

tioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

(10) Advanced insulation

Any insulation that has an R value of not less than R35 per inch.

(Added Pub. L. 97-424, title V, §512(b)(1), Jan. 6, 1983, 96 Stat. 2176; amended Pub. L. 98-369, div. A, title VII, §735(b)(1), July 18, 1984, 98 Stat. 981; Pub. L. 108-357, title VIII, §851(a)(1), Oct. 22, 2004, 118 Stat. 1607; Pub. L. 110-343, div. B, title II, §206(a), Oct. 3, 2008, 122 Stat. 3839.)

PRIOR PROVISIONS

A prior section 4053, acts Aug. 16, 1954, ch. 736, 68A Stat. 479; Sept. 2, 1958, Pub. L. 85-859, title I, §104, 72 Stat. 1276, made provision for the imposition of the retailers tax on installment sales, prior to repeal by Pub. L. 94-455, title XIX, §1904(a)(1)(D), Oct. 4, 1976, 90 Stat. 1811.

For provisions of prior sections 4054 to 4058 of this title, see Prior Provisions note set out preceding section 4041 of this title.

AMENDMENTS

2008—Pars. (9), (10). Pub. L. 110-343 added pars. (9) and (10).

2004—Par. (8). Pub. L. 108-357 added par. (8).

1984—Pub. L. 98-369 amended section generally, substituting provisions listing articles on which no tax under section 4051 shall be imposed for former provisions which stated that no tax be imposed under section 4051 on any article specified in subsection (a) of section 4063 and that the exemptions provided by section 4221(a) extended to the tax imposed by section 4051.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title II, §206(b), Oct. 3, 2008, 122 Stat. 3839, provided that: "The amendment made by this section [amending this section] shall apply to sales or installations after the date of the enactment of this Act [Oct. 3, 2008]."

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §851(a)(2), Oct. 22, 2004, 118 Stat. 1607, provided that: "The amendment made by this subsection [amending this section] shall take effect on the day after the date of the enactment of this Act [Oct. 22, 2004]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

CHAPTER 32—MANUFACTURERS EXCISE TAXES

Subchapter A. Automotive and related items Sec.1 4061

¹ Section numbers editorially supplied.

B. Coal 4121
C. Certain vaccines 4131
D. Recreational equipment 4161
E. Medical devices 4191
F. Special provisions applicable to manufacturers tax 4216
G. Exemptions, registration, etc 4221

AMENDMENTS

2010—Pub. L. 111-152, title I, §1405(a)(2), Mar. 30, 2010, 124 Stat. 1065, added item for subchapter E.

1987—Pub. L. 100-203, title IX, §9201(c), Dec. 22, 1987, 101 Stat. 1330-330, added item for subchapter C.

1978—Pub. L. 95-227, §2(c), Feb. 10, 1978, 92 Stat. 12, added item for subchapter B.

1965—Pub. L. 89-44, title II, §§203, 204, 206, June 21, 1965, 79 Stat. 139, 140, struck out items for subchapters B, C and E.

Subchapter A—Automotive and Related Items

Part I. Gas guzzlers.
II. Tires.
III. Petroleum products.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title VII, §735(a)(3), (c)(5)(B), July 18, 1984, 98 Stat. 980, 982, substituted "Gas guzzlers" for "Motor vehicles" in item for part I, and struck out "and tubes" in item for part II.

PART I—GAS GUZZLERS

Sec. [4061 to 4063. Repealed.]
4064. Gas guzzler tax.

AMENDMENTS

1986—Pub. L. 99-514, title XVIII, §1875(f), Oct. 22, 1986, 100 Stat. 2897, substituted "guzzler" for "guzzlers" in item 4064.

1984—Pub. L. 98-369, div. A, title VII, §735(a)(2), July 18, 1984, 98 Stat. 980, substituted "GAS GUZZLERS" for "MOTOR VEHICLES" in part I heading, struck out items 4061 "Imposition of tax", 4062 "Articles classified as parts", and 4063 "Exemptions", and substituted "guzzlers" for "guzzler" in item 4064.

1978—Pub. L. 95-618, title II, §201(f), Nov. 9, 1978, 92 Stat. 3184, added item 4064.

1971—Pub. L. 92-178, title IV, §401(g)(2)(D), Dec. 10, 1971, 85 Stat. 533, substituted "Articles classified as parts" for "Definitions" in item 4062.

§§ 4061 to 4063. Repealed. Pub. L. 98-369, div. A, title VII, § 735(a)(1), July 18, 1984, 98 Stat. 980]

Section 4061, acts Aug. 16, 1954, ch. 736, 68A Stat. 481; Mar. 30, 1955, ch. 18, §3(a)(2), 69 Stat. 14; Aug. 12, 1955, ch. 865, §1, 69 Stat. 709; Mar. 29, 1956, ch. 115, §3(a)(2), 70 Stat. 66; June 29, 1956, ch. 462, title II, §203, 70 Stat. 388; Mar. 29, 1957, Pub. L. 85-12, §3(a)(1), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, §3(a)(1), 72 Stat. 259; June 30, 1959, Pub. L. 86-75, §3(a)(1), 73 Stat. 157; June 30, 1960, Pub. L. 86-564, title II §202(a)(1), 74 Stat. 290; June 29, 1961, Pub. L. 87-61, title II, §204, 75 Stat. 126; June 30, 1961, Pub. L. 87-72, §3(a)(1), 75 Stat. 193; June 28, 1962, Pub. L. 87-508, §3(a)(1), 76 Stat. 114; June 29, 1963, Pub. L. 88-52, §3(a)(1), 77 Stat. 72; June 30, 1964, Pub. L. 88-348, §2(a)(1), 78 Stat. 237; June 21, 1965, Pub. L. 89-44, title II, §201, 79 Stat. 136; Mar. 15, 1966, Pub. L. 89-368, title II, §201(a), 80 Stat. 65; Apr. 12, 1968, Pub. L. 90-285, §1(a)(1), §2 Stat. 92; June 28, 1968, Pub. L. 90-364, title I, §105(a)(1), 82 Stat. 265; Dec. 30, 1969, Pub. L. 91-172, title VII, §702(a)(1), 83 Stat. 660; Dec. 31, 1970, Pub. L. 91-605, title III, §303(a)(3), (4), 84 Stat. 1743; Dec. 31, 1970, Pub. L. 91-614, title II, §201(a)(1), 84 Stat. 1843; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(a)(1), (g) (1), 85 Stat. 530, 533; May 5, 1976, Pub. L. 94-280, title III, §303(a)(3), (4),

90 Stat. 456; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834; Nov. 6, 1978, Pub. L. 95-599, title V, §502(a)(2), (3), 92 Stat. 2756; Jan. 6, 1983, Pub. L. 97-424, title V, §512(a)(1), (2), 96 Stat. 2173, 2174, related to imposition of tax on trucks, buses, tractors, etc.

Section 4062, acts Aug. 16, 1954, ch. 736, 68A Stat. 482; Oct. 13, 1964, Pub. L. 88-653, §5(b), 78 Stat. 1086; Nov. 13, 1966, Pub. L. 89-809, title II, §212(a), 80 Stat. 1585; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(g)(2)(A)-(C), 85 Stat. 533, related to articles classified as parts.

Section 4063, acts Aug. 16, 1954, ch. 736, 68A Stat. 482; Aug. 11, 1955, ch. 805, §1(g), 69 Stat. 690; Oct. 13, 1964, Pub. L. 88-653, §5(a), 78 Stat. 1086; June 21, 1965, Pub. L. 89-44, title VIII, §801(a), 79 Stat. 157; Dec. 30, 1969, Pub. L. 91-172, title IX, §931(a), 83 Stat. 724; Dec. 31, 1970, Pub. L. 91-614, title III, §303(a), 84 Stat. 1845; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(a)(2), (g)(3), 85 Stat. 530, 533; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2109(a), 90 Stat. 1834, 1904; Nov. 6, 1978, Pub. L. 95-600, title VII, §701(ff)(1), 92 Stat. 2924; Nov. 9, 1978, Pub. L. 95-618, title II, §231(a), 92 Stat. 3187; Jan. 6, 1983, Pub. L. 97-424, title V, §512(a)(3), 96 Stat. 2174, related to exemptions from tax.

EFFECTIVE DATE OF REPEAL

Repeal effective as if included in the provisions of the Highway Revenue Act of 1982, Pub. L. 97-424, see section 736 of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 4051 of this title.

§ 4064. Gas guzzler tax

(a) Imposition of tax

There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	\$0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700.

(b) Definitions

For purposes of this section—

(1) Automobile

(A) In general

The term “automobile” means any 4-wheeled vehicle propelled by fuel—

- (i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and
- (ii) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

(B) Exception for certain vehicles

The term “automobile” does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 32901 of title 49, United States Code, and which were in effect on the date of the enactment of this section.

(C) Exception for emergency vehicles

The term “automobile” does not include any vehicle sold for use and used—

- (i) as an ambulance or combination ambulance-hearse,

- (ii) by the United States or by a State or local government for police or other law enforcement purposes, or

- (iii) for other emergency uses prescribed by the Secretary by regulations.

(2) Fuel economy

The term “fuel economy” means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

(3) Model type

The term “model type” means a particular class of automobile as determined by regulation by the EPA Administrator.

(4) Model year

The term “model year”, with reference to any specific calendar year, means a manufacturer’s annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term “model year” means the calendar year.

(5) Manufacturer

(A) In general

The term “manufacturer” includes a producer or importer.

(B) Lengthening treated as manufacture

For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person.

(6) EPA Administrator

The term “EPA Administrator” means the Administrator of the Environmental Protection Agency.

(7) Fuel

The term “fuel” means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

(c) Determination of fuel economy

For purposes of this section—

(1) In general

Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted

under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

(2) Special rule for fuels other than gasoline

The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

(3) Time by which regulations must be issued

Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply.

(Added Pub. L. 95-618, title II, §201(a), Nov. 9, 1978, 92 Stat. 3180; amended Pub. L. 99-514, title XVIII, §1812(e)(1)(B)(i), (ii), Oct. 22, 1986, 100 Stat. 2836; Pub. L. 101-508, title XI, §11216(a)-(d), Nov. 5, 1990, 104 Stat. 1388-437; Pub. L. 103-272, §5(g)(1), July 5, 1994, 108 Stat. 1374; Pub. L. 109-59, title XI, §11111(a), Aug. 10, 2005, 119 Stat. 1946.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1)(B), is Nov. 9, 1978.

Section 206 of the Clean Air Act, referred to in subsec. (c)(1), is section 206 of act July 14, 1955, ch. 360, title II, as added Dec. 31, 1970, Pub. L. 91-604, §8(a), 84 Stat. 1694, which is classified to section 7525 of Title 42, The Public Health and Welfare.

AMENDMENTS

2005—Subsec. (b)(1)(A). Pub. L. 109-59 struck out concluding provisions which read as follows: “In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii).”

1994—Subsec. (b)(1)(B). Pub. L. 103-272 substituted “section 32901 of title 49, United States Code,” for “section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001)”.

1990—Subsec. (a). Pub. L. 101-508, §11216(a), amended subsec. (a) generally, substituting present provisions for provisions which set forth gas guzzler tax tables in the case of automobiles built in each of the model years 1980 through 1986 and later.

Subsec. (b)(1)(A). Pub. L. 101-508, §11216(b), inserted at end “In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii).”

Subsec. (b)(5)(B). Pub. L. 101-508, §11216(c), substituted heading for one which read: “Exception for certain small manufacturers” and amended text generally. Prior to amendment, text read as follows: “A person shall not be treated as the manufacturer of any automobile if—

“(i) such person would (but for this subparagraph) be so treated solely by reason of lengthening an existing automobile, and

“(ii) such person is a small manufacturer (as defined in subsection (d)(4) for the model year in which such lengthening occurs.”

Subsec. (d). Pub. L. 101-508, §11216(d), struck out subsec. (d) which prescribed special rules for small manufacturers.

1986—Subsec. (b)(1)(A)(ii). Pub. L. 99-514, §1812(e)(1)(B)(i), substituted “unloaded gross vehicle weight” for “gross vehicle weight”.

Subsec. (b)(5). Pub. L. 99-514, §1812(e)(1)(B)(ii), amended par. (5) generally, designating existing provisions as subpar. (A), adding subpar. (A) heading, and adding subpar. (B).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11111(b), Aug. 10, 2005, 119 Stat. 1946, provided that: “The amendment made by

this section [amending this section] shall take effect on October 1, 2005.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11216(e), Nov. 5, 1990, 104 Stat. 1388-437, provided that:

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to sales after December 31, 1990.

“(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section] shall take effect on January 1, 1991.

“(3) SUBSECTION (d).—The amendment made by subsection (d) [amending this section] shall take effect on the date of the enactment of this section [Nov. 5, 1990].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XVIII, §1812(e)(1)(B)(iii), Oct. 22, 1986, 100 Stat. 2837, provided that: “The amendments made by clauses (i) and (ii) [amending this section] shall take effect as if included in the amendments made by section 201 of Public Law 95-618 [see Effective Date note below]; except that the amendment made by clause (i) shall not apply to any station wagon if—

“(I) such station wagon is originally equipped with more than 6 seat belts,

“(II) such station wagon was manufactured before November 1, 1985, and

“(III) such station wagon is of the 1985 or 1986 model year.”

EFFECTIVE DATE

Pub. L. 95-618, title II, §201(g), Nov. 9, 1978, 92 Stat. 3184, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section and amending sections 1016, 4217, 4221, 4222, 4293, and 6416 of this title] shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]).”

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.

PART II—TIRES

Sec.	
4071.	Imposition of tax.
4072.	Definitions.
4073.	Exemptions.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §869(d)(2), Oct. 22, 2004, 118 Stat. 1623, substituted “Exemptions” for “Exemption for tires with internal wire fastening” in item 4073.

1984—Pub. L. 98-369, div. A, title VII, §735(c)(5)(A), (C), July 18, 1984, 98 Stat. 982, struck out “AND TUBES” from heading of part II and substituted “Exemption for tires with internal wire fastening” for “Exemptions” in item 4073.

1956—Act June 29, 1956, ch. 462, title II, §204(d), 70 Stat. 389, substituted “Definitions” for “Definition of rubber” in item 4072.

§ 4071. Imposition of tax

(a) Imposition and rate of tax

There is hereby imposed on taxable tires sold by the manufacturer, producer, or importer

thereof a tax at the rate of 9.45 cents (4.725 cents in the case of a biasply tire or super single tire) for each 10 pounds so much of the maximum rated load capacity thereof as exceeds 3,500 pounds.

(b) Special rule for manufacturers who sell at retail

Under regulations prescribed by the Secretary, if the manufacturer, producer, or importer of any tire delivers such tire to a retail store or retail outlet of such manufacturer, producer, or importer, he shall be liable for tax under subsection (a) in respect of such tire in the same manner as if it had been sold at the time it was delivered to such retail store or outlet. This subsection shall not apply to an article in respect to which tax has been imposed by subsection (a). Subsection (a) shall not apply to an article in respect of which tax has been imposed by this subsection.

(c) Tires on imported articles

For the purposes of subsection (a), if an article imported into the United States is equipped with tires—

- (1) the importer of the article shall be treated as the importer of the tires with which such article is equipped, and
- (2) the sale of the article by the importer thereof shall be treated as the sale of the tires with which such article is equipped.

This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body.

(d) Termination

On and after October 1, 2016, the taxes imposed by subsection (a) shall not apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, §204(a), 70 Stat. 388; Pub. L. 86-440, §1(a), Apr. 22, 1960, 74 Stat. 80; Pub. L. 87-61, title II, §202, June 29, 1961, 75 Stat. 124; Pub. L. 89-523, §1(a), Aug. 1, 1966, 80 Stat. 331; Pub. L. 91-605, title III, §303(a)(5), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 92-178, title IV, §401(f), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94-280, title III, §303(a)(5), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-599, title V, §502(a)(4), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 96-222, title I, §108(c)(2)(C), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96-596, §4(a)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96-598, §1(d), Dec. 24, 1980, 94 Stat. 3486; Pub. L. 97-424, title V, §§514(a), 516(a)(2), Jan. 6, 1983, 96 Stat. 2181, 2182; Pub. L. 98-369, div. A, title VII, §735(c)(2), July 18, 1984, 98 Stat. 982; Pub. L. 100-17, title V, §502(a)(3), Apr. 2, 1987, 101 Stat. 256; Pub. L. 101-508, title XI, §11211(c)(2), Nov. 5, 1990, 104 Stat. 1388-426; Pub. L. 102-240, title VIII, §8002(a)(2), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 105-178, title IX, §9002(a)(1)(E), June 9, 1998, 112 Stat. 499; Pub. L. 108-357, title VIII, §869(a), (d)(1), Oct. 22, 2004, 118 Stat. 1623; Pub. L. 109-59, title XI, §11101(a)(1)(E), Aug. 10, 2005, 119 Stat. 1943; Pub. L. 112-30, title I, §142(a)(2)(C), Sept. 16, 2011, 125 Stat. 356; Pub. L. 112-102, title IV, §402(a)(2)(C), Mar. 30, 2012, 126 Stat. 282; Pub. L. 112-140, title IV, §402(a)(2)(C), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40102(a)(2)(C), July 6, 2012, 126 Stat. 844.)

AMENDMENTS

2012—Subsec. (d). Pub. L. 112-141 substituted “October 1, 2016” for “July 1, 2012”.

Pub. L. 112-140, §§1(c), 402(a)(2)(C), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 substituted “July 1, 2012” for “April 1, 2012”.

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

2005—Subsec. (d). Pub. L. 109-59 substituted “2011” for “2005”.

2004—Subsec. (a). Pub. L. 108-357, §869(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, subsec. (a) imposed tax and set forth table of rates providing for no tax if the tire weighed not more than 40 lbs., tax of 15 cents per lb. in excess of 40 lbs. if the tire weighed more than 40 lbs. but not more than 70 lbs., tax of \$4.50 plus 30 cents per lb. in excess of 70 lbs. if the tire weighed more than 70 lbs. but not more than 90 lbs., and tax of \$10.50 plus 50 cents per lb. in excess of 90 lbs. if the tire weighed more than 90 lbs.

Subsec. (c). Pub. L. 108-357, §869(d)(1), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “For purposes of this section, weight shall be based on total weight exclusive of metal rims or rim bases. Total weight of the articles shall be determined under regulations prescribed by the Secretary.”

Subsec. (e). Pub. L. 108-357, §869(d)(1), redesignated subsec. (e) as (c).

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

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

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

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

1984—Subsec. (b). Pub. L. 98-369, §735(c)(2)(A), struck out “or inner tube” after “any tire”, and struck out “or tube” after “such tire” in two places in first sentence.

Subsec. (c). Pub. L. 98-369, §735(c)(2)(B), substituted “on total weight exclusive” for “on total weight, except that in the case of tires such total weight shall be exclusive”.

Subsec. (e). Pub. L. 98-369, §735(c)(2)(C), struck out “or inner tubes (other than bicycle tires and inner tubes)” after “equipped with tires” in provisions preceding par. (1), struck out “and inner tubes” before “with which such article is equipped” in pars. (1) and (2), and substituted “sale of an automobile bus chassis or an automobile bus body” for “sale of an article if a tax on such sale is imposed under section 4061 or if such article is an automobile bus chassis or an automobile bus body” in provisions following par. (2).

Subsec. (f). Pub. L. 98-369, §735(c)(2)(D), struck out subsec. (f) which related to imported recapped or retreaded United States tires.

1983—Subsec. (a). Pub. L. 97-424, §514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There is hereby imposed upon the following articles, if wholly or in part of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

“(1) Tires of the type used on highway vehicles, 9.75 cents a pound.

“(2) Other tires (other than laminated tires to which paragraph (5) applies), 4.875 cents a pound.

“(3) Inner tubes, for tires, 10 cents a pound.

“(4) Tread rubber, 5 cents a pound.

“(5) Laminated tires (not of the type used on highway vehicles) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent, 1 cent a pound.”

Subsec. (d). Pub. L. 97-424, §516(a)(2), substituted provision that, on and after Oct. 1, 1988, the taxes imposed

by subsec. (a) shall not apply, for provision that, on and after Oct. 1, 1984, the tax imposed by subsec. (a)(1) would be 4.875 cents a pound, that by subsec. (a)(3) would be 9 cents a pound, and that subsec. (a)(4) would not apply.

1980—Subsec. (a)(1). Pub. L. 96-596, §4(a)(1)(A), substituted “9.75 cents” for “10 cents”.

Subsec. (a)(2). Pub. L. 96-596, §4(a)(1)(B), substituted “4.875 cents” for “5 cents”.

Subsec. (d)(1). Pub. L. 96-596, §4(a)(1)(C), substituted “4.875 cents” for “5 cents”.

Subsec. (e). Pub. L. 96-222 inserted references to an automobile bus chassis or body.

Subsec. (f). Pub. L. 96-598 added subsec. (f).

1978—Subsec. (d). Pub. L. 95-599 substituted “1984” for “1979”.

1976—Subsecs. (b), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-280 substituted “1979” for “1977”.

1971—Subsec. (e). Pub. L. 92-178 added subsec. (e).

1970—Subsec. (d). Pub. L. 91-605 substituted “1977” for “1972”.

1966—Subsecs. (b) to (d). Pub. L. 89-523 added subsec. (b) and redesignated former subsec. (b) and (c) as (c) and (d), respectively.

1961—Subsec. (a)(1). Pub. L. 87-61, §202(a), increased tax from 8 to 10 cents a pound.

Subsec. (a)(3). Pub. L. 87-61, §202(c), increased tax from 9 to 10 cents a pound.

Subsec. (a)(4). Pub. L. 87-61, §202(c), increased tax from 3 to 5 cents a pound.

Subsec. (c). Pub. L. 87-61, §202(d), substituted “October 1, 1972” for “July 1, 1972”, added par. (2), and redesignated former par. (2) as (3).

1960—Subsec. (a)(2). Pub. L. 86-440, §1(a)(1), inserted “(other than laminated tires to which paragraph (5) applies)” after “other tires”.

Subsec. (a)(5). Pub. L. 86-440, §1(a)(2), added par. (5). 1956—Act June 29, 1956, increased tax on tires of type used on highway vehicles from 5 cents a pound to 8 cents a pound, provided for a tax of 3 cents a pound on tread rubber, and required on and after July 1, 1972, a reduction in tax on tires of type used on highway vehicles from 8 cents a pound to 5 cents a pound, and elimination of tax on tread rubber.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective July 1, 2012, see section 40102(f) of Pub. L. 112-141, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 112-140 effective July 1, 2012, see section 402(f)(1) of Pub. L. 112-140, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-102 effective Apr. 1, 2012, see section 402(f) of Pub. L. 112-102, set out as a note under section 4041 of this title.

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 4041 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §869(e), Oct. 22, 2004, 118 Stat. 1623, provided that: “The amendments made by this section [amending this section and sections 4072 and 4073 of this title] shall apply to sales in calendar years beginning more than 30 days after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of

the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-424, title V, §514(b), Jan. 6, 1983, 96 Stat. 2181, provided that: “The amendment made by this section [amending this section] shall apply to articles sold on or after January 1, 1984”.

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-598, §1(e), Dec. 24, 1980, 94 Stat. 3486, provided that: “The amendments made by this section [amending this section and sections 6416 and 6511 of this title] shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act [Dec. 24, 1980].”

Pub. L. 96-596, §4(a)(2), Dec. 24, 1980, 94 Stat. 3475, provided that: “The amendments made by this subsection [amending this section] shall apply on and after January 1, 1981.”

Amendment by Pub. L. 96-222 effective as if included in the provision of the Energy Tax Act of 1978, Pub. L. 95-618, Nov. 9, 1978, 92 Stat. 3174, to which such amendment relates, see section 108(c)(7) of Pub. L. 96-222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title IV, §401(h), Dec. 10, 1971, 85 Stat. 534, provided that:

“(1) Except as otherwise provided in this section, the amendments made by subsections (a), (f), and (g) [amending this section and sections 4061, 4062, 4063, 4216, 4221, 4222, 6412, and 6416 of this title] of this section shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [Dec. 10, 1971].

“(2) For purposes of paragraph (1), an article shall not be considered sold before the day after the date of the enactment of this Act [Dec. 10, 1971] unless possession or right to possession passes to the purchaser before such day.

“(3) In the case of—

“(A) a lease,

“(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

“(C) a conditional sale, or

“(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act [Dec. 10, 1971], payments made after such date, with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold before the day after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-523, §1(b), Aug. 1, 1966, 80 Stat. 331, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the first calendar quarter which begins more than 20 days after the date on which this Act is enacted [Aug. 1, 1966].”

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective July 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-440, §1(b), Apr. 22, 1960, 74 Stat. 81, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [April 22, 1960]."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

ALLOWANCE OF CREDIT OR REFUND OF OVERPAYMENT OF TAX IMPOSED

Pub. L. 96-596, §4(b), Dec. 24, 1980, 94 Stat. 3475, provided that:

“(b) DETERMINATION OF OVERPAYMENT.—

“(1) IN GENERAL.—The determination of the extent to which any overpayment of tax imposed by section 4071(a)(1) or (2) or section 4071(b) has arisen by reason of an adjustment of a tire after the original sale pursuant to a warranty or guarantee, and the allowance of a credit or refund of any such overpayment, shall be determined in accordance with the principles set forth in regulations and rulings relating thereto to the extent in effect on March 31, 1978.

“(2) EFFECTIVE DATE.—This subsection shall apply to the adjustment of any tire after March 31, 1978, and prior to January 1, 1983.”

§ 4072. Definitions**(a) Taxable tire**

For purposes of this chapter, the term “taxable tire” means any tire of the type used on highway vehicles if wholly or in part made of rubber and if marked pursuant to Federal regulations for highway use.

(b) Rubber

For purposes of this chapter, the term “rubber” includes synthetic and substitute rubber.

(c) Tires of the type used on highway vehicles

For purposes of this part, the term “tires of the type used on highway vehicles” means tires of the type used on—

- (1) motor vehicles which are highway vehicles, or
- (2) vehicles of the type used in connection with motor vehicles which are highway vehicles.

Such term shall not include tires of a type used exclusively on vehicles described in section 4053(8).

(d) Biasply

For purposes of this part, the term “biasply tire” means a pneumatic tire on which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread.

(e) Super single tire

For purposes of this part, the term “super single tire” means a single tire greater than 13 inches in cross section width designed to replace 2 tires in a dual fitment. Such term shall not include any tire designed for steering.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, §204(b), 70 Stat. 389; Pub. L. 98-369, div. A, title VII, §735(c)(3), July 18, 1984, 98 Stat. 982; Pub. L. 108-357, title VIII,

§§851(c)(1), 869(b), Oct. 22, 2004, 118 Stat. 1608, 1623; Pub. L. 109-58, title XIII, §1364(a), Aug. 8, 2005, 119 Stat. 1060.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-58 inserted at end “Such term shall not include any tire designed for steering.”

2004—Subsec. (a). Pub. L. 108-357, §869(b), added subsec. (a) and redesignated former subsec. (a) as (b).

Subsec. (b). Pub. L. 108-357, §869(b), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Pub. L. 108-357, §851(c)(1), which directed amendment of par. (2) by inserting at end “Such term shall not include tires of a type used exclusively on vehicles described in section 4053(8).”, was executed by amending subsec. (b) by inserting that language after par. (2) to reflect the probable intent of Congress.

Subsecs. (c), (d). Pub. L. 108-357, §869(b), redesignated subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Pub. L. 108-357, §869(b), added subsecs. (c) and (d).

Subsec. (e). Pub. L. 108-357, §869(b), redesignated subsec. (d) as (e).

1984—Subsecs. (b), (c). Pub. L. 98-369 redesignated subsec. (c) as (b) and struck out former subsec. (b) which defined “tread rubber”.

1956—Act June 29, 1956, substituted “Definitions” for “Definition of rubber” in section catchline.

Act June 29, 1956, designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-58, title XIII, §1364(b), Aug. 8, 2005, 119 Stat. 1060, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 869 of the American Jobs Creation Act of 2004 [Pub. L. 108-357].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §851(c)(2), Oct. 22, 2004, 118 Stat. 1608, provided that: “The amendment made by this subsection [amending this section] shall take effect on the day after the date of the enactment of this Act [Oct. 22, 2004].”

Amendment by section 869(b) of Pub. L. 108-357 applicable to sales in calendar years beginning more than 30 days after Oct. 22, 2004, see section 869(e) of Pub. L. 108-357, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 4073. Exemptions

The tax imposed by section 4071 shall not apply to tires sold for the exclusive use of the Department of Defense or the Coast Guard.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, §204(c), 70 Stat. 389; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VII, §735(c)(4), July 18, 1984, 98 Stat. 982; Pub. L. 108-357, title VIII, §869(c), Oct. 22, 2004, 118 Stat. 1623.)

AMENDMENTS

2004—Pub. L. 108-357 amended section catchline and text generally. Prior to amendment, text read as fol-

lows: “The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent.”

1984—Pub. L. 98-369 substituted “Exemption for tires with internal wire fastening” for “Exemptions” in section catchline, and in text struck out subsec. (a) relating to exemption from tax on tires not more than 20 inches in diameter and not more than 1¾ inches in cross section, struck out subsec. (c) relating to exemption from tax on tread rubber in certain cases, and struck out letter designation “(b)” and subsection heading for subsec. (b) thereby designating text of former subsec. (b) as entire text of section.

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1956—Subsec. (c). Act June 29, 1956, added subsec. (c).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to sales in calendar years beginning more than 30 days after Oct. 22, 2004, see section 869(e) of Pub. L. 108-357, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

PART III—PETROLEUM PRODUCTS

Subpart

- A. Motor and aviation fuels.
- B. Special provisions applicable to fuels tax.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §853(d)(2)(R), Oct. 22, 2004, 118 Stat. 1614, amended analysis generally, substituting items for subparts A “Motor and aviation fuels” and B “Special provisions applicable to fuels tax” for former items for subparts A “Gasoline and diesel fuel”, B “Aviation fuel”, and C “Special provisions applicable to petroleum products”.

1993—Pub. L. 103-66, title XIII, §13242(d)(43), Aug. 10, 1993, 107 Stat. 528, substituted “Gasoline and diesel fuel” for “Gasoline” in item for subpart A and “Aviation fuel” for “Diesel fuel and aviation fuel” in item for subpart B.

1987—Pub. L. 100-203, title X, §10502(d)(18), Dec. 22, 1987, 101 Stat. 1330-445, added item relating to subpart B.

1983—Pub. L. 97-424, title V, §515(b)(13), Jan. 6, 1983, 96 Stat. 2182, struck out the item for subpart B “Lubricating oil”.

SUBPART A—MOTOR AND AVIATION FUELS

Sec.

- 4081. Imposition of tax.
- 4082. Exemptions for diesel fuel and kerosene.
- 4083. Definitions; special rule; administrative authority.
- 4084. Cross references.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §853(d)(2)(S), Oct. 22, 2004, 118 Stat. 1614, substituted “Motor and Aviation Fuels” for “Gasoline and Diesel Fuel” in subpart heading.

1997—Pub. L. 105-34, title X, §1032(e)(3)(B), Aug. 5, 1997, 111 Stat. 935, inserted “and kerosene” after “diesel fuel” in item 4082.

1993—Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 514, substituted “Gasoline and Diesel Fuel” for “Gasoline” in subpart heading and amended section analysis generally, substituting “Exemptions for diesel fuel” for “Definitions” in item 4082 and “Definitions; special rule; administrative authority” for “Cross references” in item 4083 and adding item 4084.

1986—Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2774, struck out item 4083 “Exemption of sales to producer” and redesignated former item 4084 as 4083.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(2), 70 Stat. 397, substituted “Cross references” for “Relief of farmers from tax in case of gasoline used on the farm” in item 4084.

Act Apr. 2, 1956, ch. 160, §4(a)(2), 70 Stat. 90, added item 4084.

§ 4081. Imposition of tax

(a) Tax imposed

(1) Tax on removal, entry, or sale

(A) In general

There is hereby imposed a tax at the rate specified in paragraph (2) on—

- (i) the removal of a taxable fuel from any refinery,
- (ii) the removal of a taxable fuel from any terminal,
- (iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and
- (iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

(B) Exemption for bulk transfers to registered terminals or refineries

(i) In general

The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel (except as provided in clause (ii)), and the operator of such terminal or refinery are registered under section 4101.

(ii) Nonapplication of registration to vessel operators entering by deep-draft vessel

For purposes of clause (i), a vessel operator is not required to be registered with respect to the entry of a taxable fuel transferred in bulk by a vessel described in section 4042(c)(1).

(2) Rates of tax

(A) In general

The rate of the tax imposed by this section is—

- (i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,
- (ii) in the case of aviation gasoline, 19.3 cents per gallon, and
- (iii) in the case of diesel fuel or kerosene, 24.3 cents per gallon.

(B) Leaking Underground Storage Tank Trust Fund tax

The rates of tax specified in subparagraph (A) shall each be increased by 0.1 cent per

gallon. The increase in tax under this subparagraph shall in this title be referred to as the Leaking Underground Storage Tank Trust Fund financing rate.

(C) Taxes imposed on fuel used in aviation

In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

- (i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and
- (ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.

(D) Diesel-water fuel emulsion

In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting “19.7 cents” for “24.3 cents”. The preceding sentence shall not apply to the removal, sale, or use of diesel-water fuel emulsion unless the person so removing, selling, or using such fuel is registered under section 4101.

(3) Certain refueler trucks, tankers, and tank wagons treated as terminal

(A) In general

For purposes of paragraph (2)(C), a refueler truck, tanker, or tank wagon shall be treated as part of a terminal if—

- (i) such terminal is located within an airport,
- (ii) any kerosene which is loaded in such truck, tanker, or wagon at such terminal is for delivery only into aircraft at the airport in which such terminal is located,
- (iii) such truck, tanker, or wagon meets the requirements of subparagraph (B) with respect to such terminal, and
- (iv) except in the case of exigent circumstances identified by the Secretary in regulations, no vehicle registered for highway use is loaded with kerosene at such terminal.

(B) Requirements

A refueler truck, tanker, or tank wagon meets the requirements of this subparagraph with respect to a terminal if such truck, tanker, or wagon—

- (i) has storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft,
- (ii) is not registered for highway use, and
- (iii) is operated by—
 - (I) the terminal operator of such terminal, or
 - (II) a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or wagon.

(C) Reporting

The Secretary shall require under section 4101(d) reporting by such terminal operator of—

(i) any information obtained under subparagraph (B)(iii)(II), and

(ii) any similar information maintained by such terminal operator with respect to deliveries of fuel made by trucks, tankers, or wagons operated by such terminal operator.

(D) Applicable rate

For purposes of paragraph (2)(C), in the case of any kerosene treated as removed from a terminal by reason of this paragraph—

- (i) the rate of tax specified in paragraph (2)(C)(i) in the case of use described in such paragraph shall apply if such terminal is located within a secured area of an airport, and
- (ii) the rate of tax specified in paragraph (2)(C)(ii) shall apply in all other cases.

(4) Liability for tax on kerosene used in commercial aviation

For purposes of paragraph (2)(C)(i), the person who uses the fuel for commercial aviation shall pay the tax imposed under such paragraph. For purposes of the preceding sentence, fuel shall be treated as used when such fuel is removed into the fuel tank.

(b) Treatment of removal or subsequent sale by blender

(1) In general

There is hereby imposed a tax at the rate determined under subsection (a) on taxable fuel removed or sold by the blender thereof.

(2) Credit for tax previously paid

If—

- (A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and
- (B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

(c) Later separation of fuel from diesel-water fuel emulsion

If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

(d) Termination

(1) In general

The rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) shall be 4.3 cents per gallon after September 30, 2016.

(2) Aviation fuels

The rates of tax specified in subsection (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—

(A) after December 31, 1996, and before the date which is 7 days after the date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, and

(B) after September 30, 2015.

(3) Leaking Underground Storage Tank Trust Fund financing rate

The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall apply after September 30, 1997, and before October 1, 2016.

(e) Refunds in certain cases

Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Mar. 30, 1955, ch. 18, §3(a)(3), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(3), 70 Stat. 66; June 29, 1956, ch. 462, title II, §205, 70 Stat. 389; Pub. L. 86-342, title II, §201(a), Sept. 21, 1959, 73 Stat. 613; Pub. L. 87-61, title II, §201(b)-(d), June 29, 1961, 75 Stat. 123, 124; Pub. L. 91-605, title III, §303(a)(6), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, §303(a)(6), May 5, 1976, 90 Stat. 456; Pub. L. 95-599, title V, §502(a)(5), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95-618, title II, §221(a)(1), Nov. 9, 1978, 92 Stat. 3185; Pub. L. 96-223, title II, §232(a)(1), (b)(3)(A), (d)(3), Apr. 2, 1980, 94 Stat. 273, 276, 277; Pub. L. 97-424, title V, §§511(a)(1), (d)(1), 516(a)(3), Jan. 6, 1983, 96 Stat. 2169, 2171, 2182; Pub. L. 98-369, div. A, title VII, §732(a)(1), (2), title IX, §912(b), (f), July 18, 1984, 98 Stat. 976, 977, 1007; Pub. L. 99-499, title V, §521(a)(1), Oct. 17, 1986, 100 Stat. 1774; Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2774; Pub. L. 100-17, title V, §502(a)(4), (c)(2), Apr. 2, 1987, 101 Stat. 256, 257; Pub. L. 100-203, title X, §10502(d)(2), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 100-647, title I, §1017(c)(1), (14), title II, §2001(d)(5), title VI, §6104(a), Nov. 10, 1988, 102 Stat. 3575, 3577, 3595, 3711; Pub. L. 101-508, title XI, §§11211(a)(1)-(3), (5)(A)-(C), (c)(3), (e)(3), 11212(a), (d)(1), (e)(2), 11215(a), Nov. 5, 1990, 104 Stat. 1388-423, 1388-424, 1388-426, 1388-427, 1388-430, 1388-432, 1388-436; Pub. L. 102-240, title VIII, §8002(a)(3), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 102-486, title XIX, §1920(a), (b), Oct. 24, 1992, 106 Stat. 3026; Pub. L. 103-66, title XIII, §§13241(a), 13242(a), Aug. 10, 1993, 107 Stat. 510, 514; Pub. L. 104-188, title I, §1609(a)(2), (g)(1), (2), (4)(B), Aug. 20, 1996, 110 Stat. 1841-1843; Pub. L. 105-2, §2(a)(2), Feb. 28, 1997, 111 Stat. 4; Pub. L. 105-34, title X, §§1031(a)(2), 1032(b), 1033, Aug. 5, 1997, 111 Stat. 929, 933, 937; Pub. L. 105-178, title IX, §§9002(a)(1)(F), 9003(a)(1)(C), (b)(2)(B), (C), June 9, 1998, 112 Stat. 499, 502, 503; Pub. L. 108-357, title III, §301(c)(7), title VIII, §§853(a)(1)-(3)(A), (4), 860(a), Oct. 22, 2004, 118 Stat. 1461, 1609-1611, 1618; Pub. L. 109-6, §1(a), Mar. 31, 2005, 119 Stat. 20; Pub. L. 109-58, title XIII, §§1343(a), (b)(2), 1362(a), Aug. 8, 2005, 119 Stat. 1051, 1052, 1059; Pub. L. 109-59, title XI, §§11101(a)(1)(F), 11151(b)(1), (2), 11161(a)(1)-(4)(D),

11166(b)(1), Aug. 10, 2005, 119 Stat. 1944, 1968-1970, 1976; Pub. L. 110-161, div. K, title I, §116(a), Dec. 26, 2007, 121 Stat. 2381; Pub. L. 110-190, §2(a), Feb. 28, 2008, 122 Stat. 643; Pub. L. 110-253, §2(a), June 30, 2008, 122 Stat. 2417; Pub. L. 110-330, §2(a), Sept. 30, 2008, 122 Stat. 3717; Pub. L. 111-12, §2(a), Mar. 30, 2009, 123 Stat. 1457; Pub. L. 111-69, §2(a), Oct. 1, 2009, 123 Stat. 2054; Pub. L. 111-116, §2(a), Dec. 16, 2009, 123 Stat. 3031; Pub. L. 111-153, §2(a), Mar. 31, 2010, 124 Stat. 1084; Pub. L. 111-161, §2(a), Apr. 30, 2010, 124 Stat. 1126; Pub. L. 111-197, §2(a), July 2, 2010, 124 Stat. 1353; Pub. L. 111-216, title I, §101(a), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111-249, §2(a), Sept. 30, 2010, 124 Stat. 2627; Pub. L. 111-329, §2(a), Dec. 22, 2010, 124 Stat. 3566; Pub. L. 112-7, §2(a), Mar. 31, 2011, 125 Stat. 31; Pub. L. 112-16, §2(a), May 31, 2011, 125 Stat. 218; Pub. L. 112-21, §2(a), June 29, 2011, 125 Stat. 233; Pub. L. 112-27, §2(a), Aug. 5, 2011, 125 Stat. 270; Pub. L. 112-30, title I, §142(a)(1)(C), (2)(D), title II, §202(a), Sept. 16, 2011, 125 Stat. 356, 357; Pub. L. 112-91, §2(a), Jan. 31, 2012, 126 Stat. 3; Pub. L. 112-95, title XI, §1101(a), Feb. 14, 2012, 126 Stat. 148; Pub. L. 112-102, title IV, §402(a)(1)(C), (2)(D), Mar. 30, 2012, 126 Stat. 282; Pub. L. 112-140, title IV, §402(a)(1)(C), (2)(D), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40102(a)(1)(C), (2)(D), July 6, 2012, 126 Stat. 844.)

REFERENCES IN TEXT

Section 211 of the Clean Air Act, referred to in subsection (a)(2)(D), is classified to section 7545 of Title 42, The Public Health and Welfare.

The date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, referred to in subsection (d)(2)(A), is the date of enactment of Pub. L. 105-2, which was approved Feb. 28, 1997.

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112-141, §40102(a)(1)(C), substituted “September 30, 2016” for “June 30, 2012”.

Pub. L. 112-140, §§1(c), 402(a)(1)(C), temporarily substituted “July 6, 2012” for “June 30, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, §402(a)(1)(C), substituted “June 30, 2012” for “March 31, 2012”.

Subsec. (d)(2)(B). Pub. L. 112-95 substituted “September 30, 2015” for “February 17, 2012”.

Pub. L. 112-91 substituted “February 17, 2012” for “January 31, 2012”.

Subsec. (d)(3). Pub. L. 112-141, §40102(a)(2)(D), substituted “October 1, 2016” for “July 1, 2012”.

Pub. L. 112-140, §§1(c), 402(a)(2)(D), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, §402(a)(2)(D), substituted “July 1, 2012” for “April 1, 2012”.

2011—Subsec. (d)(1). Pub. L. 112-30, §142(a)(1)(C), substituted “March 31, 2012” for “September 30, 2011”.

Subsec. (d)(2)(B). Pub. L. 112-30, §202(a), substituted “January 31, 2012” for “September 16, 2011”.

Pub. L. 112-27 substituted “September 16, 2011” for “July 22, 2011”.

Pub. L. 112-21 substituted “July 22, 2011” for “June 30, 2011”.

Pub. L. 112-16 substituted “June 30, 2011” for “May 31, 2011”.

Pub. L. 112-7 substituted “May 31, 2011” for “March 31, 2011”.

Subsec. (d)(3). Pub. L. 112-30, §142(a)(2)(D), substituted “April 1, 2012” for “October 1, 2011”.

2010—Subsec. (d)(2)(B). Pub. L. 111-329 substituted “March 31, 2011” for “December 31, 2010”.

Pub. L. 111-249 substituted “December 31, 2010” for “September 30, 2010”.

Pub. L. 111-216 substituted “September 30, 2010” for “August 1, 2010”.

Pub. L. 111-197 substituted “August 1, 2010” for “July 3, 2010”.

Pub. L. 111-161 substituted “July 3, 2010” for “April 30, 2010”.

Pub. L. 111-153 substituted “April 30, 2010” for “March 31, 2010”.

2009—Subsec. (d)(2)(B). Pub. L. 111-116 substituted “March 31, 2010” for “December 31, 2009”.

Pub. L. 111-69 substituted “December 31, 2009” for “September 30, 2009”.

Pub. L. 111-12 substituted “September 30, 2009” for “March 31, 2009”.

2008—Subsec. (d)(2)(B). Pub. L. 110-330 substituted “March 31, 2009” for “September 30, 2008”.

Pub. L. 110-253 substituted “September 30, 2008” for “June 30, 2008”.

Pub. L. 110-190 substituted “June 30, 2008” for “February 29, 2008”.

2007—Subsec. (d)(2)(B). Pub. L. 110-161 substituted “February 29, 2008” for “September 30, 2007”.

2005—Subsec. (a)(1)(B). Pub. L. 109-59, §11166(b)(1), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered under section 4101.”

Subsec. (a)(2)(A)(ii) to (iv). Pub. L. 109-59, §11161(a)(1), inserted “and” at end of cl. (ii), substituted a period for “, and” at end of cl. (iii), and struck out cl. (iv) which read as follows: “in the case of aviation-grade kerosene, 21.8 cents per gallon.”

Subsec. (a)(2)(C). Pub. L. 109-59, §11161(a)(2), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: “In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”

Pub. L. 109-59, §11151(b)(1), substituted “for use in commercial aviation by a person registered for such use under section 4101” for “for use in commercial aviation”.

Subsec. (a)(2)(D). Pub. L. 109-58, §1343(a), added subpar. (D).

Subsec. (a)(3)(A)(i). Pub. L. 109-59, §11161(a)(3)(A), struck out “a secured area of” before “an airport”.

Subsec. (a)(3)(A)(ii), (iv). Pub. L. 109-59, §11161(a)(4)(A), struck out “aviation-grade” before “kerosene”.

Subsec. (a)(3)(D). Pub. L. 109-59, §11161(a)(3)(B), added subpar. (D).

Subsec. (a)(4). Pub. L. 109-59, §11161(a)(4)(B), (C), struck out “aviation-grade” before “kerosene” in heading and substituted “paragraph (2)(C)(i)” for “paragraph (2)(C)” in text.

Subsec. (c). Pub. L. 109-58, §1343(b)(2), added subsec. (c).

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

Subsec. (d)(2). Pub. L. 109-59, §11161(a)(4)(D), reenacted par. heading without change and amended text of introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—”.

Pub. L. 109-59, §11151(b)(2), amended par. heading and text of introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The rate of tax specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon—”.

Subsec. (d)(3). Pub. L. 109-58, §1362(a), substituted “2011” for “2005”.

Pub. L. 109-6 substituted “October 1, 2005” for “April 1, 2005”.

2004—Subsec. (a)(1)(B). Pub. L. 108-357, §860(a), inserted “by pipeline or vessel” after “transferred in bulk” and “, the operator of such pipeline or vessel,” after “the taxable fuel”.

Subsec. (a)(2)(A)(iv). Pub. L. 108-357, §853(a)(1), added cl. (iv).

Subsec. (a)(2)(C). Pub. L. 108-357, §853(a)(2), added subpar. (C).

Subsec. (a)(3). Pub. L. 108-357, §853(a)(3)(A), added par. (3).

Subsec. (a)(4). Pub. L. 108-357, §853(a)(4), added par. (4).

Subsec. (c). Pub. L. 108-357, §301(c)(7), struck out subsec. (c) which related to taxation of taxable fuels mixed with alcohol.

1998—Subsec. (c)(4)(A). Pub. L. 105-178, §9003(b)(2)(B), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “The alcohol mixture rate for a qualified alcohol mixture which contains gasoline is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(i) 5.4 cents per gallon for 10 percent gasohol,

“(ii) 4.158 cents per gallon for 7.7 percent gasohol,

and

“(iii) 3.078 cents per gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting ‘6 cents’ for ‘5.4 cents’, ‘4.62 cents’ for ‘4.158 cents’, and ‘3.42 cents’ for ‘3.078 cents’.”

Subsec. (c)(5). Pub. L. 105-178, §9003(b)(2)(C), substituted “the applicable blender rate (as defined in section 4041(b)(2)(C))” for “5.4 cents”.

Subsec. (c)(8). Pub. L. 105-178, §9003(a)(1)(C), substituted “2007” for “2000”.

Subsec. (d)(1). Pub. L. 105-178, §9002(a)(1)(F), substituted “2005” for “1999”.

1997—Subsec. (a)(2)(A)(iii). Pub. L. 105-34, §1032(b), inserted “or kerosene” after “diesel fuel”.

Subsec. (d)(1), (2). Pub. L. 105-2 added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) IN GENERAL.—On and after October 1, 1999, the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) (other than the tax on aviation gasoline) shall be 4.3 cents per gallon.

“(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon.”

Subsec. (d)(2)(B). Pub. L. 105-34, §1031(a)(2), substituted “September 30, 2007” for “September 30, 1997”.

Subsec. (d)(3). Pub. L. 105-34, §1033, substituted “shall apply after September 30, 1997, and before April 1, 2005” for “shall not apply after December 31, 1995”.

Pub. L. 105-2 struck out heading and text of par. (3) relating to aviation gasoline. Text read as follows: “After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.”

1996—Subsec. (a)(2)(A). Pub. L. 104-188, §1609(g)(1), added cls. (i) and (ii), redesignated former cl. (ii) as (iii), and struck out former cl. (i) which read as follows: “in the case of gasoline, 18.3 cents per gallon, and”.

Subsec. (d)(1). Pub. L. 104-188, §1609(a)(2)(B), (g)(4)(B), substituted “the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) (other than the tax on aviation gasoline)” for “each rate of tax specified in subsection (a)(2)(A)”.

Subsec. (d)(2), (3). Pub. L. 104-188, §1609(a)(2)(A), (g)(2), added par. (3) relating to aviation gasoline, redesignated former par. (2), relating to leaking underground storage tank trust fund financing rate, as another par. (3), and added new par. (2) relating to aviation gasoline.

1993—Pub. L. 103-66, §13242(a), amended section generally, substituting, in subsec. (a), provisions imposing tax on taxable fuels for provisions imposing tax on gasoline, in subsec. (b), provisions relating to treatment of removal or subsequent sale of taxable fuels by blender for provisions relating to treatment of removal or subsequent sale of gasoline by blender or compounder, in

subsec. (c), provisions relating to taxable fuels mixed with alcohol for provisions relating to gasoline mixed with alcohol at refinery etc., in subsec. (d), provisions decreasing tax rate imposed on taxable fuels to 4.3 cents per gallon beginning on and after Oct. 1, 1999, for provisions terminating the Highway Trust Fund financing and deficit reduction rates on and after Oct. 1, 1999, and Oct. 1, 1995, respectively, and, in subsec. (e), “taxable fuel” for “gasoline” in two places.

Subsec. (a)(2)(B)(iii). Pub. L. 103-66, §13241(a), amended cl. (iii) generally, substituting “6.8 cents per gallon” for “2.5 cents a gallon”.

1992—Subsec. (c)(1). Pub. L. 102-486, §1920(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are 10/9th of the otherwise applicable rates in the case of the removal or sale of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or sale. For purposes of this paragraph, the term ‘gasohol’ means any mixture of gasoline if at least 10 percent of such mixture is alcohol. For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 6.1 cents a gallon.”

Subsec. (c)(2). Pub. L. 102-486, §1920(b)(1), substituted “an otherwise applicable rate” for “6.1 cents a gallon”.

Subsec. (c)(4). Pub. L. 102-486, §1920(b)(2), substituted heading for one which read: “Lower rate on gasohol made other than from ethanol”, added text, and struck out former text which read as follows: “In the case of gasohol none of the alcohol in which consists of ethanol, paragraphs (1) and (2) shall be applied by substituting ‘5.5 cents’ for ‘6.1 cents.’”

1991—Subsec. (d)(1). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (a)(1). Pub. L. 101-508, §11212(a), substituted heading for one which read: “In general” and amended text generally. Prior to amendment, text read as follows: “There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

“(A) the removal, or

“(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.”

Subsec. (a)(2)(A)(iii). Pub. L. 101-508, §11211(a)(1), added cl. (iii).

Subsec. (a)(2)(B)(i). Pub. L. 101-508, §11211(a)(2)(A), substituted “11.5 cents” for “9 cents”.

Subsec. (a)(2)(B)(iii). Pub. L. 101-508, §11211(a)(2)(B), (C), added cl. (iii).

Subsec. (a)(3). Pub. L. 101-508, §11212(e)(2), struck out par. (3) which read as follows: “For purposes of paragraph (1), the bulk transfer of gasoline to a terminal operator by a refiner or importer shall not be considered a removal or sale of gasoline by such refiner or importer.”

Subsec. (c)(1). Pub. L. 101-508, §11211(a)(5)(A), substituted “applied by substituting rates which are 10/9th of the otherwise applicable rates” for “applied by substituting ‘3½ cents’ for ‘9 cents’ and by substituting ‘½ cent’ for ‘0.1 cent’” and inserted “For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 6.1 cents a gallon.”

Subsec. (c)(2). Pub. L. 101-508, §11211(a)(5)(B), which directed the substitution of “at a Highway Trust Fund financing rate equivalent to 6.1 cents” for “at a rate equivalent to 3 cents”, was executed by making the substitution for “at a Highway Trust Fund financing rate equivalent to 3 cents” to reflect the probable intent of Congress. See 1986 Amendment note below.

Subsec. (c)(4). Pub. L. 101-508, §11211(a)(5)(C), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 101-508, §11211(e)(3), substituted “2000” for “1993”.

Pub. L. 101-508, §11211(a)(5)(C), redesignated par. (4) as (5).

Subsec. (d)(1). Pub. L. 101-508, §11211(c)(3), substituted “1995” for “1993”.

Subsec. (d)(2). Pub. L. 101-508, §11215(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) IN GENERAL.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after the earlier of—

“(i) December 31, 1991, or

“(ii) the last day of the termination month.

“(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues are at least \$500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091.

“(C) NET REVENUES.—For purposes of subparagraph (B), the term ‘net revenues’ means the excess of gross revenues over amounts payable by reason of section 9508(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits).”

Subsec. (d)(3). Pub. L. 101-508, §11211(a)(3), added par. (3).

Subsec. (e). Pub. L. 101-508, §11212(d)(1), added subsec. (e).

1988—Subsec. (a). Pub. L. 100-647, §1017(c)(1)(A), added pars. (1) and (2), struck out former par. (1) which imposed a tax at the rate specified in subsec. (d) on the earlier of the removal, or the sale of gasoline by the refiner or importer thereof or the terminal operator, and redesignated former par. (2) as (3).

Subsec. (b)(1). Pub. L. 100-647, §1017(c)(1)(B), substituted “subsection (a)” for “subsection (d)”.

Subsec. (c)(1). Pub. L. 100-647, §6104(a), inserted after first sentence “Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or sale.”

Pub. L. 100-647, §2001(d)(5)(A), inserted “and by substituting ‘½ cent’ for ‘0.1 cent’” before “in the case of the removal”.

Pub. L. 100-647, §1017(c)(14), substituted “3½ cents” for “3 cents”.

Pub. L. 100-647, §1017(c)(1)(B), substituted “subsection (a)” for “subsection (d)”.

Subsec. (c)(2). Pub. L. 100-647, §2001(d)(5)(B), substituted “reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel” for “5½ cents a gallon”.

Subsec. (d). Pub. L. 100-647, §1017(c)(1)(D), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to the rate of tax.

Subsec. (d)(1). Pub. L. 100-647, §1017(c)(1)(C)(i), substituted “subsection (a)(2)” for “subsection (d)(2)(A)”.

Subsec. (d)(2)(A). Pub. L. 100-647, §1017(c)(1)(C)(ii), substituted “subsection (a)(2)” for “subsection (d)(2)(B)”.

Subsec. (e). Pub. L. 100-647, §1017(c)(1)(D), redesignated subsec. (e) as (d).

1987—Subsec. (c)(4). Pub. L. 100-17, §502(c)(2), substituted “September 30, 1993” for “December 31, 1992”.

Subsec. (e)(1). Pub. L. 100-17, §502(a)(4), substituted “1993” for “1988”.

Subsec. (e)(2)(B). Pub. L. 100-203 substituted “net revenues are at least \$500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091.” for “net revenues from the taxes imposed by this section (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under subsection (d)(2)(B)), section 4041(d), and section 4042 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b)) are at least \$500,000,000.”

1986—Pub. L. 99-514 amended section generally, substituting provisions imposing a tax on the removal or sale of gasoline by the refiner, importer, blender, or compounder thereof or the terminal operator for provisions imposing a tax on gasoline sold by the producer or importer thereof, or by any producer of gasoline.

Subsec. (a). Pub. L. 99-499, § 521(a)(1)(B)(i), substituted “at the rate specified in subsection (d)” for “of 9 cents a gallon” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, § 521(a)(1)(A)(i), amended subsec. (a), as in effect the day before Oct. 22, 1986, generally, substituting “at the rate specified in subsection (b)” for “of 9 cents a gallon”.

Subsec. (b). Pub. L. 99-499, § 521(a)(1)(B)(i), substituted “at the rate specified in subsection (d)” for “of 9 cents a gallon” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, § 521(a)(1)(A)(i), amended subsec. (b), as in effect the day before Oct. 22, 1986, generally. Prior to amendment, subsec. (b), termination, read as follows: “On and after October 1, 1988, the taxes imposed by this section shall not apply.”

Subsec. (c)(1). Pub. L. 99-499, § 521(a)(1)(B)(iii)(I), substituted “subsection (d)” for “subsection (a)” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, § 521(a)(1)(A)(iii), substituted “subsection (b)” for “subsection (a)” in introductory provisions as in effect the day before Oct. 22, 1986.

Subsec. (c)(2). Pub. L. 99-499, § 521(a)(1)(B)(iii)(II), substituted “a Highway Trust Fund financing rate” for “a rate” in par. (2) as amended by Pub. L. 99-514.

Pub. L. 99-499, § 521(a)(1)(A)(iii)(II), substituted “a Highway Trust Fund financing rate” for “a rate” in par. (2) as in effect the day before Oct. 22, 1986.

Subsec. (d). Pub. L. 99-499, § 521(a)(1)(B)(ii), added subsec. (d) to this section as amended by Pub. L. 99-514, and struck out former subsec. (d), termination, which read as follows: “On and after October 1, 1988, the taxes imposed by this section shall not apply.”

Pub. L. 99-499, § 521(a)(1)(A)(i), in amending this section as in effect the day before Oct. 22, 1986, added subsec. (d).

Subsec. (e). Pub. L. 99-499, § 521(a)(1)(B)(ii), added subsec. (e) to this section as amended by Pub. L. 99-514.

1984—Subsec. (c)(1). Pub. L. 98-369, § 912(b)(A), (B), substituted “3 cents” for “4 cents” in subpar. (A), and “3½ cents” for “4½ cents” in subpar. (B).

Pub. L. 98-369, § 732(a)(1), struck out “by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline” after “shall be applied” in text preceding subpar. (A), substituted “by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasohol (the gasoline in which was not taxed under subparagraph (B)), and” for “in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or” in subpar. (A), substituted “by substituting ‘4½ cents’ for ‘9 cents’ in the case of the sale of any gasoline for use in producing gasohol” for “for use in producing a mixture at least 10 percent of which is alcohol” in subpar. (B) and inserted definition of “gasohol” after subpar. (B).

Subsec. (c)(2). Pub. L. 98-369, § 912(b)(A), (C), substituted “3 cents” for “4 cents” and “5½ cents” for “4½ cents”.

Pub. L. 98-369, § 732(a)(2), substituted “at a rate equivalent to 4 cents a gallon” for “at a rate of 4 cents a gallon”, and “4½ cents a gallon” for “5 cents a gallon”.

Subsec. (c)(3). Pub. L. 98-369, § 912(f), substituted “coal (including peat)” for “coal”.

1983—Subsec. (a). Pub. L. 97-424, § 511(a)(1), increased tax from 4 to 9 cents a gallon.

Subsec. (b). Pub. L. 97-424, § 516(a)(3), substituted provision that, on and after Oct. 1, 1988, the taxes imposed by this section shall not apply, for provision that, on and after Oct. 1, 1984, the tax imposed by this section would be 1½ cents a gallon.

Subsec. (c)(1). Pub. L. 97-424, § 511(d)(1)(A), substituted “subsection (a) shall be applied by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline” for “no tax shall be imposed by this section on the sale of any gasoline” after “Secretary”.

Subsec. (c)(2). Pub. L. 97-424, § 511(d)(1)(B), substituted “tax was imposed under subsection (a) at the rate of 4

cents a gallon by reason of this subsection” for “tax was not imposed by reason of this subsection” after “alcohol on which”, and inserted provision that the amount of tax imposed on any sale of such gasoline by such person shall be 5 cents a gallon.

1980—Subsec. (c)(2). Pub. L. 96-223, § 232(d)(3), inserted “(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))” after “this subsection”.

Subsec. (c)(3). Pub. L. 96-223, § 232(b)(3)(A), inserted provision that “alcohol” does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Subsec. (c)(4). Pub. L. 96-223, § 232(a)(1), added par. (4).

1978—Subsec. (b). Pub. L. 95-599 substituted “1984” for “1979”.

Subsec. (c). Pub. L. 95-618 added subsec. (c).

1976—Subsec. (b). Pub. L. 94-280 substituted “1979” for “1977”.

1970—Subsec. (b). Pub. L. 91-605 substituted “1977” for “1972”.

1961—Subsec. (a). Pub. L. 87-61, § 201(b), increased tax from 3 to 4 cents a gallon.

Subsec. (b). Pub. L. 87-61, § 201(c), substituted “October 1, 1972” for “July 1, 1972”.

Subsec. (c). Pub. L. 87-61, § 201(d), repealed subsec. (c) which authorized a temporary increase in tax for the period October 1, 1959, to July 1, 1961.

1959—Subsec. (c). Pub. L. 86-342 added subsec. (c).

1956—Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956”.

Subsec. (a). Act June 29, 1956, redesignated first sentence as subsec. (a) and increased tax from 2 to 3 cents a gallon.

Subsec. (b). Act June 29, 1956, redesignated second sentence as subsec. (b) and substituted “July 1, 1972” for “April 1, 1956”.

1955—Act Mar. 30, 1955, substituted “April 1, 1956” for “April 1, 1955”.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective July 1, 2012, see section 40102(f) of Pub. L. 112-141, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 112-140 effective July 1, 2012, see section 402(f)(1) of Pub. L. 112-140, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-102 effective Apr. 1, 2012, see section 402(f) of Pub. L. 112-102, set out as a note under section 4041 of this title.

Pub. L. 112-95, title XI, § 1101(c), Feb. 14, 2012, 126 Stat. 148, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on February 18, 2012.”

Pub. L. 112-91, § 2(c), Jan. 31, 2012, 126 Stat. 3, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on February 1, 2012.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 142(a)(1)(C), (2)(D) of Pub. L. 112-30 effective Oct. 1, 2011, see section 142(f) of Pub. L. 112-30, set out as a note under section 4041 of this title.

Pub. L. 112-30, title II, § 202(c), Sept. 16, 2011, 125 Stat. 357, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on September 17, 2011.”

Pub. L. 112-27, § 2(c), Aug. 5, 2011, 125 Stat. 270, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on July 23, 2011.”

Pub. L. 112-21, §2(c), June 29, 2011, 125 Stat. 233, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on July 1, 2011.”

Pub. L. 112-16, §2(c), May 31, 2011, 125 Stat. 218, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on June 1, 2011.”

Pub. L. 112-7, §2(c), Mar. 31, 2011, 125 Stat. 31, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on April 1, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-329, §2(c), Dec. 22, 2010, 124 Stat. 3566, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on January 1, 2011.”

Pub. L. 111-249, §2(c), Sept. 30, 2010, 124 Stat. 2627, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on October 1, 2010.”

Pub. L. 111-216, title I, §101(c), Aug. 1, 2010, 124 Stat. 2349, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on August 2, 2010.”

Pub. L. 111-197, §2(c), July 2, 2010, 124 Stat. 1353, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on July 4, 2010.”

Pub. L. 111-161, §2(c), Apr. 30, 2010, 124 Stat. 1126, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on May 1, 2010.”

Pub. L. 111-153, §2(c), Mar. 31, 2010, 124 Stat. 1084, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on April 1, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-116, §2(c), Dec. 16, 2009, 123 Stat. 3031, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on January 1, 2010.”

Pub. L. 111-69, §2(c), Oct. 1, 2009, 123 Stat. 2054, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on October 1, 2009.”

Pub. L. 111-12, §2(c), Mar. 30, 2009, 123 Stat. 1457, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on April 1, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-330, §2(c), Sept. 30, 2008, 122 Stat. 3717, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on October 1, 2008.”

Pub. L. 110-253, §2(c), June 30, 2008, 122 Stat. 2417, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on July 1, 2008.”

Pub. L. 110-190, §2(c), Feb. 28, 2008, 122 Stat. 643, provided that: “The amendments made by this section [amending this section and sections 4261 and 4271 of this title] shall take effect on March 1, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-161, div. K, title I, §116(d), Dec. 26, 2007, 121 Stat. 2382, provided that: “The amendments made by this section [amending this section and sections 4261, 4271, and 9502 of this title] shall take effect on October 1, 2007.”

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109-59, title XI, §11151(f)(1), Aug. 10, 2005, 119 Stat. 1969, provided that: “The amendments made by subsections (a) and (b) [amending this section and sections 6421 and 6427 of this title] shall take effect as if

included in the provisions of the American Jobs Creation Act of 2004 [Pub. L. 108-357] to which they relate.”

Amendment by section 11161(a)(1)–(4)(D) of Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Pub. L. 109-59, title XI, §11166(b)(2), Aug. 10, 2005, 119 Stat. 1977, provided that: “The amendment made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

Pub. L. 109-58, title XIII, §1343(c), Aug. 8, 2005, 119 Stat. 1052, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect on January 1, 2006.”

Amendment by section 1362(a) of Pub. L. 109-58 effective Oct. 1, 2005, see section 1362(d)(1) of Pub. L. 109-58, set out as a note under section 4041 of this title.

Pub. L. 109-6, §1(b), Mar. 31, 2005, 119 Stat. 20, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Mar. 31, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 301(c)(7) of Pub. L. 108-357 applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 853(a)(1)–(3)(A), (4) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Pub. L. 108-357, title VIII, §860(b), Oct. 22, 2004, 118 Stat. 1618, provided that: “The amendments made by this section [amending this section] shall take effect on March 1, 2005.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 9003(b)(2)(B), (C), of Pub. L. 105-178 effective Jan. 1, 2001, see section 9003(b)(3) of Pub. L. 105-178, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 1031(a)(2) of Pub. L. 105-34 effective Oct. 1, 1997, see section 1031(e)(1) of Pub. L. 105-34, set out as a note under section 4041 of this title.

Amendment by section 1032(b) of Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

Amendment by Pub. L. 105-2 applicable to periods beginning on or after the 7th day after Feb. 28, 1997, see section 2(e)(1) of Pub. L. 105-2, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104-188, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(a) of 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.

Amendment by section 13242(a) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1920(c), Oct. 24, 1992, 106 Stat. 3027, provided that: “The amendments made by this section [amending this section] shall apply to gasoline removed (as defined in [former] section 4082 of the Internal Revenue Code of 1986) or entered after December 31, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(a)(1)–(3), (5)(A)–(C) of Pub. L. 101–508 applicable, except as otherwise provided, to gasoline removed (as defined in [former] section 4082 of this title) after Nov. 30, 1990, see section 11211(a)(6) of Pub. L. 101–508, set out as a note under section 4041 of this title.

Pub. L. 101–508, title XI, §11212(f), Nov. 5, 1990, 104 Stat. 1388–432, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 4103 of this title and amending this section and sections 4093, 4101, 4222, 6103, 6416, and 6724 of this title] shall take effect on July 1, 1991.

“(2) REGISTRATION, ETC.—The amendments made by subsections (b), (c), and (e) (other than paragraph (2) thereof) [enacting section 4103 of this title and amending sections 4093, 4101, 4222, 6103, and 6724 of this title] shall take effect on December 1, 1990.”

Pub. L. 101–508, title XI, §11215(b), Nov. 5, 1990, 104 Stat. 1388–436, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on December 1, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(1), (14) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Amendment by section 2001(d)(5) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Superfund Revenue Act of 1986, Pub. L. 99–499, title V, to which it relates, see section 2001(e) of Pub. L. 100–647, set out as a note under section 56 of this title.

Pub. L. 100–647, title VI, §6104(b), Nov. 10, 1988, 102 Stat. 3711, provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1989.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–514, title XVII, §1703(h), Oct. 22, 1986, 100 Stat. 2779, provided that: “The amendments made by this section [amending this section and sections 34, 4082, 4083, 4101, 4221, 6421, 6427, 7210, 7603 to 7605, 7609, and 7610 of this title and omitting section 4084 of this title] shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986, as amended by this section) after December 31, 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 OF 1984 AMENDMENT

Amendment by section 732(a)(1), (2) of Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

Amendment by section 912(b), (f) of Pub. L. 98–369 effective Jan. 1, 1985, see section 912(g) of Pub. L. 98–369, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(a)(1), (d)(1) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 232(b)(3)(A) of Pub. L. 96–223 applicable to sales or uses after Sept. 30, 1980, in tax-

able years ending after such date, see section 232(h)(1) of Pub. L. 96–223, set out as an Effective Date note under section 40 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–618, title II, §221(a)(2), Nov. 9, 1978, 92 Stat. 3185, as amended by Pub. L. 96–223, title II, §232(a)(3), Apr. 2, 1980, 94 Stat. 273, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to sales after December 31, 1978.”

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

LIST OF AIRPORTS WITH SECURED TERMINALS

Pub. L. 108–357, title VIII, §853(a)(3)(B), Oct. 22, 2004, 118 Stat. 1610, provided that: “Not later than December 15, 2004, the Secretary of the Treasury shall publish and maintain a list of airports which include a secured area in which a terminal is located (within the meaning of section 4081(a)(3)(A)(i) of the Internal Revenue Code of 1986, as added by this paragraph).”

DELAYED DEPOSITS OF HIGHWAY MOTOR FUEL TAX REVENUES

Due date for deposit of taxes imposed by this section which would be required to be made after July 31, 1998, and before Oct. 1, 1998, to be Oct. 5, 1998, see section 901(e) of Pub. L. 105–34, set out as a note under section 6302 of this title.

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Due date for deposit of taxes imposed by subsec. (a)(2)(A)(ii) of this section which would be required to be made after July 31, 1998, and before Oct. 1, 1998, to be Oct. 5, 1998, see section 1031(g) of Pub. L. 105–34, set out as a note under section 6302 of this title.

MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION

Pub. L. 109–59, title XI, §11141, Aug. 10, 2005, 119 Stat. 1959, provided that:

“(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ‘Commission’).

“(b) FUNCTION.—The Commission shall—

“(1) review motor fuel revenue collections, historical and current;

“(2) review the progress of investigations with respect to motor fuel taxes;

“(3) develop and review legislative proposals with respect to motor fuel taxes;

“(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

“(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

“(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

“(7) evaluate and make recommendations to the President and Congress regarding—

“(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

“(B) enforcement personnel allocation, and

“(C) proposals for regulatory projects, legislation, and funding.

“(c) MEMBERSHIP.—

“(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

“(A) At least one representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

“(B) At least one representative from the Federation of State Tax Administrators.

“(C) At least one representative from any State department of transportation.

“(D) Two representatives from the highway construction industry.

“(E) Six representatives from industries relating to fuel distribution—refiners (two representatives), distributors (one representative), pipelines (one representative), and terminal operators (two representatives).

“(F) One representative from the retail fuel industry.

“(G) Two representatives from the staff of the Committee on Finance of the Senate and two representatives from the staff of the Committee on Ways and Means of the House of Representatives.

“(2) TERMS.—Members shall be appointed for the life of the Commission.

“(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

“(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

“(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

“(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

“(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

“(g) TERMINATION.—The Commission shall terminate as of the close of September 30, 2009.”

FLOOR STOCKS TAXES

Pub. L. 108-357, title VIII, §853(f), Oct. 22, 2004, 118 Stat. 1614, provided that:

“(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on January 1, 2005, by any person a tax equal to—

“(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section [amending this section and sections 4041, 4082, 4083, 4101, 4103, 4221, 6206, 6416, 6427, 6724, 9502, and 9508 of this title, redesignating subpart C of part III of subchapter A of chapter 32 of this title as subpart B of part III of subchapter A of chapter 32 of this title, and repealing former subpart B of part III of subchapter A of chapter 32 of this title] been in effect at all times before such date, reduced by

“(B) the sum of—

“(i) the tax imposed before such date on such kerosene under section 4091 of the Internal Revenue Code of 1986, as in effect on such date, and

“(ii) in the case of kerosene held exclusively for such person's own use, the amount which such person would (but for this clause) reasonably expect

(as of such date) to be paid as a refund under section 6427(l) of such Code with respect to such kerosene.

“(2) EXCEPTION FOR FUEL HELD IN AIRCRAFT FUEL TANK.—Paragraph (1) shall not apply to kerosene held in the fuel tank of an aircraft on January 1, 2005.

“(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—The person holding the kerosene on January 1, 2005, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

“(4) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

“(A) in any case in which tax was not imposed by section 4091 of such Code, at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

“(B) at the rate under section 4081(a)(2)(A)(iv) of such Code to the extent of the remainder.

“(5) HELD BY A PERSON.—For purposes of this subsection, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

“(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.”

Pub. L. 105-34, title X, §1032(g), Aug. 5, 1997, 111 Stat. 936, provided that:

“(1) IMPOSITION OF TAX.—In the case of kerosene which is held on July 1, 1998, by any person, there is hereby imposed a floor stocks tax of 24.4 cents per gallon.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding kerosene on July 1, 1998, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 31, 1998.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) HELD BY A PERSON.—Kerosene shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(B) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to kerosene held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

“(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on kerosene held in the tank of a motor vehicle or motorboat.

“(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on kerosene held on July 1, 1998, by any person if the aggregate amount of kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by

any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(7) COORDINATION WITH SECTION 4081.—No tax shall be imposed by paragraph (1) on kerosene to the extent that tax has been (or will be) imposed on such kerosene under section 4081 or 4091 of such Code.

“(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.”

Pub. L. 105-2, §2(d), Feb. 28, 1997, 111 Stat. 6, provided that:

“(1) IMPOSITION OF TAX.—In the case of any aviation liquid on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before the tax effective date and which is held on such date by any person, there is hereby imposed a floor stocks tax of—

“(A) 15 cents per gallon in the case of aviation gasoline, and

“(B) 17.5 cents per gallon in the case of aviation fuel.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding, on the tax effective date, any aviation liquid to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the first day of the 5th month beginning after the tax effective date.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) TAX EFFECTIVE DATE.—The term ‘tax effective date’ means the date which is 7 days after the date of the enactment of this Act [Feb. 28, 1997].

“(B) AVIATION LIQUID.—The term ‘aviation liquid’ means aviation gasoline and aviation fuel.

“(C) AVIATION GASOLINE.—The term ‘aviation gasoline’ has the meaning given such term in section 4081 of such Code.

“(D) AVIATION FUEL.—The term ‘aviation fuel’ has the meaning given such term by section 4093 of such Code.

“(E) HELD BY A PERSON.—Aviation liquid shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(F) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or the Secretary’s delegate.

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to—

“(A) aviation liquid held by any person on the tax effective date exclusively for any use for which a credit or refund of the entire tax imposed by section 4081 or 4091 of such Code (as the case may be) is allowable for such liquid purchased on or after such tax effective date for such use, or

“(B) aviation fuel held by any person on the tax effective date exclusively for any use described in section 4092(b) of such Code.

“(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation liquid held on the tax effective date by any person if the aggregate amount of such liquid (determined separately for aviation gasoline and aviation fuel) held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—Any liquid to which the tax imposed by paragraph (1) does not apply by reason of paragraph (4) shall not be taken into account under subparagraph (A).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given such term by subsection (a) of section 1563 of such Code; except that for such purposes, the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 or 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091, as the case may be.”

Pub. L. 103-66, title XIII, §13241(h), Aug. 10, 1993, 107 Stat. 512, provided that:

“(1) IMPOSITION OF TAX.—In the case of gasoline, diesel fuel, and aviation fuel on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before October 1, 1993, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon on such gasoline, diesel fuel, and aviation fuel.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or aviation fuel on October 1, 1993, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before November 30, 1993.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) HELD BY A PERSON.—Gasoline, diesel fuel, and aviation fuel shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(B) GASOLINE.—The term ‘gasoline’ has the meaning given such term by section 4082 [see section 4083] of such Code.

“(C) DIESEL FUEL.—The term ‘diesel fuel’ has the meaning given such term by section 4092 [see section 4083] of such Code.

“(D) AVIATION FUEL.—The term ‘aviation fuel’ has the meaning given such term by section 4092 [see section 4093] of such Code.

“(E) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline, diesel fuel,

or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

“(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

“(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

“(i) on gasoline held on October 1, 1993, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

“(ii) on diesel fuel or aviation fuel held on October 1, 1993, by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(7) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel and aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.”

Pub. L. 103-66, title XIII, §13243, Aug. 10, 1993, 107 Stat. 529, provided that:

“(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on January 1, 1994, if—

“(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on December 31, 1993, and

“(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to such fuel for periods before January 1, 1994.

“(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

“(c) LIABILITY AND PAYMENT OF TAX.—

“(1) LIABILITY FOR TAX.—A person holding the diesel fuel on January 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

“(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

“(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before July 31, 1994.

“(d) DEFINITIONS.—For purposes of this section—

“(1) DIESEL FUEL.—The term ‘diesel fuel’ has the meaning given such term by section 4083(a) of such Code.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(e) EXCEPTIONS.—

“(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

“(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

“(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.”

Pub. L. 101-508, title XI, §11211(j), Nov. 5, 1990, 104 Stat. 1388-428, imposed a floor stocks tax on (A) gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of this title before Dec. 1, 1990, and which was held on such date by any person, or (B) diesel fuel on which no tax was imposed under section 4091 of this title at the Highway Trust Fund financing rate before Dec. 1, 1990, and which was held on such date by any person for use as fuel in a train.

Pub. L. 99-514, title XVII, §1703(f), Oct. 22, 1986, 100 Stat. 2778, as amended by Pub. L. 100-647, title I, §1017(c)(13), title II, §2001(d)(4), Nov. 10, 1988, 102 Stat. 3577, 3595, imposed a floor stocks tax at the rate of 9.1 cents per gallon on gasoline subject to tax under section 4081 of this title which, on Jan. 1, 1988, was held by a dealer for sale, and with respect to which no tax had been imposed under such section.

STUDY OF EVASION OF GASOLINE TAX

Pub. L. 99-514, title XVII, §1703(g), Oct. 22, 1986, 100 Stat. 2778, directed Secretary of the Treasury or his delegate to conduct a study of incidence of evasion of gasoline tax, with report of the study to be submitted, not later than Dec. 31, 1986, to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate.

EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES

Pub. L. 97-424, title V, §518, Jan. 6, 1983, 96 Stat. 2184, as amended by Pub. L. 98-369, div. A, title VII, §734(i), July 18, 1984, 98 Stat. 980; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) 14-DAY EXTENSION.—The Secretary shall prescribe regulations which permit any qualified person whose liability for tax under section 4081 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] is payable with respect to semi-monthly periods to pay such tax on or before the day which is 14 days after the close of such semi-monthly period if such payment is made by wire transfer to, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, any Federal Reserve Bank.

“(b) QUALIFIED PERSON DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified person’ means—

“(A) any person other than any person whose average daily production of crude oil for the preceding calendar quarter exceeds 1,000 barrels, and

“(B) any independent refiner (within the meaning of section 4995(b)(4) of such Code).

“(2) AGGREGATION RULES.—For purposes of paragraph (1), in determining whether any person’s pro-

duction exceeds 1,000 barrels per day, rules similar to the rules of section 4992(e) of the Internal Revenue Code of 1986 shall apply.

“(c) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under subsection (a) would fall on a Saturday, Sunday, or a holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.”

STUDY BY SECRETARY OF THE TREASURY; REPORT TO CONGRESS

Study respecting portion of taxes imposed by this section is attributable to fuel used in recreational motorboats and report to Congress no later than 2 years after Oct. 14, 1980, see Pub. L. 96-451, title II, §204, Oct. 14, 1980, 94 Stat. 1988, set out as a note under section 4041 of this title.

EXPEDITION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS

Pub. L. 95-618, title II, §221(d), Nov. 9, 1978, 92 Stat. 3186, directed Secretary of the Treasury to expedite applications submitted by persons with respect to the production of ethanol for use in producing gasoline and that the Secretary develop expeditious procedures for processing such applications, prior to repeal by Pub. L. 96-223, §232(e)(2)(E), Apr. 2, 1980, 94 Stat. 280.

§ 4082. Exemptions for diesel fuel and kerosene

(a) In general

The tax imposed by section 4081 shall not apply to diesel fuel and kerosene—

- (1) which the Secretary determines is destined for a nontaxable use,
- (2) which is indelibly dyed by mechanical injection in accordance with regulations which the Secretary shall prescribe, and
- (3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

(b) Nontaxable use

For purposes of this section, the term “nontaxable use” means—

- (1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,
- (2) any use in a train, and
- (3) any use described in section 4041(a)(1)(C)(iii)(II).

The term “nontaxable use” does not include the use of kerosene in an aircraft and such term shall not include any use described in section 6421(e)(2)(C).

(c) Exception to dyeing requirements

Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel and kerosene—

- (1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

(2) the use of which is certified pursuant to regulations issued by the Secretary.

(d) Additional exceptions to dyeing requirements for kerosene

(1) Use for non-fuel feedstock purposes

Subsection (a)(2) shall not apply to kerosene—

- (A) received by pipeline or vessel for use by the person receiving the kerosene in the manufacture or production of any substance (other than gasoline, diesel fuel, or special fuels referred to in section 4041), or
- (B) to the extent provided in regulations, removed or entered—
 - (i) for such a use by the person removing or entering the kerosene, or
 - (ii) for resale by such person for such a use by the purchaser,

but only if the person receiving, removing, or entering the kerosene and such purchaser (if any) are registered under section 4101 with respect to the tax imposed by section 4081.

(2) Wholesale distributors

To the extent provided in regulations, subsection (a)(2) shall not apply to kerosene received by a wholesale distributor of kerosene if such distributor—

- (A) is registered under section 4101 with respect to the tax imposed by section 4081 on kerosene, and
- (B) sells kerosene exclusively to ultimate vendors described in section 6427(l)(5)(B) with respect to kerosene.

(e) Kerosene removed into an aircraft

In the case of kerosene (other than kerosene with respect to which tax is imposed under section 4043) which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft—

- (1) the rate of tax under section 4081(a)(2)(A)(iii) shall be zero, and
- (2) if such aircraft is employed in foreign trade or trade between the United States and any of its possessions, the increase in such rate under section 4081(a)(2)(B) shall be zero.

For purposes of this subsection, any removal described in section 4081(a)(3)(A) shall be treated as a removal from a terminal but only if such terminal is located within a secure area of an airport.

(f) Exception for Leaking Underground Storage Tank Trust Fund financing rate

(1) In general

Subsection (a) shall not apply to the tax imposed under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

(2) Exception for export, etc.

Paragraph (1) shall not apply with respect to any fuel if the Secretary determines that such fuel is destined for export or for use by the purchaser as supplies for vessels (within the meaning of section 4221(d)(3)) employed in foreign trade or trade between the United States and any of its possessions.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel and kerosene pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

(h) Cross reference

For tax on train and certain bus uses of fuel purchased tax-free, see subsections (a)(1) and (d)(3) of section 4041.

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Pub. L. 86-342, title II, §201(e)(1), (2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 89-44, title VIII, §802(a)(1), (b)(1), June 21, 1965, 79 Stat. 159; Pub. L. 91-258, title II, §205(c)(6), May 21, 1970, 84 Stat. 242; Pub. L. 98-369, div. A, title VII, §§733(a), 734(c)(1), July 18, 1984, 98 Stat. 977, 979; Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2775; Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 517; Pub. L. 104-188, title I, §1801(a), Aug. 20, 1996, 110 Stat. 1891; Pub. L. 105-34, title X, §1032(c)(1), (2), (e)(3)(A), Aug. 5, 1997, 111 Stat. 933, 935; Pub. L. 105-206, title VI, §6010(h)(3), (4), July 22, 1998, 112 Stat. 815; Pub. L. 108-357, title II, §241(a)(2)(B), title VIII, §§851(d)(2), 853(a)(5), 854(a), 857(a), Oct. 22, 2004, 118 Stat. 1438, 1608, 1611, 1615, 1617; Pub. L. 109-58, title XIII, §1362(b)(1), Aug. 8, 2005, 119 Stat. 1059; Pub. L. 109-59, title XI, §11161(a)(4)(A), (E), (b)(3)(C), Aug. 10, 2005, 119 Stat. 1970, 1971; Pub. L. 109-432, div. A, title IV, §420(b)(2), Dec. 20, 2006, 120 Stat. 2969; Pub. L. 110-172, §§6(d)(2)(B), (C), 11(a)(28), Dec. 29, 2007, 121 Stat. 2480, 2481, 2487; Pub. L. 112-95, title XI, §1103(a)(2), Feb. 14, 2012, 126 Stat. 150.)

REFERENCES IN TEXT

Subsection (i) of section 211 of the Clean Air Act, referred to in subsec. (c)(1), is classified to section 7545(i) of Title 42, The Public Health and Welfare.

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 104-188, which was approved Aug. 20, 1996.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112-95 inserted “(other than kerosene with respect to which tax is imposed under section 4043)” after “In the case of kerosene” in introductory provisions.

2007—Subsec. (a). Pub. L. 110-172, §6(d)(2)(B)(i), struck out “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” after “section 4081” in introductory provisions.

Subsec. (b). Pub. L. 110-172, §11(a)(28), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘nontaxable use’ means—

“(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,

“(2) any use in a train, and

“(3) any use described in section 4041(a)(1)(C)(iii)(II).

The term ‘nontaxable use’ does not include the use of kerosene in an aircraft and such term shall not include any use described in section 6421(e)(2)(C).” See 2004 Amendment notes below.

Subsec. (e). Pub. L. 110-172, §6(d)(2)(C)(ii), designated last sentence as concluding provisions.

Pub. L. 110-172, §6(d)(2)(C)(i), substituted “an aircraft—” and pars. (1) and (2) for “an aircraft, the rate of tax under section 4081(a)(2)(A)(iii) shall be zero.”

Subsecs. (f) to (h). Pub. L. 110-172, §6(d)(2)(B)(ii), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

2006—Subsec. (d)(2)(B). Pub. L. 109-432 substituted “6427(l)(5)(B)” for “6427(l)(6)(B)”.

2005—Subsec. (a). Pub. L. 109-58 inserted “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” after “section 4081” in introductory provisions.

Subsec. (b). Pub. L. 109-59, §11161(a)(4)(A), struck out “aviation-grade” before “kerosene” in concluding provisions.

Subsec. (d)(2)(B). Pub. L. 109-59, §11161(b)(3)(C), substituted “section 6427(l)(6)(B)” for “section 6427(l)(5)(B)”.

Subsec. (e). Pub. L. 109-59, §11161(a)(4)(E), in heading substituted “Kerosene removed into an aircraft” for “Aviation-grade kerosene” and in text struck out “aviation-grade” before “kerosene”, substituted “section 4081(a)(2)(A)(iii)” for “section 4081(a)(2)(A)(iv)”, and inserted at end “For purposes of this subsection, any removal described in section 4081(a)(3)(A) shall be treated as a removal from a terminal but only if such terminal is located within a secure area of an airport.”

2004—Subsec. (a)(2). Pub. L. 108-357, §854(a), inserted “by mechanical injection” after “indelibly dyed”.

Subsec. (b). Pub. L. 108-357, §853(a)(5)(B)(i), inserted at end “The term ‘nontaxable use’ does not include the use of aviation-grade kerosene in an aircraft.”

Pub. L. 108-357, §851(d)(2), which directed amendment of subsec. (b) by inserting “and such term shall not include any use described in section 6421(e)(2)(C)” before period at end, was executed by making the insertion after amendment by Pub. L. 108-357, §853(a)(5)(B)(i), to reflect the probable intent of Congress. See above.

Subsec. (b)(3). Pub. L. 108-357, §857(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “any use described in section 6427(b)(1) (after the application of section 6427(b)(3)).”

Subsec. (d). Pub. L. 108-357, §853(a)(5)(B)(ii), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out heading and text of former par. (1). Text read as follows: “Subsection (a)(2) shall not apply to aviation-grade kerosene (as determined under regulations prescribed by the Secretary) which the Secretary determines is destined for use as a fuel in an aircraft.”

Subsec. (e). Pub. L. 108-357, §853(a)(5)(A), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 108-357, §853(a)(5)(A), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 108-357, §853(a)(5)(A), redesignated subsec. (f) as (g).

Pub. L. 108-357, §241(a)(2)(B), which directed substitution of “subsections (a)(1) and (d)(3) of section 4041” for “section 4041(a)(1)” in subsec. (f), was executed by making the substitution in subsec. (g) to reflect the probable intent of Congress and the amendment by Pub. L. 108-357, §853(a)(5)(A). See Amendment note above and Effective Date of 2004 Amendment notes below.

1998—Subsec. (d)(1). Pub. L. 105-206, §6010(h)(3), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “Subsection (a)(2) shall not apply to a removal, entry, or sale of aviation-grade kerosene (as determined under regulations prescribed by the Secretary) if the person receiving the kerosene is registered under section 4101 with respect to the tax imposed by section 4091.”

Subsec. (d)(3). Pub. L. 105-206, §6010(h)(4), substituted “kerosene received by” for “a removal, entry, or sale of kerosene to” in introductory provisions.

1997—Pub. L. 105-34, §1032(e)(3)(A), inserted “and kerosene” after “diesel fuel” in section catchline.

Subsecs. (a), (c). Pub. L. 105-34, §1032(c)(1), substituted “diesel fuel and kerosene” for “diesel fuel” in introductory provisions.

Subsec. (d). Pub. L. 105-34, §1032(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 105-34, §1032(c)(1), substituted “diesel fuel and kerosene” for “diesel fuel”.

Subsecs. (e), (f). Pub. L. 105-34, §1032(c)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsecs. (c) to (e). Pub. L. 104-188 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1993—Pub. L. 103-66 amended heading and text generally. Prior to amendment, text read as follows:

“(a) GASOLINE.—For purposes of this subpart, the term ‘gasoline’ includes, to the extent prescribed in regulations—

“(1) gasoline blend stocks, and

“(2) products commonly used as additives in gasoline.

For purposes of paragraph (1), the term ‘gasoline blend stocks’ means any petroleum product component of gasoline.

“(b) CERTAIN USES DEFINED AS REMOVAL.—If a refiner, importer, terminal operator, blender, or compounder uses (other than in the production of gasoline or special fuels referred to in section 4041) gasoline refined, imported, blended, or compounded by him, such use shall for the purposes of this chapter be considered a removal.”

1986—Subsec. (a). Pub. L. 99-514 amended subsec. (a) generally, substituting definitions of “gasoline” and “gasoline blended stocks” for definition of “producer”.

Subsec. (b). Pub. L. 99-514 amended subsec. (b) generally, substituting provisions that certain use of gasoline be considered removal for provisions defining “gasoline”.

Subsecs. (c) to (e). Pub. L. 99-514, in amending section generally, struck out subsecs. (c) to (e) which defined “sales”, “wholesale distributor”, and “producer”, respectively.

1984—Subsec. (d). Pub. L. 98-369, §733(a), in amending subsec. (d) generally, redesignated existing provisions of par. (1) as subpar. (A) and added subpar. (B), and in par. (2) inserted “but only if such person” before “elects”.

Subsec. (e). Pub. L. 98-369, §734(c)(1), added subpar. (e).

1970—Subsec. (c). Pub. L. 91-258 substituted “special fuels referred to in section 4041” for “special motor fuels referred to in section 4041(b)”.

1965—Subsec. (b). Pub. L. 89-44, §802(a)(1), substituted “gasoline which are suitable for use as a motor fuel” for “gasoline (including casinghead and natural gasoline)”.

Subsec. (d)(2). Pub. L. 89-44, §802(b)(1), struck out “and give a bond” after “elects to register”.

1959—Subsec. (a). Pub. L. 86-342, §201(e)(1), inserted reference to wholesale distributor.

Subsec. (d). Pub. L. 86-342, §201(e)(2), added subsec. (d).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-95 applicable to fuel used after Mar. 31, 2012, see section 1103(d)(1) of Pub. L. 112-95, set out as an Effective Date note under section 4043 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendments by section 6(d)(2)(B), (C)(i) of 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 amendments relate, and amendment by section 6(d)(2)(C)(ii) of Pub. L. 110-172 effective as if included in section 11161 of the SAFETEA-LU, Pub. L. 109-59, see section 6(e) of Pub. L. 110-172, set out as a note under section 30C of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to kerosene sold after Sept. 30, 2005, with special rule for pending claims, see section 420(c) of Pub. L. 109-432, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see

section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by Pub. L. 109-58 effective Oct. 1, 2005, and applicable to fuel entered, removed, or sold after Sept. 30, 2005, see section 1362(d) of Pub. L. 109-58, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(B) of 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.

Pub. L. 108-357, title VIII, §851(d)(4), Oct. 22, 2004, 118 Stat. 1609, provided that: “The amendments made by this subsection [amending this section and sections 6421 and 6427 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

Amendment by section 853(a)(5) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Pub. L. 108-357, title VIII, §854(d), Oct. 22, 2004, 118 Stat. 1616, provided that: “The amendments made by subsections (a) and (c) [enacting section 6715A of this title and amending this section] shall take effect on the 180th day after the date on which the Secretary issues the regulations described in subsection (b) [set out as a note below] [Such regulations were issued effective Oct. 24, 2005. See 70 F.R. 21332.]”

Pub. L. 108-357, title VIII, §857(d), Oct. 22, 2004, 118 Stat. 1617, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold after December 31, 2004.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1801(b), Aug. 20, 1996, 110 Stat. 1892, provided that: “The amendments made by this section [amending this section] shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act [Aug. 20, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VII, §733(b), July 18, 1984, 98 Stat. 977, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act [July 18, 1984].”

Pub. L. 98-369, div. A, title VII, §734(c)(3), July 18, 1984, 98 Stat. 979, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall take effect on the first

day of the first calendar quarter beginning after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §802(d)(1), June 21, 1965, 79 Stat. 159, provided that: “The amendments made by subsections (a)(1), (b), and (c) [amending this section and sections 4101, 4222, 7103, and 7232 of this title] shall apply with respect to articles sold on or after July 1, 1965.”

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-342, title II, §201(e)(3), Sept. 21, 1959, 73 Stat. 615, provided that: “The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on January 1, 1960.”

REGULATIONS

Pub. L. 108-357, title VIII, §854(b), Oct. 22, 2004, 118 Stat. 1615, provided that: “Not later than 180 days after the date of the enactment of this Act [Oct. 22, 2004], the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a) [amending this section], and such regulations shall include standards for making such systems tamper resistant.”

§ 4083. Definitions; special rule; administrative authority

(a) Taxable fuel

For purposes of this subpart—

(1) In general

The term “taxable fuel” means—

- (A) gasoline,
- (B) diesel fuel, and
- (C) kerosene.

(2) Gasoline

The term “gasoline”—

(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

(B) includes, to the extent prescribed in regulations—

- (i) any gasoline blend stock, and
- (ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term “gasoline blend stock” means any petroleum product component of gasoline.

(3) Diesel fuel

(A) In general

The term “diesel fuel” means—

- (i) any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, or a diesel-powered train,
- (ii) transmix, and
- (iii) diesel fuel blend stocks identified by the Secretary.

(B) Transmix

For purposes of subparagraph (A), the term “transmix” means a byproduct of refined

products pipeline operations created by the mixing of different specification products during pipeline transportation.

(b) Commercial aviation

For purposes of this subpart, the term “commercial aviation” means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282 or by reason of subsection (h) or (i) of section 4261. Such term shall not include the use of any aircraft before October 1, 2015, if tax is imposed under section 4043 with respect to the fuel consumed in such use or if no tax is imposed on such use under section 4043 by reason of subsection (c)(5) thereof.

(c) Certain uses defined as removal

If any person uses taxable fuel (other than in the production of taxable fuels or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

(d) Administrative authority

(1) In general

In addition to the authority otherwise granted by this title, the Secretary may in administering compliance with this subpart, section 4041, and penalties and other administrative provisions related thereto—

(A) enter any place at which taxable fuel is produced or is stored (or may be stored) for purposes of—

- (i) examining the equipment used to determine the amount or composition of such fuel and the equipment used to store such fuel,
- (ii) taking and removing samples of such fuel, and
- (iii) inspecting any books and records and any shipping papers pertaining to such fuel, and

(B) detain, for the purposes referred in subparagraph (A), any container which contains or may contain any taxable fuel.

(2) Inspection sites

The Secretary may establish inspection sites for purposes of carrying out the Secretary’s authority under paragraph (1)(B).

(3) Penalty for refusal of entry

(A) Forfeiture

The penalty provided by section 7342 shall apply to any refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), except that section 7342 shall be applied by substituting “\$1,000” for “\$500” for each such refusal.

(B) Assessable penalty

For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XVII, §1703(a),

Oct. 22, 1986, 100 Stat. 2776; Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 517; Pub. L. 105-34, title IX, §902(b)(3), title X, §1032(a), (e)(4), Aug. 5, 1997, 111 Stat. 873, 933, 935; Pub. L. 105-206, title VI, §6010(h)(1), July 22, 1998, 112 Stat. 815; Pub. L. 108-357, title III, §301(c)(8), title VIII, §§853(b), 858(a), 859(b)(1), 870(a), Oct. 22, 2004, 118 Stat. 1461, 1611, 1617, 1618, 1623; Pub. L. 109-59, title XI, §11123(b), Aug. 10, 2005, 119 Stat. 1952; Pub. L. 112-95, title XI, §1103(b), Feb. 14, 2012, 126 Stat. 151.)

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-95 inserted at end “Such term shall not include the use of any aircraft before October 1, 2015, if tax is imposed under section 4043 with respect to the fuel consumed in such use or if no tax is imposed on such use under section 4043 by reason of subsection (c)(5) thereof.”

2005—Subsec. (b). Pub. L. 109-59 substituted “subsection (h) or (i) of section 4261” for “section 4261(h)”.

2004—Subsec. (a)(2). Pub. L. 108-357, §301(c)(8), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, par. (2) defined the term “gasoline”, to the extent prescribed in regulations, as including gasoline blend stocks and products commonly used as additives in gasoline, and defined the term “gasoline blend stock” as meaning any petroleum product component of gasoline.

Subsec. (a)(3). Pub. L. 108-357, §870(a), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, par. (3) defined the term “diesel fuel” as meaning any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

Subsecs. (b), (c). Pub. L. 108-357, §853(b), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108-357, §853(b), redesignated subsec. (c) as (d).

Subsec. (d)(1)(A)(iii). Pub. L. 108-357, §858(a), added cl. (iii).

Subsec. (d)(3). Pub. L. 108-357, §859(b)(1), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

1998—Subsec. (a)(1). Pub. L. 105-206 made technical amendment to directory language of Pub. L. 105-34, §1032(a). See 1997 Amendment note below.

1997—Subsec. (a)(1)(C). Pub. L. 105-34, §1032(a), as amended by Pub. L. 105-206, §6010(h)(1), added subpar. (C).

Subsec. (a)(3). Pub. L. 105-34, §902(b)(3), substituted “or a diesel-powered train” for “, a diesel-powered train, or a diesel-powered boat”.

Subsec. (b). Pub. L. 105-34, §1032(e)(4), substituted “taxable fuels” for “gasoline, diesel fuel.”

1993—Pub. L. 103-66 amended heading and text generally. Prior to amendment, text read as follows:

“(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

“(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

“(3) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline not used for taxable purposes, see section 6427.”

1986—Pub. L. 99-514 amended section generally. Prior to amendment, section 4083 “Exemption of sales to producer”, read as follows: “Under regulations prescribed by the Secretary the tax imposed by section 4081 shall not apply in the case of sales of gasoline to a producer of gasoline.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title XI, §1103(d)(2), Feb. 14, 2012, 126 Stat. 151, provided that: The amendment made by sub-

section (b) [amending this section] shall apply to uses of aircraft after March 31, 2012.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11123(c), Aug. 10, 2005, 119 Stat. 1952, provided that: “The amendments made by this section [amending this section and section 4261 of this title] shall apply to transportation beginning after September 30, 2005.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 301(c)(8) of Pub. L. 108-357 applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 853(b) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Pub. L. 108-357, title VIII, §858(b), Oct. 22, 2004, 118 Stat. 1617, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-357, title VIII, §859(c), Oct. 22, 2004, 118 Stat. 1618, provided that: “The amendments made by this section [enacting section 6717 of this title and amending this section] shall take effect on January 1, 2005.”

Pub. L. 108-357, title VIII, §870(c), Oct. 22, 2004, 118 Stat. 1624, provided that: “The amendment made by this section [amending this section and section 6427 of this title] shall apply to fuel removed, sold, or used after December 31, 2004.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 902(b)(3) of Pub. L. 105-34 effective Jan. 1, 1998, see section 902(c) of Pub. L. 105-34, set out as a note under section 4041 of this title.

Amendment by section 1032(a), (e)(4) of Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514 set out as a note under section 4081 of this title.

§ 4084. Cross references

(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

(Added Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 518.)

PRIOR PROVISIONS

A prior section 4084, added Apr. 2, 1956, ch. 160, §4(a)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title

II, §208(e)(1), 70 Stat. 396, contained cross references, prior to the general amendment of this subpart by Pub. L. 99-514, §1703(a).

A prior section 4091, added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-438; amended Pub. L. 100-203, title X, §10502(g), Dec. 22, 1987, 101 Stat. 1330-446; Pub. L. 100-647, title II, §2001(d)(6)(A)-(C), Nov. 10, 1988, 102 Stat. 3596; Pub. L. 101-508, title XI, §§11211(b)(1), (2), (6)(A), (B), (c)(4), (e)(4), 11213(b)(1), (2)(C), (D), (d)(2)(A), 11704(a)(38), Nov. 5, 1990, 104 Stat. 1388-424 to 1388-427, 1388-432, 1388-433, 1388-435, 1388-520; Pub. L. 102-240, title VIII, §8002(a)(4), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(b)(1), (2)(B)(i), (ii), 13242(a), Aug. 10, 1993, 107 Stat. 510, 518; Pub. L. 104-188, title I, §1609(a)(1), Aug. 20, 1996, 110 Stat. 1841; Pub. L. 105-2, §2(a)(1), Feb. 28, 1997, 111 Stat. 4; Pub. L. 105-34, title X, §1031(a)(1), title XIV, §1436(a), Aug. 5, 1997, 111 Stat. 929, 1053; Pub. L. 105-178, title IX, §9003(a)(1)(D), (b)(2)(D), June 9, 1998, 112 Stat. 502, 503; Pub. L. 105-206, title VI, §6014(d), July 22, 1998, 112 Stat. 820, related to imposition of tax on the sale of aviation fuel, prior to repeal by Pub. L. 108-357, title VIII, §853(d)(1), (e), Oct. 22, 2004, 118 Stat. 1612, 1614, applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004.

Another prior section 4091, acts Aug. 16, 1954, ch. 736, 68A Stat. 483; Aug. 11, 1955, ch. 793, §1(a), 69 Stat. 676; June 21, 1965, Pub. L. 89-44, title II, §202(a), 79 Stat. 137, imposed a tax of 6 cents a gallon on lubricating oil (other than cutting oils) sold in the United States by the manufacturer or producer to be paid by the manufacturer or producer, prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

A prior section 4092, added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-440; amended Pub. L. 100-647, title III, §3003(a), Nov. 10, 1988, 102 Stat. 3616; Pub. L. 103-66, title XIII, §§13163(a)(1), (3), 13242(a), Aug. 10, 1993, 107 Stat. 453, 519; Pub. L. 105-34, title XVI, §1601(f)(4)(C), Aug. 5, 1997, 111 Stat. 1091; Pub. L. 105-206, title VI, §6023(16), July 22, 1998, 112 Stat. 825, related to exemptions from tax imposed by former section 4091, prior to repeal by Pub. L. 108-357, title VIII, §853(d)(1), (e), Oct. 22, 2004, 118 Stat. 1612, 1614, applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004.

Another prior section 4092, acts Aug. 16, 1954, ch. 736, 68A Stat. 484; Aug. 11, 1955, ch. 793, §1(b), 69 Stat. 676; Nov. 9, 1978, Pub. L. 95-618, title IV, §404(b), 92 Stat. 3205, provided for certain vendees to be considered as manufacturers and defined "cutting oils", prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

A prior section 4093, added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-440; amended Pub. L. 100-647, title II, §2004(s)(1), title III, §3001(a), Nov. 10, 1988, 102 Stat. 3609, 3613; Pub. L. 101-508, title XI, §§11211(b)(4)(A), 11212(b)(4), 11704(a)(20), Nov. 5, 1990, 104 Stat. 1388-425, 1388-431, 1388-519; Pub. L. 103-66, title XIII, §§13241(f)(3), (4), 13242(a), Aug. 10, 1993, 107 Stat. 511, 512, 520; Pub. L. 104-188, title I, §1702(b)(2)(A), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title X, §1032(e)(5), Aug. 5, 1997, 111 Stat. 935, defined terms for purposes of former subpart B of this part, prior to repeal by Pub. L. 108-357, title VIII, §853(d)(1), (e), Oct. 22, 2004, 118 Stat. 1612, 1614, applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004.

Another prior section 4093, acts Aug. 16, 1954, ch. 736, 68A Stat. 484; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834; Nov. 9, 1978, Pub. L. 95-618, title IV, §404(a), 92 Stat. 3204, exempted from tax lubricating oils sold to a manufacturer or producer of lubricating oils for resale, or for certain uses of lubricating oil in producing re-refined oil, prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

A prior section 4094, added Pub. L. 89-44, title II, §202(c)(1)(A), June 21, 1965, 79 Stat. 139, provided cross reference to sections 39 and 6424 of this title for provi-

sions to relieve purchasers of lubricating oil from excise tax in the case of lubricating oil used otherwise than in a highway motor vehicle, prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

EFFECTIVE DATE

Section effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 4041 of this title.

SUBPART B—SPECIAL PROVISIONS APPLICABLE TO FUELS TAX

Sec. 4101.	Registration and bond.
4102.	Inspection of records by local officers.
4103.	Certain additional persons liable for tax where willful failure to pay.
4104.	Information reporting for persons claiming certain tax benefits.
4105.	Two-party exchanges.

PRIOR PROVISIONS

A prior subpart B, consisting of sections 4091 to 4093, related to taxation of aviation fuel, prior to repeal by Pub. L. 108-357, title VIII, §853(d)(1), (e), Oct. 22, 2004, 118 Stat. 1612, 1614, applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004.

AMENDMENTS

2004—Pub. L. 108-357, title III, §303(b), title VIII, §853(d)(1), (2)(T), 866(b), Oct. 22, 2004, 118 Stat. 1466, 1612, 1614, 1622, redesignated subpart C as B, substituted "Special Provisions Applicable to Fuels Tax" for "Special Provisions Applicable to Petroleum Products" in subpart heading, and added items 4104 and 4105.

1990—Pub. L. 101-508, title XI, §11212(e)(3), Nov. 5, 1990, 104 Stat. 1388-432, added item 4103.

1986—Pub. L. 99-514, title XVII, §1703(b)(2), Oct. 22, 1986, 100 Stat. 2776, substituted "Registration and bond" for "Registration" in item 4101.

1976—Pub. L. 94-455, title XII, §1202(c)(2), Oct. 4, 1976, 90 Stat. 1686, substituted "Inspection of records by local officers" for "Inspection of records, returns, etc., by local officers" in item 4102.

1965—Pub. L. 89-44, title VIII, §802(b)(5), June 21, 1965, 79 Stat. 159, struck out "and bond" after "Registration" in item 4101.

§ 4101. Registration and bond

(a) Registration

(1) In general

Every person required by the Secretary to register under this section with respect to the tax imposed by section 4041(a) or 4081, every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A)), and every person producing second generation biofuel (as defined in section 40(b)(6)(E)) shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

(2) Registration of persons within foreign trade zones, etc.

The Secretary shall require registration by any person which—

(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

(B) holds an inventory position with respect to a taxable fuel in such a terminal.

(3) Display of registration

Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.

(4) Registration of persons extending credit on certain exempt sales of fuel

The Secretary shall require registration by any person which—

(A) extends credit by credit card to any ultimate purchaser described in subparagraph (C) or (D) of section 6416(b)(2) for the purchase of taxable fuel upon which tax has been imposed under section 4041 or 4081, and

(B) does not collect the amount of such tax from such ultimate purchaser.

(5) Reregistration in event of change in ownership

Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).

(b) Bonds and liens

(1) In general

Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

(A) give a bond in such sum as the Secretary determines appropriate, and

(B) agree to the imposition of a lien—

(i) on such property (or rights to property) of such person used in the trade or business for which the registration is sought, or

(ii) with the consent of such person, on any other property (or rights to property) of such person as the Secretary determines appropriate.

Rules similar to the rules of section 6323 shall apply to the lien imposed pursuant to this paragraph.

(2) Release or discharge of lien

If a lien is imposed pursuant to paragraph (1), the Secretary shall issue a certificate of discharge or a release of such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by him) a bond in such sum as the Secretary determines appropriate or the transferor agrees to the imposition of a substitute lien under paragraph (1)(B) in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to discharge or release a lien imposed pursuant to paragraph (1) in

connection with a transfer of property not later than 90 days after the date the request for such a discharge or release is made.

(c) Denial, revocation, or suspension of registration

Rules similar to the rules of section 4222(c) shall apply to registration under this section.

(d) Information reporting

The Secretary may require—

(1) information reporting by any person registered under this section, and

(2) information reporting by such other persons as the Secretary deems necessary to carry out this part.

Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.

(Aug. 16, 1954, ch. 736, 68A Stat. 484; Pub. L. 89-44, title VIII, §802(b)(2), June 21, 1965, 79 Stat. 159; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-424, title V, §515(b)(8), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 99-514, title XVII, §1703(b)(1), Oct. 22, 1986, 100 Stat. 2776; Pub. L. 100-203, title X, §10502(d)(3), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 101-508, title XI, §11212(b)(1), Nov. 5, 1990, 104 Stat. 1388-430; Pub. L. 103-66, title XIII, §13242(d)(1), Aug. 10, 1993, 107 Stat. 522; Pub. L. 105-34, title X, §1032(d), Aug. 5, 1997, 111 Stat. 934; Pub. L. 105-206, title VI, §6010(h)(5), July 22, 1998, 112 Stat. 815; Pub. L. 107-147, title VI, §615(a), Mar. 9, 2002, 116 Stat. 62; Pub. L. 108-357, title III, §301(b), title VIII, §§853(d)(2)(F), 861(a), 862(a), 864(a), Oct. 22, 2004, 118 Stat. 1461, 1613, 1618, 1619, 1621; Pub. L. 109-59, title XI, §§11113(c), 11163(a), 11164(a), Aug. 10, 2005, 119 Stat. 1949, 1973, 1975; Pub. L. 110-172, §11(a)(29), Dec. 29, 2007, 121 Stat. 2487; Pub. L. 110-234, title XV, §15321(b)(3)(A), May 22, 2008, 122 Stat. 1513; Pub. L. 110-246, §4(a), title XV, §15321(b)(3)(A), June 18, 2008, 122 Stat. 1664, 2275; Pub. L. 112-240, title IV, §404(b)(3)(C), Jan. 2, 2013, 126 Stat. 2339.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112-240 substituted “second generation biofuel” for “cellulosic biofuel”.

2008—Subsec. (a)(1). Pub. L. 110-246, §15321(b)(3)(A), substituted “, every person producing or importing” for “and every person producing or importing” and inserted “, and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))” before “shall register”.

2007—Subsec. (a)(4), (5). Pub. L. 110-172 redesignated par. (4) relating to reregistration in event of change of ownership as (5).

2005—Subsec. (a)(1). Pub. L. 109-59, §11113(c), substituted “4041(a)” for “4041(a)(1)”.

Subsec. (a)(4). Pub. L. 109-59, §11164(a), added par. (4) relating to reregistration in event of change in ownership.

Pub. L. 109-59, §11163(a), added par. (4) relating to registration of persons extending credit on certain exempt sales of fuel.

2004—Subsec. (a). Pub. L. 108-357, §861(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 108-357, §853(d)(2)(F), substituted “or 4081” for “, 4081, or 4091”.

Pub. L. 108-357, §301(b), amended par. (1), as amended by Pub. L. 108-357, §861, by inserting “and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))” before “shall register with the Secretary”.

Subsec. (a)(2), (3). Pub. L. 108-357, §862(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d). Pub. L. 108-357, §864(a), inserted concluding provisions.

2002—Subsec. (e). Pub. L. 107-147 struck out heading and text of subsec. (e). Text read as follows:

“(1) IN GENERAL.—A terminal for kerosene or diesel fuel may not be an approved facility for storage of nontax-paid diesel fuel or kerosene under this section unless the operator of such terminal offers such fuel in a dyed form for removal for nontaxable use in accordance with section 4082(a).

“(2) EXCEPTION.—Paragraph (1) shall not apply to any terminal exclusively providing aviation-grade kerosene by pipeline to an airport.”

1998—Subsec. (e)(1). Pub. L. 105-206 substituted “such fuel in a dyed form” for “dyed diesel fuel and kerosene”.

1997—Subsec. (e). Pub. L. 105-34 added subsec. (e).

1993—Subsec. (a). Pub. L. 103-66 substituted “4041(a)(1), 4081,” for “4081”.

1990—Pub. L. 101-508 amended section generally. Prior to amendment, section read as follows:

“(a) REGISTRATION.—Every person subject to tax under section 4081 or 4091 shall, before incurring any liability for tax under such section, register with the Secretary.

“(b) BOND.—Under regulations prescribed by the Secretary, every person who registers under subsection (a) may be required to give a bond in such sum as the Secretary determines.”

1987—Subsec. (a). Pub. L. 100-203 inserted “or 4091” after “section 4081”.

1986—Pub. L. 99-514 amended section generally, substituting “Registration and bond” for “Registration” in section catchline, designating existing provisions as subsec. (a), inserting subsec. (a) heading, and adding subsec. (b).

1983—Pub. L. 97-424 struck out “or section 4091” after “4081”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1965—Pub. L. 89-44 struck out all references to a bond to be given and its terms and requirements.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to fuels sold or used after Jan. 2, 2013, see section 404(b)(4) of Pub. L. 112-240, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15321(b)(3)(A) of Pub. L. 110-246 applicable to fuel produced after Dec. 31, 2008, see section 15321(g) of Pub. L. 110-246, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 11113(c) of Pub. L. 109-59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Pub. L. 109-59, title XI, §11163(e), Aug. 10, 2005, 119 Stat. 1975, provided that: “The amendments made by this section [amending this section and sections 6206, 6416, 6427, and 6675 of this title] shall apply to sales after December 31, 2005.”

Pub. L. 109-59, title XI, §11164(c), Aug. 10, 2005, 119 Stat. 1976, provided that: “The amendments made by this section [amending this section and sections 6719, 7232, and 7272 of this title] shall apply to actions, or failures to act, after the date of the enactment of this Act [Aug. 10, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 301(b) of Pub. L. 108-357 effective Apr. 1, 2005, see section 301(d)(2) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 853(d)(2)(F) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Pub. L. 108-357, title VIII, §861(c)(1), Oct. 22, 2004, 118 Stat. 1619, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2005.”

Pub. L. 108-357, title VIII, §862(c), Oct. 22, 2004, 118 Stat. 1619, provided that: “The amendments made by this section [amending this section and section 6718 of this title] shall take effect on January 1, 2005.”

Pub. L. 108-357, title VIII, §864(b), Oct. 22, 2004, 118 Stat. 1621, provided that: “The amendment made by this section [amending this section] shall apply on January 1, 2006.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title VI, §615(b), Mar. 9, 2002, 116 Stat. 62, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2002.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective Jan. 1, 2002, see section 1032(f)(2) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section

802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

TREATMENT OF DEEP-DRAFT VESSELS

Pub. L. 109-59, title XI, §11166(a), Aug. 10, 2005, 119 Stat. 1976, provided that: "On and after the date of the enactment of this Act [Aug. 10, 2005], the Secretary of the Treasury shall require that a vessel described in section 4042(c)(1) of the Internal Revenue Code of 1986 be considered a vessel for purposes of the registration of the operator of such vessel under section 4101 of such Code, unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel."

PUBLICATION OF REGISTERED PERSONS

Pub. L. 108-357, title VIII, §860(c), Oct. 22, 2004, 118 Stat. 1618, provided that: "Beginning on January 1, 2005, the Secretary of the Treasury (or the Secretary's delegate) shall periodically publish under section 6103(k)(7) of the Internal Revenue Code of 1986 a current list of persons registered under section 4101 of such Code who are required to register under such section."

§ 4102. Inspection of records by local officers

Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on any taxable fuel (as defined in section 4083).

(Aug. 16, 1954, ch. 736, 68A Stat. 484; Pub. L. 94-455, title XII, §1202(c)(1), Oct. 4, 1976, 90 Stat. 1686; Pub. L. 97-424, title V, §515(b)(9), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 103-66, title XIII, §13242(d)(2), Aug. 10, 1993, 107 Stat. 522.)

AMENDMENTS

1993—Pub. L. 103-66 substituted "any taxable fuel (as defined in section 4083)" for "gasoline".

1983—Pub. L. 97-424 struck out "or lubricating oils" after "gasoline".

1976—Pub. L. 94-455 struck out "returns, etc." after "Inspection of records", "or his delegate" after "Secretary", "and returns, reports, and statements with respect to such taxes filed with the Secretary or his delegate" after "under this part", substituted "or a political subdivision of any such State" for "or, Territory or political subdivision thereof or the District of Columbia" after "of any State", and struck out provision relating to availability and fee for certified copies of statements, returns, or reports filed in Secretary's office.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

§ 4103. Certain additional persons liable for tax where willful failure to pay

In any case in which there is a willful failure to pay the tax imposed by section 4041(a)(1) or 4081, each person—

(1) who is an officer, employee, or agent of the taxpayer who is under a duty to assure the

payment of such tax and who willfully fails to perform such duty, or

(2) who willfully causes the taxpayer to fail to pay such tax,

shall be jointly and severally liable with the taxpayer for the tax to which such failure relates.

(Added Pub. L. 101-508, title XI, §11212(c), Nov. 5, 1990, 104 Stat. 1388-431; amended Pub. L. 103-66, title XIII, §13242(d)(1), Aug. 10, 1993, 107 Stat. 522; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613.)

AMENDMENTS

2004—Pub. L. 108-357 substituted "or 4081" for "4081, or 4091" in introductory provisions.

1993—Pub. L. 103-66 substituted "4041(a)(1), 4081," for "4081" in introductory provisions.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) 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 Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 4081 of this title.

§ 4104. Information reporting for persons claiming certain tax benefits

(a) In general

The Secretary shall require any person claiming tax benefits—

(1) under the provisions of section¹ 34, 40, and 40A, to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a quarterly return (in such manner as the Secretary may prescribe).

(b) Contents of return

Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

(c) Enforcement

With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.

(Added Pub. L. 108-357, title III, §303(a), Oct. 22, 2004, 118 Stat. 1466.)

EFFECTIVE DATE

Pub. L. 108-357, title III, §303(c), Oct. 22, 2004, 118 Stat. 1466, provided that: "The amendments made by this section [enacting this section] shall take effect on January 1, 2005."

¹ So in original. Probably should be "sections".

§ 4105. Two-party exchanges**(a) In general**

In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

(b) Two-party exchange

The term “two-party exchange” means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

(4) The transaction is the subject of a written contract.

(Added Pub. L. 108-357, title VIII, §866(a), Oct. 22, 2004, 118 Stat. 1621.)

PRIOR PROVISIONS

Prior sections 4111 to 4113, 4121, and 4131 of this title constituted a former subchapter B of this chapter, see Prior Provisions note set out preceding section 4121 of this title.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §866(c), Oct. 22, 2004, 118 Stat. 1622, provided that: “The amendment made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].”

Subchapter B—Coal

Sec.

4121. Imposition of tax.

PRIOR PROVISIONS

A prior subchapter B consisted of sections 4111 to 4113, 4121, and 4131 of this title.

Section 4111, acts Aug. 16, 1954, ch. 736, 68A Stat. 485; Sept. 2, 1958, Pub. L. 85-859, title I, §111(a), 72 Stat. 1277, imposed a manufacturers excise tax of 5 percent on household type refrigerators, quick freeze or frozen storage units, or combinations, and a tax of 10 percent on self-contained air-conditioning units, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after June 22, 1956.

Section 4112, acts Aug. 16, 1954, ch. 736, 68A Stat. 485; Aug. 11, 1955, ch. 805, §1(e), 69 Stat. 689, defined refrigerator components, prior to repeal by Pub. L. 85-859, title I, §111(b)(1), Sept. 2, 1958, 72 Stat. 1277, effective the first day of the first calendar quarter beginning more than 60 days after Sept. 2, 1958.

Section 4113, act Aug. 16, 1954, ch. 736, 68A Stat. 485, related to exemptions for manufacturers of refrigerator components, prior to repeal by act Aug. 11, 1955, ch. 805, §1(d), 69 Stat. 689, effective on the first day of the first month beginning more than 10 days after Aug. 11, 1955.

Section 4121, acts Aug. 16, 1954, ch. 736, 68A Stat. 486; Sept. 2, 1958, Pub. L. 85-859, title I, §112, 72 Stat. 1277, imposed a 5 percent tax on electric, gas, and oil house-

hold appliances and their accessories, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after June 22, 1965.

Section 4131, act Aug. 16, 1954, ch. 736, 68A Stat. 486, imposed a 10 percent tax on electric light bulbs and tubes, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after Jan. 1, 1965.

§ 4121. Imposition of tax**(a) Tax imposed****(1) In general**

There is hereby imposed on coal from mines located in the United States sold by the producer, a tax equal to the rate per ton determined under subsection (b).

(2) Limitation on tax

The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

(b) Determination of rates and limitation on tax

For purposes of subsection (a)—

(1) the rate of tax on coal from underground mines shall be \$1.10,

(2) the rate of tax on coal from surface mines shall be \$.55, and

(3) the applicable percentage shall be 4.4 percent.

(c) Tax not to apply to lignite

The tax imposed by subsection (a) shall not apply in the case of lignite.

(d) Definitions

For purposes of this subchapter—

(1) Coal from surface mines

Coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth. Coal extracted by auger shall be treated as coal from a surface mine.

(2) Coal from underground mines

Coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

(3) United States

The term “United States” has the meaning given to it by paragraph (1) of section 638.

(4) Ton

The term “ton” means 2,000 pounds.

(e) Reduction in amount of tax**(1) In general**

Effective with respect to sales after the temporary increase termination date, subsection (b) shall be applied—

(A) by substituting “\$.50” for “\$1.10”,

(B) by substituting “\$.25” for “\$.55”, and

(C) by substituting “2 percent” for “4.4 percent”.

(2) Temporary increase termination date

For purposes of paragraph (1), the temporary increase termination date is the earlier of—

(A) December 31, 2018, or
 (B) the first December 31 after 2007 as of which there is—

(i) no balance of repayable advances made to the Black Lung Disability Trust Fund, and

(ii) no unpaid interest on such advances.

(Added Pub. L. 95-227, §2(a), Feb. 10, 1978, 92 Stat. 11; amended Pub. L. 97-119, title I, §102(a), Dec. 29, 1981, 95 Stat. 1635; Pub. L. 99-272, title XIII, §13203(a), (c), Apr. 7, 1986, 100 Stat. 312, 313; Pub. L. 99-514, title XVIII, §1897(a), Oct. 22, 1986, 100 Stat. 2941; Pub. L. 100-203, title X, §10503, Dec. 22, 1987, 101 Stat. 1330-446; Pub. L. 110-343, div. B, title I, §113(a), Oct. 3, 2008, 122 Stat. 3824.)

PRIOR PROVISIONS

For prior section 4121, see Prior Provisions note set out preceding this section.

AMENDMENTS

2008—Subsec. (e)(2)(A). Pub. L. 110-343, §113(a)(1), substituted “December 31, 2018” for “January 1, 2014”.

Subsec. (e)(2)(B). Pub. L. 110-343, §113(a)(2), substituted “December 31 after 2007” for “January 1 after 1981” in introductory provisions.

1987—Subsec. (e)(2)(A). Pub. L. 100-203 substituted “2014” for “1996”.

1986—Subsec. (a). Pub. L. 99-272, §13203(a), amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: “There is hereby imposed on coal sold by the producer a tax at the rates of—

“(1) 50 cents per ton in the case of coal from underground mines located in the United States, and

“(2) 25 cents per ton in the case of coal from surface mines located in the United States.”

Subsec. (b). Pub. L. 99-514 struck out “, in the case of sales during any calendar year beginning after December 31, 1985” after “subsection (a)”.

Pub. L. 99-272, §13203(a), amended subsec. (b) generally. Prior to amendment subsec. (b), limitation on tax, read as follows: “The amount of the tax imposed by subsection (a) with respect to a ton of coal shall not exceed 2 percent of the price at which such ton of coal is sold by the producer.”

Subsec. (e). Pub. L. 99-272, §13203(c), substituted “Reduction in amount of tax” for “Temporary increase in amount of tax” in heading and amended par. (1) generally. Prior to amendment par. (1) read as follows: “Effective with respect to sales after December 31, 1981, and before the temporary increase termination date—

“(A) subsection (a) shall be applied—

“(i) by substituting ‘\$1’ for ‘50 cents’, and

“(ii) by substituting ‘50 cents’ for ‘25 cents’, and

“(B) subsection (b) shall be applied by substituting ‘4 percent’ for ‘2 percent’.”

1981—Subsec. (e). Pub. L. 97-119 added subsec. (e).

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99-514, title XVIII, §1897(b), Oct. 22, 1986, 100 Stat. 2941, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendment made by section 13203 of the Consolidated Omnibus Budget Reconciliation Act of 1985 [section 13203 of Pub. L. 99-272, see note below].”

Pub. L. 99-272, title XIII, §13203(d), Apr. 7, 1986, 100 Stat. 313, provided that: “The amendments made by this section [amending this section] shall apply to sales after March 31, 1986.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-119, title I, §102(b), Dec. 29, 1981, 95 Stat. 1635, provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales after December 31, 1981.”

EFFECTIVE DATE

Pub. L. 95-227, §2(d), Feb. 10, 1978, 92 Stat. 12, provided that: “The amendments made by this section [enacting this section and amending sections 4218, 4221, 4293, and 6416 of this title] shall apply with respect to sales after March 31, 1978.”

Pub. L. 95-227, §5, Feb. 10, 1978, 92 Stat. 24, provided that: “Notwithstanding any other provision of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] to the contrary, no provision of this Act (including any amendment made by any such provision) shall take effect or apply unless an Act, enacted after the date of enactment of this Act [Feb. 10, 1978], contains a provision, explicitly in satisfaction of the requirements of this section, which states that it is the intent of the Congress that the provisions of this Act shall take effect.”

[Pub. L. 95-239, §20(c), Mar. 1, 1978, 92 Stat. 106, provided that: “In accordance with the requirements of section 5 of the Black Lung Benefits Revenue Act of 1977 [Pub. L. 95-227, set out above], it is hereby provided that such Act shall take effect in accordance with the provisions of such Act. The provisions of this subsection are hereby deemed to be in explicit satisfaction of the requirements of section 5 of such Act.”]

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95-227, Feb. 10, 1978, 92 Stat. 11, as the “Black Lung Benefits Revenue Act of 1977”, see Short Title of 1978 Amendments note set out under section 1 of this title.

SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS

Pub. L. 110-343, div. B, title I, §114, Oct. 3, 2008, 122 Stat. 3826, provided that:

“(a) REFUND.—

“(1) COAL PRODUCERS.—

“(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

“(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

“(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act [Oct. 3, 2008], and

“(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

“(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

“(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

“(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

“(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

“(I) is made by a court of competent jurisdiction within the United States,

“(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

“(III) is in favor of the coal producer or the party related to the coal producer.

“(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

“(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

“(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act [Oct. 3, 2008], and

“(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to \$0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, [sic] by the exporter.

“(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ‘settlement with the Federal Government’ shall not include any settlement or stipulation entered into as of the date of the enactment of this Act [Oct. 3, 2008], the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

“(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

“(d) DEFINITIONS.—For purposes of this section—

“(1) COAL PRODUCER.—The term ‘coal producer’ means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

“(2) EXPORTER.—The term ‘exporter’ means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

“(A) is indicated in the shipper’s export declaration or other documentation as the exporter of record, or

“(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

“(3) RELATED PARTY.—The term ‘a party related to such coal producer’ means a person who—

“(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

“(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

“(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell

such coal to a third party on behalf of such coal producer.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of [the] Treasury or the Secretary’s designee.

“(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

“(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

“(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

“(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

“(2) in the case of a payment to an exporter, an amount equal to \$0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

“(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act [Oct. 3, 2008].

“(i) STANDING NOT CONFERRED.—

“(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

“(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.”

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.

Subchapter C—Certain Vaccines

Sec.	
4131.	Imposition of tax.
4132.	Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter C consisted of sections 4141 to 4143, 4151, and 4152 of this title.

Section 4141, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Aug. 11, 1955, ch. 805, §2(a), 69 Stat. 690; Sept. 2, 1958, Pub. L. 85–859, title I, §113(a), 72 Stat. 1278, imposed a tax equivalent to 10 percent of selling price on radio and television receiving sets, phonographs, radio, television, and phonograph combinations, components, and phonograph records, prior to repeal by Pub. L. 89–44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4142, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Sept. 2, 1958, Pub. L. 85–859, title I, §113(a), 72 Stat. 1278;

Oct. 13, 1964, Pub. L. 88-653, §6(a), 78 Stat. 1086, defined "radio and television components" and provided formula to determine selling price of rebuilt television picture tubes, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4143, Pub. L. 85-859, title I, §113(a), Sept. 2, 1958, 72 Stat. 1278, granted an exemption for certain types of communication, detection, and navigation equipment and components, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4151, act Aug. 16, 1954, ch. 736, 68A Stat. 488, imposed a tax equivalent to 10 percent of selling price upon the sale of musical instruments, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4152, act Aug. 16, 1954, ch. 736, 68A Stat. 488, related to exemption of musical instruments sold for religious or educational use, prior to repeal by Pub. L. 85-859, title I, §119(b)(2), Sept. 2, 1958, 72 Stat. 1286, effective on the first day of the first calendar quarter which began more than 60 days after Sept. 2, 1958.

§ 4131. Imposition of tax

(a) General rule

There is hereby imposed a tax on any taxable vaccine sold by the manufacturer, producer, or importer thereof.

(b) Amount of tax

(1) In general

The amount of the tax imposed by subsection (a) shall be 75 cents per dose of any taxable vaccine.

(2) Combinations of vaccines

If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.

(c) Application of section

The tax imposed by this section shall apply—

(1) after December 31, 1987, and before January 1, 1993, and

(2) during periods after the date of the enactment of the Revenue Reconciliation Act of 1993.

(Added Pub. L. 100-203, title IX, §9201(a), Dec. 22, 1987, 101 Stat. 1330-327; amended Pub. L. 103-66, title XIII, §13421(a), Aug. 10, 1993, 107 Stat. 565; Pub. L. 105-34, title IX, §904(a), Aug. 5, 1997, 111 Stat. 873.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1993, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 103-66, which was approved Aug. 10, 1993.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

“If the taxable vaccine is:	The tax per dose is:
DPT vaccine	\$4.56

“If the taxable vaccine is:	The tax per dose is:
DT vaccine	0.06
MMR vaccine	4.44
Polio vaccine	0.29.

“(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.”

1993—Subsec. (c). Pub. L. 103-66 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to termination of tax if amounts collected exceeded projected fund liability.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §904(d), Aug. 5, 1997, 111 Stat. 874, provided that: “The amendments made by this section [amending this section and section 4132 of this title] shall take effect on the day after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE

Pub. L. 100-203, title IX, §9201(d), Dec. 22, 1987, 101 Stat. 1330-330, provided that: “The amendments made by this section [enacting this section and section 4132 of this title and amending sections 4221 and 6416 of this title] shall take effect on January 1, 1988.”

FLOOR STOCKS TAX

Pub. L. 103-66, title XIII, §13421(c), Aug. 10, 1993, 107 Stat. 566, provided that:

“(1) IMPOSITION OF TAX.—On any taxable vaccine—

“(A) which was sold by the manufacturer, producer, or importer on or before the date of the enactment of this Act [Aug. 10, 1993],

“(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

“(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

“(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

“(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.”

§ 4132. Definitions and special rules

(a) Definitions relating to taxable vaccines

For purposes of this subchapter—

(1) Taxable vaccine

The term “taxable vaccine” means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

- (A) Any vaccine containing diphtheria toxoid.
- (B) Any vaccine containing tetanus toxoid.
- (C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.
- (D) Any vaccine against measles.
- (E) Any vaccine against mumps.
- (F) Any vaccine against rubella.
- (G) Any vaccine against polio virus.
- (H) Any HIB vaccine.
- (I) Any vaccine against hepatitis A.
- (J) Any vaccine against hepatitis B.
- (K) Any vaccine against chicken pox.
- (L) Any vaccine against rotavirus gastroenteritis.
- (M) Any conjugate vaccine against streptococcus pneumoniae.
- (N) Any trivalent vaccine against influenza or any other vaccine against seasonal influenza.
- (O) Any meningococcal vaccine.
- (P) Any vaccine against the human papillomavirus.

(2) Vaccine

The term “vaccine” means any substance designed to be administered to a human being for the prevention of 1 or more diseases.

(3) United States

The term “United States” has the meaning given such term by section 4612(a)(4).

(4) Importer

The term “importer” means the person entering the vaccine for consumption, use, or warehousing.

(b) Credit or refund where vaccine returned to manufacturer, etc., or destroyed

(1) In general

Under regulations prescribed by the Secretary, whenever any vaccine on which tax was imposed by section 4131 is—

- (A) returned (other than for resale) to the person who paid such tax, or
- (B) destroyed,

the Secretary shall abate such tax or allow a credit, or pay a refund (without interest), to such person equal to the tax paid under section 4131 with respect to such vaccine.

(2) Claim must be filed within 6 months

Paragraph (1) shall apply to any returned or destroyed vaccine only with respect to claims filed within 6 months after the date the vaccine is returned or destroyed.

(3) Condition of allowance of credit or refund

No credit or refund shall be allowed or made under paragraph (1) with respect to any vaccine unless the person who paid the tax establishes that he—

- (A) has repaid or agreed to repay the amount of the tax to the ultimate purchaser of the vaccine, or
- (B) has obtained the written consent of such purchaser to the allowance of the credit or the making of the refund.

(4) Tax imposed only once

No tax shall be imposed by section 4131 on the sale of any vaccine if tax was imposed by

section 4131 on any prior sale of such vaccine and such tax is not abated, credited, or refunded.

(c) Other special rules

(1) Certain uses treated as sales

Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

(2) Treatment of vaccines shipped to United States possessions

Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States.

(3) Fractional part of a dose

In the case of a fraction of a dose, the tax imposed by section 4131 shall be the same fraction of the amount of such tax imposed by a whole dose.

(4) Disposition of revenues from Puerto Rico and the Virgin Islands

The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4131.

(Added Pub. L. 100-203, title IX, §9201(a), Dec. 22, 1987, 101 Stat. 1330-329; amended Pub. L. 100-647, title II, §2006(a), Nov. 10, 1988, 102 Stat. 3612; Pub. L. 105-34, title IX, §904(b), (c), Aug. 5, 1997, 111 Stat. 873, 874; Pub. L. 105-277, div. C, title XV, §1503(a), div. J, title III, §3002(a), Oct. 21, 1998, 112 Stat. 2681-741, 2681-905; Pub. L. 106-170, title V, §523(a)(1), (b)(1), Dec. 17, 1999, 113 Stat. 1927; Pub. L. 108-357, title VIII, §§889(a), 890(a), Oct. 22, 2004, 118 Stat. 1643, 1644; Pub. L. 109-432, div. A, title IV, §408(a), (b), Dec. 20, 2006, 120 Stat. 2962; Pub. L. 113-15, §1(a), June 25, 2013, 127 Stat. 476.)

AMENDMENTS

2013—Subsec. (a)(1)(N). Pub. L. 113-15 inserted “or any other vaccine against seasonal influenza” before period at end.

2006—Subsec. (a)(1)(O), (P). Pub. L. 109-432 added subpars. (O) and (P).

2004—Subsec. (a)(1)(I) to (M). Pub. L. 108-357, §889(a), added subpar. (I) and redesignated former subpars. (I) to (L) as (J) to (M), respectively.

Subsec. (a)(1)(N). Pub. L. 108-357, §890(a), added subpar. (N).

1999—Subsec. (a)(1)(K). Pub. L. 106-170, §523(b)(1), repealed Pub. L. 105-277, §1503(a). See 1998 Amendment note below.

Subsec. (a)(1)(L). Pub. L. 106-170, §523(a)(1), added subpar. (L).

1998—Subsec. (a)(1)(K). Pub. L. 105-277, §3002(a), added a subpar. (K) identical to that added by Pub. L. 105-277, §1503(a). See below.

Pub. L. 105-277, §1503(a), which directed amendment of section 4132(1) by adding a new subpar. (K) at the end, was repealed by Pub. L. 106-170, §523(b)(1).

1997—Subsec. (a)(1). Pub. L. 105-34, §904(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘taxable vaccine’ means any vaccine—

“(A) which is listed in the table contained in section 4131(b)(1), and

“(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.”

Subsec. (a)(2) to (8). Pub. L. 105-34, §904(c), redesignated pars. (6) to (8) as (2) to (4), respectively, and struck out former pars. (2) to (5) which read as follows:

“(2) DPT VACCINE.—The term ‘DPT vaccine’ means any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

“(3) DT VACCINE.—The term ‘DT vaccine’ means any vaccine (other than a DPT vaccine) containing diphtheria toxoid or tetanus toxoid.

“(4) MMR VACCINE.—The term ‘MMR vaccine’ means any vaccine against measles, mumps, or rubella. Not more than 1 tax shall be imposed by section 4131 on any MMR vaccine by reason of being a vaccine against more than 1 of measles, mumps, or rubella.

“(5) POLIO VACCINE.—The term ‘polio vaccine’ means any vaccine containing polio virus.”

1988—Subsec. (c). Pub. L. 100-647 added pars. (1) and (2) and redesignated former pars. (1) and (2) as (3) and (4), respectively.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-15, §1(b), June 25, 2013, 127 Stat. 476, provided that:

“(1) SALES, ETC.—The amendment made by this section [amending this section] shall apply to sales and uses on or after the later of—

“(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act [June 25, 2013], or

“(B) the date on which the Secretary of Health and Human Services lists any vaccine against seasonal influenza (other than any vaccine against seasonal influenza listed by the Secretary prior to the date of the enactment of this Act) for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

“(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §408(c), Dec. 20, 2006, 120 Stat. 2962, provided that:

“(1) SALES, ETC.—The amendments made by this section [amending this section] shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act [Dec. 20, 2006].

“(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §889(b), Oct. 22, 2004, 118 Stat. 1643, provided that:

“(1) SALES, ETC.—The amendments made by subsection (a) [amending this section] shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act [Oct. 22, 2004].

“(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

Pub. L. 108-357, title VIII, §890(b), Oct. 22, 2004, 118 Stat. 1644, provided that:

“(1) SALES, ETC.—The amendment made by this section [amending this section] shall apply to sales and uses on or after the later of—

“(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act [Oct. 22, 2004], or

“(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

“(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §523(a)(2), Dec. 17, 1999, 113 Stat. 1927, provided that:

“(A) SALES.—The amendment made by this subsection [amending this section] shall apply to vaccine sales after the date of the enactment of this Act [Dec. 17, 1999], but shall not take effect if subsection (b) [see note below] does not take effect.

“(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

Pub. L. 106-170, title V, §523(b)(3), Dec. 17, 1999, 113 Stat. 1928, provided that: “The amendments made by this subsection [amending this section and section 9510 of this title and repealing provisions set out as notes under this section and section 9510 of this title] shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 [Pub. L. 105-277] to which they relate.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title XV, §1503(b), div. I, title III, §3002(b), Oct. 21, 1998, 112 Stat. 2681-741, 2681-905, which provided that amendment of this section by Pub. L. 105-277 was applicable to sales after Oct. 21, 1998, and that delivery date would be considered sale date in the case of sales on or before Oct. 21, 1998, was repealed by Pub. L. 106-170, title V, §523(b)(1), Dec. 17, 1999, 113 Stat. 1927.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the day after Aug. 5, 1997, see section 904(d) of Pub. L. 105-34, set out as a note under section 4131 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title II, §2006(c), Nov. 10, 1988, 102 Stat. 3613, provided that: “The amendments made by this section [amending this section and section 9510 of this title] shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203].”

LIMITATION ON CERTAIN CREDITS OR REFUNDS

Pub. L. 105-34, title IX, §904(e), Aug. 5, 1997, 111 Stat. 874, provided that: “For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed before January 1, 1999, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on the day after the date of the enactment of this Act [Aug. 5, 1997].”

Subchapter D—Recreational Equipment

- Part I. Sporting goods.
- [II. Repealed.]
- III. Firearms.

AMENDMENTS

1965—Pub. L. 89-44, title II, §205(b), June 21, 1965, 79 Stat. 140, struck out item relating to part II.

PART I—SPORTING GOODS

Sec.	
4161.	Imposition of tax.
4162.	Definitions; treatment of certain resales.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title X, §1015(d), July 18, 1984, 98 Stat. 1019, added item 4162.

§ 4161. Imposition of tax**(a) Sport fishing equipment****(1) Imposition of tax****(A) In general**

There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

(B) Limitation on tax imposed on fishing rods and poles

The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed \$10.

(2) 3 percent rate of tax for electric outboard motors

In the case of an electric outboard motor, paragraph (1) shall be applied by substituting “3 percent” for “10 percent”.

(3) 3 percent rate of tax for tackle boxes

In the case of fishing tackle boxes, paragraph (1) shall be applied by substituting “3 percent” for “10 percent”.

(4) Parts or accessories sold in connection with taxable sale

In the case of any sale by the manufacturer, producer, or importer of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof.

(b) Bows and arrows, etc.**(1) Bows****(A) In general**

There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

(B) Archery equipment

There is hereby imposed on the sale by the manufacturer, producer, or importer—

(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

(ii) of any quiver, broadhead, or point suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.

(2) Arrows**(A) In general**

There is hereby imposed on the first sale by the manufacturer, producer, or importer of any shaft (whether sold separately or in-

corporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

(i) measures 18 inches overall or more in length, or

(ii) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 39 cents per shaft.

(B) Exemption for certain wooden arrow shafts

Subparagraph (A) shall not apply to any shaft consisting of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

(i) measures $\frac{5}{16}$ of an inch or less in diameter, and

(ii) is not suitable for use with a bow described in paragraph (1)(A).

(C) Adjustment for inflation**(i) In general**

In the case of any calendar year beginning after 2005, the 39-cent amount specified in subparagraph (A) shall be increased by an amount equal to the product of—

(I) such amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting “2004” for “1992” in subparagraph (B) thereof.

(ii) Rounding

If any increase determined under clause (i) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent.

(3) Coordination with subsection (a)

No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 489; Pub. L. 89-44, title II, §205(a), June 21, 1965, 79 Stat. 140; Pub. L. 92-558, title II, §201(a), Oct. 25, 1972, 86 Stat. 1173; Pub. L. 98-369, div. A, title X, §§1015(a), 1017(a), (b), July 18, 1984, 98 Stat. 1017, 1021; Pub. L. 99-514, title XVIII, §1899A(48), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 105-34, title XIV, §1433(a), Aug. 5, 1997, 111 Stat. 1051; Pub. L. 108-357, title III, §§332(a)-(c), 333(a), Oct. 22, 2004, 118 Stat. 1477, 1478; Pub. L. 108-493, §1(a)-(c), Dec. 23, 2004, 118 Stat. 3984; Pub. L. 109-59, title XI, §11117(a), (b), Aug. 10, 2005, 119 Stat. 1951; Pub. L. 109-135, title IV, §412(uu), Dec. 21, 2005, 119 Stat. 2640; Pub. L. 110-343, div. C, title V, §503(a), Oct. 3, 2008, 122 Stat. 3877.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2008—Subsec. (b)(2)(B), (C). Pub. L. 110-343 added subpar. (B) and redesignated former subpar. (B) as (C).

2005—Subsec. (a)(1). Pub. L. 109-59, §11117(a), reenacted heading without change and amended text of par. (1) generally, designating existing provisions as subpar. (A), inserting subpar. heading, and adding subpar. (B).

Subsec. (a)(2). Pub. L. 109-135 amended heading and text of par. (2) generally. Prior to amendment, text read as follows:

“(A) IN GENERAL.—In the case of an electric outboard motor or a sonar device suitable for finding fish, paragraph (1)(A) shall be applied by substituting ‘3 percent’ for ‘10 percent’.

“(B) \$30 LIMITATION ON TAX IMPOSED ON SONAR DEVICES SUITABLE FOR FINDING FISH.—The tax imposed by paragraph (1)(A) on any sonar device suitable for finding fish shall not exceed \$30.”

Pub. L. 109-59, §11117(b), substituted “paragraph (1)(A)” for “paragraph (1)” in two places.

2004—Subsec. (a)(3), (4). Pub. L. 108-357, §333(a), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 108-357, §332(a), reenacted heading without change and amended text of par. (1) generally, substituting provisions imposing a tax on the sale of any bow which has a peak draw weight of 30 pounds or more, any part or accessory, and any quiver or broadhead suitable for use with an arrow described in par. (2), for provisions imposing a tax on the sale of any bow which has a draw weight of 10 pounds or more, any part of accessory, and any quiver suitable for use with arrows described in par. (2).

Subsec. (b)(1)(B)(ii). Pub. L. 108-493, §1(c), substituted “quiver, broadhead, or point” for “quiver or broadhead”.

Subsec. (b)(2). Pub. L. 108-493, §1(b), amended heading and text of par. (2) generally, substituting provisions relating to arrows for provisions relating to arrow components.

Pub. L. 108-357, §332(c), substituted “Arrow components” for “Arrows” in heading and inserted “(other than broadheads)” after “point” in introductory provisions.

Subsec. (b)(3), (4). Pub. L. 108-493, §1(a), repealed Pub. L. 108-357, §332(b). See note below.

Pub. L. 108-357, §332(b), which directed the amendment of subsec. (b) by adding par. (3), relating to arrows, and redesignating former par. (3) as (4), was repealed by Pub. L. 108-493, §1(a). See Construction of 2004 Amendment note below.

1997—Subsec. (b). Pub. L. 105-34 amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) to (3) imposing taxes on bows and arrows and parts and accessories and providing for coordination of taxes under subssecs. (a) and (b).

1986—Subsec. (b)(1)(B)(ii). Pub. L. 99-514 substituted a comma for the period at end.

1984—Subsec. (a). Pub. L. 98-369, §1015(a), in amending subsec. (a) generally, designated existing provisions as par. (1), substituted “any article of sport fishing equipment by the manufacturer, producer, or importer” for “fishing rods, creels, reels, and artificial lures, baits, and flies (including parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer”, and added pars. (2) and (3).

Subsec. (b)(1)(B). Pub. L. 98-369, §1017(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(A). Pub. L. 98-369, §1017(b)(2), struck out “(other than a fishing reel)” after “part or accessory”.

Subsec. (b)(3). Pub. L. 98-369, §1017(b)(1), added par. (3).

1972—Subsec. (a). Pub. L. 92-558, §201(a)(1), designated existing provisions as subsec. (a) and inserted catchline.

Subsec. (b). Pub. L. 92-558, §201(a)(2), added subsec. (b).

1965—Pub. L. 89-44 removed 10 percent tax on equipment for billiards, pool, bowling, trap shooting, cricket, croquet, badminton, curling, deck tennis, golf, lacrosse, polo, skiing, squash, table tennis, and tennis, and retained tax only for fishing equipment.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title V, §503(b), Oct. 3, 2008, 122 Stat. 3877, provided that: “The amendments made by this section [amending this section] shall apply to shafts first sold after the date of enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11117(c), Aug. 10, 2005, 119 Stat. 1951, provided that: “The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.”

EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108-493, §1(d), Dec. 23, 2004, 118 Stat. 3985, provided that: “The amendments made by subsections (b) and (c) [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after March 31, 2005.”

Pub. L. 108-357, title III, §332(d), Oct. 22, 2004, 118 Stat. 1478, provided that: “The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after the date which is 30 days after the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-357, title III, §333(b), Oct. 22, 2004, 118 Stat. 1478, provided that: “The amendments made this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2004.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1433(b), Aug. 5, 1997, 111 Stat. 1052, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1997.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 1015(a) of Pub. L. 98-369 applicable with respect to articles sold by the manufacturer, producer, or importer after Sept. 30, 1984, see section 1015(e) of Pub. L. 98-369, set out as an Effective Date note under section 4162 of this title.

Pub. L. 98-369, div. A, title X, §1017(c), July 18, 1984, 98 Stat. 1021, provided that: “The amendments made by this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.”

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-558, title II, §201(b), Oct. 25, 1972, 86 Stat. 1173, as amended by Pub. L. 93-313, June 8, 1974, 88 Stat. 238, provided that: “The amendments made by subsection (a) of this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer thereof on or after January 1, 1975.”

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VII, §701(a), June 21, 1965, 79 Stat. 155, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by titles I and II of this Act [enacting sections 4094 and 6424 of this title, amending this section and sections 4055, 4057, 4061, 4091, 4216, 4218, 4221, 4222, 4227, 6011, 6206, 6412, 6416, 6675, 7210, 7603, 7604, and 7605 of this title, repealing sections 4001 to 4003, 4011 to 4013, 4021, 4022, 4031, 4051 to 4053, 4111, 4121, 4131, 4141 to 4143, 4151, 4171 to 4173, 4191, 4192, 4201, 4211, and 4224 of this title, and amending provisions set out as a note under section 120 of Title 23, Highways] shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [June 21, 1965].

“(2) SPECIAL RULES.—The amendments made by sections 201(b)(2) [amending section 4061 of this title] (re-

lating to automobile parts and accessories) and 202(a) [amending section 4091 of this title] (relating to lubricating oil) shall apply with respect to articles sold on or after January 1, 1966. The amendments made by section 202(b) [enacting section 6424 of this title] and (c) [enacting section 4094 and amending sections 6206, 6675, 7210, 7603, 7604, and 7605 of this title] (relating to payments with respect to lubricating oil) shall take effect January 1, 1966. The amendments made by section 203 [repealing sections 4111, 4121, and 4131 of this title], insofar as they relate to the tax imposed by section 4131 (relating to electric light bulbs) of the Code, and the amendments made by section 208 [amending sections 4216, 4218, 4221, 4222, and 4227], insofar as they relate to the tax imposed by section 4061(b) (relating to automotive parts and accessories), section 4091 (relating to lubricating oil), or section 4131 (relating to electric light bulbs) of the Code, shall apply with respect to articles sold on or after January 1, 1966. The amendments made by section 207 [amending sections 4216 and 6416 of this title] (relating to partial payments; sales of installment accounts) and 209(a) [amending section 6412 of this title] (relating to floor stocks refunds on passenger automobiles, etc.) shall take effect on the day after the date of the enactment of this Act [June 21, 1965]. The amendments made by section 210 [amending provisions set out as a note under section 120 of Title 23, Highways] (relating to Highway Trust Fund) shall take effect January 1, 1966.

“(3) **INSTALLMENT SALES, ETC.**—For purposes of paragraphs (1) and (2), an article shall not be considered sold before the day after the date of the enactment of this Act [June 21, 1965] or before January 1, 1966, as the case may be, unless possession or right to possession passes to the purchaser before such day or such date. In the case of—

“(A) a lease,

“(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

“(C) a conditional sale, or

“(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into before such day or such date, payments made on or after such day or such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold on or after such day or such date, if the lessor or vendor establishes that the amount of payments payable on or after such day or such date with respect to such article has been reduced by an amount equal to the tax reduction applicable with respect to the lease or sale of such article.

“(4) **ELECTRIC LIGHT BULBS USED IN MANUFACTURE OF ARTICLES UPON WHICH TAX IS REPEALED.**—For purposes of applying section 4218(a) of the Code with respect to the use of an electric light bulb or tube by the manufacturer, producer, or importer thereof, and for purposes of applying section 4221(d)(6)(A) of the Code with respect to the sale of an electric light bulb or tube for use in further manufacture, an article which was taxable under chapter 32 of the Code on the date of the enactment of this Act [June 21, 1965] shall, during the period beginning with the day after the date of the enactment of this Act through December 31, 1965, be treated as an article taxable under such chapter.”

CONSTRUCTION OF 2004 AMENDMENT

Pub. L. 108-493, §1(a), Dec. 23, 2004, 118 Stat. 3984, provided that: “Subsection (b) of section 332 of the American Jobs Creation Act of 2004 [Pub. L. 108-357], and the amendments made by such subsection [amending this section], are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsection and amendments had never been enacted.”

§ 4162. Definitions; treatment of certain resales

(a) Sport fishing equipment defined

For purposes of this part, the term “sport fishing equipment” means—

- (1) fishing rods and poles (and component parts therefor),
- (2) fishing reels,
- (3) fly fishing lines, and other fishing lines not over 130 pounds test,
- (4) fishing spears, spear guns, and spear tips,
- (5) items of terminal tackle, including—
 - (A) leaders,
 - (B) artificial lures,
 - (C) artificial baits,
 - (D) artificial flies,
 - (E) fishing hooks,
 - (F) bobbers,
 - (G) sinkers,
 - (H) snaps,
 - (I) drayles, and
 - (J) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in paragraph (3), and

(6) the following items of fishing supplies and accessories—

- (A) fish stringers,
- (B) creels,
- (C) tackle boxes,
- (D) bags, baskets, and other containers designed to hold fish,
- (E) portable bait containers,
- (F) fishing vests,
- (G) landing nets,
- (H) gaff hooks,
- (I) fishing hook disgorgers, and
- (J) dressing for fishing lines and artificial flies,
- (7) fishing tip-ups and tilts,
- (8) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers, and
- (9) electric outboard boat motors.

(b) Treatment of certain resales

(1) In general

If—

(A) the manufacturer, producer, or importer sells any article taxable under section 4161(a) to any person,

(B) the constructive sale price rules of section 4216(b) do not apply to such sale, and

(C) such person (or any other person) sells such article to a related person with respect to the manufacturer, producer, or importer,

then such related person shall be liable for tax under section 4161 in the same manner as if such related person were the manufacturer of the article.

(2) Credit for tax previously paid

If—

(A) tax is imposed on the sale of any article by reason of paragraph (1), and

(B) the related person establishes the amount of the tax which was paid on the sale described in paragraph (1)(A),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

(3) **Related person**

For purposes of this subsection, the term “related person” has the meaning given such term by section 465(b)(3)(C).

(4) **Regulations**

Except to the extent provided in regulations, rules similar to the rules of this subsection shall also apply in cases (not described in paragraph (1)) in which intermediaries or other devices are used for purposes of reducing the amount of the tax imposed by section 4161(a).

(Added Pub. L. 98-369, div. A, title X, §1015(b), July 18, 1984, 98 Stat. 1017; amended Pub. L. 99-514, title II, §201(d)(7)(C), (12), title XVIII, §1878(b), Oct. 22, 1986, 100 Stat. 2141, 2142, 2903; Pub. L. 108-357, title III, §334(a), (b), Oct. 22, 2004, 118 Stat. 1478.)

AMENDMENTS

2004—Subsec. (a)(8) to (10). Pub. L. 108-357, §334(a), inserted “and” at end of par. (8), substituted a period for “, and” at end of par. (9), and struck out par. (10) which read as follows: “sonar devices suitable for finding fish.”

Subsecs. (b), (c). Pub. L. 108-357, §334(b), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “For purposes of this part, the term ‘sonar device suitable for finding fish’ shall not include any sonar device which is—

- “(1) a graph recorder,
- “(2) a digital type,
- “(3) a meter readout, or
- “(4) a combination graph recorder or combination meter readout.”

1986—Subsec. (a)(6)(I). Pub. L. 99-514, §1878(b), amended subpar. (I) generally, substituting “hook” for “hood”.

Subsec. (c)(3). Pub. L. 99-514, §201(d)(7)(C), (12), made identical amendments, substituting “section 465(b)(3)(C)” for “section 168(e)(4)(D)”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title III, §334(c), Oct. 22, 2004, 118 Stat. 1478, provided that: “The amendments made this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2004.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(7)(C), (12) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(7)(C), (12) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

Amendment by section 1878(b) 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

Pub. L. 98-369, div. A, title X, §1015(e), July 18, 1984, 98 Stat. 1019, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this

section and amending sections 4161 and 6302 of this title] shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

“(2) TREATMENT OF CERTAIN REALES.—Subsection (c) of section 4162 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to treatment of certain re-sales), as added by this section, shall apply to sales by related persons (as defined in such subsection) after the date of the enactment of this Act [July 18, 1984].”

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.

[PART II—REPEALED]

§§ 4171 to 4173. Repealed. Pub. L. 89-44, title II, § 205(b), June 21, 1965, 79 Stat. 140]

Section 4171, act Aug. 16, 1954, ch. 736, 68A Stat. 489, imposed a 10 percent tax on cameras, camera lenses, and unexposed photographic film on rolls and a 5 percent tax on electric motion or still picture projectors of the household type.

Section 4172, act Aug. 16, 1954, ch. 736, 68A Stat. 490, defined certain vendees of unexposed films as manufacturers for purposes of payment of the tax imposed by section 4171.

Section 4173, act Aug. 16, 1954, ch. 736, 68A Stat. 490, granted exemptions for specified types of cameras, lenses of specified focal lengths, and certain types of film.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after June 22, 1965, see section 701(a) of Pub. L. 84-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

PART III—FIREARMS

Sec.	
4181.	Imposition of tax.
4182.	Exemptions.

§ 4181. Imposition of tax

There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—

- Pistols.
- Revolvers.

Articles taxable at 11 percent—

- Firearms (other than pistols and revolvers).
- Shells, and cartridges.

(Aug. 16, 1954, ch. 736, 68A Stat. 490.)

§ 4182. Exemptions

(a) **Machine guns and short barreled firearms**

The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid.

(b) **Sales to defense department**

No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for

the military department shall be subject to any tax imposed on the sale or transfer of such articles.

(c) Small manufacturers, etc.

(1) In general

The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

(2) Controlled groups

All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).

(d) Records

Notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal license under chapter 44 of title 18, United States Code, shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts for the aforesaid types of ammunition.

(Aug. 16, 1954, ch. 736, 68A Stat. 490; Pub. L. 91-128, §5, Nov. 26, 1969, 83 Stat. 269; Pub. L. 109-59, title XI, §11131(a), Aug. 10, 2005, 119 Stat. 1959.)

AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109-59 added subsec. (c) and redesignated former subsec. (c) as (d).

1969—Subsec. (c). Pub. L. 91-128 added subsec. (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11131(b), Aug. 10, 2005, 119 Stat. 1959, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

“(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.”

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-128, §1(a), Nov. 26, 1969, 83 Stat. 261, provided that: “This Act [amending this section and sections 4911, 4912, 4914, 4915, 4919, 4920, 6011, and 6680 of this title and enacting provisions set out as notes under section 6680 of this title] may be cited as the ‘Interest Equalization Tax Extension Act of 1969.’”

Subchapter E—Medical Devices

Sec.
4191. Medical devices.

PRIOR PROVISIONS

A prior subchapter E consisted of sections 4191, 4192, 4201, and 4211 of this title, prior to repeal by Pub. L. 89-44, title II, §206, title VII, §701(a), June 21, 1965, 79 Stat. 140, 155, applicable with respect to articles sold on or after June 22, 1965.

Section 4191, act Aug. 16, 1954, ch. 736, 68A Stat. 491, imposed a tax equivalent to 10 percent of the selling

price upon over fifty specified office and business machines including adding machines, bookkeeping machines, cash registers, punch card and computing machines, typewriters, and tabulating machines.

Section 4192, acts Aug. 16, 1954, ch. 736, 68A Stat. 491; Sept. 2, 1958, Pub. L. 85-859, title I, §114(a), 72 Stat. 1278, granted an exemption for cash registers used in registering over-the-counter retail sales and for stencil cutting machines.

Section 4201, acts Aug. 16, 1954, ch. 736, 68A Stat. 492; Sept. 14, 1960, Pub. L. 86-779, §9(a), 74 Stat. 1003, imposed a tax equivalent to 10 percent of the selling price on mechanical pencils, fountain pens, and ballpoint pens and 10 cents on mechanical cigarette lighters.

Section 4211, act Aug. 16, 1954, ch. 736, 68A Stat. 492, imposed a tax of 2 cents per 1,000 for matches, except fancy wooden matches, and a tax of 5½ cents per 1,000 on fancy wooden matches.

§ 4191. Medical devices

(a) In general

There is hereby imposed on the sale of any taxable medical device by the manufacturer, producer, or importer a tax equal to 2.3 percent of the price for which so sold.

(b) Taxable medical device

For purposes of this section—

(1) In general

The term “taxable medical device” means any device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) intended for humans.

(2) Exemptions

Such term shall not include—

- (A) eyeglasses,
- (B) contact lenses,
- (C) hearing aids, and
- (D) any other medical device determined by the Secretary to be of a type which is generally purchased by the general public at retail for individual use.

(Added Pub. L. 111-152, title I, §1405(a)(1), Mar. 30, 2010, 124 Stat. 1064.)

REFERENCES IN TEXT

Section 201(h) of the Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), is classified to section 321(h) of Title 21, Food and Drugs.

PRIOR PROVISIONS

For prior sections 4191, 4192, 4201, and 4211, see Prior Provisions note set out preceding this section.

EFFECTIVE DATE

Pub. L. 111-152, title I, §1405(c), Mar. 30, 2010, 124 Stat. 1065, provided that: “The amendments made by this section [enacting this section and amending sections 4221 and 6416 of this title] shall apply to sales after December 31, 2012.”

Subchapter F—Special Provisions Applicable to Manufacturers Tax

Sec.
4216. Definition of price.
4217. Leases.
4218. Use by manufacturer or importer considered sale.
4219. Application of tax in case of sales by other than manufacturer or importer.
[4220 to 4225. Repealed.]

AMENDMENTS

1958—Pub. L. 85-859, title I, §§117(d), 119(b)(3), Sept. 2, 1958, 72 Stat. 1281, 1286, substituted “Leases” for “Lease

considered sale'' in item 4217, and struck out items 4220 to 4225.

1956—Act June 29, 1956, ch. 462, title II, §207(b), 70 Stat. 392, added item 4226 and redesignated former item 4226 as 4227.

§ 4216. Definition of price

(a) Containers, packing and transportation charges.

In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Secretary in accordance with the regulations.

(b) Constructive sale price

(1) In general

If an article is—

- (A) sold at retail,
- (B) sold on consignment, or
- (C) sold (otherwise than through an arm's length transaction) at less than the fair market price,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. In the case of an article sold at retail, the computation under the preceding sentence shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. This paragraph shall not apply if paragraph (2) applies.

(2) Special rule

If an article is sold at retail or to a retailer, and if—

- (A) the manufacturer, producer, or importer of such article regularly sells such articles at retail or to retailers, as the case may be,
- (B) the manufacturer, producer, or importer of such article regularly sells such articles to one or more wholesale distributors in arm's length transactions and he establishes that his prices in such cases are determined without regard to any tax benefit under this paragraph, and
- (C) the transaction is an arm's length transaction,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold by such manufacturer, pro-

ducer, or importer to wholesale distributors (other than special dealers).

(3) Constructive sale price in case of certain articles

Except as provided in paragraph (4), for purposes of paragraph (1), if—

- (A) the manufacturer, producer, or importer of an article regularly sells such article to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer, and
- (B) such distributor regularly sells such article to one or more independent retailers, but does not regularly sell to wholesale distributors,

the constructive sale price of such article shall be 90 percent of the lowest price for which such distributor regularly sells such article in arm's-length transactions to such independent retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustments under subsections (a) and (e) and under section 6416(b)(1). If both this paragraph and paragraph (4) apply with respect to an article, the constructive sale price for such article shall be the lower of the constructive sale price determined under this paragraph or paragraph (4).

(4) Constructive sale price in case of certain other articles

For purposes of paragraph (1), if—

- (A) the manufacturer, producer, or importer of an article regularly sells (except for tax-free sales) only to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer,
- (B) the distributor regularly sells (except for tax-free sales) such article only to retailers, and
- (C) the normal method of sales for such articles within the industry by manufacturers, producers, or importers is to sell such articles in arm's-length transactions to distributors,

the constructive sale price for such article shall be the price at which such article is sold to retailers by the distributor, reduced by a percentage of such price equal to the percentage which (i) the difference between the price for which comparable articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, and the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers, is of (ii) the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustment under subsections (a) and (e) and under section 6416(b)(1).

(5) Definition of lowest price

For purposes of paragraphs (1) and (3), the lowest price shall be determined—

(A) without requiring that any given percentage of sales be made at that price, and

(B) without including any fixed amount to which the purchaser has a right as a result of contractual arrangements existing at the time of the sale.

(c) Partial payments

In the case of—

(1) a lease (other than a lease to which section 4217(b) applies),

(2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(3) a conditional sale, or

(4) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

there shall be paid upon each payment with respect to the article a percentage of such payment equal to the rate of tax in effect on the date such payment is due.

(d) Sales of installment accounts

If installment accounts, with respect to payments on which tax is being computed as provided in subsection (c), are sold or otherwise disposed of, then subsection (c) shall not apply with respect to any subsequent payments on such accounts (other than subsequent payments on returned accounts with respect to which credit or refund is allowable by reason of section 6416(b)(5)), but instead—

(1) there shall be paid an amount equal to the difference between (A) the tax previously paid on the payments on such installment accounts, and (B) the total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in subsection (c)); except that

(2) if any such sale is pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding, the amount computed under paragraph (1) shall not exceed the sum of the amounts computed by multiplying (A) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment by (B) the rate of tax under this chapter in effect on the date such unpaid installment payment is or was due.

The sum of the amounts payable under this subsection and subsection (c) in respect of the sale of any article shall not exceed the total tax.

(e) Exclusion of local advertising charge from sale price

(1) Exclusion

In determining, for purposes of this chapter, the price for which an article is sold, there shall be excluded a charge for local advertising (as defined in paragraph (4)) to the extent that such charge—

(A) does not exceed 5 percent of the price for which the article is sold (as determined under this section by excluding any charge for local advertising),

(B) is a separate charge made when the article is sold, and

(C) is intended to be refunded to the purchaser or any subsequent vendee in reimbursement of costs incurred for local advertising.

In the case of any such charge (or portion thereof) which is not so refunded before the first day of the fifth calendar month following the calendar year during which the article was sold, the exclusion provided by the preceding sentence shall cease to apply as of such first day.

(2) Aggregate amount which may be excluded

In the case of articles upon the sale of which tax was imposed under the same section of this chapter—

(A) The sum of (i) the aggregate of the charges for local advertising excluded under paragraph (1), plus (ii) the aggregate of the readjustments for local advertising under section 6416(b)(1) (relating to credits or refunds for price readjustments), shall not exceed

(B) 5 percent of the aggregate of the prices (determined under this section by excluding all charges for local advertising) at which such articles were sold in sales on which tax was imposed by such section of this chapter.

The preceding sentence shall be applied to each manufacturer, producer, and importer as of the close of each calendar quarter, taking into account the items specified in subparagraphs (A) and (B) for such calendar quarter and preceding calendar quarters in the same calendar year.

(3) No adjustment for other advertising charges

Except to the extent provided by paragraphs (1) and (2), no charge or expenditure for advertising shall serve, for purposes of this section or section 6416(b)(1), as the basis for an exclusion from, or as a readjustment of, the price of any article.

(4) Local advertising defined

For purposes of this section and section 6416(b)(1), the term "local advertising" means only advertising which—

(A) is initiated or obtained by the purchaser or any subsequent vendee,

(B) names the article for which the price is determinable under this section and states the location at which such article may be purchased at retail, and

(C) is broadcast over a radio station or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

(Aug. 16, 1954, ch. 736, 68A Stat. 493; Aug. 9, 1955, ch. 677, §§1, 2, 69 Stat. 613; Pub. L. 85-859, title I, §§115, 116, 117(b), Sept. 2, 1958, 72 Stat. 1279-1281; Pub. L. 86-781, §1, Sept. 14, 1960, 74 Stat. 1017; Pub. L. 87-770, §2(a), Oct. 9, 1962, 76 Stat. 768; Pub. L. 87-858, §1(a), Oct. 23, 1962, 76 Stat. 1134; Pub. L. 89-44, title II, §§207(a), (b), 208(a), (b), title VIII, §801(b), June 21, 1965, 79 Stat. 140, 141, 158; Pub. L. 91-172, title IX, §932(a), Dec. 30, 1969, 83 Stat. 725; Pub. L. 91-614, title III, §301(a), (b), Dec. 31, 1970, 84 Stat. 1844; Pub. L. 92-178, title IV, §401(g)(4), Dec. 10, 1971, 85 Stat. 533; Pub. L.

94-455, title XIX, §§1904(a)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1811, 1834; Pub. L. 95-458, §1(a), (b), Oct. 14, 1978, 92 Stat. 1255; Pub. L. 98-369, div. A, title VII, §735(c)(6), July 18, 1984, 98 Stat. 982.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369, §735(c)(6)(A), in provisions following subpar. (C) struck out “(other than an article the sale of which is taxable under section 4061(a))” in second sentence, before “the computation under the preceding sentence”, and struck out provision that in the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer’s or producer’s cost).

Subsec. (b)(2)(B) to (D). Pub. L. 98-369, §735(c)(6)(B), inserted “and” at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which related to articles upon which tax is imposed under section 4061(a) of this title.

Subsec. (b)(3). Pub. L. 98-369, §735(c)(6)(D), substituted “paragraph (4)” for “paragraphs (4) and (5)”.

Subsec. (b)(5), (6). Pub. L. 98-369, §735(c)(6)(C), (E), redesignated par. (6) as par. (5), substituted “(1) and (3)” for “(1), (3) and (5)”, and struck out former par. (5) which related to constructive sale price in the case of automobiles, trucks, etc.

Subsec. (f). Pub. L. 98-369, §735(c)(6)(F), struck out subsec. (f) which related to certain trucks incorporating used components.

1978—Subsec. (b)(1). Pub. L. 95-458 substituted “article sold at retail (other than an article the sale of which is taxable under section 4061(a)), the computation” for “article sold at retail, the computation” and inserted provision requiring the computation of tax on articles taxable under section 4061(a) which are sold at retail to be a percentage, but not greater than 100% of the actual selling price based on the highest price for which the articles are sold by manufacturers and producers in the ordinary course of trade, determined without regard to individual manufacturer’s or producer’s cost.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§1904(a)(2)(B), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” in two places in par. (1), and substituted “subsections (a) and (e)” for “subsections (a) and (f)” in pars. (3), (4), and (5), after “or readjustments under”.

Subsecs. (d) to (g). Pub. L. 94-455, §1904(a)(2)(A), redesignated subsecs. (e) to (g) as (d) to (f), respectively.

1971—Subsec. (b)(2)(C), (5). Pub. L. 92-178, §401(g)(4)(A), substituted “(relating to trucks, buses, tractor, etc.)” for “(relating to automobiles, trucks, etc.)”.

Subsec. (g). Pub. L. 92-178, §401(g)(4)(B), inserted reference to “tractors,” after “buses.”.

1970—Subsec. (b)(3). Pub. L. 91-614, §301(b), substituted “Constructive sale price” for “Fair market price” in heading, “constructive sale price” for “fair market price” three places in text, substituted “paragraphs (4) and (5)” for “paragraph (4)” and “paragraph (1)” for “paragraph (1)(C)”.

Subsec. (b)(4). Pub. L. 91-614, §301(b)(2), substituted “Constructive sale price” for “Fair market price” in heading, “constructive sale price” for “fair market price” in text, and “paragraph (1)” for “paragraph (1)(C)”.

Subsec. (b)(5), (6). Pub. L. 91-614, §301(a), added pars. (5) and (6).

1969—Subsec. (b)(3), (4). Pub. L. 91-172 added pars. (3) and (4).

1965—Subsec. (b)(2). Pub. L. 89-44, §208(a), struck out reference to special dealers and to articles upon which tax is imposed under section 4191 or 4211 of this title.

Subsec. (b)(3). Pub. L. 89-44, §208(b), struck out par. (3) which related to special dealers.

Subsec. (c). Pub. L. 89-44, §207(a), struck out “that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment” in text following par. (4) and inserted in lieu thereof “a percentage of such payment equal to the rate of tax in effect on the date such payment is due”.

Subsec. (e)(1). Pub. L. 89-44, §207(b)(1), substituted “total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in subsection (c)) for “total tax”.

Subsec. (e)(2). Pub. L. 89-44, §207(b)(2), substituted, as factor (A) in the formula for computing the maximum amount, the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment for the amount for which such accounts are sold, and, as factor (B) in the formula, the rate of tax on the date that such unpaid installment payment is or was due for the rate of tax which applied on the day on which the transaction giving rise to such installment accounts took place.

Subsec. (g). Pub. L. 89-44, §801(b), added subsec. (g).

1962—Subsec. (b)(2)(C). Pub. L. 87-858 inserted “in the case of articles upon which tax is imposed under section 4061(a) (relating to automobiles, trucks, etc.), 4191 (relating to business machines), or 4211 (relating to matches),” before “the normal method”.

Subsec. (f)(4)(C). Pub. L. 87-770 substituted “, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster” for “or appears in a newspaper”.

1960—Subsec. (f). Pub. L. 86-781 added subsec. (f).

1958—Subsec. (b). Pub. L. 85-859, §115, inserted provisions in par. (1) requiring, in the case of an article sold at retail, the computation to be on either the price for which the article is sold, or the highest price for which the articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, whichever is lower, and added pars. (2) and (3).

Subsec. (c). Pub. L. 85-859, §117(b), substituted “section 4217(b)” for “subsection (d)”.

Subsec. (d). Pub. L. 85-859, §117(b), repealed subsec. (d) which related to tax on leases of certain trailers.

Subsec. (e). Pub. L. 85-859, §116, added subsec. (e).

1955—Subsec. (c)(1). Act Aug. 9, 1955, §1, inserted “(other than a lease to which subsection (d) applies)”.

Subsec. (d). Act Aug. 9, 1955, §2, added subsec. (d).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-458, §1(c), Oct. 14, 1978, 92 Stat. 1255, provided that: “The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer or producer on or after the first day of the first calendar quarter beginning 30 days or more after the date of enactment of this Act [Oct. 14, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(a)(2) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92-178, set out as a note under section 4061 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-614, title III, §301(c), Dec. 31, 1970, 84 Stat. 1844, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section] shall apply with respect to articles sold after December 31, 1970; except that section 4216(b)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) shall also apply to (1) the application of paragraph (1) of such section 4216(b) to articles sold after June 30, 1962, and before January 1, 1971, and (2) the application of paragraph (3) of such section 4216(b) to articles sold after December 31, 1969, and before January 1, 1971."

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §932(b), Dec. 30, 1969, 83 Stat. 725, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold after December 31, 1969."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 207(a), (b) of Pub. L. 89-44 effective June 22, 1965, and amendment by section 208 of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, or 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Pub. L. 89-44, title VIII, §801(e), June 21, 1965, 79 Stat. 158, provided that: "The amendments made by subsections (a), (b), and (d) [amending this section and sections 4063, 4221, and 6416 of this title] shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [June 21, 1965]. The amendment made by subsection (c) [amending section 4221 of this title] shall apply with respect to articles sold on or after January 1, 1965."

EFFECTIVE DATE OF 1962 AMENDMENTS

Pub. L. 87-858, §1(b), Oct. 23, 1962, 76 Stat. 1134, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer on or after October 1, 1962."

Pub. L. 87-770, §2(b), Oct. 9, 1962, 76 Stat. 768, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold on or after the first day of the first calendar quarter beginning more than 20 days after the date of the enactment of this Act [Oct. 9, 1962]."

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-781, §3, Sept. 14, 1960, 74 Stat. 1018, provided that: "The amendments made by this Act [amending this section and section 6416 of this title] shall apply with respect to articles sold on or after the first day of the first calendar quarter beginning more than twenty days after the date of the enactment of this Act [Sept. 14, 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Aug. 9, 1955, ch. 677, §4, 69 Stat. 614, as amended by act Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "The amendments made by subsection (a) [probably should refer to amendments made by sections 1 to 3 of act Aug. 9, 1955, amending this section and section 4217 of this title] shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this act [Aug. 9, 1955]. In the application of section 4216(d) of the In-

ternal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this Act) to any article which has been leased before the effective date specified in the preceding sentence, under regulations prescribed by the Secretary of the Treasury or his delegate—

"(1) the fair market value of such article shall be the fair market value determined as of such effective date;

"(2) only payments under a lease received on or after such effective date shall be considered in determining when the total tax (as defined in such section 4216(d)) has been paid;

"(3) any lease existing on such effective date, or if there is none, the first lease entered into after such effective date, shall be considered an initial lease (except that fair market value shall be determined as provided in paragraph (1) of this sentence); and

"(4) any lease existing on such effective date shall be considered as having been entered into on such date."

§ 4217. Leases

(a) Lease considered as sale

For purposes of this chapter, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by the manufacturer, producer, or importer shall be considered a sale of such article.

(b) Limitation on tax

In the case of any lease described in subsection (a) of an article taxable under this chapter, if the tax under this chapter is based on the price for which such articles are sold, there shall be paid on each lease payment with respect to such article a percentage of such payment equal to the rate of tax in effect on the date of such payment, until the total of the tax payments under such lease and any prior lease to which this subsection applies equals the total tax.

(c) Definition of total tax

For purposes of this section, the term "total tax" means—

(1) except as provided in paragraph (2), the tax computed on the constructive sale price for such article which would be determined under section 4216(b) if such article were sold at retail on the date of the first lease to which subsection (b) applies; or

(2) if the first lease to which subsection (b) applies is not the first lease of the article, the tax computed on the fair market value of such article on the date of the first lease to which subsection (b) applies.

Any such computation of tax shall be made at the applicable rate specified in this chapter in effect on the date of the first lease to which subsection (b) applies.

(d) Special rules

(1) Lessor must also be engaged in selling

Subsection (b) shall not apply to any lease of an article unless at the time of making the lease, or any prior lease of such article to which subsection (b) applies, the person making the lease or prior lease was also engaged in the business of selling in arm's length transactions the same type and model of article.

(2) Sale before total tax becomes payable

If the taxpayer sells an article before the total tax has become payable, then the tax

payable on such sale shall be whichever of the following is the smaller:

(A) the difference between (i) the tax imposed on lease payments under leases of such article to which subsection (b) applies, and (ii) the total tax, or

(B) a tax computed, at the rate in effect on the date of the sale, on the price for which the article is sold.

For purposes of subparagraph (B), if the sale is at arm's length, section 4216(b) shall not apply.

(3) Sale after total tax has become payable

If the taxpayer sells an article after the total tax has become payable, no tax shall be imposed under this chapter on such sale.

(e) Leases of automobiles subject to gas guzzler tax

(1) In general

In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

(2) Payment of tax

In the case of a lease described in paragraph 1(A)—

(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

(3) Definitions

For purposes of this subsection—

(A) Manufacturer

The term "manufacturer" includes a producer or importer.

(B) Total gas guzzler tax

The term "total gas guzzler tax" means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease.

(Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 9, 1955, ch. 677, §3, 69 Stat. 614; Pub. L. 85-859, title I, §117(a), Sept. 2, 1958, 72 Stat. 1280; Pub. L. 94-455, title XIX, §1904 (a)(3), Oct. 4, 1976, 90 Stat. 1811;

Pub. L. 95-618, title II, §201(d), Nov. 9, 1978, 92 Stat. 3184.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-618 added subsec. (e).

1976—Subsec. (d)(4). Pub. L. 94-455 struck out par. (4) relating to special transitional rules applicable to leases.

1958—Pub. L. 85-859 substituted "Leases" for "Lease considered as sale" in section catchline.

Subsec. (a). Pub. L. 85-859 redesignated existing provisions as subsec. (a) and struck out provisions which made subsection inapplicable to the lease of an article upon which the tax has been paid in the manner provided in section 4216(d)(1) or the total tax has been paid in the manner provided in section 4216(d)(2) of this title.

Subsecs. (b) to (d). Pub. L. 85-859 added subsecs. (b) to (d).

1955—Act Aug. 9, 1955, exempted lease of an article upon which tax has been paid under section 4216(d)(1) or section 4216(d)(2) of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1955 AMENDMENT

Section effective on first day of first month which begins more than ten days after Aug. 9, 1955, see section 4 of act Aug. 9, 1955, set out as a note under section 4216 of this title.

APPLICATION OF LEASES OF UTILITY TRAILERS

Pub. L. 85-859, title I, §117(c), Sept. 2, 1958, 72 Stat. 1281, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 4216 of this title] shall not apply to any lease of an article if section 4216(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, prior subsec. (d) of section 4216 of this title] applied to any lease of such article before the effective date specified in section 1(c) of this Act."

§ 4218. Use by manufacturer or importer considered sale

(a) General rule

If any person manufactures, produces, or imports an article (other than a tire taxable under section 4071) and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him. This subsection shall not apply in the case of gasoline used by any person, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him. For

the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words “(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)” shall be disregarded.

(b) Tires

If any person manufactures, produces, or imports a tire taxable under section 4071, and sells it on or in connection with the sale of any article, or uses it, then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.

(c) Computation of tax

Except as provided in section 4223(b), in any case in which a person is made liable for tax by the preceding provisions of this section, the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers, thereof, as determined by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 11, 1955, ch. 805, §1(a), (b), 69 Stat. 689; Pub. L. 85-859, title I, §118, Sept. 2, 1958, 72 Stat. 1281; Pub. L. 86-418, §2(a), Apr. 8, 1960, 74 Stat. 38; Pub. L. 87-61, title II, §205(b), June 29, 1961, 75 Stat. 126; Pub. L. 89-44, title II, §208(c), June 21, 1965, 79 Stat. 141; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, §2(b)(1), Feb. 10, 1978, 92 Stat. 11; Pub. L. 98-369, div. A, title VII, §735(c)(7), July 18, 1984, 98 Stat. 983.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, §735(c)(7)(D), substituted “(other than a tire taxable under section 4071)” for “(other than an article specified in subsection (b), (c), or (d))”.

Subsec. (b). Pub. L. 98-369, §735(c)(7)(A), (B), struck out “and tubes” after “Tires” in heading, and in text substituted “If” for “Except as provided in subsection (d), if”, and struck out “or inner tube” before “taxable under section 4071”.

Subsec. (c). Pub. L. 98-369, §735(c)(7)(C), redesignated subsec. (e) as (c). Former subsec. (c), which related to automotive parts and accessories, was struck out.

Subsec. (d). Pub. L. 98-369, §735(c)(7)(C), struck out subsec. (d) which related to bicycle tires and tubes.

Subsec. (e). Pub. L. 98-369, §735(c)(7)(C), redesignated subsec. (e) as (c).

1978—Subsec. (a). Pub. L. 95-227 inserted provisions relating to applying first sentence of this subsection to coal taxable under section 4121 of this title.

1976—Subsec. (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1965—Subsec. (b). Pub. L. 89-44, §208(c)(1), (2), struck out references to automobile receiving sets from heading, and “or an automobile radio or television receiving set taxable under section 4141,” before “and sells it”.

Subsec. (c). Pub. L. 89-44, §208(c)(3), (4), struck out reference to radio components and camera lenses from heading, and “a radio or television component taxable under section 4141, or a camera lens taxable under section 4171,” before “and uses it”.

1961—Subsec. (a). Pub. L. 87-61 inserted sentence making subsection inapplicable in the case of gasoline used by any person, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him.

1960—Subsec. (a). Pub. L. 86-418, §2(a)(1), substituted “subsection (b), (c), or (d)” for “subsection (b) or (c)”.

Subsec. (b). Pub. L. 86-418, §2(a)(2), substituted “Except as provided in subsection (d), if any” for “If any.”

Subsecs. (d), (e). Pub. L. 86-418, §2(a)(3), added subsec. (d) and redesignated former subsec. (d) as (e).

1958—Pub. L. 85-859 amended section generally, striking out provisions which related to refrigerator components and to sales free of tax by virtue of section 4220 or 4224 of this title, and substituting provisions making manufacturers, producers and importers of parts or accessories taxable under section 4061(b), radio or television components taxable under section 4141, or camera lenses taxable under section 4171 liable for the tax if they use the parts or accessories otherwise than as material in the manufacture or production of, or as component parts of, any other article to be manufactured or produced by them, for provisions which made section inapplicable with respect to such parts if they were used by them as material in the manufacture or production of, or as a component part of, any article.

1955—Subsec. (a)(1). Act Aug. 11, 1955, §1(a), inserted as tax exempt articles under this chapter, automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under section 4061(b), 4111, or 4171, respectively, of this title.

Subsec. (b). Act Aug. 11, 1955, §1(b), excepted from application of section automobile parts or accessories, refrigerator, radio, or television components, and camera lenses, taxable under sections 4061(b), 4111, 4141, and 4171, respectively, of this title, when for use by the purchaser in the manufacture or production of, or as a component part of, any article.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L. 95-227, set out as an Effective Date note under section 4121 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 applicable only in the case of gasoline used on or after October 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after April 8, 1960, see section 4 of Pub. L. 86-418, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1 (c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 11, 1955, effective on first day of first month which begins more than ten days after

Aug. 11, 1955, see section 3 of act Aug. 11, 1955, set out as a note under section 6416 of this title.

§ 4219. Application of tax in case of sales by other than manufacturer or importer

In case any person acquires from the manufacturer, producer, or importer of an article, by operation of law or as a result of any transaction not taxable under this chapter, the right to sell such article, the sale of such article by such person shall be taxable under this chapter as if made by the manufacturer, producer, or importer, and such person shall be liable for the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 494.)

[§§ 4220 to 4225. Repealed. Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1282]

Section 4220, acts Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 11, 1955, ch. 805, §1(c), 69 Stat. 689, related to exemption for sales or resales to manufacturers. See section 4221 et seq. of this title.

For sections 4221 to 4225, see Prior Provisions notes set out under sections 4221 to 4225 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

Subchapter G—Exemptions, Registration, Etc.

Sec.	
4221.	Certain tax-free sales.
4222.	Registration.
4223.	Special rules relating to further manufacture.
[4224.	Repealed.]
4225.	Exemption of articles manufactured or produced by Indians.
[4226.	Repealed.]
4227.	Cross reference.

AMENDMENTS

1986—Pub. L. 99-514, title XVIII, §1899A(74), Oct. 22, 1986, 100 Stat. 2963, substituted “reference” for “references” in item 4227.

1983—Pub. L. 97-473, title II, §202(b)(9), Jan. 14, 1983, 96 Stat. 2610, purported to substitute “Cross references” for “Cross reference” in item 4227. No change in text was required because item 4227 as originally enacted by section 119(a) of Pub. L. 85-859 already read “Cross references”.

1976—Pub. L. 94-455, title XIX, §1904(b)(3), Oct. 4, 1976, 90 Stat. 1815, struck out item 4226 “Floor stocks taxes”.

1965—Pub. L. 89-44, title I, §101(b)(5), June 21, 1965, 79 Stat. 136, struck out item 4224 “Exemption for articles taxable as jewelry.”

1958—Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1282, added subchapter heading and section analysis.

§ 4221. Certain tax-free sales

(a) General rule

Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121 or 4081) on the sale by the manufacturer (or under subchapter C of chapter 31 on the first retail sale) of an article—

- (1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture,
- (2) for export, or for resale by the purchaser to a second purchaser for export,

(3) for use by the purchaser as supplies for vessels or aircraft,

(4) to a State or local government for the exclusive use of a State or local government,

(5) to a nonprofit educational organization for its exclusive use, or

(6) to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization’s exclusive use in the collection, storage, or transportation of blood,

but only if such exportation or use is to occur before any other use. Paragraphs (4), (5), and (6) shall not apply to the tax imposed by section 4064. In the case of taxes imposed by section 4051,¹ or 4071, paragraphs (4) and (5) shall not apply on and after October 1, 2016. In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. In the case of taxes imposed by subchapter C or D, paragraph (6) shall not apply. In the case of the tax imposed by section 4191, paragraphs (3), (4), (5), and (6) shall not apply.

(b) Proof of resale for further manufacture; proof of export

Where an article has been sold free of tax under subsection (a)—

(1) for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture, or

(2) for export, or for resale by the purchaser to a second purchaser for export,

subsection (a) shall cease to apply in respect of such sale of such article unless, within the 6-month period which begins on the date of the sale by the manufacturer (or, if earlier, on the date of shipment by the manufacturer), the manufacturer receives proof that the article has been exported or resold for use in further manufacture.

(c) Manufacturer relieved from liability in certain cases

In the case of any article sold free of tax under this section (other than a sale to which subsection (b) applies), and in the case of any article sold free of tax under section 4053(6), if the manufacturer in good faith accepts a certification by the purchaser that the article will be used in accordance with the applicable provisions of law, no tax shall thereafter be imposed under this chapter in respect of such sale by such manufacturer.

(d) Definitions

For purposes of this section—

(1) Manufacturer

The term “manufacturer” includes a producer or importer of an article, and, in the case of taxes imposed by subchapter C of chapter 31, includes the retailer with respect to the first retail sale.

(2) Export

The term “export” includes shipment to a possession of the United States; and the term

¹ So in original. The comma probably should not appear.

“exported” includes shipped to a possession of the United States.

(3) Supplies for vessels or aircraft

The term “supplies for vessels or aircraft” means fuel supplies, ships’ stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. For purposes of the preceding sentence, the term “vessels” includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term “vessels of war of the United States or of any foreign nation” includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof.

(4) State or local government

The term “State or local government” means any State, any political subdivision thereof, or the District of Columbia.

(5) Nonprofit educational organization

The term “nonprofit educational organization” means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(6) Use in further manufacture

An article shall be treated as sold for use in further manufacture if—

(A) such article is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him; or

(B) in the case of gasoline taxable under section 4081, such gasoline is sold for use by the purchaser, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him.

(7) Qualified bus

(A) In general

The term “qualified bus” means—
 (i) an intercity or local bus, and
 (ii) a school bus.

(B) Intercity or local bus

The term “intercity or local bus” means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

(i) such transportation is scheduled and along regular routes, or

(ii) the seating capacity of such bus is at least 20 adults (not including the driver).

(C) School bus

The term “school bus” means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term “school” means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on.

(e) Special rules

(1) Reciprocity required in case of civil aircraft

In the case of articles sold for use as supplies for aircraft, the privileges granted under subsection (a)(3) in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under subsection (a)(3) shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions.

(2) Tires

(A) Tax-free sales

Under regulations prescribed by the Secretary, no tax shall be imposed under section 4071 on the sale by the manufacturer of a tire if—

(i) such tire is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by such purchaser; and

(ii) such other article is to be sold by such purchaser in a sale which either will satisfy the requirements of paragraph (2), (3), (4), or (5) of subsection (a) for a tax-free sale, or would satisfy such requirements but for the fact that such other article is not subject to tax under this chapter.

(B) Proof

Where a tire has been sold free of tax under this paragraph, this paragraph shall cease to apply unless, within the 6-month period which begins on the date of the sale by him (or, if earlier on the date of the shipment by him), the manufacturer of such tire receives proof that the other article referred to in clause (ii) of subparagraph (A) has been sold in a manner which satisfies the requirements of such clause (ii) (including in the case of a sale for export, proof of export of such other article).

(C) Subsection (a)(1) does not apply

Paragraph (1) of subsection (a) shall not apply with respect to the tax imposed under section 4071 on the sale of a tire.

(3) Tires used on intercity, local, and school buses

Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus.

(Added Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1282; amended Pub. L. 86-70, §22(a), June 25, 1959, 73 Stat. 146; Pub. L. 86-344, §2(b), Sept. 21, 1959, 73 Stat. 617; Pub. L. 86-418, §1, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86-624, §18(e), July 12, 1960, 74 Stat. 416; Pub. L. 87-61, title II, §205(a), June 29, 1961, 75 Stat. 126; Pub. L. 89-44, title II, §208(d), title VIII, §801(c), (d)(1), June 21, 1965, 79 Stat. 141, 158; Pub. L. 91-172, title I, §101(j)(26), Dec. 30, 1969, 83 Stat. 529; Pub. L. 92-178, title IV, §401(a)(3)(A), Dec. 10, 1971, 85 Stat. 531; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, §2(b)(2), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95-600, title VII, §701(ff)(2)(A), Nov. 6, 1978, 92 Stat. 2924; Pub. L. 95-618, title II, §§201(c)(1), 232(a), 233(c)(1), (2), Nov. 9, 1978, 92 Stat. 3183, 3189, 3191, 3192; Pub. L. 96-222, title I, §108(c)(5), Apr. 1, 1980, 94 Stat. 227; Pub. L. 97-424, title V, §§515(b)(1), 516(b)(2), Jan. 6, 1983, 96 Stat. 2181, 2183; Pub. L. 98-369, div. A, title VII, §735(c)(8), July 18, 1984, 98 Stat. 983; Pub. L. 99-499, title V, §521(d)(4), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99-514, title XVII, §1703(c)(2)(C), Oct. 22, 1986, 100 Stat. 2776; Pub. L. 100-17, title V, §502(b)(4), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title IX, §9201(b)(1), title X, §10502(d)(4), Dec. 22, 1987, 101 Stat. 1330-330, 1330-444; Pub. L. 101-239, title VII, §7841(d)(17), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §§11211(d)(3), 11221(b), (d)(1), (2), Nov. 5, 1990, 104 Stat. 1388-427, 1388-444; Pub. L. 102-240, title VIII, §8002(b)(3), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §13161(b)(1), Aug. 10, 1993, 107 Stat. 452; Pub. L. 105-178, title IX, §9002(b)(1), June 9, 1998, 112 Stat. 500; Pub. L. 105-206, title VI, §6023(17), July 22, 1998, 112 Stat. 825; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613; Pub. L. 109-59, title XI, §11101(b)(1), Aug. 10, 2005, 119 Stat. 1944; Pub. L. 109-280, title XII, §1207(b)(1)-(3)(A), Aug. 17, 2006, 120 Stat. 1070; Pub. L. 111-152, title I, §1405(b)(1), Mar. 30, 2010, 124 Stat. 1065; Pub. L. 112-30, title I, §142(d), Sept. 16, 2011, 125 Stat. 356; Pub. L. 112-102, title IV, §402(d), Mar. 30, 2012, 126 Stat. 282; Pub. L. 112-140, title IV, §402(c), June 29, 2012, 126 Stat. 403; Pub. L. 112-141, div. D, title I, §40102(d)(1), July 6, 2012, 126 Stat. 845; Pub. L. 113-295, div. A, title II, §221(a)(103)(B)(i), Dec. 19, 2014, 128 Stat. 4052.)

CODIFICATION

Section 1207(b)(1)-(3)(A) of Pub. L. 109-280, which directed the amendment of section 4221 without specifying the act to be amended, was executed to this section, which is section 4221 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

PRIOR PROVISIONS

A prior section 4221, act Aug. 16, 1954, ch. 736, 68A Stat. 495, related to exemption for articles taxable as jewelry, prior to repeal by Pub. L. 85-859, §119(a).

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, §221(a)(103)(B)(i)(II), struck out “In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.” after “regulations prescribe.” in concluding provisions.

Pub. L. 113-295, §221(a)(103)(B)(i)(I), substituted “subchapter” for “subchapter A or” in introductory provisions.

Subsec. (c). Pub. L. 113-295, §221(a)(103)(B)(i)(III), struck out “4001(c), 4001(d), or” after “tax under section”.

Subsec. (d)(1). Pub. L. 113-295, §221(a)(103)(B)(i)(I), substituted “subchapter” for “subchapter A or”.

2012—Subsec. (a). Pub. L. 112-141 substituted “October 1, 2016” for “July 1, 2012” in concluding provisions.

Pub. L. 112-140, §§1(c), 402(c), temporarily substituted “July 7, 2012” for “July 1, 2012” in concluding provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 substituted “July 1, 2012” for “April 1, 2012” in concluding provisions.

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

2010—Subsec. (a). Pub. L. 111-152 inserted at end of concluding provisions “In the case of the tax imposed by section 4191, paragraphs (3), (4), (5), and (6) shall not apply.”

2006—Subsec. (a). Pub. L. 109-280, §1207(b)(2), (3)(A), in concluding provisions, substituted “Paragraphs (4), (5), and (6)” for “Paragraphs (4) and (5)” and inserted at end “In the case of taxes imposed by subchapter C or D, paragraph (6) shall not apply.” See Codification note above.

Subsec. (a)(6). Pub. L. 109-280, §1207(b)(1), added par. (6). See Codification note above.

2005—Subsec. (a). Pub. L. 109-59 substituted “2011” for “2005” in concluding provisions.

2004—Subsec. (a). Pub. L. 108-357 substituted “or 4081” for “, 4081, or 4091” in introductory provisions.

1998—Subsec. (a). Pub. L. 105-178 substituted “2005” for “1999” in concluding provisions.

Subsec. (c). Pub. L. 105-206 substituted “4053(6)” for “4053(a)(6)”.

1993—Subsec. (c). Pub. L. 103-66 substituted “4001(d)” for “4002(b), 4003(c), 4004(a)”.

1991—Subsec. (a). Pub. L. 102-240 substituted “1999” for “1995” in concluding provisions.

1990—Subsec. (a). Pub. L. 101-508, §11221(b), substituted “subchapter A or C of chapter 31” for “section 4051” in introductory provisions and inserted at end “In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.”

Pub. L. 101-508, §11211(d)(3), substituted “1995” for “1993” in concluding provisions.

Subsec. (c). Pub. L. 101-508, §11221(d)(1), substituted “section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)” for “section 4053(a)(6)”.

Subsec. (d)(1). Pub. L. 101-508, §11221(d)(2), substituted “taxes imposed by subchapter A or C of chapter 31” for “the tax imposed by section 4051”.

1989—Subsec. (c). Pub. L. 101-239 struck out “or 4083” after “4053(a)(6)”.

1987—Subsec. (a). Pub. L. 100-203, §10502(d)(4), substituted “(other than under section 4121, 4081, or 4091) on the sale by the manufacturer” for “(other than under section 4121 or section 4081 (at the Highway Trust Fund financing rate)) on the sale by the manufacturer” in introductory text.

Pub. L. 100-203, §9201(b)(1), inserted at end “In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe.”

Pub. L. 100-17 substituted “1993” for “1988”.
 1986—Subsec. (a). Pub. L. 99-514, as amended by Pub. L. 99-499, §521(d)(4)(B), in introductory text, inserted “or section 4081 (at the Highway Trust Fund financing rate)” after “section 4121” as the probable intent of Congress, notwithstanding directory language that the insertion be made before “section 4121”, and substituted “or 4071” for “4071, or 4081 (at the Highway Trust Fund financing rate)” in last sentence.

Pub. L. 99-499, §521(d)(4)(A), inserted “(at the Highway Trust Fund financing rate)” after “4081” in last sentence.

1984—Subsec. (a). Pub. L. 98-369, §735(c)(8)(A), inserted “(or under section 4051 on the first retail sale)”.

Subsec. (c). Pub. L. 98-369, §735(c)(8)(B), substituted “section 4053(a)(6)” for “section 4063(a)(6) or (7), 4063(b), 4063(e)”.

Subsec. (d)(1). Pub. L. 98-369, §735(c)(8)(C), inserted “, and, in the case of the tax imposed by section 4051, includes the retailer with respect to the first retail sale”.

Subsec. (d)(6). Pub. L. 98-369, §735(c)(8)(D)(i), struck out provision at end that for purposes of subparagraph (B), the rebuilding of a part or accessory which is exempt from tax under section 4063(c) shall not constitute the manufacture or production of such part or accessory.

Subsec. (d)(6)(A). Pub. L. 98-369, §735(c)(8)(D)(ii), (iv), struck out “(other than an article referred to in subparagraph (B))” after “such article”, and inserted “or” at end.

Subsec. (d)(6)(B), (C). Pub. L. 98-369, §735(c)(8)(D)(i), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to parts or accessories taxable under former section 4061(b) of this title.

Subsec. (e)(2). Pub. L. 98-369, §735(c)(8)(E), (F), struck out “and tubes” from heading, and in text struck out “or inner tube” and “or tube”, as the case may be, after “tire” wherever appearing.

Subsec. (e)(3) to (6). Pub. L. 98-369, §735(c)(8)(G), added par. (3), struck out par. (4) which related to bicycle tires or tubes sold to bicycle manufacturers in general, the definition of a bicycle tire, and proof, struck out par. (5) which related to tires, tubes and tread rubber used on intercity, local, and school buses, and struck out par. (6) which related to bus parts and accessories.

1983—Subsec. (a). Pub. L. 97-424, §516(b)(2), inserted provision that, in the case of taxes imposed by section 4051, 4071, or 4081, pars. (4) and (5) shall not apply on and after Oct. 1, 1988.

Subsec. (c). Pub. L. 97-424, §515(b)(1), substituted “or 4083” for “4083, or 4093” after “4063(e)”.

1980—Subsec. (e)(6). Pub. L. 96-222 inserted provisions respecting selling by a purchaser or a second purchaser.

1978—Subsec. (a). Pub. L. 95-618, §201(c)(1), inserted provision that paragraphs (4) and (5) not apply to the tax imposed by section 4064.

Pub. L. 95-227 inserted “(other than under section 4121)” after “this chapter”.

Subsec. (c). Pub. L. 95-600 substituted “4063(b), 4063(e),” for “4063(b)”.

Subsec. (d)(7). Pub. L. 95-618, §233(c)(2), added par. (7).

Subsec. (e)(5). Pub. L. 95-618, §233(c)(1), substituted provisions relating to the applicability of the taxes imposed by section 4071(a)(1) and (3) in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus and the tax imposed by section 4071(a)(4) in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus for provisions relating to the applicability of the tax imposed by section 4061(a) to a bus sold to any person for use exclusively in transporting students and employees of schools operated by State or local governments or by nonprofit educational organizations.

Subsec. (e)(6). Pub. L. 95-618, §232(a), added par. (6).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (c). Pub. L. 92-178 inserted reference to section 4063(a)(6) or (7).

1969—Subsec. (d)(5). Pub. L. 91-172 substituted “section 170(b)(1)(A)(ii)” for “section 503(b)(2)”.

1965—Subsec. (d)(6)(B). Pub. L. 89-44, §208(d)(1), struck out “a radio or television component taxable under section 4141, or a camera lens taxable under section 4171,”.

Subsec. (d)(6). Pub. L. 89-44, §801(c), inserted sentence providing that for purpose of subpar. (B), the rebuilding of a part or accessory which is exempt from tax under section 4063(c) shall not constitute the manufacture or production of such part or accessory.

Subsec. (e)(2). Pub. L. 89-44, §208(d)(2)–(5), struck out reference to automobile receiving sets from catchline and wherever appearing in subpars. (A) to (C), and reference to tax imposed under section 4141 of this title from subpars. (A) and (C).

Subsec. (e)(3). Pub. L. 89-44, §208(d)(6), struck out par. (3) which related to musical instruments sold for religious use.

Subsec. (e)(5). Pub. L. 89-44, §801(d)(1), added par. (5).

Subsec. (f). Pub. L. 89-44, §208(d)(7), struck out subsec. (f) which related to sales of mechanical pencils and pens for export.

1961—Subsec. (d)(6)(C). Pub. L. 87-61 added subpar. (C).

1960—Subsec. (d)(4). Pub. L. 86-624 substituted “any State, any political subdivision thereof, or the District of Columbia” for “any State, Hawaii, the District of Columbia, or any political subdivision of any of the foregoing”.

Subsec. (e)(4). Pub. L. 86-418 added par. (4).

1959—Subsec. (d)(4). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

Subsec. (d)(5). Pub. L. 86-344 included in definition of “nonprofit educational organization” a school operated as an activity of certain organizations exempt from the income tax and having a regular situs, faculty, curriculum and student body.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective July 1, 2012, see section 40102(f) of Pub. L. 112-141, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 112-140 effective July 1, 2012, see section 402(f)(1) of Pub. L. 112-140, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-102 effective Apr. 1, 2012, see section 402(f) of Pub. L. 112-102, set out as a note under section 4041 of this title.

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 4041 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable to sales after Dec. 31, 2012, see section 1405(c) of Pub. L. 111-152, set out as an Effective Date note under section 4191 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Jan. 1, 2007, see section 1207(g)(1) of Pub. L. 109-280, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31,

2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13161(c), Aug. 10, 1993, 107 Stat. 453, provided that: "The amendments made by this section [amending this section and sections 4001 to 4003 and 4222 of this title and omitting sections 4004, 4006, 4007, 4011, and 4012 of this title] shall take effect on January 1, 1993, except that the provisions of section 4001(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11221(f), Nov. 5, 1990, 104 Stat. 1388-444, provided that:

"(1) IN GENERAL.—The amendments made by this section [enacting subchapter A of chapter 31 of this title, redesignating former subchapters A and B of chapter 31 as subchapters B and C, respectively, and amending this section and sections 4222 and 4293 of this title] shall take effect on January 1, 1991.

"(2) EXCEPTION FOR BINDING CONTRACTS.—In determining whether any tax imposed by subchapter A of chapter 31 of the Internal Revenue Code of 1986, as added by this section, applies to any sale after December 31, 1990, there shall not be taken into account the amount paid for any article (or any part or accessory therefor) if the purchaser held on September 30, 1990, a contract (which was binding on such date and at all times thereafter before the purchase) for the purchase of such article (or such part or accessory)."

EFFECTIVE DATE OF 1987 AMENDMENTS

Pub. L. 100-647, title I, §1017(c)(5), Nov. 10, 1988, 102 Stat. 3576, provided that: "The amendment made by section 10502(d)(4) of the Revenue Act of 1987 [Pub. L. 100-203, amending this section] shall be treated as if included in the amendments made by section 1703 of the Reform Act [Pub. L. 99-514] except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988."

Amendment by section 9201(b)(1) of Pub. L. 100-203 effective Jan. 1, 1988, see section 9201(d) of Pub. L. 100-203, set out as an Effective Date note under section 4131 of this title.

Amendment by section 10502(d)(4) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

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 OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 515(b)(1) of Pub. L. 97-424 applicable to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective as if included in the provision of the Energy Tax Act of 1978, Pub. L.

95-618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96-222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(c)(1) of Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

Pub. L. 95-618, title II, §232(c), Nov. 9, 1978, 92 Stat. 3190, provided that: "The amendments made by this section [amending this section and section 6416 of this title] shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act [Nov. 9, 1978]."

Amendment by section 233(c)(1), (2) of Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

Pub. L. 95-600, title VII, §701(ff)(3), Nov. 6, 1978, 92 Stat. 2925, provided that: "The amendments made by this subsection [amending this section and sections 4061 and 4222 of this title] shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act [Nov. 6, 1978]."

Amendment by Pub. L. 95-227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L. 95-227, set out as an Effective Date note section 4121 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92-178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective on Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 208(d) of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Amendment by section 801(c), (d)(1) of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89-44, set out as a note under section 4261 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 applicable only in the case of gasoline sold on or after Oct. 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86-624 effective on Aug. 21, 1959, see section 18(k) of Pub. L. 86-624, set out as a note under section 3121 of this title.

Pub. L. 86-418, §4, Apr. 8, 1960, 74 Stat. 39, provided that: "The amendments made by this Act [amending this section and sections 4218, 4223, and 6416 of this title] shall apply only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Apr. 8, 1960]."

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86-344 effective Jan. 1, 1959, see section 2(e) of Pub. L. 86-344, Sept. 21, 1959, 73 Stat. 618.

Amendment by Pub. L. 86-70 effective Jan. 3, 1959, see section 22(i) of Pub. L. 86-70, set out as a note under section 3121 of this title.

EFFECTIVE DATE

Section effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

§ 4222. Registration

(a) General rule

Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under this section. Registration under this section shall be made at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

(b) Exceptions

(1) Purchases by State and local governments

Subsection (a) shall not apply to any State or local government in connection with the purchase by it of any article if such State or local government complies with such regulations relating to the use of exemption certificates in lieu of registration as the Secretary shall prescribe to carry out the purpose of this paragraph.

(2) Under regulations

Subject to such regulations as the Secretary may prescribe for the purpose of this paragraph, the Secretary may relieve the purchaser or the second purchaser, or both, from the requirement of registering under this section.

(3) Certain purchases and sales by the United States

Subsection (a) shall apply to purchases and sales by the United States only to the extent provided by regulations prescribed by the Secretary.

[(4) Repealed. Pub. L. 89-44, title II, § 208(e), June 21, 1965, 79 Stat. 141]

(5) Supplies for vessels or aircraft

Subsection (a) shall not apply to a sale of an article for use by the purchaser as supplies for any vessel or aircraft if such purchaser complies with such regulations relating to the use of exemption certificates in lieu of registration as the Secretary shall prescribe to carry out the purpose of this paragraph.

(c) Denial, revocation, or suspension of registration

Under regulations prescribed by the Secretary, the registration of any person under this section may be denied, revoked, or suspended if the Secretary determines—

(1) that such person has used such registration to avoid the payment of any tax imposed by this chapter, or to postpone or in any manner to interfere with the collection of any such tax, or

(2) that such denial, revocation, or suspension is necessary to protect the revenue.

The denial, revocation, or suspension under this subsection shall be in addition to any penalty provided by law for any act or failure to act.

(d) Registration in the case of certain other exemptions

The provisions of this section may be extended to, and made applicable with respect to, the exemptions provided by sections 4053(6), 4064(b)(1)(C), 4101, and 4182(b), and the exemptions authorized under section 4293 in respect of the taxes imposed by this chapter, to the extent provided by regulations prescribed by the Secretary.

(e) Definitions

Terms used in this section which are defined in section 4221(d) shall have the meaning given to them by section 4221(d).

(Added Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1284; amended Pub. L. 89-44, title II, § 208(e), title VIII, § 802(c), June 21, 1965, 79 Stat. 141, 159; Pub. L. 92-178, title IV, § 401(a)(3)(B), Dec. 10, 1971, 85 Stat. 531; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title VII, § 701(ff)(2)(B), Nov. 6, 1978, 92 Stat. 2925; Pub. L. 95-618, title II, §§ 201(e), 231(f)(2), Nov. 9, 1978, 92 Stat. 3184, 3189; Pub. L. 97-424, title V, § 515(b)(2), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 98-369, div. A, title VII, § 735(c)(9), July 18, 1984, 98 Stat. 983; Pub. L. 100-647, title I, § 1017(c)(16), Nov. 10, 1988, 102 Stat. 3577; Pub. L. 101-508, title XI, §§ 11212(b)(2), 11221(d)(3), Nov. 5, 1990, 104 Stat. 1388-431, 1388-444; Pub. L. 103-66, title XIII, § 13161(b)(2), Aug. 10, 1993, 107 Stat. 452; Pub. L. 105-34, title XIV, § 1431(a), Aug. 5, 1997, 111 Stat. 1050; Pub. L. 105-206, title VI, § 6023(17), July 22, 1998, 112 Stat. 825; Pub. L. 113-295, div. A, title II, § 221(a)(103)(B)(ii), Dec. 19, 2014, 128 Stat. 4053.)

PRIOR PROVISIONS

A prior section 4222, act Aug. 16, 1954, ch. 736, 68 Stat. 495, related to exemption from tax of certain supplies for vessels and airplanes, prior to repeal by Pub. L. 85-859, § 119(a). See section 4221 of this title.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113-295 struck out “4001(c), 4001(d),” after “provided by sections”.

1998—Subsec. (d). Pub. L. 105-206 substituted “4053(6)” for “4053(a)(6)”.

1997—Subsec. (b)(2). Pub. L. 105-34 substituted “Under regulations” for “Export” in heading and struck out “in the case of any sale or resale for export,” after “this paragraph,” in text.

1993—Subsec. (d). Pub. L. 103-66 substituted “4001(d)” for “4002(b), 4003(c), 4004(a)”.

1990—Subsec. (c). Pub. L. 101-508, § 11212(b)(2), substituted “Denial, revocation, or suspension” for “Revocation or suspension” in heading, “denied, revoked, or suspended” for “revoked or suspended” in introductory provisions, and “denial, revocation, or suspension” for “revocation or suspension” in par. (2) and concluding provisions.

Subsec. (d). Pub. L. 101-508, § 11221(d)(3), substituted “sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)” for “sections 4053(a)(6)”.

1988—Subsec. (d). Pub. L. 100-647 substituted “4101” for “4083”.

1984—Subsec. (d). Pub. L. 98-369 substituted “4053(a)(6)” for “4063(a)(7), 4063(b), 4063(e)”.

1983—Subsec. (d). Pub. L. 97-424 struck out “4093,” after “4083.”

1978—Subsec. (d). Pub. L. 95-618 substituted “4063(a)(7), 4063(b), 4064(b)(1)(C),” for “4063(a)(6) and (7), 4063(b),”.

Pub. L. 95-600 substituted “4063(b), 4063(e),” for “4063(b).”

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (d). Pub. L. 92-178 inserted reference to section 4063(a)(6) and (7).

1965—Subsec. (b)(4). Pub. L. 89-44, §208(e), struck out par. (4) which related to mechanical pencils, fountain pens, and ball point pens.

Subsec. (b)(5). Pub. L. 89-44, §802(c), added par. (5).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1431(b), Aug. 5, 1997, 111 Stat. 1050, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1993, see section 13161(c) of Pub. L. 103-66, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11212(b)(2) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

Amendment by section 11221(d)(3) of Pub. L. 101-508 effective Jan. 1, 1991, with exception for contract binding on Sept. 30, 1990, and at all times thereafter, see section 11221(f) of Pub. L. 101-508, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(e) of Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

Pub. L. 95-618, title II, §231(g), Nov. 9, 1978, 92 Stat. 3189, provided that:

“(1) The amendments made by subsections (a) and (f) [amending this section and sections 4063 and 6412 of this title] shall apply with respect to articles sold after the date of the enactment of this Act [Nov. 9, 1978].

“(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enactment of this Act [Nov. 9, 1978] unless possession or right to possession passes to the purchaser on or before such date.

“(3) In the case of—

“(A) a lease,

“(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

“(C) a conditional sale, or

“(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments, entered into on or before the date of the enactment of this Act [Nov. 9, 1978], payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.”

Amendment by Pub. L. 95-600 effective on first day of first calendar month beginning more than 20 days after Nov. 6, 1978, see section 701(ff)(3) of Pub. L. 95-600, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92-178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 208(e) of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Amendment by section 802(c) of Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

§ 4223. Special rules relating to further manufacture

(a) Purchasing manufacturer to be treated as the manufacturer

For purposes of this chapter, a manufacturer or producer to whom an article is sold or resold free of tax under section 4221(a)(1) for use by him in further manufacture shall be treated as the manufacturer or producer of such article.

(b) Computation of tax

If the manufacturer or producer referred to in subsection (a) incurs liability for tax under this chapter on his sale or use of an article referred to in subsection (a) and the tax is based on the price for which the article is sold, the article shall be treated as having been sold by him—

(1) at the price for which the article was sold by him (or, where the tax is on his use of the article, at the price referred to in section 4218(c)); or

(2) if he so elects and establishes such price to the satisfaction of the Secretary—

(A) at the price for which the article was sold to him; or

(B) at the price for which the article was sold by the person who (without regard to subsection (a)) is the manufacturer, producer, or importer of such article.

For purposes of this subsection, the price for which the article was sold shall be determined as provided in section 4216. For purposes of paragraph (2) no adjustment or readjustment shall

be made in such price by reason of any discount, rebate, allowance, return or repossession of a container or covering, or otherwise. An election under paragraph (2) shall be made in the return reporting the tax applicable to the sale or use of the article, and may not be revoked.

(Added Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1285; amended Pub. L. 86-418, § 2(b), Apr. 8, 1960, 74 Stat. 38; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VII, § 735(c)(10), July 18, 1984, 98 Stat. 983.)

PRIOR PROVISIONS

A prior section 4223, act Aug. 16, 1954, ch. 736, 68A Stat. 495, related to exemption of articles manufactured or produced by Indians, prior to repeal by Pub. L. 85-859, § 119(a). See section 4225 of this title.

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “4218(c)” for “section 4218(e)”.

1976—Subsec. (b) Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1960—Subsec. (b)(1). Pub. L. 86-418 substituted “section 4218(e)” for “section 4218(d)”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after April 8, 1960, see section 4 of Pub. L. 86-418, set out as a note under section 4221 of this title.

§ 4224. Repealed. Pub. L. 89-44, title I, § 101(b)(5), June 21, 1965, 79 Stat. 136]

Section, Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1286, exempted, with specified exemptions, articles taxable under section 4001 from the imposition of the manufacturers excise tax.

A prior section 4224, act Aug. 16, 1954, ch. 736, 68A Stat. 495, exempted articles for the exclusive use of any State, Territory, or political subdivision of either, or the District of Columbia, prior to repeal by Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1282.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

§ 4225. Exemption of articles manufactured or produced by Indians

No tax shall be imposed under this chapter on any article of native Indian handicraft manufactured or produced by Indians on Indian reservations, or in Indian schools, or by Indians under the jurisdiction of the United States Government in Alaska.

(Added Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1286.)

PRIOR PROVISIONS

A prior section 4225, act Aug. 16, 1954, ch. 736, 68A Stat. 496, related to exemption for exports, prior to re-

peal by Pub. L. 85-859, § 119(a). See section 4221 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 4226. Repealed. Pub. L. 94-455, title XIX, § 1904(a)(4), Oct. 4, 1976, 90 Stat. 1811]

Section, added June 29, 1956, ch. 462, title II, § 207(a), 70 Stat. 391; amended Sept. 21, 1959, Pub. L. 86-342, title II, § 201(c)(1)-(3), 73 Stat. 614; June 29, 1961, Pub. L. 87-61, title II, § 206(a), (b), 75 Stat. 127; Aug. 1, 1966, Pub. L. 89-523, § 2, 80 Stat. 331, related to floor stocks taxes for 1956 on tires of the type used on highway vehicles, on tread rubber, on gasoline, for 1959 on gasoline, for 1961 on certain tires and inner tubes and tread rubber, provisions relating to overpayment of floor stocks taxes, due date for taxes, taxes on certain tires and tubes, and definitions of “dealer” and “held by a dealer”.

A prior section 4226 of this title was renumbered section 4227.

§ 4227. Cross reference

For exception for a sale to an Indian tribal government (or its subdivision) for the exclusive use of an Indian tribal government (or its subdivision), see section 7871.

(Aug. 16, 1954, ch. 736, 68A Stat. 496, § 4226; renumbered § 4227, June 29, 1956, ch. 462, title II, § 207(a), 70 Stat. 391; amended Pub. L. 89-44, title II, § 208(f), June 21, 1965, 79 Stat. 141; Pub. L. 94-455, title XIX, § 1904(a)(5), Oct. 4, 1976, 90 Stat. 1811; Pub. L. 97-473, title II, § 202(b)(8), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title VII, § 735(c)(11), July 18, 1984, 98 Stat. 983; Pub. L. 99-514, title XVIII, § 1899A(49), Oct. 22, 1986, 100 Stat. 2961.)

AMENDMENTS

1986—Pub. L. 99-514 amended section generally, substituting “reference” for “references” in section catchline, struck out par. (1) designation, substituted “exception” for “exemption”, and struck out par. (2) relating to cross reference to credit for taxes on tires.

1984—Par. (2). Pub. L. 98-369 struck out “and tubes” after “on tires”.

1983—Pub. L. 97-473 designated existing provisions as par. (2) and added par. (1).

1976—Pub. L. 94-455 struck out pars. (1) and (3) relating to cross references to exemption from tax in case of certain sales to the United States and to administrative provisions of general applicability, respectively.

1965—Par. (2). Pub. L. 89-44 struck out “and automobile radio and television receiving sets,” after “tires and inner tubes.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by Pub. L. 97-473, see section 204(5) of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct.

4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

CHAPTER 33—FACILITIES AND SERVICES

Subchapter		Sec. ¹
[A.]	Repealed.]	
B.	Communications	4251
C.	Transportation by air	4261
[D.]	Repealed.]	
E.	Special provisions applicable to services and facilities taxes	4291

REPEAL OF SUBCHAPTER B

Table of subchapters for chapter 33 amended by striking out the item relating to subchapter B dealing with Communications, effective Jan. 1, 1982, see Pub. L. 90-364, title I, § 105(b)(3), June 28, 1968, 82 Stat. 266, as amended by Pub. L. 91-172, title VII, § 702(b)(3), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91-614, title II, § 201(b)(3), Dec. 31, 1970, 84 Stat. 1843. Repeal of item B was not executed in view of the amendments to section 4251 of this title by Pub. L. 96-499, Pub. L. 97-34, Pub. L. 97-248, Pub. L. 98-369, Pub. L. 99-514, and Pub. L. 101-508, extending the date in (and finally eliminating) provisions which had reduced the tax to zero after a specified date.

AMENDMENTS

1970—Pub. L. 91-258, title II, § 205(c)(5), May 21, 1970, 84 Stat. 242, substituted “Transportation by air” for “Transportation of persons by air” in item for subchapter C.

1965—Pub. L. 89-44, title III, §§ 301, 304, June 21, 1965, 79 Stat. 145, 148, struck out items for subchapters A and D.

1962—Pub. L. 87-508, § 5(c)(1), June 28, 1962, 76 Stat. 118, substituted “Transportation of persons by air” for “Transportation of persons” in item for subchapter C.

1958—Pub. L. 85-475, § 4(b)(1), June 30, 1958, 72 Stat. 260, substituted “Transportation of persons” for “Transportation” in item for subchapter C.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, § 5(d), June 28, 1962, 76 Stat. 119, provided in part that: “The amendment made by subsection (c)(1) [amending item for subchapter C in the analysis] shall apply only with respect to transportation beginning after November 15, 1962.”

[Subchapter A—Repealed]

§§ 4231 to 4234. Repealed. Pub. L. 89-44, title III, § 301, June 21, 1965, 79 Stat. 145]

Section 4231, acts Aug. 16, 1954, ch. 736, 68A Stat. 497; Aug. 6, 1956, ch. 1019, § 1, 70 Stat. 1074; Sept. 2, 1958, Pub. L. 85-859, title I, § 131(a)-(c), 72 Stat. 1286, 1287; Apr. 8, 1960, Pub. L. 86-422, § 1, 74 Stat. 41, imposed a tax on admissions, permanent use or lease of boxes or seats, sales outside of box office in excess of established price, sales by proprietors in excess of established price, and cabarets.

Section 4232, acts Aug. 16, 1954, ch. 736, 68A Stat. 498; Sept. 2, 1958, Pub. L. 85-859, title I, § 131(d), 72 Stat. 1287,

defined admission, roof garden, cabaret, or other similar place, and performance for profit as used in section 4231.

Section 4233, acts Aug. 16, 1954, ch. 736, 68A Stat. 498; Aug. 11, 1955, ch. 792, § 1, 69 Stat. 675; Apr. 16, 1958, Pub. L. 85-380, §§ 1-3, 72 Stat. 88; Sept. 2, 1958, Pub. L. 85-859, title I, § 131(e), (f), 72 Stat. 1287; June 25, 1959, Pub. L. 86-70, § 22(a), 73 Stat. 146; Sept. 21, 1959, Pub. L. 86-319, § 1, 73 Stat. 590; Sept. 21, 1959, Pub. L. 86-344, § 2(c), 73 Stat. 617; July 12, 1960, Pub. L. 86-624, § 18(d), 74 Stat. 416, granted certain exemptions to certain charitable, educational, or religious entertainments, agricultural fairs, certain musical or dramatic performances, swimming pools, etc., home and garden tours, historic sites, certain amateur theatricals, certain amateur baseball games, rodeos, pageants, and certain benefit performances.

Section 4234, act Aug. 16, 1954, ch. 736, 68A Stat. 501, required that price of tickets be printed on face or back of such tickets and provided a penalty for selling tickets not so stamped.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to admissions, services, or uses after noon, December 31, 1965, see section 701(b)(1) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4291 of this title.

§§ 4241 to 4243. Repealed. Pub. L. 89-44, title III, § 301, June 21, 1965, 79 Stat. 145]

Section 4241, acts Aug. 16, 1954, ch. 736, 68A Stat. 501; Sept. 2, 1958, Pub. L. 85-859, title I, § 132(a), 72 Stat. 1288; Sept. 21, 1959, Pub. L. 86-344, § 3(b), 73 Stat. 618, imposed a tax on dues or membership fees, initiation, fees, and life memberships in social, athletic, or sporting clubs or organizations.

Section 4242, act Aug. 16, 1954, ch. 736, 68A Stat. 501, defined dues and initiation fees as used in section 4241.

Section 4243, acts Aug. 16, 1954, ch. 736, 68A Stat. 502; Sept. 2, 1958, Pub. L. 85-859, title I, § 132(b), 72 Stat. 1288; Sept. 21, 1959, Pub. L. 86-344, § 3(a), 73 Stat. 618, granted exemptions to fraternal organizations, payments for capital improvements, and nonprofit swimming or skating facilities.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to dues and membership fees attributable to periods beginning on or after January 1, 1966, initiation fees and amounts paid for life memberships attributable to memberships beginning on or after January 1, 1966, initiation fees paid on or after July 1, 1965, to a new club or organization first making its facilities available to members on or after such a date, and, in the case of amounts described in section 4243(b) of this title, 3-year periods beginning on or after January 1, 1966, see section 701(b)(1) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4291 of this title.

Subchapter B—Communications

Sec.	
4251.	Imposition of tax.
4252.	Definitions.
4253.	Exemptions.
4254.	Computation of tax.

REPEAL

This subchapter, relating to the tax on communication, was repealed by Pub. L. 90-364, title I, § 105(b)(3), June 28, 1968, 82 Stat. 266, as amended by Pub. L. 91-172, title VII, § 702(b)(3), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91-614, title II, § 201(b)(3), Dec. 31, 1970, 84 Stat. 1843, effective with respect to amounts paid pursuant to bills first rendered on or after Jan. 1, 1982. In the case of communications services rendered

¹ Section numbers editorially supplied.