal Protocol went into effect. Given these facts, such foreign manufacturer letters appear to suspect with regard to the information provided.

Excise tax specialists often find that taxpayers who import taxable products claim to be exempt from tax on the basis that ODCs were not used in the manufacture of the imported product. As proof, taxpayers often submit vague and generic statements from the foreign manufacturer of the product. These statements do not contain adequate information for the specialist to verify that no ODCs were used in the manufacturing process. Typical examples of the difficulties facing specialists are:

- The statements from the foreign suppliers are self-serving, general blanket statements, and thus, no audit trail is available;
- The statements do not identify the product or amount sold, or the amount of ODCs used to manufacture each product;
- The statements are signed by low ranking members of the foreign supplier's company who are not authorized to bind the foreign company;
- The statements are usually a copy or a fax;
- The statements do not indicate when the ODCs used by the manufacturer were eliminated from the manufacturing process (ie., last week or four years ago); and,
- Major companies in the United States have been unable or slow to eliminate ODCs from their manufacturing process. Yet, small foreign suppliers claim to have done so by January 1, 1990 (the first day the tax was imposed). This casts doubt on the credibility of the foreign suppliers' statements.

The foreign suppliers are under a great deal of pressure from the American import companies to produce these statements or lose the business of the American company.

Until 2006, the Service could only rely on the foreign manufacturer letters to determine whether the imported items were manufactured without or with reduced ODCs. Even after the taxpayer was notified of the eight requirements for foreign manufacturer letters, the letters failed to meet the standards. During this time, a number of cases were closed unagreed and were forwarded to Appeals for resolution.

Laboratory Testing

These difficulties resulted in the Service contracting with the Pacific Northwest National Laboratory to develop a test to determine whether ODCs were used in the manufacture of imported items. The IRS is now able to perform a laboratory test that detects the presence of ODCs on an imported item. To perform the test, the item is disassembled to access the electronic circuit boards. The electronic circuit boards are placed in a sterile environment and subjected to varying levels of heat. The gases released from the boards at each temperature level are captured and analyzed for the presence of ODCs. The

electronic circuit boards are not destroyed, and can be tested repeatedly. The test does not quantify the amount of ODCs expended during the foreign manufacturer's manufacturing process but does show whether ODCs are present. The laboratory testing process and methodology has been published in scientific journals and is an accepted process.

Procedures for Laboratory Testing

When an Excise Field Agent encounters a case concerning imported electronic items in which the information supplied on the manufacturer letters is in question, the Excise Field Agent is to complete the following steps:

- Secure detailed information about the imported products and complete the Case Information sheet located at Appendix A
- Complete the Laboratory Test Request Form located at Appendix B.
- Secure managerial approval for testing.
- Forward Case Information sheet and Laboratory Test Request Form to the Excise Policy Analyst for ODCs at the address on the form. Based on the facts of the case, testing will be approved or denied. The Agent will be notified of this decision within 2 weeks of receipt.
- If testing is not recommended, within 10 working days of receipt of the request form, the ODC Analyst will provide a written explanation of the reason for the referral rejection to the referring agent.
- If testing is recommended, the selection of the samples to be tested will be coordinated between the Excise Policy Analyst for ODCs and the Excise Field Agent.

Note: In all situations, the facts and circumstances of the case will be considered in making the determination as to whether the request for laboratory testing will be granted.

Case Assistance

At any point during an examination of an importer of electronic items or components, the ODC - EIS and/or the ODC Policy Analyst may be contacted for assistance. In addition, an EIS Case Referral Request may be completed and approved in order for direct case assistance by the ODC - EIS.

Common Misconceptions Taxpayers Have about the ODC Tax

1. The ODC law was repealed.

Incorrect. There is some confusion over IRC §§ 4671 and 4672. These code sections relate to certain imported substances. In addition, IRC §§ 4681 and 4682 were repealed effective as of 10/01/1993 as part of the repeal of Subchapter C by P.L. 99-499, Sec 514(a). However, P.L. 101-239 Sec. 7506(a) added Subchapter D effective 1/1/90 which included §§ 4681 and 4682. Subchapter D is active and deals with ODCs.

2. No ODCs are manufactured or used.

Incorrect. ODCs can be and are legally produced in the United States. However, as of 2006, the amount of ODCs that can be produced in the United States, and other developed countries, is restricted to amounts produced in base years for various products. Developing countries have until 2010 for most products and 2015 for Methyl Chloroform

3. ODCs have never been used in our process.

Maybe. The use of ODCs in various applications such as electronics defluxing (which is the removal of flux residues after a soldering operation), precision cleaning, metal cleaning, dry cleaning, adhesives, aerosol applications, and other miscellaneous applications was the standard prior to the Montreal Protocol and is still the standard in some countries. It took time for various alternative applications to be developed and tested. Unless the manufacturer is new in business, the chances are that they always used ODCs in the past.

4. No ODCs have been used since 1990.

Incorrect. ODCs have been used in both developed and developing countries from the time that the Montreal Protocol was signed. Congress created the excise tax on ODCs effective in 1990. This legislation created the tax but did not prohibit the use of ODCs. Many countries have not signed the Montreal Protocol. In addition, many countries that did sign the Montreal Protocol may be slow to implement their own methodologies to move away from ODC use.

5. The country that we import from is a signatory to the Montreal Protocol so they do not use ODCs.

Probably Incorrect. Many countries may have signed the Montreal Protocol but have not implemented procedures to eliminate or reduce the amount of ODCs produced and used. The countries may also have little or no enforcement to ensure that their own laws are being followed. The United States had until 2006 to sharply reduce their ODC production and developing countries have until 2010. In addition, the component parts that a specific manufacturer uses may be from other developing countries, which complicates the ODC picture for that manufacturer, no matter where they are located.

6. I already paid the tax with Customs.

Incorrect. Customs does not collect ODC tax. The customs duty is a separate tax that relates to the importation of products. The customs duty is imposed on specific products being imported from various countries. The ODC is an excise tax that is reported to and paid over to the Internal Revenue Service.

Excise Tax Ozone Depleting Chemical Audit Techniques Guide (ATG)

Chapter 5 – Floor Stocks Tax

Chapter	Topic	Page
5	Introduction	5-2
	Imposition and Computation of the Tax	5-2
	Inventory Subject to Tax	5-2
	De minimis Exceptions	5-3
	Exceptions to Floor Stocks Tax	5-5
	Mixtures	5-5
	Person Liable for Tax	5-6
	Recordkeeping Requirements	5-6
	Reporting the Tax	5-7
	Audit Techniques	5-7

Introduction

The third type of tax on ODCs is a floor stocks tax imposed under IRC § 4682(h). This tax is reported on line 020 of the Form 720.

Imposition and Computation of the Tax

The floor stocks tax is imposed on ODCs that (A) are held by any person other than the manufacturer or importer of the ODC on January 1 of each calendar year, and (B) are held on such date for sale or for use in further manufacture. [Treas. Reg. 52.4681-1(a)(3)(i)]

IRC § 4681(b)(1)(B) provides that the base tax amount for purposes of § 4681(b)(1)(A) with respect to any sale or use during any calendar year after 1995 shall be \$5.35 increased by 45 cents for each year after 1995.

Therefore, the base tax rate of the ODC tax increases by 45 cents on January 1st of each year. The base tax rate increase of 45 cents per pound is to be adjusted by the ozone depletion factor for the ODC held in inventory.

The tax is calculated by first determining the tentative tax for the new year. This is done by multiplying the number of pounds of the ODC by the new year's tax rate in IRC §4681(b)(1)(B) by the Ozone Depletion Factor found in IRC § 4682(b). The new year's tentative tax is then compared to the amount of taxes were previously imposed on the ODCs. The ODC tax is the amount in excess of the previously taxed amount.

The floor stocks tax is imposed on an ODC without regard to the type or size of the storage container in which the ODC is held. Therefore, the tax may apply to an ODC whether it is in a 14-ounce can or a 30-pound tank. [Treas. Reg. § 52.4682-4(b)(1)(v)]

Inventory Subject to Tax

The floor stocks tax is imposed on ODCs held for sale or for use in further manufacture. [Treas. Reg. § 52.4682-4(b)]

For purposes of determining whether an ODC is held for sale, the term "sale" means the transfer of title or of substantial incidents of ownership (whether or not delivery to, or payment by, the buyer has been made) for consideration which may include money, services, or property. [See Treas. Reg. §§ 52.4682-4(b)(ii)(A) and 52.4681-1(c)(6)] Items held for sale include ODCs that will be sold in connection with the provision of services or in connection with the sale of a manufactured article and, in such cases, include ODCs that will be sold without the statement of a separate charge for those ODCs. [Treas. Reg. § 52.4682-4(b)(1)(ii)(A)] An ODC that is held by a government for its own use is not held for sale even if the ODC will be transferred between agencies or other subdivisions that have or are required to have different employer identification numbers. [Treas. Reg. § 52.4682-4(b)(1)(ii)(B)].

An ODC is held for further manufacture if the ODC will be used as a material in the manufacture of an article and the article will be held for sale. [Treas. Reg. § 52.4682-4(b)(1)(iii)] An ODC will be used as a material in the manufacture of an article if the ODC will be incorporated into the article or released into the atmosphere in the process of manufacturing the article. [Treas. Reg. § 52.4682-4(b)(1)(iv)(A)] An ODC is not used as a material in the manufacture of an article if the ODC is or will be contained in equipment used in such manufacture and the ODC will be used for its intended purpose without being released from the equipment. Thus, ODCs that are or will be used as coolants in a factory's air conditioning system are not used as materials in the manufacture of articles produced in the factory. [Treas. Reg. § 52.4682-4(b)(1)(iv)(B)]

Example:

An air conditioning repair service holds an ODC for use in repairing air conditioners for its customers. The ODC is held for sale even if the customers are not separately charged for ODCs used in the repairs. [Treas. Reg. § 52.4682-4(b)(vi), Example 1]

Example:

A manufacturer of electronic components holds an ODC for use as a solvent to clean printed circuits that it will sell to computer manufacturers. The manufacturer holds the ODC for use in further manufacture and the ODCs held are subject to the floor stocks tax. [Treas. Reg. § 52.4682-4(b)(vi), Example 2]

Example:

A grocery store chain holds an ODC for use in its refrigeration units. The grocery store chain does not hold the ODC for sale or use in further manufacture. Therefore, the ODC held is not subject to the floor stocks tax. [Treas. Reg. § 52.4682-4(b)(vi), Example 5]

De minimis Exceptions

In the case of the floor stocks tax imposed on January 1 of 1995 and each following calendar year, a person is liable for the tax only if, on such date, the person holds:

- (i) At least 400 pounds of ODCs that are not Halons or methyl chloroform and are otherwise subject to tax;
- (ii) At least 50 pounds of ODCs which are Halons and are otherwise subject to tax; or
- (iii) At least 1,000 pounds of methyl chloroform and are otherwise subject to tax.

If any chemical exceeds the de minimis threshold then all taxable chemicals are subject to the tax. [Treas. Reg. § 52.4682-4(e)(5)]

Example:

On January 1, 2005 the taxpayer holds 300 pounds of CFC-12 and 500 Pounds of R-500 (a mixture). Mixtures are not subject to tax because the mixture of ODC and other chemicals contribute to the accomplishment of the purpose for which the mixture will be used. This leaves only the 300 pounds of CFC-12 to be considered. The taxable threshold for the floor stocks tax for ODCs is 400 pounds. Therefore, there is no floor stocks tax due.

Example:

On January 1, 2004, the taxpayer holds 300 pounds of CFC-113 and 75 pounds of Halon-1301. While the 300 pounds of CFC-113 is below the 400 pound threshold, the 75 pounds of Halon-1301 exceeds the de minimis threshold of 50 pounds. As a result, both ODCs are subject to the floor stocks tax. To calculate the tax, each chemical is to be computed separately. The tax is equal to the difference between the tentative tax amount and the amount previously imposed on the ODCs.

Halons:		Tentative Tax 2004	Prior Tax 2003
Base Tax Amount		\$9.40	\$8.95
Ozone Depletion Factor Halon 1301	Times	10.0	10.0
Number of Pounds	Times	75	75
Total	Equals	\$7,050.00 (a)	\$6,712.50 (b)
Difference	(a) minus (b)	\$337.50 (c)	
CFC-113:			
Base Tax Amount		\$9.40	\$8.95
Ozone Depl Factor CFC-113	Times	0.8	0.8
Number of Pounds	Times	300	300
Total	Equals	\$2,256 (d)	\$2,148 (e)
Difference	(d) minus (e)	\$108.00 (f)	

Halons:		Tentative Tax 2004	Prior Tax 2003
Total Difference = Tax Due	(c) plus (f)	\$445.20	

Exceptions to Floor Stocks Tax

Mixtures

In the case of the floor stocks tax imposed on January 1 of a calendar year after 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients, but only if it is established that such ingredients contribute to the accomplishment of the purpose for which the mixture will be used. [Treas. Reg. § 52.4682-4(b)(2)(i)(B)(1)]

A mixture is not exempt from the floor stocks tax if it contains only an ODC and an inert ingredient that does not contribute to the accomplishment of the purpose for which the mixture will be used. [Treas. Reg. § 52.4682-4(b)(2)(i)(B)(1)] In addition, a mixture is not exempt if it contains only ODCs and one or more stabilizers. For this purpose, the term “stabilizer” means an ingredient needed to maintain the chemical integrity of the ODC. [Treas. Reg. § 52.4682-4(b)(2)(i)(B)(2)]

Manufactured Articles

The floor stocks tax is not imposed on an ODC that is contained in a manufactured article in which the ODC will be used for its intended purpose without being released from the article. For example, the tax is not imposed on the ODCs contained in the cooling coils of a refrigerator even if the refrigerator is held for sale. However, the floor stocks tax is imposed on a can of ODC used to recharge an air conditioning unit because the ODC must be expelled from the can in order to be used. [Treas. Reg. § 52.4682-4(b)(2)(ii)]

Recycled ODCs

The floor stocks tax is not imposed on ODCs that have been reclaimed or recycled. For example, the tax is not imposed on an ODC that is held for further manufacture after being used as a solvent and recycled. [Treas. Reg. § 52.4682-4(b)(2)(iii)]

ODCs Held by the Manufacturer or Importer

The floor stocks tax is not imposed on ODCs held by their manufacturer or importer. [Treas. Reg. § 52.4682-4(b)(2)(iv)]

ODCs used as a Feedstock

The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for use as a feedstock (as defined in Treas. Reg. § 52.4682-1(c)). [Treas. Reg. § 52.4682-4(b)(2)(v)]

ODCs to be Exported

The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for export (as defined in Treas. Reg. § 52.4681-5(d)(1)). [Treas. Reg. § 52.4682-4(b)(2)(vi)]

ODCs used as Propellants in Metered-dose Inhalers

The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for use as a propellant in a metered-dose inhaler (as defined in Treas. Reg. § 52.4681-1(h)). [Treas. Reg. § 52.4682-4(b)(2)(vii)]

Person Liable for Tax

The person holding title to the ODC at the first moment on the date on which the tax is imposed is the person liable for the tax. This is true whether delivery of the ODC has occurred or not. As long as title has passed as of the first moment of January 1st, the title holder is liable, no matter where the ODC is located. The person who has title at the time is determined under the applicable local law. [Treas. Reg. § 52.4682-4(c)(1)]

Each business unit that has, or is required to have, its own employer identification number is treated as a separate person for purposes of the floor stocks tax. [Treas. Reg. § 52.4682-4(c)(2)]

Example:

A chain of automotive parts stores has one employer identification number. Therefore, the chain is considered to be one person for purposes of determining the floor stocks tax due on ODCs held in inventory at its various stores. On the other hand, a parent corporation and subsidiary corporation that each have different identification numbers are considered to be two persons for purposes of the floor stocks tax. In this case, each entity will file a return to report the floor stocks tax on its inventory held as of January 1st.

Recordkeeping Requirements

If a person holds ODC products for sale or further manufacture, and the ODCs were not manufactured or imported by the person, the following rules apply:

- The person shall prepare an inventory of all such ODCs that the person holds on the date on which the tax is imposed.
- The inventory shall be taken as of the first moment of the date on which the tax is imposed.
- The person must maintain records of the inventory and make such records available for inspection and copying by Internal Revenue Agents and Officers. Records on the inventory are not to be filed with the Service.

Reporting the Tax

The due date for payment of the floor stocks tax is June 30th of each year of tax increase. [IRC § 4682(h)(3)] The tax is to be reported on Form 6627 and on line 020 of Part II of the Form 720. The return is to be filed for the second calendar quarter ended in June, and is due by July 31st.

Audit Techniques

ODC floor stocks tax may exist in a variety of industries and applications including, but not limited to refrigeration, fire suppression, industrial solvents, adhesives, and propellants.

What to Look For

- Stockpiling of ODCs to avoid the increasing cost of ODCs.
- Non-filed returns in previous periods.
- Reclaimed, recycled and mixtures of ODCs that are non-taxable.
- Inconsistent reporting patterns by product and quarter.
- New processes or additions of a production site which can be found by reviewing the Form 10K, corporate minutes, new articles, etc.
- Determine the type of reporting practices and internal control procedures by reviewing reporting manuals, interviewing responsible personnel, and looking at turnover.

Records to Request

- Request the work papers used to prepare the filed returns.
- Review and tie purchase, sales, and inventory records relating to ODCs.
- Request Material Safety Data Sheets (MSDS) that are required to be available where hazardous chemicals/materials are used and filed federal and state environmental reports.
- Conduct a tour of the facility where ODCs are used and stored.

Outside Data

Visit the <http://www.epa.gov/tri/>, where the Toxic Release Inventory (TRI) will identify facilities nationwide reporting ODC releases.

Excise Tax Ozone Depleting Chemical Audit Techniques Guide (ATG)

Appendix

	Topic	Page
	Imported Products with ODCs Case Information Sheet	Appendix A -2
	Laboratory Test Request Form Ozone Depleting Chemicals	Appendix B - 1
	FINAL-REG, TAX-REGS, §52.4682-3(f)(6) Imported Taxable Products Table	Appendix C - 1

Appendix A - Imported Products with ODCs Case Information Sheet

List all items imported by the Taxpayer:

For each item, note the HTS number:

Did the taxpayer have current manufacturer letters on file?

If so, have the manufacturer letters been reviewed?

Do the manufacturer letters contain sufficient and reliable information for exemption? (If not, continue with case information sheet)

For each type of item imported, note the specific model number(s) imported.

What is the length of time between the date the components are manufactured and the date of import?

How long is the average shelf time of the imported retail item?

Determine the reasoning for the individual digits of the serial numbers assigned to each product. (i.e., which digits in the serial numbers relate to the manufacturer, to the year or date of import, and the number of items imported?)

Is there any pattern to the import of the product? (i.e., daily, weekly, etc)

What is the volume of product imported per month?

Is the product imported in final assembly ready for retail, or is some assembly needed.

Retail: To whom is the item sold?

Is the product shipped directly to the retail seller or is it shipped to a warehouse of the taxpayer?

Is any final packaging performed in the United States?

Further Manufacture: What is the level of assembly needed?

Where is the assembly performed?

Diagram the manufacture and assembly process for each imported item. The diagram should note the following locations:

- Where the electronic components are manufactured
- The component that is manufactured by each manufacturer
- Where the imported item is assembled
- Location of any further manufacture to the electronic components
- Location of any additional cleaning of the electronic components

See the example below:

The product consists of 4 major components. Two parts are manufactured in China, one each is manufactured in Taiwan and Mexico. These parts were all shipped to and assembled in Mexico. The completed item was then imported into the United States where it was offered for retail sale. The point of taxation is the point at which it entered the United States.

Appendix B - Laboratory Test Request Form Ozone Depleting Chemicals

NOTE: In order to perform a test, an item needs to be purchased separately from the control of the taxpayer (for example, off of a store shelf), and taken apart for testing. The test does not destroy the item and multiple tests may be performed on a single sample item. The test confirms whether ODCs are present and which ODCs were used in the manufacture of the product. The test does not quantify the ODCs used.

Agent Name:	Phone:
Address:	E-Mail:
Group Manager:	Phone:
Case Name:	EIN:
Address:	Parent Name:
	Parent EIN:
Name and EIN of Importer (if other than taxpayer):	
Quarters under Examination:	
Is the taxpayer relying on manufacturer letters for exemption from tax?	
Have final manufacturer letters been reviewed?	
Do manufacturer letters contain all needed information for exemption?	
Note reason(s) manufacturer letters are not accepted: (Attach copy of letter)	
Volume of Imported Product per Quarter:	
Estimated Potential Tax per Quarter:	
Description of Imported Product:	

Common Name	Ozone-depletion Factor
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon 1211	3.0

Common Name	Ozone-depletion Factor
Halon 1301	10.0
Halon 2402	6.0
Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC 13	1.0
CFC 111	1.0
CFC 112	1.0
CFC 211	1.0
CFC 212	1.0
CFC 213	1.0
CFC 214	1.0
CFC 215	1.0
CFC 216	1.0
CFC 217	1.0

Harmonized Tariff Schedule (HTS) Number per Treas. Reg. § 52.4682-3(f)(6):

Is item imported in final state ready for sale or is item a part or component to be used in further manufacture?

For Items Ready for Resale - Specific Identifying Features of Imported Items:

Brand name:

Product name:

Model number:

Other Information on packaging:

Estimated cost of item to be tested:

At what stores are the products known to be sold?

For Parts and Components - Describe how the items are imported: (i.e. number of items per shipment carton, packaging, how items can be identified, etc.)

Other Information:

Approvals:

Agent Signature:	Date:
Group Manager Signature:	Date:
Accept	
Reject	
ODC Analyst Signature:	Date:
Excise Policy Senior Manager:	Date:
Chief, Excise Tax Program:	Date:

Reasons for Rejection:

Forward along with copies of the manufacturer letters in question via e-mail to jody.j.angelo@irs.gov.

Mail to: Internal Revenue Service
 Jody Angelo - Excise Policy Analyst - ODCs
 M/S C6-100
 5000 Ellin Rd.
 New Carrollton, MD 20706

Appendix C - FINAL-REG, TAX-REGS, §52.4682-3(f)(6) Imported Taxable Products Table

PART I - Products that are mixtures containing ODCs

Mixtures containing ODCs, include but are not limited to:

- anti-static sprays
- automotive products such as "carburetor cleaner," "stop leak," and "oil charge"
- cleaning solvents
- contact cleaners
- degreasers
- dusting sprays
- electronic circuit board coolants
- electronic solvents
- ethylene oxide/CFC-12
- fire extinguisher preparations and charges
- flux removers for electronics
- insect and wasp sprays
- mixtures of ODCs
- propellants
- refrigerants

PART II - Products in which ODCs are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

The following Table has been modified from the Treasury Regulation in order to improve readability. This modification is only of presentation.

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Rigid foam insulation defined in §52.4682-1(d)(3)			
Foams made with ODCs, other than foams defined in §52.4682-1(d)(3)			
Scrap flexible foams made with ODCs			
Medical products containing ODCs: <ul style="list-style-type: none"> • surgical staplers • cryogenic medical instruments • drug delivery systems 			

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
• inhalants			
Dehumidifiers, household	8415.82.00.50	CFC-12	0.344
Chillers: charged with CFC-12	8415.82.00.65	CFC-12	1600.
Chillers: charged with CFC-114	8415.82.00.65	CFC-114	1250.
Chillers: charged with R-500	8415.82.00.65	CFC-12	1920.
Refrigerator-freezers, household: not > 184 liters	8418.10.00.10	CFC-11	1.08*
Refrigerator-freezers, household: not > 184 liters	8418.10.00.10	CFC-12	0.13
Refrigerator-freezers, household: > 184 liters but not > 269 liters	8418.10.00.20	CFC-11	1.32*
Refrigerator-freezers, household: > 184 liters but not > 269 liters	8418.10.00.20	CFC-12	0.26
Refrigerator-freezers, household: > 269 liters but not > 382 liters	8418.10.00.30	CFC-11	1.54*
Refrigerator-freezers, household: > 269 liters but not > 382 liters	8418.10.00.30	CFC-12	0.35
Refrigerator-freezers, household: > 382 liters	8418.10.00.40	CFC-11	1.87*
Refrigerator-freezers, household: > 382 liters	8418.10.00.40	CFC-12	0.35
Refrigerators, household not > 184 liters	8418.21.00.10	CFC-11	1.08*
Refrigerators, household not > 184 liters	8418.21.00.10	CFC-12	0.13
Refrigerators, household > 184 liters but not > 269 liters	8418.21.00.20	CFC-11	1.32*

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Refrigerators, household > 184 liters but not > 269 liters	8418.21.00.20	CFC-12	0.26
Refrigerators, household > 269 liters but not > 382 liters	8418.21.00.30	CFC-11	1.54*
Refrigerators, household > 269 liters but not > 382 liters	8418.21.00.30	CFC-12	0.35
Refrigerators, household > 382 liters	8418.21.00.40	CFC-11	1.87*
Refrigerators, household > 382 liters	8418.21.00.40	CFC-12	0.35
Freezers, household	8418.30	CFC-11	2.*
Freezers, household	8418.30	CFC-12	0.4
Freezers, household	8418.40	CFC-11	2.*
Freezers, household	8418.40	CFC-12	0.4
Refrigerating display counters not > 227 kg	8418.50	CFC-11	50.*
Refrigerating display counters not > 227 kg	8418.50	CFC-12	260.
Icemaking machines: charged with CFC-12	8418.69	CFC-12	1.4
Icemaking machines: charged with R-502	8418.69	CFC-115	3.39
Drinking water coolers: charged with CFC-12	8418.69	CFC-12	0.21
Drinking water coolers: charged with R-500	8418.69	CFC-12	0.22
Centrifugal chillers, hermetic: charged with CFC-12	8418.69	CFC-12	1600.

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Centrifugal chillers, hermetic: charged with CFC-114	8418.69	CFC-114	1250.
Centrifugal chillers, hermetic: charged with R-500	8418.69	CFC-12	1920.
Reciprocating chillers: charged with CFC-12	8418.69	CFC-12	200.
Mobile refrigeration systems: containers	8418.99	CFC-12	15.
Mobile refrigeration systems: trucks	8418.99	CFC-12	11.
Mobile refrigeration systems: trailers	8418.99	CFC-12	20.
Refrigeration condensing units: not > 746W	8418.99.00.05	CFC-12	0.3
Refrigeration condensing units: > 746W but not > 2.2KW	8418.99.00.10	CFC-12	1.
Refrigeration condensing units: > 2.2KW but not > 7.5KW	8418.99.00.15	CFC-12	3.
Refrigeration condensing units: > 7.5KW but not > 22.3KW	8418.99.00.20	CFC-12	8.5
Refrigeration condensing units: > 22.3 KW	8418.99.00.25	CFC-12	17.
Fire extinguishers, charged w/ODCs	8424		
Electronic typewriters and word processors	8469	CFC-113	0.2049
Electronic calculators	8470.10	CFC-113	0.0035
Electronic calculators w/printing device	8470.21	CFC-113	0.0057
Electronic calculators	8470.29	CFC-113	0.0035
Account machines	8470.40	CFC-	0.1913

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
		113	
Cash registers	8470.50	CFC-113	0.1913
Digital automatic data processing machines w/cathode ray tube, not included in subheading 8471.20.00.90	8471.20	CFC-113	0.3663
Laptops, notebooks, and pocket computers	8471.20.00.90	CFC-113	0.03567
Digital processing units w/entry value: not > \$100K	8471.91	CFC-113	0.498
Digital processing units w/entry value: > \$100K	8471.91	CFC-113	27.6667
Combined input/output units (terminals)	8471.92	CFC-113	0.36
Keyboards	8471.92	CFC-113	0.0742
Display units	8471.92	CFC-113	0.0386
Printer units	8471.92	CFC-113	0.1558
Input or output units	8471.92	CFC-113	0.1370
Hard magnetic disk drive units not included in subheading 8471.93.10 for a disk of a diameter: not > 9 cm (3 1/2 inches)	8471.93	CFC-113	0.2829
Hard magnetic disk drive units not included in subheading 8471.93.10 for a disk of a diameter: > 9 cm (3 1/2 inches) but not > 21 cm (8 1/4 inches)	8471.93	CFC-113	1.1671
Nonmagnetic storage units w/entry value > \$1,000	8471.93	CFC-113	2.7758
Magnetic disk drive units for a disk of a	8471.93.10	CFC-	4.0067

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
diameter over 21 cm (8 1/4 inches)		113	
Power supplies	8471.99.30	CFC- 113	0.0655
Electronic office machines	8472	CFC- 113	0.0010
Populated cards for digital processing units in subheading 8471.91 w/value: not > \$100K	8473.30	CFC- 113	0.1408
Populated cards for digital processing units in subheading 8471.91 w/value: > \$100K	8473.30	CFC- 113	4.82
Automatic goods-vending machines with refrigerating device	8476.11	CFC- 12	0.45
Microwave ovens with electronic controls, with capacity of: 0.99 cu. ft. or less	8516.5	CFC- 113	0.03
Microwave ovens with electronic controls, with capacity of: 1.0 through 1.3 cu. ft.	8516.5	CFC- 113	0.0441
Microwave ovens with electronic controls, with capacity of: 1.31 cu. ft. or greater	8516.5	CFC- 113	0.0485
Microwave oven combinations with electronic controls	8516.60.40.60	CFC- 113	0.0595
Telephone sets w/entry value: not > \$11.00	8517.10	CFC- 113	0.0225
Telephone sets w/entry value: > \$11.00	8517.10	CFC- 113	0.1
Teleprinters and teletypewriters	8517.20	CFC- 113	0.1
Switching equipment not included in subheading 8517.30	8517.30.20	CFC- 113	0.1267
Private branch exchange switching	8517.30.20	CFC-	0.0753

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
equipment		113	
Modems	8517.40	CFC- 113	0.0225
Intercoms	8517.81	CFC- 113	0.0225
Facsimile machines	8517.82	CFC- 113	0.0225
Loudspeakers, microphones, headphones, and electric sound amplifier sets, not included in subheading 8518.30.10	8518	CFC- 113	0.0022
Telephone handsets	8518.30.10	CFC- 113	0.0420
Turntables, record players, cassette players, and other sound reproducing apparatus	8519	CFC- 113	0.0022
Magnetic tape recorders and other sound recording apparatus, not included in subheading 8520.20	8520	CFC- 113	0.0022
Telephone answering machines	8520.20	CFC- 113	0.1
Color video recording/reproducing apparatus	8521.10.00.20	CFC- 113	0.0586
Videodisc players	8521.90	CFC- 113	0.0106
Cordless handset telephones	8525.20.50	CFC- 113	0.1
Cellular communication equipment	8525.20.60	CFC- 113	0.4446
TV cameras	8525.30	CFC- 113	1.4230
Camcorders	8525.30	CFC- 113	0.0586

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Radio combinations	8527.11	CFC-113	0.0022
Radios	8527.19	CFC-113	0.0014
Motor vehicle radios with or w/o tape player	8527.21	CFC-113	0.0021
Radio combinations	8527.31	CFC-113	0.0022
Radios	8527.32	CFC-113	0.0014
Tuners w/o speaker	8527.39.00.20	CFC-113	0.0022
Television receivers	8528	CFC-113	0.0386
VCRs	8528.10.40	CFC-113	0.0586
Home satellite earth stations	8528.10.80.55	CFC-113	0.0106
Electronic assemblies for HTS headings 8525, 8527, & 8528	8529.90	CFC-113	0.0816
Indicator panels incorporating liquid crystal devices or light emitting diodes	8531.20	CFC-113	0.0146
Printed circuits	8534	CFC-113	0.001
Computerized numerical controls	8537.10.00.30	CFC-113	0.1306
Diodes, crystals, transistors and other similar discrete semiconductor devices	8541	CFC-113	0.0001
Electronic integrated circuits and microassemblies	8542	CFC-113	0.0002
Signal generators	8543.20	CFC-113	0.6518

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Avionics	8543.90.40	CFC-113	0.9150
Signal generators subassemblies	8543.90.80	CFC-113	0.1265
Insulated or refrigerated railway freight cars	8606	CFC-11	100.*
Passenger automobiles: foams (interior)	8703	CFC-11	0.8
Passenger automobiles: foams (exterior)	8703	CFC-11	0.7
Passenger automobiles: with charged a/c	8703	CFC-12	2.
Passenger automobiles: without charged a/c	8703	CFC-12	0.2
Passenger automobiles: electronics	8703	CFC-113	0.5
Light trucks: foams (interior)	8704	CFC-11	0.6
Light trucks: foams (exterior)	8704	CFC-11	0.1
Light trucks: with charged a/c	8704	CFC-12	2.
Light trucks: without charged a/c	8704	CFC-12	0.2
Light trucks: electronics	8704	CFC-113	0.4
Heavy trucks and tractors, GVW 33,001 lbs or more: foams (interior)	8704	CFC-11	0.6
Heavy trucks and tractors, GVW 33,001 lbs or more: foams (exterior)	8704	CFC-11	0.1
Heavy trucks and tractors, GVW 33,001 lbs or more: with charged a/c	8704	CFC-12	3.

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Heavy trucks and tractors, GVW 33,001 lbs or more: without charged a/c	8704	CFC-12	0.2
Heavy trucks and tractors, GVW 33,001 lbs or more: electronics	8704	CFC-113	0.4
Motorcycles with seat foamed with ODCs	8711	CFC-11	0.04
Bicycles with seat foamed with ODCs	8712	CFC-11	0.04
Seats foamed with ODCs	8714.95	CFC-11	0.04
Aircraft	8802	CFC-12	0.25 lb/1000 lbs Operating Empty Weight (OEW)
Aircraft	8802	CFC-113	0.30 lb/1000 lbs Operating Empty Weight (OEW)
Optical fibers	9001	CFC-12	0.005 lb/thousand feet
Electronics cameras	9006	CFC-113	0.01
Photocopiers	9009	CFC-113	0.0426
Avionics	9014.20	CFC-113	0.915
Electronic drafting machines	9017	CFC-113	0.12
Complete patient monitoring syst.	9018.19.80	CFC-12	0.94
Complete patient monitoring syst.	9018.19.80	CFC-113	3.4163
Complete patient monitoring systems; subassemblies thereof	9018.19.80.60	CFC-113	1.932

Product Name	Harmonized Tariff Schedule Heading	ODC	ODC Weight
Physical or chemical analysis instruments	9027	CFC-12	0.0003
Physical or chemical analysis instruments	9027	CFC-113	0.0271
Oscilloscopes	9030	CFC-11	0.49
Oscilloscopes	9030	CFC-12	0.5943
Oscilloscopes	9030	CFC-113	0.2613
Foam chairs	9401	CFC-11	0.3
Foam sofas	9401	CFC-11	0.75
Foam mattresses	9404.21	CFC-11	1.6
Electronic games and electronic components thereof	9504	CFC-113	
Electronic items not otherwise listed in the Table: included in HTS chapters 84, 85, 90		CFC-113	0.0004 pound/\$1.00 of entry value
Electronic items not otherwise listed in the Table: not included in HTS chapters 84, 85, 90		CFC-113	0.0004 pound/\$1.00 of entry value

PART III - Products that are not Imported Taxable Products

Product Name	Harmonized Tariff Schedule Heading
Room air conditioners	8415.10.00.60
Dishwashers	8422.11
Clothes washers	8450.11

Product Name	Harmonized Tariff Schedule Heading
Clothes dryers	8451.21
Floppy disk drive units	8471.93
Transformers and inductors	8504
Toasters	8516.72
Unrecorded media	8523
Recorded media	8524
Capacitors	8532
Resistors	8533
Switching apparatus	8536
Cathode tubes	8540

* See paragraph (e)(3)(ii)(C) of this section. Denotes an ODC used in the manufacture of rigid foam insulation.

** See paragraph (f)(2)(ii)(A) of this section. Denotes products for which the effective date is October 1, 1990.

*** See paragraph (f)(2)(ii)(B) of this section. Denotes products for which the effective date is January 1, 1992.