

PRIOR PROVISIONS

A prior section 4042, act Aug. 16, 1954, ch. 736, 68A Stat. 478, provided a cross reference to section 4222 of this title for exemption from tax where special motor fuels are sold for use for certain vessels, prior to repeal by Pub. L. 94-455, title XIX, §1904(a)(1)(D), Oct. 4, 1976, 90 Stat. 1811.

AMENDMENTS

2007—Subsec. (b)(3). Pub. L. 110-172 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use."

2004—Subsec. (b)(2)(C). Pub. L. 108-357 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "The deficit reduction rate is 4.3 cents per gallon."

1993—Subsec. (b)(1)(C). Pub. L. 103-66, §13241(d)(1), added subpar. (C).

Subsec. (b)(2)(C). Pub. L. 103-66, §13241(d)(2), added subpar. (C).

1988—Subsec. (b)(2). Pub. L. 100-647 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cents a gallon."

1986—Subsec. (b). Pub. L. 99-499 and Pub. L. 99-662 both amended subsec. (b) generally, effective Jan. 1, 1987. Pub. L. 100-647, §2002(a)(1) (see Construction of 1986 Amendments note below), provided that for purposes of this section, the amendment made by Pub. L. 99-499 be treated as enacted after the amendment made by Pub. L. 99-662. Prior to amendment by Pub. L. 99-499 and Pub. L. 99-662, subsec. (b) read as follows:

"If the use occurs—	The tax is—
After September 30, 1980 and before October 1, 1981	4 cents a gallon
After September 30, 1981 and before October 1, 1983	6 cents a gallon
After September 30, 1983 and before October 1, 1985	8 cents a gallon
After September 30, 1985	10 cents a gallon".

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which such amendment relates, see section 6(e) of Pub. L. 110-172, set out as a note under section 30C of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 effective Jan. 1, 2005, see section 241(c) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2002(d) of Pub. L. 100-647, as amended by Pub. L. 101-239, title VII, §7812(b), Dec. 19, 1989, 103 Stat. 2412, provided that: "The amendments made by subsections (b) and (c) [amending section 4462 of this title and provisions set out as a note under section 4461 of this title] shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 [Pub. L. 99-662, title XIV] to which it relates, and the amendment made by subsection (a)(2) [amending this section] shall take effect as if included in the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 [Pub. L. 99-499, title V]."

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 1404(c) of Pub. L. 99-662 provided that: "The amendments made by this section [amending this section and section 1804 of Title 33, Navigation and Navigable Waters] shall take effect on January 1, 1987."

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section 202(d) of Pub. L. 95-502 provided that: "The amendments made by this section [enacting this section and amending section 4293 of this title] shall take effect on October 1, 1980."

CONSTRUCTION OF 1986 AMENDMENTS

Section 2002(a)(1) of Pub. L. 100-647 provided that: "For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 [Pub. L. 99-499, amending this section] shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986 [Pub. L. 99-662, amending this section]."

Subchapter C—Heavy Trucks and Trailers

- Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.
- 4052. Definitions and special rules.
- 4053. Exemptions.

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11221(a), Nov. 5, 1990, 104 Stat. 1388-438, redesignated this subchapter, formerly subchapter B, as subchapter C.

§ 4051. Imposition of tax on heavy trucks and trailers sold at retail

(a) Imposition of tax

(1) In general

There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

- (A) Automobile truck chassis.
- (B) Automobile truck bodies.
- (C) Truck trailer and semitrailer chassis.
- (D) Truck trailer and semitrailer bodies.
- (E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

(2) Exclusion for trucks weighing 33,000 pounds or less

The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

(3) Exclusion for trailers weighing 26,000 pounds or less

The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).¹

¹ So in original. Probably should be preceded by a closing parenthesis.

(4) Exclusion for tractors weighing 19,500 pounds or less

The tax imposed by paragraph (1) shall not apply to tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer if—

(A) such tractor has a gross vehicle weight of 19,500 pounds or less (as determined by the Secretary), and

(B) such tractor, in combination with a trailer or semitrailer, has a gross combined weight of 33,000 pounds or less (as determined by the Secretary).

(5) Sale of trucks, etc., treated as sale of chassis and body

For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

(b) Separate purchase of truck or trailer and parts and accessories therefor

Under regulations prescribed by the Secretary—

(1) In general

If—

(A) the owner, lessee, or operator of any vehicle which contains an article taxable under subsection (a) installs (or causes to be installed) any part or accessory on such vehicle, and

(B) such installation is not later than the date 6 months after the date such vehicle (as it contains such article) was first placed in service,

then there is hereby imposed on such installation a tax equal to 12 percent of the price of such part or accessory and its installation.

(2) Exceptions

Paragraph (1) shall not apply if—

(A) the part or accessory installed is a replacement part or accessory, or

(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to any vehicle does not exceed \$1,000 (or such other amount or amounts as the Secretary may by regulations prescribe).

(3) Installers secondarily liable for tax

The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by paragraph (1).

(c) Termination

On and after April 1, 2012, the taxes imposed by this section shall not apply.

(d) Credit against tax for tire tax

If—

(1) tires are sold on or in connection with the sale of any article, and

(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.

(Added Pub. L. 97-424, title V, §512(b)(1), Jan. 6, 1983, 96 Stat. 2174; amended Pub. L. 98-369, div. A, title VII, §734(g), title IX, §921, July 18, 1984, 98 Stat. 980, 1009; Pub. L. 99-514, title XVIII, §§1877(c), 1899A(47), Oct. 22, 1986, 100 Stat. 2902, 2961; Pub. L. 100-17, title V, §502(a)(2), Apr. 2, 1987, 101 Stat. 256; Pub. L. 101-508, title XI, §1121(c)(1), Nov. 5, 1990, 104 Stat. 1388-426; Pub. L. 102-240, title VIII, §8002(a)(1), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 105-34, title XIV, §§1401(a), 1402(a), 1432(a), Aug. 5, 1997, 111 Stat. 1045, 1046, 1050; Pub. L. 105-178, title IX, §9002(a)(1)(D), June 9, 1998, 112 Stat. 499; Pub. L. 109-59, title XI, §§11101(a)(1)(D), 11112(a), Aug. 10, 2005, 119 Stat. 1943, 1946; Pub. L. 112-30, title I, §142(a)(2)(B), Sept. 16, 2011, 125 Stat. 356.)

PRIOR PROVISIONS

A prior section 4051, act Aug. 16, 1954, ch. 736, 68A Stat. 479, defined the price for which articles were sold for purposes of determining retailers excise taxes, prior to repeal by Pub. L. 94-455, title XIX, §1904(a)(1)(D), Oct. 4, 1976, 90 Stat. 1811.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112-30 substituted “April 1, 2012” for “October 1, 2011”.

2005—Subsec. (a)(4), (5). Pub. L. 109-59, §11112(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 109-59, §11101(a)(1)(D), substituted “2011” for “2005”.

1998—Subsec. (c). Pub. L. 105-178 substituted “2005” for “1999”.

1997—Subsec. (b)(2)(B). Pub. L. 105-34, §1401(a), substituted “\$1,000” for “\$200”.

Subsec. (d). Pub. L. 105-34, §1432(a), redesignated subsec. (e) as (d) and struck out former subsec. (d) which provided for a temporary reduction in tax on certain piggyback trailers.

Subsec. (e). Pub. L. 105-34, §1432(a), redesignated subsec. (e) as (d).

Pub. L. 105-34, §1401(a), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “In the case of any article taxable under subsection (a) on which tax was imposed under section 4061(a), subsection (a) shall be applied by substituting ‘2 percent’ for ‘12 percent’.”

1991—Subsec. (c). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (c). Pub. L. 101-508 substituted “1995” for “1993”.

1987—Subsec. (c). Pub. L. 100-17 substituted “1993” for “1988”.

1986—Subsec. (d)(1). Pub. L. 99-514, §1899A(47), substituted “July 18, 1984” for “the date of the enactment of the Tax Reform Act of 1984”.

Subsec. (d)(3). Pub. L. 99-514, §1877(c), inserted at end “No tax shall be imposed by reason of this paragraph on any use or resale which occurs more than 6 years after the date of the first retail sale.”

1984—Subsec. (b)(3). Pub. L. 98-369, §734(g), substituted “The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by paragraph (1)” for “In addition to the owner, lessee, or operator of the vehicle, the owner of the trade or business installing the part or accessory shall be liable for the tax imposed by paragraph (1)”.

Subsecs. (d), (e). Pub. L. 98-369, §921, added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-30 effective Oct. 1, 2011, see section 142(f) of Pub. L. 112-30, set out as a note under section 4607-11 of Title 16, Conservation.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11112(b), Aug. 10, 2005, 119 Stat. 1946, provided that: “The amendments made by

this section [amending this section] shall apply to sales after September 30, 2005.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1401(a) of Pub. L. 105-34 applicable to installations on vehicles sold after Aug. 5, 1997, see section 1401(b) of Pub. L. 105-34, set out as a note under section 4003 of this title.

Section 1402(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section and section 4052 of this title] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1877(c) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 736 of subtitle C (§§ 731-736) of title VII of div. A of Pub. L. 98-369 provided that: “Except as otherwise provided in this subtitle, any amendment made by this subtitle [amending this section and sections 48, 1366, 4052, 4053, 4071 to 4073, 4081, 4082, 4216, 4218, 4221 to 4223, 4227, 4481, 6401, 6412, 6416, 6427, 6511, and 9502 of this title, repealing sections 4061 to 4063 of this title, and amending provisions set out as notes under sections 4061 and 4081 of this title] shall take effect as if included in the provisions of the Highway Revenue Act of 1982 [Pub. L. 97-424] to which such amendment relates.”

EFFECTIVE DATE

Section 512(b)(3) of Pub. L. 97-424 provided that: “The amendments made by this subsection [enacting this subchapter and amending section 6416 of this title] shall take effect on April 1, 1983.”

**PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989**

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 4052. Definitions and special rules

(a) First retail sale

For purposes of this subchapter—

(1) In general

The term “first retail sale” means the first sale, for a purpose other than for resale or leasing in a long-term lease, after production, manufacture, or importation.

(2) Leases considered as sales

Rules similar to the rules of section 4217 shall apply.

(3) Use treated as sale

(A) In general

If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

(B) Exemption for use in further manufacture

Subparagraph (A) shall not apply to use of an article as material in the manufacture or

production of, or as a component part of, another article to be manufactured or produced by him.

(C) Computation of tax

In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

(b) Determination of price

(1) In general

In determining price for purposes of this subchapter—

(A) there shall be included any charge incident to placing the article in condition ready for use,

(B) there shall be excluded—

(i) the amount of the tax imposed by this subchapter,

(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

(iii) the value of any component of such article if—

(I) such component is furnished by the first user of such article, and

(II) such component has been used before such furnishing, and

(C) the price shall be determined without regard to any trade-in.

(2) Sales not at arm's length

In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

(3) Long-term lease

(A) In general

In the case of any long-term lease of an article which is treated as the first retail sale of such article, the tax under this subchapter shall be computed on a price equal to—

(i) the sum of—

(I) the price (determined under this subchapter but without regard to paragraph (4)) at which such article was sold to the lessor, and

(II) the cost of any parts and accessories installed by the lessor on such article before the first use by the lessee or leased in connection with such long-term lease, plus

(ii) an amount equal to the presumed markup percentage of the sum described in clause (i).

(B) Presumed markup percentage

For purposes of subparagraph (A), the term “presumed markup percentage” means the average markup percentage of retailers of articles of the type involved, as determined by the Secretary.