

beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 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.

[Subchapter E—Repealed]

[[§§ 6361 to 6365. Repealed. Pub. L. 101-508, title XI, §11801(a)(45), Nov. 5, 1990, 104 Stat. 1388-522]

Section 6361, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95-473, §2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95-600, title IV, §421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-248, title II, §201(d)(7), formerly §201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, §5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97-424, title V, §547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-369, div. A, title IV, §§412(b)(6), 474(r)(35), title VII, §721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99-514, title XIII, §1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, §402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97-248, title III, §§307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Table with 2 columns: Subchapter and Sec.1. Row A: Procedure in general 6401. Row B: Rules of special application 6411.

Subchapter A—Procedure in General

Table with 2 columns: Sec. and Description. Row 6401: Amounts treated as overpayments. Row 6402: Authority to make credits or refunds. Row 6403: Overpayment of installment. Row 6404: Abatements.

1 Section numbers editorially supplied.

Table with 2 columns: Sec. and Description. Row 6405: Reports of refunds and credits. Row 6406: Prohibition of administrative review of decisions. Row 6407: Date of allowance of refund or credit. Row 6408: State escheat laws not to apply. Row 6409: Refunds disregarded in the administration of Federal programs and federally assisted programs.

AMENDMENTS

2010—Pub. L. 111-312, title VII, §728(b), Dec. 17, 2010, 124 Stat. 3317, added item 6409. 1987—Pub. L. 100-203, title X, §10621(b), Dec. 22, 1987, 101 Stat. 1330-452, added item 6408.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term "overpayment" includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, G, H, I, and J of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89-44, title VIII, §809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title III, §331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91-258, title II, §207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94-12, title II, §204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title VII, §701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95-600, title VII, §701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95-618, title III, §301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96-222, title I, §103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96-223, title II, §223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97-248, title III, §§307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, §474(r)(36), title VII, §735(c)(16), July 18, 1984, 98 Stat. 846, 985; Pub. L. 99-514, title XII, §1246(b), Oct. 22, 1986, 100 Stat. 2582; Pub. L. 100-647, title I, §1012(s)(1)(B), Nov. 10, 1988, 102

Stat. 3527; Pub. L. 105-206, title VI, § 6022(a), July 22, 1998, 112 Stat. 824; Pub. L. 109-58, title XIII, § 1303(c)(4), Aug. 8, 2005, 119 Stat. 997; Pub. L. 110-234, title XV, § 15316(c)(3), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, § 4(a), title XV, § 15316(c)(3), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 111-5, div. B, title I, § 1531(c)(5), Feb. 17, 2009, 123 Stat. 360.)

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

2009—Subsec. (b)(1). Pub. L. 111-5 substituted “I, and J” for “and I”.

2008—Subsec. (b)(1). Pub. L. 110-246, § 15316(c)(3), substituted “H, and I” for “and H”.

2005—Subsec. (b)(1). Pub. L. 109-58 substituted “G, and H” for “and G”.

1998—Subsec. (b)(1). Pub. L. 105-206 substituted “D, and G” for “and D”.

1988—Subsec. (b)(2). Pub. L. 100-647 amended last sentence generally, substituting “credit so allowed by reason of section 1446” for “amount deducted and withheld under section 1446”.

1986—Subsec. (b)(2). Pub. L. 99-514 inserted last sentence.

1984—Subsec. (b). Pub. L. 98-369, § 474(r)(36), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “If the amount allowable as credits under sections 31 (relating to tax withheld on wages) and 39 (relating to certain uses of gasoline and special fuels), and 43 (relating to earned income credit), exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, and 43), the amount of such excess shall be considered an overpayment. For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31.”

Pub. L. 98-369, § 735(c)(16), substituted “and special fuels” for “, special fuels, and lubricating oil”.

1983—Subsec. (b). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301-308) of title III of Pub. L. 97-247 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (d). Pub. L. 96-223 struck out subsec. (d) which made a cross reference to section 46(a)(9)(C) for a rule allowing a refund for excess investment credit attributable to solar or wind energy property.

Pub. L. 96-222 substituted “46(a)(9)(C)” for “46(a)(10)(C)”.

1978—Subsec. (b). Pub. L. 95-600 inserted provisions relating to credit to a nonresident alien individual.

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

1976—Subsec. (b). Pub. L. 94-455 substituted “wages and” and “lubricating oil), and” for “wages),” and “lubricating oil),”, respectively; and pars. (2) and (3) made

identical change: striking out “and 667(b) (relating to taxes paid by certain trusts)” after “(relating to earned income credit)”.

1975—Subsec. (b). Pub. L. 94-12 inserted “43 (relating to earned income credit),” before “and 667(b)” and substituted “, 39, and 43” for “and 39”.

1970—Subsec. (b). Pub. L. 91-258 inserted reference to credits under section 39 relating to certain uses of special fuels.

1969—Subsec. (b). Pub. L. 91-172 struck out “under sections 31 and 39” after “Excessive credits” in heading and inserted in text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89-44 substituted “Excessive credits under sections 31 and 39” for “Excessive withholding” in heading and expanded text to include credits under section 39.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 54 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 15316(c)(3) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 54 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 applicable to taxable years beginning after Dec. 31, 2005, see section 1303(e) of Pub. L. 109-58, as amended, set out as an Effective Date note under section 54 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title VI, § 6022(b), July 22, 1998, 112 Stat. 824, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986 [Pub. L. 99-514].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1987, see section 1012(s)(1)(D) of Pub. L. 100-647, set out as a note under section 1446 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to distributions after Dec. 31, 1987, or, if earlier, the effective date of the initial regulations issued under section 1446 of this title, which date shall not be earlier than Jan. 1, 1987, see section 1246(d) of Pub. L. 99-514, set out as an Effective Date note under section 1446 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(36) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 735(c)(16) 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.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-223 applicable to qualified investment for taxable years beginning after Dec. 31,

1979, see section 223(b)(3) of Pub. L. 96-223, set out as a note under section 46 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600, to the extent amendment relates to chapter 1 or 5 of this title, applicable to taxable years ending on or after Dec. 31, 1975, and, to the extent amendment relates to wage withholding under chapter 24 of this title, applicable to remuneration paid on or after the first day of the first month which begins more than 90 days after Nov. 6, 1978, see section 701(u)(15)(E) of Pub. L. 95-600, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(h) of Pub. L. 94-455, set out as a note under section 687 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94-12, as amended, set out as a note under section 32 of this title.

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 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning before Jan. 1, 1970, see section 331(d) of Pub. L. 91-172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

§ 6402. Authority to make credits or refunds

(a) General rule

In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c), (d), (e), and (f)¹ refund any balance to such person.

(b) Credits against estimated tax

The Secretary is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary to be an overpayment of the income tax for a preceding taxable year.

(c) Offset of past-due support against overpayments

The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due

support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of of² such Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.

(d) Collection of debts owed to Federal agencies

(1) In general

Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26)³ of the Social Security Act and before such overpayment is reduced pursuant to subsections (e) and (f) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) Treatment of OASDI overpayments

(A) Requirements

Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

(B) Notice; protection of other persons filing joint return

(i) Notice

In the case of a debt consisting of an OASDI overpayment, if the Secretary de-

¹ So in original. Probably should be followed by a comma.

² So in original.

³ See References in Text note below.

termines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

(ii) Adjustments based on protections given to other taxpayers on joint return

If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

(C) Deposit of amount of reduction into appropriate trust fund

In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Commissioner of Social Security, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Commissioner of Social Security.

(D) OASDI overpayment

For purposes of this paragraph, the term “OASDI overpayment” means any overpayment of benefits made to an individual under title II of the Social Security Act.

(e) Collection of past-due, legally enforceable State income tax obligations

(1) In general

Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person’s name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall in-

clude the names, taxpayer identification numbers, and addresses of each person filing such return.

(2) Offset permitted only against residents of State seeking offset

Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

(3) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) or subsection (f) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(4) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

(5) Past-due, legally enforceable State income tax obligation

For purposes of this subsection, the term “past-due, legally enforceable State income tax obligation” means a debt—

(A)(i) which resulted from—

(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

(ii) which is no longer subject to judicial review; or

(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term "State income tax" includes any local income tax administered by the chief tax administration agency of the State.

(6) Regulations

The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(7) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(f) Collection of unemployment compensation debts

(1) In general

Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or is not a covered unemployment compensation debt;

(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and is a covered unemployment compensation debt; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

(4) Covered unemployment compensation debt

For purposes of this subsection, the term "covered unemployment compensation debt" means—

(A) a past-due debt for erroneous payment of unemployment compensation due to fraud or the person's failure to report earnings which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected;

(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable and which remain uncollected; and

(C) any penalties and interest assessed on such debt.

(5) Regulations

(A) In general

The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained

in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

(B) Fee payable to Secretary

The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(C) Submission of notices through Secretary of Labor

The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

(6) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(g) Review of reductions

No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c), (d), (e), or (f). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency or State to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

(h) Federal agency

For purposes of this section, the term “Federal agency” means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

(i) Treatment of payments to States

The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c), (e), or (f) to a State shall be treated as a payment to the person or persons making the overpayment.

(j) Cross reference

For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.

(k) Refunds to certain fiduciaries of insolvent members of affiliated groups

Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

(l) Explanation of reason for refund disallowance

In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.

(Aug. 6, 1954, ch. 736, 68A Stat. 791; Pub. L. 94-455, title XIX, §1906(b)(13) (A), (K), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 97-35, title XXIII, §2331(c), Aug. 13, 1981, 95 Stat. 861; Pub. L. 98-369, div. B, title VI, §2653(b)(1), (2), July 18, 1984, 98 Stat. 1154, 1155; Pub. L. 98-378, §21(e), Aug. 16, 1984, 98 Stat. 1325; Pub. L. 100-647, title VI, §6276, Nov. 10, 1988, 102 Stat. 3753; Pub. L. 101-508, title V, §5129(c), Nov. 5, 1990, 104 Stat. 1388-288; Pub. L. 103-296, title I, §108(h)(7), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104-134, title III, §31001(u)(2), Apr. 26, 1996, 110 Stat. 1321-375; Pub. L. 104-193, title I, §110(l)(7), Aug. 22, 1996, 110 Stat. 2173; Pub. L. 105-33, title V, §5514(a)(1), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-206, title III, §§3505(a), 3711(a), (c), July 22, 1998, 112 Stat. 771, 779, 781; Pub. L. 109-171, title VII, §7301(d), Feb. 8, 2006, 120 Stat. 144; Pub. L. 110-328, §3(a), (d), Sept. 30, 2008, 122 Stat. 3570, 3573; Pub. L. 111-291, title VIII, §801(a), Dec. 8, 2010, 124 Stat. 3157; Pub. L. 111-312, title V, §503(a), Dec. 17, 2010, 124 Stat. 3308.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c), (d)(2), (3)(D), and (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 204, 464, and 471(a)(17) of the Act are classified to sections 404, 664, and 671(a)(17) of Title 42. Section 402 of the Act, which was classified to section 602 of Title 42, was repealed and a new section 402 enacted by Pub. L. 104-193, title I, §103(a)(1), Aug. 22, 1996, 110 Stat. 2112. As so enacted section 402 does not contain a subsec. (a)(26). For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (f). Pub. L. 111-291, §801(a)(1), struck out “resulting from fraud” after “debts” in heading.

Subsec. (f)(3). Pub. L. 111-291, §801(a)(2), redesignated par. (4) as (3) and struck out former par. (3). Prior to

amendment, text of par. (3) read as follows: “Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.”

Subsec. (f)(3)(A). Pub. L. 111-291, §801(a)(3)(A), struck out “by certified mail with return receipt” after “notifies”.

Subsec. (f)(3)(B). Pub. L. 111-291, §801(a)(3)(B), substituted “is not a covered unemployment compensation debt” for “due to fraud”.

Subsec. (f)(3)(C). Pub. L. 111-312 substituted “is a covered unemployment compensation debt” for “is not a covered unemployment compensation debt”.

Pub. L. 111-291, §801(a)(3)(C), substituted “is not a covered unemployment compensation debt” for “due to fraud”.

Subsec. (f)(4). Pub. L. 111-291, §801(a)(2), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (f)(4)(A). Pub. L. 111-291, §801(a)(4)(A), inserted “or the person’s failure to report earnings” after “due to fraud” and struck out “for not more than 10 years” after “remains uncollected”.

Subsec. (f)(4)(B). Pub. L. 111-291, §801(a)(4)(B), struck out “due to fraud” after “to be liable” and “for not more than 10 years” after “remain uncollected”.

Subsec. (f)(5) to (8). Pub. L. 111-291, §801(a)(2), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out par. (8). Prior to amendment, text of par. (8) read as follows: “This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.”

2008—Subsec. (a). Pub. L. 110-328, §3(d)(1), substituted “(c), (d), (e), and (f)” for “(c), (d), and (e).”

Subsec. (d)(2). Pub. L. 110-328, §3(d)(2), substituted “and before such overpayment is reduced pursuant to subsections (e) and (f)” for “and before such overpayment is reduced pursuant to subsection (e)”.

Subsec. (e)(3). Pub. L. 110-328, §3(d)(3), inserted “or subsection (f)” after “paragraph (1)” in concluding provisions.

Subsec. (f). Pub. L. 110-328, §3(a), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110-328, §3(a), (d)(4), redesignated subsec. (f) as (g) and substituted “(c), (d), (e), or (f)” for “(c), (d), or (e)”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 110-328, §3(a), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 110-328, §3(a), (d)(5), redesignated subsec. (h) as (i) and substituted “subsection (c), (e), or (f)” for “subsection (c) or (e)”. Former subsec. (i) redesignated (j).

Subsecs. (j) to (l). Pub. L. 110-328, §3(a), redesignated subsecs. (i) to (k) as (j) to (l), respectively.

2006—Subsec. (c). Pub. L. 109-171 substituted “of such Act.” for “the Social Security Act.” in first sentence and “The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law.” for “A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.” in third sentence.

1998—Subsec. (a). Pub. L. 105-206, §3711(c)(1), substituted “(c), (d), and (e)” for “(c) and (d)”.

Subsec. (d)(2). Pub. L. 105-206, §3711(c)(2), substituted “and before such overpayment is reduced pursuant to subsection (e) and before such overpayment” for “and before such overpayment”.

Subsec. (e). Pub. L. 105-206, §3711(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-206, §3711(a), (c)(3), redesignated subsec. (e) as (f) and substituted “(c), (d), or (e)” for “(c) or (d)” and “Federal agency or State” for “Federal agency”. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105-206, §3711(a), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105-206, §3711(a), (c)(4), redesignated subsec. (g) as (h) and substituted “subsection (c) or (e)” for “subsection (c)”. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 105-206, §3711(a), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105-206, §3711(a), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 105-206, §3505(a), added subsec. (j).

Subsec. (k). Pub. L. 105-206, §3711(a), redesignated subsec. (j) as (k).

1997—Subsecs. (a), (e) to (j). Pub. L. 105-33 repealed Pub. L. 104-193, §110(l)(7). See 1996 Amendment notes below.

1996—Subsec. (a). Pub. L. 104-193, §110(l)(7)(A), which directed substitution of “(c), (d), and (e)” for “(c) and (d)”, was repealed by Pub. L. 105-33.

Subsec. (e). Pub. L. 104-193, §110(l)(7)(C), which directed amendment by adding subsec. (e), reading as follows: “COLLECTION OF OVERPAYMENTS UNDER TITLE IV—A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).”, was repealed by Pub. L. 105-33.

Subsec. (f). Pub. L. 104-193, §110(l)(7)(B), which directed amendment by redesignating subsec. (e) as (f), was repealed by Pub. L. 105-33.

Pub. L. 104-134 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “For purposes of this section, the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).”

Subsecs. (g) to (j). Pub. L. 104-193, §110(l)(7)(B), which directed amendment by redesignating subsecs. (f) to (i) as (g) to (j), respectively, was repealed by Pub. L. 105-33.

1994—Subsecs. (d)(3)(C), (e). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” wherever appearing.

1990—Subsec. (d)(1). Pub. L. 101-508, §5129(c)(1)(A), struck out “any OASDI overpayment and” after “(other than)”.

Subsec. (d)(3). Pub. L. 101-508, §5129(c)(1)(B), added par. (3) and struck out former par. (3) which read as follows: “For purposes of this subsection the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act.”

Subsec. (e). Pub. L. 101-508, §5129(c)(2), inserted before period at end “or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act”.

1988—Subsec. (i). Pub. L. 100-647 added subsec. (i).

1984—Subsec. (a). Pub. L. 98-369, §2653(b)(2), substituted “subsections (c) and (d)” for “subsection (c)”.

Subsec. (c). Pub. L. 98-378, §21(e)(1), substituted “collecting such support” for “to which such support has been assigned” and inserted provision that a reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.

Subsecs. (d) to (f). Pub. L. 98-369, §2653(b)(1), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 98-378, §21(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 98-369, §2653(b)(1), added subsec. (g).

Subsec. (h). Pub. L. 98-378, §21(e)(2), redesignated former subsec. (g) as (h).

1981—Subsec. (a). Pub. L. 97-35, §2331(c)(1), inserted reference to subsec. (c) of this section.

Subsec. (c). Pub. L. 97-35, §2331(c)(2), added subsec. (c).

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

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title V, §503(b), Dec. 17, 2010, 124 Stat. 3308, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in section 801 of the Claims Resolution Act of 2010 [Pub. L. 111-291].”

Pub. L. 111-291, title VIII, §801(b), Dec. 8, 2010, 124 Stat. 3157, provided that: “The amendments made by this section [amending this section] shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of the enactment of this Act [Dec. 8, 2010].”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-328 applicable to refunds payable under section 6402 of this title on or after Sept. 30, 2008, see section 3(e) of Pub. L. 110-328, set out as a note under section 3304 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective Oct. 1, 2009, and applicable to payments under parts A and D of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare, for calendar quarters beginning on or after such date, subject to certain State options, see section 7301(e) of Pub. L. 109-171, set out as a note under section 608 of Title 42.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3505(b), July 22, 1998, 112 Stat. 771, provided that: “The amendment made by this section [amending this section] shall apply to disallowances after the 180th day after the date of the enactment of this Act [July 22, 1998].”

Amendment by section 3711 of Pub. L. 105-206 applicable to refunds payable under this section after Dec. 31, 1999, see section 3711(d) of Pub. L. 105-206, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105-33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5129(d), Nov. 5, 1990, 104 Stat. 1388-289, provided that: “The amendments made by this

section [amending this section, section 3720A of Title 31, Money and Finance, and section 404 of Title 42, The Public Health and Welfare]—

“(1) shall take effect January 1, 1991, and

“(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) [enacting section 3720A of Title 31 and amending this section and sections 6103 and 7213 of this title] do not apply.”

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-378 applicable with respect to refunds payable under this section after Dec. 31, 1985, see section 21(g) of Pub. L. 98-378, set out as a note under section 6103 of this title.

Pub. L. 98-369, div. B, title VI, §2653(c), July 18, 1984, 98 Stat. 1156, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-203, title IX, §9402(a), Dec. 22, 1987, 101 Stat. 1330-376; Pub. L. 100-485, title VII, §701(a), Oct. 13, 1988, 102 Stat. 2425; Pub. L. 102-164, title IV, §401(a), Nov. 15, 1991, 105 Stat. 1061, provided that: “The amendments made by this section [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985.”

[Pub. L. 102-164, title IV, §401(b), Nov. 15, 1991, 105 Stat. 1061, provided that: “The amendment made by this section [amending section 2653(c) of Pub. L. 98-369, set out above] shall take effect on October 1, 1991.”]

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97-35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS

Pub. L. 104-191, title III, §371, Aug. 21, 1996, 110 Stat. 2072, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

“(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

“(1) encourages organ and tissue donation;

“(2) includes a detachable organ and tissue donor card; and

“(3) urges recipients to—

“(A) sign the organ and tissue donor card;

“(B) discuss organ and tissue donation with family members and tell family members about the recipient’s desire to be an organ and tissue donor if the occasion arises; and

“(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.”

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

Pub. L. 100-203, title IX, §9402(b), Dec. 22, 1987, 101 Stat. 1330-376, provided that:

“(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

“(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653

of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

“(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.”

STUDY BY GENERAL ACCOUNTING OFFICE OF OPERATION AND EFFECTIVENESS OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

Pub. L. 100-203, title IX, §9402(c), Dec. 22, 1987, 101 Stat. 1330-376, required the Comptroller General of the United States, in consultation with the Secretary of the Treasury, to conduct a study of the operation and effectiveness of amendments by section 2653 of Pub. L. 98-369 on voluntary compliance with the income tax laws and, by Apr. 1, 1989, submit a report and recommendations to Congress.

§ 6403. Overpayment of installment

In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402.

(Aug. 16, 1954, ch. 736, 68A Stat. 791.)

§ 6404. Abatements

(a) General rule

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

- (1) is excessive in amount, or
- (2) is assessed after the expiration of the period of limitation properly applicable thereto, or
- (3) is erroneously or illegally assessed.

(b) No claim for abatement of income, estate, and gift taxes

No claim for abatement shall be filed by a taxpayer in respect of any assessment of any tax imposed under subtitle A or B.

(c) Small tax balances

The Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

(d) Assessments attributable to certain mathematical errors by Internal Revenue Service

In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(g)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.

(e) Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service

(1) In general

In the case of any assessment of interest on—

- (A) any deficiency attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial or managerial act, or
- (B) any payment of any tax described in section 6212(a) to the extent that any unreasonable error or delay in such payment is attributable to such an officer or employee being erroneous or dilatory in performing a ministerial or managerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

(2) Interest abated with respect to erroneous refund check

The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

- (A) the taxpayer (or a related party) has in any way caused such erroneous refund, or
- (B) such erroneous refund exceeds \$50,000.

(f) Abatement of any penalty or addition to tax attributable to erroneous written advice by the Internal Revenue Service

(1) In general

The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) Limitations

Paragraph (1) shall apply only if—

- (A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and
- (B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

(g) Suspension of interest and certain penalties where Secretary fails to contact taxpayer

(1) Suspension

(A) In general

In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's li-

ability and the basis for the liability before the close of the 36-month period beginning on the later of—

- (i) the date on which the return is filed; or
- (ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

(B) Separate application

This paragraph shall be applied separately with respect to each item or adjustment.

If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.

(2) Exceptions

Paragraph (1) shall not apply to—

- (A) any penalty imposed by section 6651;
- (B) any interest, penalty, addition to tax, or additional amount in a case involving fraud;
- (C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return;
- (D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement;
- (E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction with respect to which the requirement of section 6664(d)(2)(A)¹ is not met and any listed transaction (as defined in 6707A(c)); or
- (F) any criminal penalty.

(3) Suspension period

For purposes of this subsection, the term “suspension period” means the period—

- (A) beginning on the day after the close of the 36-month period under paragraph (1); and
- (B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.

(h) Review of denial of request for abatement of interest

(1) In general

The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(ii) to determine whether the Secretary’s failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary’s final determination not to abate such interest.

¹ See References in Text note below.

(2) Special rules

(A) Date of mailing

Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

(B) Relief

Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

(C) Review

An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(i) Cross reference

For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terrorist or military action, see section 7508A.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94-455, title XII, §1212(a), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1712, 1834; Pub. L. 96-589, §6(b)(2), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 99-514, title XV, §1563(a), Oct. 22, 1986, 100 Stat. 2762; Pub. L. 100-647, title I, §1015(n), title VI, §6229(a), Nov. 10, 1988, 102 Stat. 3572, 3733; Pub. L. 104-168, title III, §§301(a), (b), 302(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1457, 1464; Pub. L. 105-206, title III, §§3305(a), 3309(a), July 22, 1998, 112 Stat. 743, 745; Pub. L. 105-277, div. J, title IV, §4003(e)(2), Oct. 21, 1998, 112 Stat. 2681-909; Pub. L. 107-134, title I, §112(d)(1), Jan. 23, 2002, 115 Stat. 2434; Pub. L. 108-357, title VIII, §903(a)-(c), Oct. 22, 2004, 118 Stat. 1652; Pub. L. 109-135, title III, §303(b)(1), Dec. 21, 2005, 119 Stat. 2609; Pub. L. 110-28, title VIII, §8242(a), May 25, 2007, 121 Stat. 200; Pub. L. 113-295, div. A, title II, §221(a)(111), Dec. 19, 2014, 128 Stat. 4054.)

REFERENCES IN TEXT

Section 6664(d)(2)(A), referred to in subsec. (g)(2)(E), was redesignated as section 6664(d)(3)(A) by Pub. L. 111-152, title I, §1409(c)(2)(A), Mar. 30, 2010, 124 Stat. 1069.

AMENDMENTS

2014—Subsec. (f)(3). Pub. L. 113-295 struck out par. (3). Text read as follows: “Within 180 days after the date of the enactment of this subsection, the Secretary shall prescribe such initial regulations as may be necessary to carry out this subsection.”

2007—Subsec. (g)(1)(A), (3)(A). Pub. L. 110-28 substituted “36-month period” for “18-month period”.

2005—Subsec. (g)(1). Pub. L. 109-135 inserted at end “If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.”

2004—Subsec. (g)(1)(A). Pub. L. 108-357, §903(a), substituted “18-month period” for “1-year period (18-month period in the case of taxable years beginning before January 1, 2004)” in introductory provisions.

Subsec. (g)(2)(D). Pub. L. 108-357, §903(b), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (g)(2)(E). Pub. L. 108-357, §903(c), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 108-357, §903(b), redesignated subpar. (D) as (E).

Subsec. (g)(2)(F). Pub. L. 108-357, § 903(c), redesignated subpar. (E) as (F).

Subsec. (g)(3)(A). Pub. L. 108-357, § 903(a), substituted “18-month period” for “1-year period (18-month period in the case of taxable years beginning before January 1, 2004)”.

2002—Subsecs. (h), (i). Pub. L. 107-134 added subsec. (i), redesignated former subsec. (i) as (h), and struck out former subsec. (h), which had authorized abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas and defined the term “Presidentially declared disaster area” for purposes of this provision.

1998—Subsec. (g). Pub. L. 105-206, § 3305(a), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105-206, § 3309(a), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 105-206, § 3305(a), redesignated subsec. (g) as (h).

Subsec. (h)(2). Pub. L. 105-277 inserted “Robert T. Stafford” before “Disaster”.

Subsec. (i). Pub. L. 105-206, § 3309(a), redesignated subsec. (h) as (i).

1996—Subsec. (e). Pub. L. 104-168, § 301(b), substituted “Abatement of interest attributable to unreasonable errors” for “Assessments of interest attributable to errors” in heading.

Subsec. (e)(1)(A), (B). Pub. L. 104-168, § 301(a), inserted “unreasonable” before “error” and substituted “in performing a ministerial or managerial act” for “in performing a ministerial act”.

Subsec. (g). Pub. L. 104-168, § 302(a), added subsec. (g).

Subsec. (g)(1). Pub. L. 104-168, § 701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

1988—Subsec. (e)(1)(B). Pub. L. 100-647, § 1015(n), inserted “error or” before “delay” and “erroneous or” before “dilatory”.

Subsec. (f). Pub. L. 100-647, § 6229(a), added subsec. (f).

1986—Subsec. (e). Pub. L. 99-514 added subsec. (e).

1980—Subsec. (d). Pub. L. 96-589 substituted “section 6213(g)(2)(A)” for “section 6213(f)(2)(A)”.

1976—Subsecs. (a), (c). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (d). Pub. L. 94-455, § 1212(a), added subsec. (d).

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 2007 AMENDMENT

Pub. L. 110-28, title VIII, § 8242(b), May 25, 2007, 121 Stat. 200, provided that: “The amendments made by this section [amending this section] shall apply to notices provided by the Secretary of the Treasury, or his delegate, after the date which is 6 months after the date of the enactment of this Act [May 25, 2007].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title III, § 303(b)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by this subsection [amending this section] shall apply to documents provided on or after the date of the enactment of this Act [Dec. 21, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 903(d), Oct. 22, 2004, 118 Stat. 1652, as amended by Pub. L. 109-135, title III, § 303(a)(1), Dec. 21, 2005, 119 Stat. 2608; Pub. L. 109-432, div. A, title IV, § 426(b)(1), Dec. 20, 2006, 120 Stat. 2975, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2003.

“(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

“(A) IN GENERAL.—The amendments made by subsection (c) [amending this section] shall apply with respect to interest accruing after October 3, 2004.

“(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

“(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

“(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

“(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

“(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

Subclause (I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

“(iii) TAXPAYERS ACTING IN GOOD FAITH.—The Secretary of the Treasury or the Secretary's delegate may except from the application of clause (i) any transaction in which the taxpayer has acted reasonably and in good faith.

“(iv) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of December 14, 2005—

“(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

“(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.”

[Pub. L. 109-432, div. A, title IV, § 426(b)(2), Dec. 20, 2006, 120 Stat. 2975, provided that: “The amendment made by this subsection [amending section 903(d) of Pub. L. 108-357, set out above] shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 [Pub. L. 108-357] to which it relates.”]

[Pub. L. 109-135, title III, § 303(a)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by this subsection [amending section 903(d) of Pub. L. 108-357, set out above] shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 [Pub. L. 108-357] to which it relates.”]

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as a note under section 6081 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(l) of Pub. L. 105-277, set out as a note under section 86 of this title.

Pub. L. 105-206, title III, § 3305(b), July 22, 1998, 112 Stat. 743, provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [July 22, 1998].”

Pub. L. 105-206, title III, § 3309(b), (c), July 22, 1998, 112 Stat. 745, provided that:

“(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

“(c) EMERGENCY DESIGNATION.—

“(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act [2 U.S.C. 902(e)], Congress designates the provisions of this section as an emergency requirement.

“(2) The amendments made by subsections (a) and (b) of this section [amending this section] shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.”

[For message of the President dated July 22, 1998, designating the provisions of section 3309(a), (b) of Pub. L. 105-206 as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 on July 22, 1998, see Cong. Rec., vol. 144, p. H6160, Daily Issue.]

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §301(c), July 30, 1996, 110 Stat. 1457, provided that: “The amendments made by this section [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title III, §302(b), July 30, 1996, 110 Stat. 1458, provided that: “The amendment made by this section [amending this section] shall apply to requests for abatement after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title VII, §701(d), July 30, 1996, 110 Stat. 1464, provided that: “The amendments made by this section [amending this section and sections 6656 and 7430 of this title] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(n) 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.

Pub. L. 100-647, title VI, §6229(b), Nov. 10, 1988, 102 Stat. 3733, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to advice requested on or after January 1, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1563(b), Oct. 22, 1986, 100 Stat. 2762, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

“(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective on Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Pub. L. 94-455, title XII, §1212(b), Oct. 4, 1976, 90 Stat. 1712, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to returns filed for taxable years ending after the date of enactment of this Act [Oct. 4, 1976].”

§ 6405. Reports of refunds and credits

(a) By Treasury to Joint Committee

No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44, in excess of \$2,000,000 (\$5,000,000 in the case of a C corporation) shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation.

(b) Tentative adjustments

Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of \$2,000,000 (\$5,000,000 in the case of a C corporation), there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary shall determine the correct amount of the tax.

(c) Refunds attributable to certain disaster losses

If any refund or credit of income taxes is attributable to the taxpayer's election under section 165(i) to deduct a disaster loss for the taxable year in which the disaster occurred, the Secretary is authorized in his discretion to make the refund or credit, to the extent attributable to such election, without regard to the provisions of subsection (a) of this section. If such refund or credit is made without regard to subsection (a), there shall thereafter be submitted to such Joint Committee a report containing the matter specified in subsection (a) as soon as the Secretary shall determine the correct amount of the tax for the taxable year for which the refund or credit is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 92-418, §2(b), Aug. 29, 1972, 86 Stat. 657; Pub. L. 92-512, title II, §203(a), Oct. 20, 1972, 86 Stat. 944; Pub. L. 94-455, title XII, §1210(a), (b), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1711, 1834; Pub. L. 95-227, §4(d)(3), Feb. 10, 1978, 92 Stat. 23; Pub. L. 98-369, div. A, title VII, §711(c)(3), July 18, 1984, 98 Stat. 946; Pub. L. 99-514, title XVIII, §1879(e), Oct. 22, 1986, 100 Stat. 2906; Pub. L. 101-508, title XI, §§11801(c)(21)(A), 11834(a), Nov. 5, 1990, 104 Stat. 1388-528, 1388-560; Pub. L. 106-554, §1(a)(7) [title III, §305(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634; Pub. L. 113-295, div. A, title III, §301(a), Dec. 19, 2014, 128 Stat. 4055.)

AMENDMENTS

2014—Subsecs. (a), (b). Pub. L. 113-295 inserted “(\$5,000,000 in the case of a C corporation)” after “\$2,000,000”.

2000—Subsecs. (a), (b). Pub. L. 106-554 substituted “\$2,000,000” for “\$1,000,000”.

1990—Subsecs. (a), (b). Pub. L. 101-508, §11834(a) substituted “\$1,000,000” for “\$200,000”.

Subsec. (d). Pub. L. 101-508, §11801(c)(21)(A), struck out subsec. (d) which read as follows: “For purposes of this section, a refund or credit made under subchapter E of chapter 64 (relating to Federal collection of qualified State individual income taxes) for a taxable year shall be treated as a portion of a refund or credit of the income tax for that taxable year.”

1986—Subsecs. (b) to (e). Pub. L. 99-514 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b) which read as follows: “A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.”

1984—Subsec. (d). Pub. L. 98-369 substituted “section 165(i)” for “section 165(h)”.

1978—Subsec. (a). Pub. L. 95-227 inserted provisions relating to applicability to public charities, operators’ trust funds, or real estate investment trusts, and references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94-455, §1210(a), inserted reference to any tax imposed with respect to private foundations and pensions under chapters 42 and 43, substituted \$200,000 for \$100,000 and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §§1210(b), 1906(b)(13)(A), substituted “\$200,000” for “\$100,000” and struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1972—Subsec. (d). Pub. L. 92-418 added subsec. (d).

Subsec. (e). Pub. L. 92-512 added subsec. (e).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title III, §301(b), Dec. 19, 2014, 128 Stat. 4055, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 19, 2014], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §305(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 21, 2000], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of the enactment under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11834(b), Nov. 5, 1990, 104 Stat. 1388-560, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of enactment under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such

amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1210(d)(1), Oct. 4, 1976, 90 Stat. 1711, 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] shall take effect on the date of enactment of this Act [Oct. 4, 1976], except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of enactment of this Act [Oct. 4, 1976] under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].”

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-418, §2(c), Aug. 29, 1972, 86 Stat. 657, provided in part that: “The amendment made by subsection (b) [amending this section] shall apply with respect to refunds or credits made after July 1, 1972.”

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(21)(A) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

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.

§ 6406. Prohibition of administrative review of decisions

In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or non-allowance by the Secretary of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6407. Date of allowance of refund or credit

The date on which the Secretary first authorizes the scheduling of an overassessment in re-

spect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 793; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6408. State escheat laws not to apply

No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law.

(Added Pub. L. 100-203, title X, §10621(a), Dec. 22, 1987, 101 Stat. 1330-452.)

EFFECTIVE DATE

Pub. L. 100-203, title X, §10621(c), Dec. 22, 1987, 101 Stat. 1330-452, provided that: “The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987].”

§ 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs

Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(Added Pub. L. 111-312, title VII, §728(a), Dec. 17, 2010, 124 Stat. 3317; amended Pub. L. 112-240, title I, §103(d), Jan. 2, 2013, 126 Stat. 2320.)

AMENDMENTS

2013—Pub. L. 112-240 amended section generally. Prior to amendment, section related to refunds disregarded in the administration of Federal programs and federally assisted programs and provided that the provisions were inapplicable to any amount received after Dec. 31, 2012.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to amounts received after Dec. 31, 2012, see section 103(e)(2) of Pub. L. 112-240, set out as a note under section 24 of this title.

EFFECTIVE DATE

Pub. L. 111-312, title VII, §728(c), Dec. 17, 2010, 124 Stat. 3317, provided that: “The amendments made by this section [enacting this section] shall apply to amounts received after December 31, 2009.”

Subchapter B—Rules of Special Application

Sec. 6411.	Tentative carryback and refund adjustments.
6412.	Floor stocks refunds.
6413.	Special rules applicable to certain employment taxes.
6414.	Income tax withheld.
6415.	Credits or refunds to persons who collected certain taxes.
6416.	Certain taxes on sales and services.
[6417, 6418. Repealed.]	
6419.	Excise tax on wagering.
6420.	Gasoline used on farms.
6421.	Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes.
6422.	Cross references.
6423.	Conditions to allowance in the case of alcohol and tobacco taxes.
[6424. Repealed.]	
6425.	Adjustment of overpayment of estimated income tax by corporation.
6426.	Credit for alcohol fuel, biodiesel, and alternative fuel mixtures.
6427.	Fuels not used for taxable purposes.
[6428, 6429. Repealed.]	
6430.	Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.
6431.	Credit for qualified bonds allowed to issuer.
6432.	COBRA premium assistance.

AMENDMENTS

2014—Pub. L. 113-295, div. A, title II, §221(a)(112)(A), (113), Dec. 19, 2014, 128 Stat. 4054, struck out item 6428 “2008 recovery rebates for individuals” and item 6429 “Advance payment of portion of increased child credit for 2003”.

2009—Pub. L. 111-5, div. B, title I, §1531(c)(7), title III, §3001(a)(12)(C), Feb. 17, 2009, 123 Stat. 360, 463, added items 6431 and 6432.

2008—Pub. L. 110-185, title I, §101(f)(3), Feb. 13, 2008, 122 Stat. 617, substituted “2008 recovery rebates for individuals” for “Acceleration of 10 percent income tax rate bracket benefit for 2001” in item 6428.

2005—Pub. L. 109-59, title XI, §11113(b)(3)(B), Aug. 10, 2005, 119 Stat. 1948, substituted “alcohol fuel, biodiesel, and alternative fuel” for “alcohol fuel and biodiesel” in item 6426.

Pub. L. 109-58, title XIII, §1362(b)(3)(B), Aug. 8, 2005, 119 Stat. 1059, added item 6430.

2004—Pub. L. 108-357, title III, §301(c)(14), Oct. 22, 2004, 118 Stat. 1463, added item 6426.

2003—Pub. L. 108-27, title I, §101(b)(2), May 28, 2003, 117 Stat. 754, added item 6429.

2001—Pub. L. 107-16, title I, §101(b)(2), June 7, 2001, 115 Stat. 43, added item 6428.

1990—Pub. L. 101-508, title XI, §11801(b)(15), (c)(22)(B)(ii), Nov. 5, 1990, 104 Stat. 1388-522, 1388-528, struck out item 6418 “Sugar” and item 6428 “1981 rate reduction tax credit”.

1988—Pub. L. 100-418, title I, §1941(b)(3)(E), Aug. 23, 1988, 102 Stat. 1324, struck out items 6429 “Credit and refund of chapter 45 taxes paid by royalty owners” and 6430 “Credit or refund of windfall profit taxes to certain trust beneficiaries”.

1986—Pub. L. 99-514, title XVII, §1703(c)(2)(E), Oct. 22, 1986, 100 Stat. 2777, substituted “, used by local transit systems, or sold for certain exempt purposes” for “or by local transit systems” in item 6421.

1983—Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 97-448, title I, §106(a)(4)(D), Jan. 12, 1983, 96 Stat. 2390, added item 6430.

Pub. L. 97-424, title V, §515(b)(14), Jan. 6, 1983, 96 Stat. 2182, struck out item 6424 “Lubricating oil used for certain nontaxable purposes”.

1982—Pub. L. 97-248, title II, §280(c)(2)(H), Sept. 3, 1982, 96 Stat. 565, struck out item 6426 “Refund of air-

craft use tax where plane transports for hire in foreign air commerce”.

Pub. L. 97-248, title III, §§307(a)(13), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, item 6413 is amended by substituting “taxes under subtitle C” for “employment taxes”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97-34, title I, §101(b)(2)(A), Aug. 13, 1981, 95 Stat. 183, substituted “1981 rate reduction tax credit” for “Refund of 1974 individual income taxes” in item 6428.

1980—Pub. L. 96-499, title XI, §1131(a)(2), Dec. 5, 1980, 94 Stat. 2693, added item 6429.

1978—Pub. L. 95-618, title II, §233(b)(2)(B), Nov. 9, 1978, 92 Stat. 3191, substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles” in item 6424.

Pub. L. 95-600, title V, §504(b)(1)(B), Nov. 6, 1978, 92 Stat. 2881, inserted “and refund” after “carryback” in item 6411.

1976—Pub. L. 94-455, title XIX, §1906(b)(7), Oct. 4, 1976, 90 Stat. 1834, struck out item 6417 “Coconut and palm oil”.

1975—Pub. L. 94-12, title I, §101(c), Mar. 29, 1975, 89 Stat. 28, added item 6428.

1970—Pub. L. 91-258, title II, §§206(d)(4), 207(d)(12), May 21, 1970, 84 Stat. 246, 249, added items 6426 and 6427.

1968—Pub. L. 90-364, title I, §103(e)(9), June 28, 1968, 82 Stat. 264, added item 6425.

1958—Pub. L. 85-323, §2, Feb. 11, 1958, 72 Stat. 10, added item 6423.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(4), 70 Stat. 397, added item 6421 and renumbered former item 6421 as 6422.

Act Apr. 2, 1956, ch. 160, §4(c), 70 Stat. 91, added item 6420 and renumbered former item 6420 as 6421.

§ 6411. Tentative carryback and refund adjustments

(a) Application for adjustment

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, or by a capital loss carryback provided in subsection (a)(1) or (c) of section 1212, from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused business credit;

(2) The amount of the tax previously determined for the prior taxable year affected by

such carryback, the tax previously determined being ascertained in accordance with the method prescribed in section 1314(a);

(3) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) The unpaid amount of such tax, not including any amount required to be shown under paragraph (5);

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

(6) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

Except for purposes of applying section 6611(f)(4)(B), an application under this subsection shall not constitute a claim for credit or refund.

(b) Allowance of adjustments

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which such carryback results, whichever is the later, the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused business credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused business credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations,

and exceptions as the Secretary may by regulations prescribe.

(d) Tentative refund of tax under claim of right adjustment

(1) Application

A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

(A) be verified in the same manner as an application under subsection (a),

(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

(C) set forth in such detail and with such supporting data such regulations prescribe—

(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

(iii) the amount determined under section 1341(a)(5)(B),

(iv) the amount of the overpayment determined under section 1341(b)(1); and

(v) such other information as the Secretary may require.

(2) Allowance of adjustments

Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

(A) review the application,

(B) determine the amount of the overpayment, and

(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b).

(3) Consolidated returns

The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.

(Aug. 16, 1954, ch. 736, 68A Stat. 794; Pub. L. 89-721, §2(a)-(e), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90-225, §2(b), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title V, §512(d), Dec. 30, 1969, 83 Stat. 639; Pub. L. 92-178, title VI, §601(e)(1), Dec. 10, 1971, 85 Stat. 560; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2107(g)(1), Oct. 4, 1976, 90 Stat. 1834, 1904; Pub. L. 95-30, title II, §202(d)(5)(A), May 23, 1977, 91 Stat. 150; Pub. L. 95-600, title V, §504(a), (b)(1)(A), Nov. 6, 1978, 92 Stat. 2880, 2881; Pub. L. 96-222, title I, §§103(a)(6)(G)(xiii), 105(a)(2), Apr. 1, 1980, 94 Stat. 211, 218; Pub. L. 97-34, title II, §221(b)(2)(B), title III, §331(d)(2)(B), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 98-369, div. A, title IV, §474(r)(37), title VII, §714(n)(2)(B), July 18, 1984, 98 Stat. 846, 964; Pub. L. 99-514, title II, §231(d)(3)(H), title XVIII, §1847(b)(10), Oct. 22, 1986, 100 Stat. 2180, 2857; Pub.

L. 100-647, title I, §1002(h)(2), Nov. 10, 1988, 102 Stat. 3370; Pub. L. 106-554, §1(a)(7) [title III, §318(d)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645; Pub. L. 109-135, title IV, §409(a)(1), Dec. 21, 2005, 119 Stat. 2635.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-135 substituted “6611(f)(4)(B)” for “6611(f)(3)(B)” in concluding provisions.

2000—Subsec. (a). Pub. L. 106-554 substituted “subsection (a)(1) or (c) of section 1212” for “section 1212(a)(1)” in introductory provisions.

1988—Subsec. (c). Pub. L. 100-647 struck out “unused research credit,” after “net capital loss.”

1986—Subsec. (a). Pub. L. 99-514, §231(d)(3)(H), in introductory provisions, struck out “by a research credit carryback provided in section 30(g)(2)” after “carryback provided in section 39,” “unused research credit,” after “net capital loss,” “a research credit carryback or” after “with respect to any portion of,” and “(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)” after “such subsequent taxable year”, and in par. (1), struck out “unused research credit,” after “net capital loss.”

Pub. L. 99-514, §1847(b)(10), substituted “unused research credit, or unused business credit” for “or unused business credit”.

Subsec. (b). Pub. L. 99-514, §231(d)(3)(H)(iv), struck out “unused research credit,” after “net capital loss,” in two places.

1984—Subsec. (a). Pub. L. 98-369, §474(r)(37)(A), amended provisions preceding par. (1) generally. Prior to amendment, such provisions read as follows: “A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), by a new employee credit carryback provided in section 53(b), by a research credit carryback provided in section 44F(g)(2) by an employee stock ownership credit carryback provided by section 44G(b)(2), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit, from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback, a work incentive program carryback, a new employee credit carryback, a research credit carryback, or employee stock ownership credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback (or, in the case of a work incentive program carryback, to an investment credit carryback, or, in the case of a new employee credit carryback, to an investment credit carryback or a work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback) from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—”.

Pub. L. 98-369, §714(n)(2)(B), in provisions following par. (6), substituted “Except for purposes of applying section 6611(f)(3)(B), an application” for “An application”.

Subsec. (a)(1). Pub. L. 98-369, §474(r)(37)(A), substituted “unused research credit, or unused business credit” for “unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit”.

Subsecs. (b), (c). Pub. L. 98-369, §474(r)(37)(B), substituted “unused research credit, or unused business credit” for “unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit” wherever appearing.

1981—Subsec. (a). Pub. L. 97-34, §331(d)(2)(B), inserted in introductory provisions “by an employee stock ownership credit carryback provided by section 44G(b)(2)” after “section 44F(g)(2),” and substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”, “a research credit carryback, or employee stock ownership credit carryback” for “or a research credit carryback”, and “new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback)” for “new employee credit carryback)” and in par. (1) substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, §221(b)(2)(B), inserted in introductory provision “by a research credit carryback provided in section 44F(g)(2),” after “section 53(b),” and substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”, “a new employee credit carryback, or a research credit carryback” for “or a new employee credit carryback”, and “work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or new employee credit carryback)” for “work incentive program carryback)” and in par. (1) substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

Subsec. (b). Pub. L. 97-34, §331(d)(2)(B)(i), substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, §221(b)(2)(B)(i), substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

Subsec. (c). Pub. L. 97-34, §331(d)(2)(B)(i), substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, §221(b)(2)(B)(i), substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

1980—Subsec. (a). Pub. L. 96-222, §103(a)(6)(G)(xiii), substituted “section 53(b)” for “section 53(c)”.

Subsec. (d)(2). Pub. L. 96-222, §105(a)(2), substituted “the date of the overpayment (determined under section 1341(b)(1))” for “the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs”.

1978—Pub. L. 95-600, §504(b)(1)(A), inserted “and refund” after “carryback” in section catchline.

Subsec. (d). Pub. L. 95-600, §504(a), added subsec. (d).

1977—Subsec. (a). Pub. L. 95-30, §202(d)(5)(A)(i) to (iv), inserted references to unused new employee credits and to new employee credit carrybacks in provisions preceding par. (1) and in par. (1).

Subsecs. (b), (c). Pub. L. 95-30, §202(d)(5)(A)(i), inserted references to unused new employee credits.

1976—Subsec. (a). Pub. L. 94-455, §§1906(b)(13)(A), 2107(g)(1), struck out “or his delegate” after “Secretary” and inserted “(or, in the case of a work incentive program carryback, to an investment credit carry-

back)” after “capital loss carryback” in second sentence.

Subsecs. (b), (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1971—Pub. L. 92-178, §601(e)(1)(A), substituted “unused investment credit, or unused work incentive program credit” for “or unused investment credit” wherever appearing in subsecs. (a), (a)(1), (b), and (c).

Subsec. (a). Pub. L. 92-178, §601(e)(1)(B) and (C), inserted “by a work incentive program carryback provided in section 50A(b),” after “section 46(b),” in first sentence, and “or a work incentive program carryback” after “investment credit carryback” in second sentence, respectively.

1969—Subsec. (a). Pub. L. 91-172, §512(d)(1), (2), provided quick refund procedure, presently available in case of net operating loss carrybacks, to be made available in the case of the 3-year capital loss carryback, and substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit” in par. (1).

Subsec. (b). Pub. L. 91-172, §512(d)(2), substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit” wherever such term appears.

Subsec. (c). Pub. L. 91-172, §512(d)(2), substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit”.

1967—Subsec. (a). Pub. L. 90-225 inserted “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)” after “within a period of 12 months from the end of such taxable year”.

1966—Subsec. (a). Pub. L. 89-721, §2(a)-(c), provided in introductory text for a tentative carryback adjustment based on an investment credit carryback as provided for in section 46(b) of this title and inserted “or unused investment credit” after “the taxable year of the net operating loss”, inserted in par. (1) “or unused investment” after “net operating loss”, and struck out in par. (5) “of such loss” and inserted in lieu thereof “from which the carryback is made”.

Subsec. (b). Pub. L. 89-721, §2(d), inserted “or unused investment credit” after “net operating loss” in two places.

Subsec. (c). Pub. L. 89-721, §2(d), (e), inserted “or unused investment credit” after “net operating loss” and “or credit” after “such loss”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 409(d) of Pub. L. 109-135, set out as a note under section 961 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §318(d)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 504 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34, amending section 1212 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 1986 AMENDMENT

Amendment by section 231(d)(3)(H) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31,

1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(10) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(37) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 714(n)(2)(B) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Notwithstanding section 715 of Pub. L. 98-369, amendment by section 714(n)(2)(B) of Pub. L. 98-369 applicable only to applications filed after July 18, 1984, see section 1875(d)(3) of Pub. L. 99-514, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(B) of Pub. L. 97-34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97-34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(B) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, §504(c), Nov. 6, 1978, 92 Stat. 2881, provided that: "The amendments made by this section [amending this section and sections 6213 and 6501 of this title] shall apply to tentative refund claims filed on and after the date of the enactment of this Act [Nov. 6, 1978]."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-721, §2(g), Nov. 2, 1966, 80 Stat. 1150, 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 and section 6501 of this title] shall apply with respect to taxable years ending after December 31, 1961, but only in the case of applications filed after the date of the enactment of this Act [Nov. 2, 1966]. The period of 12 months referred to in the second sentence of section 6411(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this section) for filing an application for a tentative carryback adjustment of tax attributable to the carryback of any unused investment credit shall not expire before the close of December 31, 1966."

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.

§ 6412. Floor stocks refunds

(a) In general

(1) Tires and taxable fuel

Where before October 1, 2016, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, 2016, if claim for such credit or refund is filed with the Secretary on or before March 31, 2017, based upon a request submitted to the manufacturer, producer, or importer before January 1, 2017, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, 2017, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to taxable fuel in retail stocks held at the place where intended to be sold at retail, nor with respect to taxable fuel held for sale by a producer or importer of taxable fuel.

(2) Definitions

For purposes of this section—

(A) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(B) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(b) Limitation on eligibility for credit or refund

No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence

of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed under this section.

(c) Other laws applicable

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4071 and 4081 shall, insofar as applicable and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 795; Mar. 30, 1955, ch. 18, §3(b)(4), 69 Stat. 15; Mar. 29, 1956, ch. 115, §3(b)(4), 70 Stat. 67; May 29, 1956, ch. 342, §19, 70 Stat. 221; June 29, 1956, ch. 462, title II, §208(a), 70 Stat. 392; Pub. L. 85-12, §3(b)(4), Mar. 29, 1957, 71 Stat. 10; Pub. L. 85-475, §3(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, §162(a), Sept. 2, 1958, 72 Stat. 1306; Pub. L. 86-75, §3(b)(3), June 30, 1959, 73 Stat. 158; Pub. L. 86-342, title II, §201(c)(4), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86-564, title II, §202(b)(3), June 30, 1960, 74 Stat. 291; Pub. L. 86-592, §2, July 6, 1960, 74 Stat. 330; Pub. L. 87-15, §2(b), Mar. 31, 1961, 75 Stat. 40; Pub. L. 87-61, title II, §206 (c), (d), June 29, 1961, 75 Stat. 127; Pub. L. 87-72, §3(b)(3), June 30, 1961, 75 Stat. 193; Pub. L. 87-456, title III, §302(d), May 24, 1962, 76 Stat. 77; Pub. L. 87-508, §3(b)(3), June 28, 1962, 76 Stat. 114; Pub. L. 87-535, §18(b), July 13, 1962, 76 Stat. 166; Pub. L. 88-52, §3(b)(1)(C), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(b)(1)(C), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title II, §209(a), (d), June 21, 1965, 79 Stat. 141, 144; Pub. L. 89-368, title II, §201(b), Mar. 15, 1966, 80 Stat. 66; Pub. L. 90-285, §1(a)(2), Apr. 12, 1968, 82 Stat. 92; Pub. L. 90-364, title I, §105(a)(2), June 28, 1968, 82 Stat. 265; Pub. L. 91-172, title VII, §702(a)(2), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91-605, title III, §303(b), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 91-614, title II, §201(a)(2), Dec. 31, 1970, 84 Stat. 1843; Pub. L. 92-178, title IV, §401(g)(5), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94-280, title III, §303(b), May 5, 1976, 90 Stat. 457; Pub. L. 94-455, title XIX, §1906(a)(22), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1834; Pub. L. 95-599, title V, §502(c), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95-618, title II, §231(f)(1), Nov. 9, 1978, 92 Stat. 3189; Pub. L. 97-424, title V, §516(a)(5), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 98-369, div. A, title VII, §735(c)(12), July 18, 1984, 98 Stat. 983; Pub. L. 100-17, title V, §502(d)(1), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101-508, title XI, §11211(f)(1), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(c)(1), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §13242(d)(16), Aug. 10, 1993, 107 Stat. 524; Pub. L. 105-178, title IX, §9002(a)(2)(A), June 9, 1998, 112 Stat. 499; Pub. L. 109-59, title XI, §11101(a)(3), Aug. 10, 2005, 119 Stat. 1944; Pub. L. 112-30, title I, §142(c), Sept. 16, 2011, 125 Stat. 356; Pub. L. 112-102, title IV, §402(c), Mar. 30, 2012, 126 Stat. 282; Pub. L. 112-140, title IV, §402(b), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40102(c), July 6, 2012, 126 Stat. 845.)

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-141 substituted in two places “October 1, 2016” for “July 1, 2012” and “March 31, 2017” for “December 31, 2012” and substituted “January 1, 2017” for “October 1, 2012”.

Pub. L. 112-140, §§1(c), 402(b), temporarily substituted in two places “July 7, 2012” for “July 1, 2012” and “January 6, 2013” for “December 31, 2012” and temporarily substituted “October 7, 2012” for “October 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 substituted in two places “July 1, 2012” for “April 1, 2012” and “December 31, 2012” for “September 30, 2012” and substituted “October 1, 2012” for “July 1, 2012”.

2011—Subsec. (a)(1). Pub. L. 112-30 substituted in two places “April 1, 2012” for “October 1, 2011” and “September 30, 2012” for “March 31, 2012” and substituted “July 1, 2012” for “January 1, 2012”.

2005—Subsec. (a)(1). Pub. L. 109-59 substituted “2011” for “2005” and “2012” for “2006” wherever appearing.

1998—Subsec. (a)(1). Pub. L. 105-178 substituted “2005” for “1999” and “2006” for “2000” wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103-66 substituted “taxable fuel” for “gasoline” wherever appearing in heading and text.

1991—Subsec. (a)(1). Pub. L. 102-240 substituted “1999” for “1995” and “2000” for “1996” wherever appearing.

1990—Subsec. (a)(1). Pub. L. 101-508 substituted “1995” for “1993” and “1996” for “1994” wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100-17 substituted “1993” for “1988” and “1994” for “1989” wherever appearing.

1984—Subsec. (a)(1). Pub. L. 98-369, §735(c)(12)(A), (B), substituted “Tires and gasoline” for “Trucks, tires, tubes, tread rubber, and gasoline” in heading, and in text substituted “Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,” for “Where before October 1, 1988, any article subject to the tax imposed by section 4061(a)(1), 4071(a)(1), (3) or (4), or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use),” and struck out provision that no credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).

Subsec. (a)(2)(A). Pub. L. 98-369, §735(c)(12)(C), substituted “The term ‘dealer’ includes a wholesaler, jobber, distributor, or retailer” for “The term ‘dealer’ includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use”.

Subsec. (c). Pub. L. 98-369, §735(c)(12)(D), substituted “4071” for “4061, 4071.”

1983—Subsec. (a)(1). Pub. L. 97-424, §516(a)(5), substituted “1989” for “1985” and “1988” for “1984” wherever appearing.

1978—Subsec. (a)(1). Pub. L. 95-618 struck out “and buses” after “Trucks” in heading.

Pub. L. 95-599 substituted “1984” for “1979” and “1985” for “1980” wherever appearing.

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(a)(22), (b)(13)(A), redesignated par. (2) as (1) and struck out “or his delegate” after “Secretary”. Prior par. (1) had been repealed by Pub. L. 92-178, title IV, §401(g)(5), Dec. 10, 1971, 85 Stat. 533.

Subsec. (a)(2). Pub. L. 94-455, §1906(a)(22), redesignated par. (4) as (2). Former par. (2) redesignated (1).

Pub. L. 94-280 substituted “1979” for “1977” in two places and “1980” for “1978” in three places, respectively.

Subsec. (a)(4). Pub. L. 94-455, §1906(a)(22), redesignated par. (4) as (2).

1971—Subsec. (a)(1). Pub. L. 92-178 struck out par. (1) which related to general rule for floor stocks refunds on passenger automobiles, etc.

1970—Subsec. (a)(1). Pub. L. 91-614 substituted “January 1 of 1973, 1974, 1978, 1979, 1980, 1981, or 1982” for “January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974”.

Subsec. (a)(2). Pub. L. 91-605 substituted in two places “1977” for “1972” and “March 31, 1978” for “February 10, 1973”, and substituted “January 1, 1978” for “January 1, 1973”.

1969—Subsec. (a)(1). Pub. L. 91-172 struck out reference to Jan. 1, 1970, and inserted reference to Jan. 1, 1974.

1968—Subsec. (a)(1). Pub. L. 90-364 substituted “January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973,” for “May 1, 1968, or January 1, 1969.”

Pub. L. 90-285 substituted “May 1, 1968” for “April 1, 1968”.

1966—Subsec. (a)(1). Pub. L. 89-368 substituted “January 1, 1966, April 1, 1968, or January 1, 1969,” for “January 1, 1966, 1967, 1968, or 1969.”

1965—Subsec. (a)(1). Pub. L. 89-44, §209(a), made floor stock refunds available with respect to passenger cars in dealers’ inventories on the various reduction dates for the passenger car tax and required claims for credit or refund to be filed on or before the 10th day of the 8th calendar month beginning after the date of the tax reduction.

Subsec. (e). Pub. L. 89-44, §209(d), repealed subsec. (e) which related to cross reference.

1964—Subsec. (a)(1). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964” in two places, “October 1, 1965” for “October 1, 1964”, and “November 10, 1965” for “November 10, 1964” in two places.

1963—Subsec. (a)(1). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963”, in two places, “October 1, 1964” for “October 1, 1963”, and “November 10, 1964” for “November 10, 1963” in two places.

1962—Subsec. (a)(1). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962” in two places, “October 1, 1963” for “October 1, 1962”, and “November 10, 1963” for “November 10, 1962” in two places.

Subsec. (d). Pub. L. 87-456 repealed subsec. (d) which related to floor stock refunds with respect to any sugar or articles composed in chief value of sugar.

Pub. L. 87-535 substituted “June 30, 1967” for “December 31, 1962” after “paid and which, on”, and “September 30, 1967” for “March 31, 1963” after “delegate on or before”.

1961—Subsec. (a)(1). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961” in two places, “October 1, 1962” for “October 1, 1961”, and “November 10, 1962” for “November 10, 1961” in two places.

Subsec. (a)(2). Pub. L. 87-61, §206(c), inserted tubes in heading, authorized credit or refund for articles subject to the tax imposed by section 4071(a)(3), prohibited credit or refund with respect to inner tubes for bicycle tires, and substituted “October 1, 1972” for “July 1, 1972” in two places, “February 10, 1973” for “November 10, 1972” in two places, and “January 1, 1973” for “October 1, 1972”.

Subsec. (a)(3). Pub. L. 87-61, §206(d), repealed par. (3) which related to 1961 floor stocks refund on gasoline.

Subsec. (d). Pub. L. 87-15 substituted “December 31, 1962” for “September 30, 1961” after “paid and which, on”, and “March 31, 1963” for “September 30, 1961” after “delegate on or before”.

1960—Subsec. (a)(1). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960” in two places, “October 1, 1961” for “October 1, 1960”, and “November 10, 1961” for “November 10, 1960” in two places.

Subsec. (d). Pub. L. 86-592 substituted “September 30, 1961” for “June 30, 1961” after “and which, on”.

1959—Subsec. (a)(1). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959” in two places, “October 1, 1960” for “October 1, 1959” and “November 10, 1960” for “November 10, 1959” in two places.

Subsec. (a)(3), (4). Pub. L. 86-342 added par. (3) and redesignated former par. (3) as (4).

1958—Subsec. (a)(1). Pub. L. 85-475 substituted “July 1, 1959” for “July 1, 1958” in two places, “October 1, 1959” for “October 1, 1958”, and “November 10, 1959” for “November 10, 1958” in two places.

Subsec. (d). Pub. L. 85-859 required filing of claims for refund on or before Sept. 30, 1961.

1957—Subsec. (a)(1). Pub. L. 85-12, substituted “July 1, 1958” for “April 1, 1957” in two places, “October 1, 1958”

for “July 1, 1957”, and “November 10, 1958” for “August 10, 1957” in two places.

1956—Subsec. (a). Act June 29, 1956, in par. (1), substituted “April 1, 1957” for “April 1, 1956” in two places, “section 4061(a)(2)” for “section 4061 (a) or (b)”, and inserted provisions requiring claims for refund to be made on or before August 10, 1957, inserted provisions relating to trucks and buses, tires, tread rubber, and gasoline as par. (2), defined “dealer” in the case of tread rubber subject to tax under section 4071(a)(4) of this title in par. (3), and struck out pars. (4) and (5). Former par. (4), which related to reimbursement of dealers, was covered generally by pars. (1) and (2). Former par. (5) was covered by subsec. (b).

Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956” in two places, and “July 1, 1957” for “July 1, 1956”.

Subsec. (b). Act June 29, 1956, redesignated par. (5) of subsec. (a) as subsec. (b) and substituted “manufacturer, producer, or importer” for “person”, and struck out provisions that required claims for credit or refund to be filed before July 1, 1956. Former subsec. (b) was covered by par. (2) of subsec. (a).

Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956” in three places, and “July 1, 1957” for “July 1, 1956”.

Subsec. (c). Act June 29, 1956, included taxes imposed by section 4071 of this title.

Subsec. (d). Act May 29, 1956, substituted “1961” for “1957”.

1955—Subsecs. (a), (b). Act Mar. 30, 1955, substituted “April 1, 1956” for “April 1, 1955” and “July 1, 1956” for “July 1, 1955” wherever appearing.

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 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 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. 95-618 applicable with respect to articles sold after Nov. 9, 1978, see section 231(g) of Pub. L. 95-618, set out as a note under section 4222 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 1968 AMENDMENTS

Pub. L. 90-364, title I, §105(c), June 28, 1968, 82 Stat. 266, provided that: "The amendments made by this section [amending this section and sections 4061 and 4251 of this title] shall take effect as of April 30, 1968."

Pub. L. 90-285, §1(b), Apr. 12, 1968, 82 Stat. 92, provided that: "The amendments made by subsection (a) [amending this section and sections 4061 and 4251 of this title] shall take effect as of March 31, 1968."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-535 effective Jan. 1, 1962, see section 19(a) of Pub. L. 87-535, July 13, 1962, 76 Stat. 167.

Amendment by Pub. L. 87-456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, title V, May 24, 1962, 76 Stat. 78.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective June 29, 1961, see section 208 of Pub. L. 87-61, 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 1956 AMENDMENTS

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

Amendment by act May 29, 1956, effective as of Jan. 1, 1956, see section 22 of act May 29, 1956, ch. 342, 70 Stat. 221.

FLOOR STOCK REFUNDS

Pub. L. 89-44, title II, §209(b), June 21, 1965, 79 Stat. 142, provided that where any article subject to taxes under section 4111, 4121, 4141, 4151, 4161, 4191 or 4451 of this title before June 21, 1965, or subject to taxes under section 4061(b), 4091(1), or 4131 of this title before Jan. 1, 1966, had been sold by the manufacturer, importer or producer and on such date held by the dealer and not used, there was to be credited or refunded to the manufacturer, importer or producer an amount equal to the difference between the tax paid by him on his sale of the article and the amount of tax made applicable to the article on such date where certain conditions were satisfactorily met.

EXTENSION OF TIME FOR FILING CLAIMS FOR FLOOR STOCKS REFUNDS

Pub. L. 91-642, §1, Dec. 31, 1970, 84 Stat. 1880, provided that if a claim for credit or refund was filed by a manufacturer, importer or producer on or before the 90th day after Dec. 31, 1970, such filing was deemed to have satisfied the requirements of section 209(b)(1)(A) of Pub. L. 89-44 for filing on or before Feb. 10, 1966, or Aug. 10, 1966.

REFUNDS RESPECTING CONSUMER PURCHASES

Pub. L. 89-44, title II, §209(c), June 21, 1965, 79 Stat. 143, provided that if after May 14, 1965, but before June 21, 1965, a new automotive item subject to the tax imposed by section 4061(a)(2) of this title, or a new self-contained air-conditioning unit subject to the tax imposed by section 4111 of this title, had been sold to an

ultimate purchaser, there was to be credited or refunded to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the tax made applicable to the article on such date if certain conditions were met.

§ 6413. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Overpayments of certain employment taxes

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be

adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(c) Special refunds

(1) In general

If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a)), or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term "wages" as used in this paragraph shall, for purposes of this paragraph, include "compensation" as defined in section 3231(e).

(2) Applicability in case of Federal and State employees, employees of certain foreign affiliates, and governmental employees in Guam, American Samoa, and the District of Columbia

(A) Federal employees

In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer; and the term "wages" includes for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) State employees

For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101(a)" includes, in the case of serv-

ices covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) Employees of certain foreign affiliates

For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(l) as would be wages if such services constituted employment; the term "employer" includes any American employer which has entered into an agreement pursuant to section 3121(l); the term "tax" or "tax imposed by section 3101(a)," includes, in the case of services covered by an agreement entered into pursuant to section 3121(l), an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121(l) has been paid to the Secretary.

(D) Governmental employees in Guam

In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section 3125(b) shall, for purposes of this subsection, be deemed a separate employer.

(E) Governmental employees in American Samoa

In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section 3125(c) shall, for purposes of this subsection, be deemed a separate employer.

(F) Governmental employees in the District of Columbia

In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125(d) shall, for purposes of this subsection, be deemed a separate employer.

(G) Employees of States and political subdivisions

In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.

(d) Refund or credit of Federal unemployment tax

Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

(Aug. 16, 1954, ch. 736, 68A Stat. 797; Sept. 1, 1954, ch. 1206, title II, §202(a)(1), (b)(1)–(3), 68 Stat. 1089, 1090; Pub. L. 85–840, title IV, §402(d), Aug. 28, 1958, 72 Stat. 1043; Pub. L. 86–778, title I, §103(r)(2)–(4), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89–97, title III, §§317(e), (f), 320(b)(5), (6), July 30, 1965, 79 Stat. 389, 390, 393, 394; Pub. L. 90–248, title I, §108(b)(5), (6), title V, §502(a), Jan. 2, 1968, 81 Stat. 835, 934; Pub. L. 92–5, title II, §203(b)(5), (6), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, §203(b)(5), (6), July 1, 1972, 86 Stat. 419, 420; Pub. L. 92–603, title I, §144(c), Oct. 30, 1972, 86 Stat. 1370; Pub. L. 93–66, title II, §203(b)(5), (6), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, §5(b)(5), (6), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–445, title V, §502, Oct. 16, 1974, 88 Stat. 1360; Pub. L. 94–455, title XIX, §1906(a)(23)(A), (B)(i), (ii), (C), (D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1827, 1834; Pub. L. 97–248, title III, §§302(c), 307(a)(10)–(12), 308(a), Sept. 3, 1982, 96 Stat. 586, 589–591; Pub. L. 98–21, title III, §321(e)(4), Apr. 20, 1983, 97 Stat. 120; Pub. L. 98–67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–272, title XIII, §13205(a)(2)(E), Apr. 7, 1986, 100 Stat. 315; Pub. L. 101–508, title XI, §11331(d)(1), Nov. 5, 1990, 104 Stat. 1388–468; Pub. L. 103–66, title XIII, §13207(d)(1)–(3), Aug. 10, 1993, 107 Stat. 468.)

REFERENCES IN TEXT

Section 230 of the Social Security Act, referred to in subsec. (c)(1), (2)(A), is classified to section 430 of Title 42, The Public Health and Welfare.

Section 218 of the Social Security Act, referred to in subsec. (c)(2)(B), is classified to section 418 of Title 42.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, §13207(d)(1), substituted “section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))” for “section 3101 or section 3201”.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, §13207(d)(2), substituted “section 3101(a)” for “section 3101” wherever appearing.

Subsec. (c)(3). Pub. L. 103–66, §13207(d)(3), struck out heading and text of par. (3). Text read as follows: “In applying this subsection with respect to—

“(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

“(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be sub-

stituted for ‘contribution and benefit base (as determined under section 230 of the Social Security Act)’ each place it appears.”

1990—Subsec. (c)(3). Pub. L. 101–508 substituted heading for one which read: “Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act” and amended text generally. Prior to amendment, text read as follows: “In the case of any individual who, during any calendar year, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.”

1986—Subsec. (a)(5). Pub. L. 99–272, §13205(a)(2)(E)(i), added par. (5).

Subsec. (c)(2)(D) to (F). Pub. L. 99–272, §13205(a)(2)(E)(ii)(I), substituted “3125(b)”, “3125(c)”, and “3125(d)” for “3125(a)”, “3125(b)”, and “3125(c)”, respectively, in subpars. (D), (E), and (F), respectively.

Subsec. (c)(2)(G). Pub. L. 99–272, §13205(a)(2)(E)(ii)(II), added subpar. (G).

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (c)(2). Pub. L. 98–21, §321(e)(4)(B), substituted “foreign affiliates” for “foreign corporations” in heading.

Subsec. (c)(2)(C). Pub. L. 98–21, §321(e)(4)(A), substituted “foreign affiliates” for “foreign corporations” in heading and, in text, substituted “American employer” for “domestic corporation”.

1982—Catchline and subsecs. (a)(1), (b), (c)(1). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the section catchline is amended by substituting “taxes under subtitle C” for “employment taxes”; subsec. (a)(1) is amended by substituting “3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,” for “or 3402 is paid with respect to any payment of remuneration,”; subsec. (b) is amended by striking out “of certain employment taxes” from heading, and by substituting “3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount”; and subsec. (c)(1) is amended by substituting “section 31(c)” for “section 31(b)”. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (a)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(4). Pub. L. 94–455, §1906(a)(23)(A), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them”.

Subsec. (b). Pub. L. 94–455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(1). Pub. L. 94–455, §1906(a)(23)(B)(i), struck out “or his delegate” after “Secretary” and substituted general provision for entitlement to credit or refund of employment taxes deducted from an employee receiving wages from more than one employer during a calendar year and in excess of employment taxes with respect to amount of wages received in the calendar year equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to such calendar year for prior specific provisions for such credit or refund of employment taxes deducted in excess of prescribed amount for base limits and applicable periods set forth below:

<i>Amount</i>	<i>After Calendar Year</i>	<i>Prior to Calendar Year</i>
\$3,600	1950	1955

<i>Amount</i>	<i>After Calendar Year</i>	<i>Prior to Calendar Year</i>
\$4,200	1954	1959
\$4,800	1958	1966
\$6,600	1965	1968
\$7,800	1967	1972
\$9,000	1971	1973
\$10,800	1972	1974
\$13,200	1973	1975

and amount equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to calendar year after calendar year 1974, and thereafter.

Subsec. (c)(2)(A). Pub. L. 94-455, § 1906(a)(23)(B)(ii), substituted “the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year” for “the amount, not to exceed \$3,600 for the calendar year 1951, 1952, 1953, or 1954, \$4,200 for the calendar year 1955, 1956, 1957, or 1958, \$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, \$6,600 for the calendar year 1966 or 1967, \$7,800 for the calendar year 1968, 1969, 1970, or 1971, \$9,000 for the calendar year 1972, \$10,800 for the calendar year 1973, \$13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974” before “with respect to which such contribution and benefit base is effective”.

Subsec. (c)(2)(C). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(2)(F). Pub. L. 94-455, § 1906(a)(23)(C), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them”.

Subsec. (c)(3). Pub. L. 94-455, § 1906(a)(23)(D), struck out “after 1967” after “calendar year”.

1974—Subsec. (c)(1). Pub. L. 93-445 inserted “or section 3201, or by both such sections” after “section 3101” and inserted provision that for purposes of subsec. (c)(1) the term “wages” include compensation as defined in section 3231(e).

1973—Subsec. (c)(1). Pub. L. 93-233, § 5(b)(5), substituted “\$13,200” for “\$12,600” whenever appearing.

Pub. L. 93-66, § 203(b)(5), substituted “\$12,000” for “\$12,600” wherever appearing.

Subsec. (c)(2)(A). Pub. L. 93-233, § 5(b)(6), substituted “\$13,200” for “\$12,600”.

Pub. L. 93-66, § 203(b)(6), substituted “\$12,000” for “\$12,600”.

1972—Subsec. (c)(1). Pub. L. 92-336, § 203(b)(5), inserted “and prior to the calendar year 1973” after “after the calendar year 1971”, inserted provisions of cls. (F) to (H), and provisions relating to wages received after 1971 and before 1973, after 1972 and before 1974, after 1973 and before 1975, and the calendar year after 1974.

Subsec. (c)(2)(A). Pub. L. 92-336, § 203(b)(6), as amended by Pub. L. 92-603, § 144(c), eff. July 1, 1972, inserted provisions relating to amounts to be included within the term “wages” for the calendar years 1972, 1973, 1974, or any calendar year after 1974.

1971—Subsec. (c)(1). Pub. L. 92-5, § 203(b)(5), inserted “and prior to the calendar year 1972” after “after the calendar year 1967”, “or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed \$9,000,” after “exceed \$7,800,” and inserted before the period at end of subpar. (1) “and before 1972, or which exceeds the tax with respect to the first \$9,000 of such wages received in such calendar year after 1971”.

Subsec. (c)(2)(A). Pub. L. 92-5, § 203(b)(6), substituted “\$7,800 for the calendar year 1968, 1969, 1970, or 1971, or \$9,000 for any calendar year after 1971” for “or \$7,800 for any calendar year after 1967”.

1968—Subsec. (c)(1). Pub. L. 90-248, § 108(b)(5), inserted “and prior to the calendar year 1968” after “the calendar year 1965”, “or (D) during any calendar year after the calendar year 1967, the wages received by him dur-

ing such year exceed \$7,800,” after “exceed \$6,600,” and “and before 1968, or which exceeds the tax with respect to the first \$7,800 of such wages received in such calendar year after 1967”.

Subsec. (c)(2)(A). Pub. L. 90-248, § 108(b)(6), substituted “\$6,600 for the calendar year 1966 or 1967, or \$7,800 for any calendar year after 1967” for “or \$6,600 for any calendar year after 1965”.

Subsec. (c)(3). Pub. L. 90-248, § 502(a), added par. (3). 1965—Subsec. (a)(4). Pub. L. 89-97, § 317(e), added par. (4).

Subsec. (c)(1). Pub. L. 89-97, § 320(b)(5), inserted “and prior to the calendar year 1966” after “the calendar year 1958”, “or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed \$6,600” after “exceed \$4,800,” and “and before 1966, or which exceeds the tax with respect to the first \$6,600 of such wages received in such calendar year after 1965” before the period at end of par.

Subsec. (c)(2)(A). Pub. L. 89-97, § 320(b)(6), substituted “\$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or \$6,600 for any calendar year after 1965” for “or \$4,800 for any calendar year after 1958”.

Subsec. (c)(2)(F). Pub. L. 89-97, § 317(f)(1), added subpar. (F) and inserted reference to the District of Columbia in heading.

1960—Subsec. (a)(3). Pub. L. 86-778, § 103(r)(2), added par. (3).

Subsec. (c)(2). Pub. L. 86-778, § 103(r) (3), (4), inserted governmental employees in Guam and American Samoa in heading, and added subpars. (D) and (E).

1958—Subsec. (c)(1). Pub. L. 85-840, § 402(d)(1), conformed the special-refund provisions to the increase made by Pub. L. 85-840, in the limitation on wages from \$4,200 to \$4,800 for calendar years after 1958.

Subsec. (c)(2)(A). Pub. L. 85-840, § 402(d)(2), substituted “\$4,200 for the calendar year 1955, 1956, 1957, or 1958, or \$4,800 for any calendar year after 1958” for “\$4,200 for any calendar year after 1954”.

1954—Subsec. (c)(1). Act Sept. 1, 1954, § 202(a)(1), conformed the special-refund provisions to the increase made by said act Sept. 1, 1954, in the limitation on wages from \$3,600 to \$4,200 for calendar years after 1954.

Subsec. (c)(2). Act Sept. 1, 1954, § 202(b)(1), inserted “and employees of certain foreign corporations” in heading.

Subsec. (c)(2)(A). Act Sept. 1, 1954, § 202(b)(2), substituted “\$3,600 for the calendar year 1951, 1952, 1953, or 1954, or \$4,200 for any calendar year after 1954” for “\$3,600”.

Subsec. (c)(2)(C). Act Sept. 1, 1954, § 202(b)(3), added subpar. (C).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to 1994 and later calendar years, see section 13207(e) of Pub. L. 103-66, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to 1991 and later calendar years, see section 11331(e) of Pub. L. 101-508, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to agreements entered into after Apr. 20, 1983, except that at election of any American employer such amendment shall also apply to any agreement entered into on or before Apr. 20, 1983, see section 321(f) of Pub. L. 98-21, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(23)(A), (C), (D), (b)(13)(A) of Pub. L. 94-455 effective on first day of first

month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(a)(23)(B)(iii), Oct. 4, 1976, 90 Stat. 1826, provided that: “The amendments made by clauses (i) and (ii) [amending this section] shall apply with respect to remuneration paid after December 31, 1976.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, and applicable only with respect to compensation paid for services rendered on or after that date, see section 604 of Pub. L. 93-445, set out as a note under section 3221 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-336, as amended by Pub. L. 92-603, §144(c), applicable only with respect to remuneration paid after Dec. 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to remuneration paid after Dec. 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 108(b)(5), (6) of Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 317(e), (f) of Pub. L. 89-97 applicable with respect to services performed after the quarter ending September 30, 1965, and after the quarter in which the Secretary of the Treasury receives a certification from the Commissioners [now Mayor] of the District of Columbia expressing their desire to have the insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees coming under the provisions of such amendments, see section 317(g) of Pub. L. 89-97, set out as a note under section 410 of Title 42.

Amendment by section 320(b)(5), (6) of Pub. L. 89-97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and em-

ployees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of Title 42.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 202(d) of act Sept. 1, 1954, set out as a note under section 1401 of this title.

§ 6414. Income tax withheld

In the case of an overpayment of tax imposed by chapter 24, or by chapter 3 or 4, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 111-147, title V, §501(c)(1), Mar. 18, 2010, 124 Stat. 106.)

AMENDMENTS

2010—Pub. L. 111-147 inserted “or 4” after “chapter 3”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to payments made after Dec. 31, 2012, with certain exceptions, see section 501(d)(1), (2) of Pub. L. 111-147, set out as a note under section 1471 of this title.

§ 6415. Credits or refunds to persons who collected certain taxes

(a) Allowance of credits or refunds

Credit or refund of any overpayment of tax imposed by section 4251, 4261, or 4271 may be allowed to the person who collected the tax and paid it to the Secretary if such person establishes, under such regulations as the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund.

(b) Credit on returns

Any person entitled to a refund of tax imposed by section 4251, 4261, or 4271 paid, or collected and paid, to the Secretary by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) Refund of overcollections

In case any person required under section 4251, 4261, or 4271 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) Refund of taxable payment

Any person making a refund of any payment on which tax imposed by section 4251, 4261, or

4271 has been collected may repay therewith the amount of tax collected on such payment.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 85-475, §4(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, §163(d)(1), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89-44, title VI, §601(b), June 21, 1965, 79 Stat. 153; Pub. L. 91-258, title II, §205(b)(2), May 21, 1970, 84 Stat. 241; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1970—Pub. L. 91-258 inserted reference to section 4271 in four places.

1965—Subsec. (a). Pub. L. 89-44, §601(b)(1), (2), substituted “section 4251 or 4261” for “sections 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286” and struck out last sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of section 4231.

Subsecs. (b) to (d). Pub. L. 89-44, §601(b)(1), substituted “section 4251 or 4261” for “section 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286” wherever appearing.

1958—Subsec. (a). Pub. L. 85-859 provided that in the case of any payment outside the United States in respect of which tax is imposed under par. (1), (2), or (3) of section 4231 of this title, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

Subsecs. (a) to (d). Pub. L. 85-475 struck out references to section 4271.

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

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Pub. L. 85-859, §1(c), Sept. 2, 1958, 72 Stat. 1275, provided in part that: “Except as otherwise provided, the amendments and repeals made by title I of this Act [enacting sections 4057, 4143, 4221 to 4225, and 4294 of this title, amending chapter 34, this section, and sections 4001, 4003, 4031, 4041, 4053, 4111, 4121, 4141, 4142, 4192, 4216 to 4218, 4231 to 4233, 4263, 4291, 4501, 4601, 6011, 6412, 6416, 6420, 6421, 6501, and 6805 of this title, and repealing section 4112 of this title and former sections 4143, 4152, 4220 to 4225, and 4316 of this title] shall take effect on the first day of the first calendar quarter which begins more than 60 days after the date on which this Act is enacted [Sept. 2, 1958].”

Pub. L. 85-475, §4(c), June 30, 1958, 72 Stat. 261, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) Except as provided in paragraph (2), the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only with respect to amounts paid on or after August 1, 1958.

“(2) In the case of transportation with respect to which the second sentence of section 4281 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies, the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only if the transportation begins on or after August 1, 1958.”

§ 6416. Certain taxes on sales and services

(a) Condition to allowance

(1) General rule

No credit or refund of any overpayment of tax imposed by chapter 31 (relating to retail excise taxes), or chapter 32 (manufacturers taxes), shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b)(2) of this section—

(i) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or

(ii) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(2) Exceptions

This subsection shall not apply to—

(A) the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and

(B) an overpayment of tax under paragraph (1), (3)(A), (4), (5), or (6) of subsection (b) of this section.

(3) Special rule

For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term “ultimate purchaser” (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.

(4) Registered ultimate vendor or credit card issuer to administer credits and refunds of gasoline tax

(A) In general

For purposes of this subsection, except as provided in subparagraph (B), if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101.

(B) Credit card issuer

For purposes of this subsection, if the purchase of gasoline described in subparagraph

(A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

(i) is registered under section 4101,
 (ii) has established, under regulations prescribed by the Secretary, that such person—

(I) has not collected the amount of the tax from the person who purchased such article, or

(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

(iii) has so established that such person—

(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

(III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.

If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or payment.

(C) Timing of claims

The procedure and timing of any claim under subparagraph (A) or (B) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor or credit card issuer has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor or credit card issuer are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).

(b) Special cases in which tax payments considered overpayments

Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) Price readjustments

(A) In general

Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to

the purchaser shall be deemed to be an overpayment.

(B) Further manufacture

Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(C) Adjustment of tire price

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) Specified uses and resales

The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) exported;

(B) used or sold for use as supplies for vessels or aircraft;

(C) sold to a State or local government for the exclusive use of a State or local government;

(D) sold to a nonprofit educational organization for its exclusive use;

(E) sold 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;

(F) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

(G) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C), (D), and (E) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), (D), and (E) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4121. Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met. In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply. In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.

(3) Tax-paid articles used for further manufacture, etc.

If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent

manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

(A) in the case of any article other than any fuel taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

- (i) another article taxable under chapter 32, or
- (ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

(4) Tires

If—

(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

- (i) an automobile bus chassis or an automobile bus body,
- (ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, or
- (iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.

(5) Return of certain installment accounts

If—

(A) tax was paid under section 4216(d)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216(d)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

(6) Truck chassis, bodies, and semitrailers used for further manufacture

If—

(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Refund to exporter or shipper

Under regulations prescribed by the Secretary the amount of any tax imposed by chapter 31, or chapter 32 erroneously or illegally collected in respect of any article exported to a foreign country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

(d) Credit on returns

Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return. The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).

(e) Accounting procedures for like articles

Under regulations prescribed by the Secretary, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

- (1) on a first-in-first-out basis,
- (2) on a last-in-first-out basis, or
- (3) in accordance with any other consistent method approved by the Secretary.

(f) Meaning of terms

For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Aug. 11, 1955, ch. 793, § 2, 69 Stat. 676; Aug. 11, 1955, ch. 805, §§ 1(h), (i), 2(b), 69 Stat. 690; Apr. 2, 1956, ch. 160, § 2(b)(1), 70 Stat. 90; June 29, 1956, ch. 462, title II, § 208(b), 70 Stat. 393; Pub. L. 85-475, § 4(b)(5), (6), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, § 163(a), (c), Sept. 2, 1958, 72 Stat. 1306, 1311; Pub. L. 86-342, title II, § 201(d)(1), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86-418, § 3, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86-781, § 2, Sept. 14, 1960, 74 Stat. 1018; Pub. L. 87-61, title II, § 205(c), (d), June 29, 1961, 75 Stat. 126; Pub. L. 87-508, § 5(c)(3), June 28, 1962, 76 Stat. 119; Pub. L. 89-44, title II, § 207(c), title VI, § 601(c), title VIII, § 801(d)(2), June 21, 1965, 79 Stat. 140, 153, 158; Pub. L. 91-258, title II, §§ 205(b)(3), (4), 207(d)(4)-(7), May 21, 1970, 84 Stat. 242, 248, 249; Pub. L. 91-614, title III, § 302(a), (b), Dec. 31, 1970, 84 Stat. 1845; Pub. L. 92-178, title

IV, §401(a)(3)(C), (g)(6), Dec. 10, 1971, 85 Stat. 531, 534; Pub. L. 94-455, title XIX, §§1904(b)(1), (2), 1906(a)(24)(A), (B)(i), (b)(13)(A), title XXI, §2108(a), Oct. 4, 1976, 90 Stat. 1815, 1827, 1834, 1904; Pub. L. 95-227, §2(b)(4), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95-618, title II, §§201(c)(3), 232(b), 233(c)(3), Nov. 9, 1978, 92 Stat. 3184, 3189, 3192; Pub. L. 96-222, title I, §108(c)(2)(A), (B), (3), (4), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96-596, §4(c)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96-598, §1(a), (b), Dec. 24, 1980, 94 Stat. 3485, 3486; Pub. L. 97-424, title V, §§511(g)(2)(A), 512(b)(2)(C), (D), 515(b)(4), Jan. 6, 1983, 96 Stat. 2173, 2177, 2181; Pub. L. 98-369, div. A, title VII, §§734(b), (j), 735(c)(13), July 18, 1984, 98 Stat. 978, 980, 984; Pub. L. 99-499, title V, §521(d)(5), Oct. 17, 1986, 100 Stat. 1780; Pub. L. 100-203, title IX, §9201(b)(2), title X, §10502(d)(6)-(8), Dec. 22, 1987, 101 Stat. 1330-330, 1330-444; Pub. L. 100-647, title II, §2001(d)(1)(B), title VI, §6102(a), Nov. 10, 1988, 102 Stat. 3594, 3710; Pub. L. 101-508, title XI, §11212(d)(2), Nov. 5, 1990, 104 Stat. 1388-432; Pub. L. 103-66, title XIII, §13242(d)(17)-(19), Aug. 10, 1993, 107 Stat. 524; Pub. L. 104-188, title I, §1702(b)(3), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title IX, §905(a), title X, §1032(e)(6), title XIV, §1436(b), Aug. 5, 1997, 111 Stat. 874, 935, 1053; Pub. L. 105-206, title VI, §6023(23), July 22, 1998, 112 Stat. 826; Pub. L. 108-357, title VIII, §§853(d)(2)(G)-(I), 865(a), Oct. 22, 2004, 118 Stat. 1613, 1621; ; Pub. L. 109-59, title XI, §11163(b), Aug. 10, 2005, 119 Stat. 1973; Pub. L. 109-280, title XII, §1207(e), Aug. 17, 2006, 120 Stat. 1071; Pub. L. 110-172, §11(d)(1), Dec. 29, 2007, 121 Stat. 2489; Pub. L. 111-152, title I, §1405(b)(2), Mar. 30, 2010, 124 Stat. 1065.)

CODIFICATION

Section 1207(e) of Pub. L. 109-280, which directed the amendment of section 6416 without specifying the act to be amended, was executed to this section, which is section 6416 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-152 inserted at end of concluding provisions “In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.”

2007—Subsec. (a)(4)(C). Pub. L. 110-172 substituted “ultimate vendor or credit card issuer has certified” for “ultimate vendor” and all that follows through “has certified” and substituted “all ultimate purchasers of the vendor or credit card issuer are certified” for “all ultimate purchasers of the vendor” and all that follows through “are certified”. See 2005 Amendment note below.

2006—Subsec. (b)(2). Pub. L. 109-280, §1207(e)(1)(B), (C), in concluding provisions, substituted “Subparagraphs (C), (D), and (E)” for “Subparagraphs (C) and (D)” and “(B), (C), (D), and (E)” for “(B), (C), and (D)” and inserted at end “In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.” See Codification note above.

Subsec. (b)(2)(E) to (G). Pub. L. 109-280, §1207(e)(1)(A), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively. See Codification note above.

Subsec. (b)(4)(B)(iii). Pub. L. 109-280, §1207(e)(2), added cl. (iii). See Codification note above.

2005—Subsec. (a)(4). Pub. L. 109-59, §11163(b)(1)(E), inserted “or credit card issuer” after “vendor” in heading.

Subsec. (a)(4)(A). Pub. L. 109-59, §11163(b)(1)(A), inserted “except as provided in subparagraph (B),” after “For purposes of this subsection,”.

Subsec. (a)(4)(B). Pub. L. 109-59, §11163(b)(1)(B), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(4)(C). Pub. L. 109-59, §11163(b)(1)(D), which directed the insertion of “or credit card issuer” after “vendor”, was executed by inserting “or credit card issuer” after “vendor” both places it appeared, to reflect the probable intent of Congress.

Pub. L. 109-59, §11163(b)(1)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)”.

Subsec. (b)(2). Pub. L. 109-59, §11163(b)(2), inserted at end “Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.”

2004—Subsec. (a)(4). Pub. L. 108-357, §865(a), amended heading and text of par. (4) generally, substituting provisions relating to administration of credits and refunds of gasoline tax by a registered ultimate vendor for provisions relating to administration of credits and refunds of gasoline tax by wholesale distributors.

Subsec. (b)(2). Pub. L. 108-357, §853(d)(2)(G), struck out “4091 or” before “4121” in concluding provisions.

Subsec. (b)(3). Pub. L. 108-357, §853(d)(2)(H), struck out “or 4091” after “4081” in subpars. (A) and (B).

Subsec. (d). Pub. L. 108-357, §853(d)(2)(I), struck out “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)” before period at end.

1998—Subsec. (b)(5). Pub. L. 105-206 substituted “section 4216(d)(1)” for “section 4216(e)(1)” in subpar. (A) and concluding provisions.

1997—Subsec. (a)(4)(B). Pub. L. 105-34, §905(a), inserted at end “Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.”

Subsec. (b)(2). Pub. L. 105-34, §1032(e)(6), inserted “or kerosene” after “diesel fuel” in concluding provisions.

Subsec. (d). Pub. L. 105-34, §1436(b), inserted before period at end “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)”.

1996—Subsec. (b)(1)(A). Pub. L. 104-188 substituted “chapter 31 or 32” for “chapter 32 or by section 4051”.

1993—Subsec. (a)(4)(A). Pub. L. 103-66, §13242(d)(17)(A), substituted “gasoline” for “product” in two places.

Subsec. (a)(4)(B). Pub. L. 103-66, §13242(d)(17)(B), substituted “section 4093(b)(2)” for “section 4092(b)(2)” and “any gasoline taxable under section 4081 for ‘aviation fuel’ therein” for “any product taxable under section 4081 for ‘a taxable fuel’ therein”.

Subsec. (b)(2). Pub. L. 103-66, §13242(d)(18), inserted “any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and” after “This paragraph shall not apply in the case of” in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 103-66, §13242(d)(19)(A), substituted “any fuel taxable under section 4081 or 4091” for “gasoline taxable under section 4081 and other than any fuel taxable under section 4091”.

Subsec. (b)(3)(B). Pub. L. 103-66, §13242(d)(19)(B), substituted “any fuel taxable under section 4081 or 4091, such fuel” for “gasoline taxable under section 4081 or any fuel taxable under section 4091, such gasoline or fuel”.

1990—Subsec. (d). Pub. L. 101-508 inserted at end “The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).”

1988—Subsec. (a)(4). Pub. L. 100-647, §6102(a), added par. (4).

Subsec. (b)(2). Pub. L. 100-647, §2001(d)(1)(B), substituted “(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)” for “(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)”.

1987—Subsec. (b)(2). Pub. L. 100-203, §10502(d)(6), struck out “(other than coal taxable under section 4121)” after “of any article” in introductory provisions and inserted at end “This paragraph shall not apply in the case of any tax paid under section 4091 or 4121.”

Pub. L. 100-203, §9201(b)(2), inserted at end “In the case of the tax imposed by section 4131, subparagraphs

(B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe.”

Subsec. (b)(3)(A). Pub. L. 100-203, §10502(d)(7), inserted “and other than any fuel taxable under section 4091” after “section 4081”.

Subsec. (b)(3)(B). Pub. L. 100-203, §10502(d)(8), substituted “or any fuel taxable under section 4091, such gasoline or fuel” for “, such gasoline”.

1986—Subsec. (b)(2). Pub. L. 99-499 inserted “or under paragraph (1)(A) or (2)(A) of section 4041(d)” after “section 4041(a)”.

1984—Subsec. (a)(1)(C). Pub. L. 98-369, §734(b)(2)(B)(iii), struck out “, (b)(3)(C), or (D), or (b)(4)” before “of this section”.

Subsec. (a)(2)(B). Pub. L. 98-369, §§734(b)(1)(B), (2)(B)(iv), 735(c)(13)(D), substituted “(4), (5), or (6) of subsection (b)” for “or (B), or (5) of subsection (b)”.

Subsec. (a)(3). Pub. L. 98-369, §734(b)(2)(B)(v), in amending par. (3) generally, struck out the subpar. (A) designation before “in any case”, substituted a period for “; and” after “determination”, and struck out subpar. (B) which provided that in applying paragraph (1) to any overpayment under paragraph (2)(F), (3)(C), or (4) of subsection (b), the term “ultimate vendor” means the ultimate vendor of the other article.

Subsec. (b)(1)(A). Pub. L. 98-369, §734(j), inserted “or by section 4051” after “by chapter 32”.

Subsec. (b)(1)(C). Pub. L. 98-369, §735(c)(13)(A), substituted “subsection (a) or (b) of section 4071” for “section 4071(a)(1) or (2) or section 4071(b)”.

Subsec. (b)(2). Pub. L. 98-369, §735(c)(13)(B), inserted a period after “section 4064” at end of flush sentence following subpar. (F).

Subsec. (b)(2)(A). Pub. L. 98-369, §735(c)(13)(F), struck out “(except in any case to which subsection (g) applies)” after “exported”.

Subsec. (b)(2)(E). Pub. L. 98-369, §735(c)(13)(B), added subpar. (E).

Pub. L. 98-369, §734(b)(2)(B)(i), struck out former subpar. (E) which related to tires or inner tubes resold for use or tread rubber on recapped or retreaded tires resold for use.

Subsec. (b)(2)(F). Pub. L. 98-369, §735(c)(13)(B), added subsec. (F) and struck out former subsec. (F) which related to any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a)).

Subsec. (b)(2)(G) to (M). Pub. L. 98-369, §735(c)(13)(B), struck out subpars. (G) through (M) which related to tread rubber, gasoline, articles used with automobile buses, boxes or containers, light-duty trucks, tires and inner tubes, recapped tires, and tires sold for use in connection with qualified buses.

Subsec. (b)(3). Pub. L. 98-369, §735(c)(13)(C), struck out provision at end that for purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(3)(A). Pub. L. 98-369, §735(c)(13)(C), substituted “gasoline taxable under section 4081,” for “an article to which subparagraphs (B), (C), (D), or (E) applies.”

Subsec. (b)(3)(B). Pub. L. 98-369, §735(c)(13)(C), substituted “gasoline taxable under section 4081,” for “a part or accessory taxable under section 4061(b)”, substituted “gasoline” for “article”, inserted “for nonfuel purposes.”, and substituted a period for a semicolon after “produced by him”.

Subsec. (b)(3)(C). Pub. L. 98-369, §734(b)(2)(B)(ii), struck out subpar. (C) which related to tires or inner tubes taxable under section 4071(a) of this title.

Subsec. (b)(3)(D) to (F). Pub. L. 98-369, §735(c)(13)(C), struck out subpar. (D) which related to tread rubber in respect of which tax was paid under section 4071(a)(4)

used in recapping or retreading of a tire, subpar. (E) which related to bicycle tires or inner tubes used for such a tire, and subpar. (F) which dealt with gasoline taxable under section 4081. See subpar. (B) for similar provisions.

Subsec. (b)(4)(A). Pub. L. 98-369, §734(b)(2)(A), amended par. (4) generally. Prior to amendment par. (4) provided that if (A) a tire or inner tube taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and (B) such other article is (i) an automobile bus chassis or an automobile bus body, or (ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

Subsec. (b)(6). Pub. L. 98-369, §734(b)(1)(A), added par. (6).

Subsec. (c). Pub. L. 98-369, §735(c)(13)(E), redesignated subsec. (e) as (c). Former subsec. (c), which related to credit for tax paid on tires or inner tubes, was struck out.

Subsecs. (d) to (f). Pub. L. 98-369, §735(c)(13)(E), redesignated subsecs. (f), (h), and (i), as subsecs. (d), (e), and (f), respectively. Former subsec. (d) had been previously repealed and former subsec. (e) was redesignated (c).

Subsec. (g). Pub. L. 98-369, §735(c)(13)(E), struck out subsec. (g) which related to trucks, buses, tractors, etc.

Subsecs. (h), (i). Pub. L. 98-369, §735(c)(13)(E), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1983—Subsec. (a)(1). Pub. L. 97-424, §512(b)(2)(D), substituted “chapter 31 (relating to retail excise taxes)” for “chapter 31 (special fuels)”.

Subsec. (b)(2). Pub. L. 97-424, §511(g)(2)(A), substituted “paragraph (1)(A) or (2)(A) of section 4041(a)” for “section 4041(a)(1) or (b)(1)” in provision before subpar. (A).

Pub. L. 97-424, §512(b)(2)(C), inserted “or under section 4051” after “section 4041(a)”.

Pub. L. 97-424, §515(b)(4), struck out subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

1980—Subsec. (a)(1)(C). Pub. L. 96-598, §1(b)(2)(B), substituted “(b)(3)(C) or (D)” for “(b)(3)(C)”.

Subsec. (b)(1). Pub. L. 96-596 designated existing provision in part as subpar. (A), and in subpar. (A) as so designated, inserted heading “In general” and substituted “Except as provided in subparagraph (B) or (C), if the price” for “If the price”, designated existing provision in part as subpar. (B), and in subpar. (B) as so designated, inserted heading “Further manufacture” and substituted “Subparagraph (A) shall not” for “The preceding sentence shall not”, and added subpar. (C).

Subsec. (b)(2). Pub. L. 96-222, §108(c)(3), added subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

Subsec. (b)(2)(E). Pub. L. 96-598, §1(b)(2)(A), inserted “(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3))” after “paragraph (3)”.

Subsec. (b)(2)(G). Pub. L. 96-598, §1(a), inserted provision making a credit or refund of the tread rubber tax available where the tread rubber is destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process, where the tread rubber is used in the recapping or retreading of a tire if the sales price of the tire is later adjusted because of a warranty or guarantee, in which case the overpayment is to be in proportion to the adjustment in the sales price of such tire, and where the tread rubber is used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or

aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use.

Subsec. (b)(3)(A). Pub. L. 96-598, §1(b)(2)(C), inserted "(D)," after "(C)."

Pub. L. 96-222, §108(c)(4), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(C). Pub. L. 96-222, §108(c)(2)(A), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(D). Pub. L. 96-598, §1(b)(1), added subpar. (D).

Subsec. (b)(4)(A). Pub. L. 96-598, §1(b)(2)(D), substituted "section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading," for "section 4071".

Subsec. (b)(4)(B). Pub. L. 96-222, §108(c)(2)(B), inserted reference to automobile bus chassis or an automobile bus body.

1978—Subsec. (b)(2). Pub. L. 95-618 substituted in subpar. (I) "in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus" for "in the case of a bus chassis or body taxable under section 4061(a), sold to any person for use as described in section 4063(a)(6) or 4221(e)(5)" and added subpars. (L) and (M) and provision following subpar. (M).

Pub. L. 95-227 inserted "(other than coal taxable under section 4121)" after "of any article".

Subsec. (b)(3). Pub. L. 95-227 inserted "(other than coal taxable under section 4121)" after "of any article".

1976—Subsec. (a)(1). Pub. L. 94-455, §§1904(b)(1)(A), 1906(b)(13)(A), substituted "(special fuels)" for "(retailers taxes)", and struck out "or his delegate" after "Secretary".

Subsec. (a)(3). Pub. L. 94-455, §1906(a)(24)(A), (b)(13)(A), redesignated subpars. (C) and (D) as (A) and (B), and as so redesignated, struck out "or his delegate" after "Secretary", in subpar. (A). Prior subpars. (A) and (B) had been repealed by Pub. L. 89-44, title VI, §601(c)(6), June 21, 1965, 79 Stat. 153.

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (b)(1). Pub. L. 94-455, §1904(b)(2), substituted "section 4216(e)(2) and (3)" for "section 4216(f)(2) and (3)".

Subsec. (b)(2)(E). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (F) as (E). A prior subpar. (E) had been repealed by Pub. L. 91-614, title III, §302(b), Dec. 31, 1970, 84 Stat. 1845.

Subsec. (b)(2)(F). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (K) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (L) as (G), and struck out former subpar. (G) respecting consideration as overpayments, tax payments in case of liquids sold for use as fuel in a diesel-powered highway vehicle or as fuel for propulsion of motor vehicles, motorboats, or airplanes and used in other specified ways or resold.

Subsec. (b)(2)(H). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (M) as (H), and struck out former subpar. (H) respecting consideration as overpayments, tax payments in case of liquids used in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation services along regular routes under prescribed conditions.

Subsec. (b)(2)(I). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (R) as (I), and struck out former subpar. (I) respecting consideration as overpayments, tax payments in case of liquids used or resold for use as fuel in diesel-powered highway vehicles, which were not registered in any State or foreign country or were United States owned but not used on the highway.

Subsec. (b)(2)(J). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (S) as (J), and struck out former subpar. (J) respecting consideration as overpayments, tax payments in case of liquids used or resold, other-

wise than as a fuel for propulsion of highway vehicles, which were registered in any State or foreign country or were United States owned and used on the highway.

Subsec. (b)(2)(K). Pub. L. 94-455, §1906(a)(24)(B)(i), redesignated subpar. (T), added by Pub. L. 94-455, §2108(a), as (K). Former subpar. (K) redesignated (F).

Subsec. (b)(2)(L), (M). Pub. L. 94-455, §1906(a)(2)(B)(i), redesignated subpars. (L) and (M) as (G) and (H), respectively.

Subsec. (b)(2)(R), (S). Pub. L. 94-455, §1906(a)(2)(B)(i), redesignated subpars. (R) and (S) as (I) and (J), respectively.

Subsec. (b)(2)(T). Pub. L. 94-455, §1906(a)(2)(B)(i), redesignated subpar. (T), added by Pub. L. 94-455, §2108(a), as (K).

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

Subsec. (e). Pub. L. 94-455, §1904(b)(1)(B), struck out "subchapter E of" before "chapter 31".

Subsecs. (g), (h). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

1971—Subsec. (b)(2)(R). Pub. L. 92-178, §401(a)(3)(C)(i), inserted reference to section 4063(a)(6).

Subsec. (b)(2)(S). Pub. L. 92-178, §401(a)(3)(C)(ii), added subpar. (S).

Subsec. (g). Pub. L. 92-178, §401(g)(6), substituted "Trucks, buses, tractors, etc." for "Automobiles, etc." in heading.

1970—Subsec. (a)(2)(A). Pub. L. 91-258, §205(b)(3), substituted "section 4041 (relating to tax on special fuels)" for "section 4041(a)(2) or (b)(2) (use of diesel and special motor fuels)".

Subsec. (b)(2)(E). Pub. L. 91-614, §302(b), struck out subpar. (E) providing that the tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article is deemed an overpayment if such article was resold by any person to a manufacturer or producer for use by him as provided in subsec. (b)(3)(A), (B), (E) or (F).

Subsec. (b)(2)(G). Pub. L. 91-258, §207(d)(4), inserted "before July 1, 1970" after "if".

Subsec. (b)(2)(H). Pub. L. 91-258, §207(d)(5), inserted "beginning before July 1, 1970," after "during any calendar quarter".

Subsec. (b)(2)(I), (J). Pub. L. 91-258, §207(d)(6), (7), inserted "before July 1, 1970," after "used or resold for use".

Subsec. (b)(2)(M). Pub. L. 91-258, §205(b)(4), substituted "use in the production of special fuels referred to in section 4041" for "use in production of special motor fuels referred to in section 4041(b)".

Subsec. (b)(3). Pub. L. 91-614, §302(a)(1)(A), substituted "and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if" for "to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if".

Subsec. (b)(3)(A) to (C), (E), (F). Pub. L. 91-614, §302(a)(1)(B), substituted "the subsequent manufacturer" for "the second manufacturer".

Subsec. (c). Pub. L. 91-614, §302(a)(2), struck out provision providing that the credit for tax paid on tires or inner tubes is allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32 of this title.

1965—Subsec. (a)(1). Pub. L. 89-44, §601(c)(1), struck out "section 4231(4), (5), or (6) (cabarets, etc.)," from material preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 89-44, §601(c)(2), struck out "admission, or service" after "article" each place it appears.

Subsec. (a)(1)(B). Pub. L. 89-44, §601(c)(3), struck out (i), (ii), and (iii) which dealt specifically with taxes imposed by sections 4041(a)(1) or (b)(1), 4231(4), (5), or (6) (cabarets, etc.), and chapters 31 and 32, and amended

the subpar. to simply require that the person has repaid the amount of the tax to the ultimate purchaser of the article.

Subsec. (a)(1)(C). Pub. L. 89-44, §601(c)(4), struck out "or (D)" after "(b)(3)(C)".

Subsec. (a)(1)(D). Pub. L. 89-44, §601(c)(5), struck out "(1), (ii), or (iii), as the case may be," after "subparagraph (B)".

Subsec. (a)(3)(A), (B). Pub. L. 89-44, §601(c)(6), struck out subpars. (A) and (B).

Subsec. (a)(3)(C). Pub. L. 89-44, §601(c)(6), struck out "(ii)" after "paragraph (1)(B)".

Subsec. (a)(3)(D). Pub. L. 89-44, §601(c)(6), struck out "or (D)" after "paragraph (2)(F), (3)(C)".

Subsec. (b)(1). Pub. L. 89-44, §601(c)(7), struck out "31 or" after "imposed by chapter" and "(in the case of a tax imposed by chapter 32)" after "or allowance, including".

Subsec. (b)(2)(F). Pub. L. 89-44, §601(c)(8), struck out reference to receiving sets resold for use and struck out reference to subparagraph (D) of paragraph (3).

Subsec. (b)(2)(N) to (Q). Pub. L. 89-44, §601(c)(9), struck out subpars. (N) to (Q).

Subsec. (b)(2)(R). Pub. L. 89-44, §801(d)(2), added subpar. (R).

Subsec. (b)(3)(A). Pub. L. 89-44, §601(c)(10), struck out "(D)," after "subparagraph (B), (C),".

Subsec. (b)(3)(B). Pub. L. 89-44, §601(c)(10), struck out references to radio and television components taxable under section 4141 and camera lenses taxable under section 4171.

Subsec. (b)(3)(C). Pub. L. 89-44, §601(c)(10), struck out reference to automobile radios or television receiving sets taxable under section 4141.

Subsec. (b)(3)(D). Pub. L. 89-44, §601(c)(10), struck out subpar. (D) which related to radio receiving sets or automobile receiving sets.

Subsec. (b)(4). Pub. L. 89-44, §601(c)(11), struck out all references to automobile radio or television receiving sets taxable under section 4141.

Subsec. (b)(5). Pub. L. 89-44, §§207(c), 601(c)(12), substituted "allocable" for "proportionate" and struck out "4053(b)(1) or" before "4216(e)(1)" wherever appearing.

Subsec. (c). Pub. L. 89-44, §601(c)(13), struck out references to automobile radio or television receiving sets.

Subsec. (d). Pub. L. 89-44, §601(c)(14), struck out subsec. (d) which related to mechanical pencils taxable as jewelry.

Subsec. (g). Pub. L. 89-44, §601(c)(15), substituted "section 4061(a)" for "sections 4061(a), 4111, 4121, 4141,".

1962—Subsec. (b)(2)(H). Pub. L. 87-508 substituted "commuter fare revenue" for "tax-exempt passenger fare revenue" and struck out "(not including the tax imposed by section 4261, relating to the tax on transportation of persons)" after "total passenger fare revenue".

1961—Subsec. (b)(2)(E). Pub. L. 87-61, §205(d), inserted reference to subpar. (F) of par. (3).

Subsec. (b)(3)(F). Pub. L. 87-61, §205(c), added subpar. (F).

1960—Subsec. (b)(1). Pub. L. 86-781 inserted "including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3))" after "or allowance,".

Subsec. (b)(2)(E). Pub. L. 86-418, §3(a), substituted "subparagraph (A), (B), or (E)" for "subparagraph (A) or (B)".

Subsec. (b)(3)(A). Pub. L. 86-418, §3(b)(1), substituted "subparagraph (B), (C), (D), or (E)" for "subparagraph (B), (C), or (D)".

Subsec. (b)(3)(E). Pub. L. 86-418, §3(b)(2), added subpar. (E).

1959—Subsec. (b)(2)(H). Pub. L. 86-342, §201(d)(1)(A), (B), substituted "at the rate of 3 cents or 4 cents a gallon" for "at the rate of 3 cents a gallon", and "1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon" for "1 cent for each gallon".

Subsec. (b)(2)(I), (J). Pub. L. 86-342, §201(d)(1)(A), (C), substituted "at the rate of 3 cents or 4 cents a gallon" for "at the rate of 3 cents a gallon", and "at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate" for "at the rate of 1 cent a gallon".

1958—Subsec. (a) amended generally by Pub. L. 85-859, §163(a), to make section applicable to taxes imposed by pars. (4) and (5) of section 4231, to permit credit or refund of the cabaret tax where the person has repaid the amount of the tax or has filed a written consent to the allowance of the credit or the making of the refund, and to establish special rules for taxes collected under section 4231(6) from a concessionaire, taxes under chapter 31 paid by a supplier, and defining "ultimate purchaser" and "ultimate vendor".

Subsec. (a). Pub. L. 85-475, §4(b)(5), struck out reference to section 4281.

Subsec. (b)(1). Pub. L. 85-859, §163(a), made price readjustment provisions inapplicable in the case of an article in respect of which tax was computed under section 4223(b)(2), but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

Subsec. (b)(2) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in respect of any articles which were, by any person, exported, resold to a manufacturer or producer for use by him as provided in subpar. (A) or (B) of par. (3), resold for use, in the case of a tire, inner tube, or receiving set, as provided in subpar. (C) or (D) of par. (3) and the other article referred to in such paragraph is by any person exported or sold as provided in such paragraph, and to eliminate provisions which excluded leaf springs, coils, timers, and tire chains in the case of articles taxable under section 4061(b).

Subsec. (b)(3) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in the case of tires or inner tubes taxable under section 4071 and automobile radio or television receiving sets taxable under section 4141 where the articles are resold in certain particular cases, and taxes paid in the case of radio receiving sets or automobile radio receiving sets which are used by the manufacturer or producer as component parts of any other article manufactured or produced by him, and are exported or sold in certain particular cases, and to provide that for purposes of subpars. (A) and (B) an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(4), (5). Pub. L. 85-859, §163(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 85-859, §163(a), authorized a credit with respect to tires, inner tubes, or automobile radio or television receiving sets which are sold on or in connection with, or with the sale of, another article taxable under chapter 32, and permitted the credit only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

Subsec. (f). Pub. L. 85-475, §4(b)(6), struck out reference to section 4281.

Subsecs. (g) to (i). Pub. L. 85-859, §163(c), added subsecs. (g) to (i).

1956—Subsec. (b)(2)(C). Act Apr. 2, 1956, included liquid used on a farm for farming purposes.

Subsec. (b)(2)(J) to (M). Act June 29, 1956, added subpars. (J) to (M).

1955—Subsec. (b)(2)(G). Act Aug. 11, 1955, ch. 805, §2(b), repealed subpar. (G) relating to credit for communication, detection, and navigation receivers when sold to the United States Government.

Subsec. (b)(2)(I). Act Aug. 11, 1955, ch. 793, added subpar. (I).

Subsec. (b)(3)(A). Act Aug. 11, 1955, ch. 805, §1(h), inserted "and other than an automobile part or accessory

taxable under section 4061(b), a refrigerator component taxable under section 4111, a radio or television component taxable under section 4141, or a camera lens taxable under section 4171" after "section 4141".

Subsec. (b)(3)(B). Act Aug. 11, 1955, ch. 805, §1(i), substituted provisions allowing a credit for automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under sections 4061(b), 4111, 4141, or 4171, respectively, of this title, for provisions allowing a credit for radio and television components purchased and used by a producer in the manufacture of communication, detection, or navigation receivers in commercial, military, or marine installations if such receivers were sold to the United States.

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 2007 AMENDMENT

Pub. L. 110-172, §11(d)(2), Dec. 29, 2007, 121 Stat. 2489, provided that: "The amendments made by this subsection [amending this section] shall take effect as if included in the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59] to which they relate."

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 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 853(d)(2)(G)–(I) 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, §865(b), Oct. 22, 2004, 118 Stat. 1621, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2005."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §905(b), Aug. 5, 1997, 111 Stat. 874, provided that: "The amendment made by subsection (a) [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997]."

Amendment by section 1032(e)(6) 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.

Pub. L. 105-34, title XIV, §1436(c), Aug. 5, 1997, 111 Stat. 1053, provided that: "The amendments made by this section [amending this section and section 4091 of this title] shall apply to fuel acquired by the producer after September 30, 1997."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 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 July 1, 1991, see section 11212(f)(1) of Pub. L. 101-508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2001(d)(1)(B) 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, §6102(b), Nov. 10, 1988, 102 Stat. 3711, provided that: "The amendment made by this section [amending this section] shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9201(b)(2) 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)(6)–(8) 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 AMENDMENT

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 511(g)(2)(A) 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.

Amendment by section 512(b)(2)(C), (D) of Pub. L. 97-424 effective Apr. 1, 1983, see section 512(b)(3) of Pub. L. 97-424, set out as a note under section 4051 of this title.

Amendment by section 515(b)(4) of Pub. L. 97-424 applicable with respect 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 AMENDMENTS

Amendment by Pub. L. 96-598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96-598, set out as a note under section 4071 of this title.

Pub. L. 96-596, §4(c)(2), Dec. 24, 1980, 94 Stat. 3476, provided that: "The amendments made by this subsection [amending this section] shall apply to the adjustments of any tire after December 31, 1982."

Amendment by Pub. L. 96-222 effective as if included in the provisions 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)(3) 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.

Amendment by section 232(b) of Pub. L. 95-618 applicable to sales on or after day of first calendar month beginning more than 10 days after Nov. 9, 1978, see sec-

tion 232(c) of Pub. L. 95-618, set out as a note under section 4221 of this title.

Amendment by section 233(c)(3) 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.

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 1976 AMENDMENT

Amendment by section 1904(b)(1), (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.

Amendment by section 1906(a)(24)(A), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(a)(24)(B)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: "The repeals made by clause (i) [amending this section] shall apply with respect to the use or resale for use of liquids after December 31, 1976."

Pub. L. 94-455, title XXI, §2108(b), Oct. 4, 1976, 90 Stat. 1904, provided that: "The amendment made by this section [amending this section] shall apply to parts and accessories sold after the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after 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 1970 AMENDMENTS

Pub. L. 91-614, title III, §302(c), Dec. 31, 1970, 84 Stat. 1845, provided that: "The amendments made by subsections (a) and (b) of this section [amending this section] shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act [Dec. 31, 1970], but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law."

Amendment by Pub. L. 91-258 effective on 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

Amendment by section 207(c) of Pub. L. 89-44 effective 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.

Amendment by section 601(c) of Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

Amendment by section 801(d)(2) 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 4216 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: "The amendments made by subsection (c)(3) [amending this section] shall apply only in respect to the use or sale of special fuels made on or after November 16, 1962."

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. 86-781 applicable with respect to articles sold on or after first day of first calendar quarter beginning more than twenty days after Sept. 14, 1960, see section 3 of Pub. L. 86-781, set out as a note under section 4216 of this title.

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 first day of first month which begins more than 10 days after Apr. 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 AMENDMENTS

Pub. L. 85-859, title I, §163(b), Sept. 2, 1958, 72 Stat. 1311, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Section 6416(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, shall apply only with respect to articles exported, sold, or resold, as the case may be, on or after the effective date specified in section 1(c) of this Act [set out as a note under section 6415 of this title]."

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

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

Act Apr. 2, 1956, ch. 160, §2(b)(2), 70 Stat. 90, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to liquid sold after December 31, 1955."

EFFECTIVE DATE OF 1955 AMENDMENTS

Act Aug. 11, 1955, ch. 805, §3, 69 Stat. 690, as amended by Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "The amendments made by the first section and section 2 of this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]. Notwithstanding the preceding sentence—

"(1) the repeal of section 6416(b)(2)(G) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to articles sold by the manufacturer, producer, or importer 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 [Aug. 11, 1955], and

"(2) section 6416(b)(3)(B) of the Internal Revenue Code of 1986, as amended by subsection (i) of the first section of this Act [Aug. 11, 1955], shall apply with respect to articles used on or after such first day by the manufacturer or producer as material in the manufacture of, production of, or as a component part of, another article."

Act Aug. 11, 1955, ch. 793, §3, 69 Stat. 676, provided that: "The amendments made by this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first calendar quarter which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]."

OVERPAYMENT OF TAX ON CERTAIN RADIO RECEIVING SETS AND RADIO AND TELEVISION COMPONENTS

Pub. L. 85-859, title I, §163(e), Sept. 2, 1958, 72 Stat. 1312, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If—

"(1) a radio receiving set, an automobile radio receiving set, or a radio or television component was (before any other use) used as a component part of any other article, and

“(2) such other article was (before any other use) by any person exported, or sold to a State or local government for the exclusive use of a State or local government, then any tax imposed by chapter 32 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provisions of prior revenue law) in respect of such set or component which has been paid shall be deemed to have been an overpayment, by the manufacturer, producer, or importer of such other article, at the time paid. No credit or refund shall be allowed or made under this subsection unless the manufacturer, producer, or importer of such other article establishes to the satisfaction of the Secretary of the Treasury or his delegate that he did not include the amount of the tax in the price of such other article (and has not collected the amount of the tax from the purchaser of such other article), that the amount of the tax has been repaid to the ultimate purchaser of such other article, or that he has obtained the written consent of such ultimate purchaser to the allowance of the credit or the making of the refund. No interest shall be allowed or paid in respect of any such overpayment.”

[§ 6417. Repealed. Pub. L. 94-455, title XIX, § 1906(a)(25), Oct. 4, 1976, 90 Stat. 1827]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 801, related to a tax credit or refund to any person who has sold to a State, or a political subdivision thereof, any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under former section 4511, and to a refund to the exporter of the tax paid under former subchapter B of chapter 37.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

[§ 6418. Repealed. Pub. L. 101-508, title XI, § 11801(c)(2)(B)(i), Nov. 5, 1990, 104 Stat. 1388-528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 801; May 29, 1956, ch. 342, § 21(b), 70 Stat. 221; May 24, 1962, Pub. L. 87-456, title III, § 302(c), 76 Stat. 77; Nov. 8, 1965, Pub. L. 89-331, § 9(b), 79 Stat. 1278; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, authorized refund of taxes paid on sugar used as livestock feed, for distillation or production of alcohol, or in certain cases where sugar was exported.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 6419. Excise tax on wagering

(a) Credit or refund generally

No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or

unless he files with the Secretary written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary, that the provisions of the preceding sentence have been complied with both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) Credit or refund on wagers laid-off by taxpayer

Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary, and no interest shall be allowed with respect to any amount so credited or refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 801; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6420. Gasoline used on farms

(a) Gasoline

Except as provided in subsection (g), if gasoline is used on a farm for farming purposes, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

- (1) the number of gallons so used, by
- (2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) Time for filing claims; period covered

Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(c) Meaning of terms

For purposes of this section—

(1) Use on a farm for farming purposes

Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situ-

ated in the United States, and (C) for farming purposes.

(2) Farm

The term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) Farming purposes

Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—

(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) Certain farming use other than by owner, etc.

In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.

In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and one or more farms.

(5) Gasoline

The term “gasoline” has the meaning given to such term by section 4083(a).

(d) Exempt sales; other payments or refunds available

No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) Fractional parts of a dollar

Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(g) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsection (a), only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(h) Repealed. Pub. L. 103-66, title XIII, § 13241(f)(5), Aug. 10, 1993, 107 Stat. 512]

(i) Cross references

(1) For exemption from tax in case of special fuels used on a farm for farming purposes, see section 4041(f).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(4) For treatment of an Indian tribal government as a State and¹ a subdivision of an Indian tribal government as a political subdivision of a State, see section 7871.

(Added Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; amended Pub. L. 85-859, title I, §163(d)(2), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89-44, title VIII, §809(a), June 21, 1965, 79 Stat. 165; Pub. L. 91-258, title II, §§205(c)(7), 207(b), May 21, 1970, 84 Stat. 242, 248; Pub. L. 94-455, title XIX, §§1906(a)(26), (b)(6)(A), (13)(A), Oct. 4, 1976, 90 Stat. 1827, 1833, 1834; Pub. L. 95-458, §3(a), (c), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 97-424, title V, §§511(f), 516(b)(4), Jan. 6, 1983, 96 Stat. 2172, 2183; Pub. L. 97-473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99-499, title V, §521(c)(1), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100-17, title V, §502(b)(6), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101-239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §1121(d)(5), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(b)(5), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(f)(5), 13242(d)(20), Aug. 10, 1993, 107 Stat. 512, 524; Pub. L. 109-59, title XI, §1121(a), (b), Aug. 10, 2005, 119 Stat. 1951.)

PRIOR PROVISIONS

A prior section 6420 was renumbered section 6422 of this title.

AMENDMENTS

2005—Subsec. (c)(4). Pub. L. 109-59, §1121(b), inserted concluding provisions.

Subsec. (c)(4)(B). Pub. L. 109-59, §1121(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if—

“(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

“(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

1993—Subsec. (c)(5). Pub. L. 103-66, §13242(d)(20), substituted “section 4083(a)” for “section 4082(b)”.

Subsec. (h). Pub. L. 103-66, §13241(f)(5), struck out heading and text of subsec. (h). Text read as follows: “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.”

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

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

1989—Subsec. (e)(2). Pub. L. 101-239 substituted “section 7602(a)” for “section 7602”.

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

1986—Subsec. (h). Pub. L. 99-499 substituted “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section” for “This section”.

1984—Subsec. (g)(2). Pub. L. 98-369 substituted “section 34” for “section 39”.

1983—Subsec. (c)(4)(B). Pub. L. 97-424, §511(f), substituted provision that, if the person so using the gasoline is an aerial or other applicator of fertilizers or

other substances and is the ultimate purchaser of the gasoline, and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes, for provision that, if the person so using the gasoline were an aerial applicator who was the ultimate purchaser of the gasoline and the person described in subparagraph (A) waived (at such time and in such form and manner as the Secretary was to prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph would not apply and the aerial applicator would be treated as having used such gasoline on a farm for farming purposes.

Subsec. (h). Pub. L. 97-424, §516(b)(4), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 97-473 purported to add par. (4). See Amendment note below for subsec. (i)(4).

Subsec. (i). Pub. L. 97-424, §516(b)(4), redesignated former subsec. (h) as (i).

Subsec. (i)(4). Pub. L. 97-473 added par. (4). Notwithstanding the directory language that par. (4) be added to subsec. (h), it was added to subsec. (i) to reflect the probable intent of Congress and the intervening redesignation of subsec. (h) as (i) by Pub. L. 97-424.

1978—Subsec. (c)(3)(A). Pub. L. 95-458, §3(c), struck out provision that if the use of gasoline is by any person other than the owner, tenant, or operator of a farm, then in applying subsec. (a) of this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used would be treated as the user or ultimate purchaser of the gasoline or liquid.

Subsec. (c)(4), (5). Pub. L. 95-458, §3(a), added par. (4) and redesignated former par. (4) as (5).

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(26) (C)(ii), (b)(13)(A), substituted “subsection (g)” for “subsection (h)” and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1906(a)(26)(A), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person’s first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (c)(3)(A). Pub. L. 94-455, §1906(b)(6)(A), among other changes, struck out “and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041),” after “in applying subsection (a) to this subparagraph,” and provision that if the use of gasoline is by any person other than the owner, tenant, or operator of the farm, then, for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used.

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(1). Pub. L. 94-455, §1906(a)(26)(B), substituted “apply in respect” for “apply in in respect”.

Subsecs. (e)(2), (f). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (g). Pub. L. 94-455, §1906(a)(26)(C)(i), (D), redesignated subsec. (h) as (g), struck out in par. (1) “with respect to gasoline used after June 30, 1965,” after “subsection (a)”, and in par. (2) “for gasoline used after June 30, 1965” after “subtle A”. Former subsec. (g), which provided that this section applies only with respect to gasoline purchased after Dec. 31, 1955, was struck out.

Subsecs. (h), (i). Pub. L. 94-455, §1906(a)(26)(C)(i), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

1970—Subsec. (b)(2)(B). Pub. L. 91-258, §207(b), substituted “a claim for credit or refund of overpayment of income tax” for “an income tax return” after “time prescribed by law for filing”.

¹ So in original. Probably should be “(and)”.

Subsec. (i)(1). Pub. L. 91-258, § 205(c)(7)(A), (B), substituted “special fuels” for “diesel fuel and special motor fuels” and “section 4041(f)” for “section 4041(d)”, respectively.

1965—Subsec. (a). Pub. L. 89-44, § 809(a)(1)(A), substituted “Except as provided in subsection (h), if” for “If”.

Subsec. (b). Pub. L. 89-44, § 809(a)(2), designated existing provisions as par. (1) and made it applicable to gasoline used before July 1, 1965, and added par. (2).

Subsec. (d). Pub. L. 89-44, § 809(a)(3), substituted “payable” for “paid” in first sentence.

Subsecs. (h), (i). Pub. L. 89-44, § 809(a)(1)(B), added subsec. (h) and redesignated former subsec. (h) as (i).

1958—Subsec. (c)(3)(A). Pub. L. 85-859 substituted “section 6416(b)(2)(G)(ii)” for “section 6416(b)(2)(C)(ii)” in two places in cl. (A).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to fuel use or air transportation after Sept. 30, 2005, see section 11121(d) of Pub. L. 109-59, set out as a note under section 4261 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(5) 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(d)(20) 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 1986 AMENDMENT

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 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(f) 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 1978 AMENDMENT

Pub. L. 95-458, § 3(d), Oct. 14, 1978, 92 Stat. 1257, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(26), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, § 1906(b)(6)(B), Oct. 4, 1976, 90 Stat. 1834, provided that: “The amendments made by subparagraph (A) [amending this section] shall apply with respect to the use of liquids after December 31, 1970.”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, and applicable with respect to taxable years ending after June 30, 1970, respectively, see section 211(a), (b) 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, § 809(f), June 21, 1965, 79 Stat. 168, provided that: “The amendments made by sub-

sections (a) and (b) [amending this section and section 6421 of this title] shall apply with respect to gasoline used on or after July 1, 1965. The amendments made by subsections (c) and (d) [renumbering section 39 as 40, enacting section 39 and amending sections 72, 874, 1314, 1481, 6201, 6211, 6213, and 6401 of this title] shall apply to taxable years beginning on or after July 1, 1965.”

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, set out as a note under section 6415 of this title.

§ 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes

(a) Nonhighway uses

Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

(b) Intercity, local, or school buses

(1) Allowance

Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

(2) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Exempt purposes

If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4)¹ (5), or (6) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081. The

¹ So in original. Probably should be followed by a comma.

preceding sentence shall apply notwithstanding paragraphs (2) and (3) of subsection (f). Subsection (a) shall not apply to gasoline to which this subsection applies.

(d) Time for filing claims; period covered

(1) In general

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exception

For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).

(3) Application to sales under subsection (c)

For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose.

(e) Definitions

For purposes of this section—

(1) Gasoline

The term "gasoline" has the meaning given to such term by section 4083(a).

(2) Off-highway business use

(A) In general

The term "off-highway business use" means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Uses in boats

(i) In general

Except as otherwise provided in this subparagraph, the term "off-highway business use" does not include any use in a motorboat.

(ii) Fisheries and whaling

The term "off-highway business use" shall include any use in a vessel employed in the fisheries or in the whaling business.

(C) Uses in mobile machinery

(i) In general

The term "off-highway business use" shall include any use in a vehicle which

meets the requirements described in clause (ii).

(ii) Requirements for mobile machinery

The requirements described in this clause are—

(I) the design-based test, and

(II) the use-based test.

(iii) Design-based test

For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(iv) Use-based test

For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 7,500 miles during the taxpayer's taxable year. This clause shall be applied without regard to use of the vehicle by any organization which is described in section 501(c) and exempt from tax under section 501(a).

(f) Exempt sales; other payments or refunds available

(1) Gasoline used on farms

This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(2) Gasoline used in aviation

This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in aviation which is not commercial aviation (as defined in section 4083(b)), or

(B) in commercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.

(3) Gasoline used in trains

In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

(g) Applicable laws**(1) In general**

All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(h) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(i) Income tax credit in lieu of payment**(1) Persons not subject to income tax**

Payment shall be made under subsections (a) and (b) only to—

(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under subsection (d)(2).

(3) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(j) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State and² a subdivision of an Indian tribal government as a political subdivision of a State, see section 7871.

(Added June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended July 25, 1956, ch. 725, § 2, 70

Stat. 644; Pub. L. 85-859, title I, §§163(d)(3), 164(a), Sept. 2, 1958, 72 Stat. 1312; Pub. L. 86-342, title II, §201(d)(2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 87-61, title II, §201(e), June 29, 1961, 75 Stat. 124; Pub. L. 87-508, §5(c)(2), June 28, 1962, 76 Stat. 118; Pub. L. 89-44, title VIII, §809(b), June 21, 1965, 79 Stat. 166; Pub. L. 91-258, title II, §§205(b)(1), (c)(8), 207(b), May 21, 1970, 84 Stat. 241, 242, 248; Pub. L. 91-605, title III, §303(a)(11), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, §303(a)(11), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, §1906(a)(27)(A)(i), (B)-(D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1827, 1828, 1834; Pub. L. 95-599, title V, §502(a)(10), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95-618, title II, §§222(a)(1), 233(a)(1), (3)(A), Nov. 9, 1978, 92 Stat. 3186, 3190; Pub. L. 96-222, title I, §108(c)(1), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97-424, title V, §§511(c)(1), (3), 515(b)(7), 516(a)(6), Jan. 6, 1983, 96 Stat. 2170, 2171, 2182, 2183; Pub. L. 97-473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99-499, title V, §521(c)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 99-514, title XVII, §1703(c)(1), (2)(A), (B), (D), Oct. 22, 1986, 100 Stat. 2776, 2777; Pub. L. 100-17, title V, §502(b)(7), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, §10502(d)(9), (10), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 100-647, title I, §1017(c)(6)-(8), (15), title II, §2001(d)(3)(E), (F), Nov. 10, 1988, 102 Stat. 3576, 3577, 3595; Pub. L. 101-239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §11211(d)(6), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(b)(6), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13163(b), 13241(f)(6), (7), 13242(d)(20), (22)-(24), Aug. 10, 1993, 107 Stat. 454, 512, 524; Pub. L. 104-188, title I, §1609(g)(4)(C), Aug. 20, 1996, 110 Stat. 1843; Pub. L. 105-34, title IX, §902(a), Aug. 5, 1997, 111 Stat. 873; Pub. L. 105-178, title IX, §§9006(b)(1), 9009(b)(3), June 9, 1998, 112 Stat. 506, 507; Pub. L. 105-206, title VI, §§6010(g)(3), 6023(24)(A), (C), July 22, 1998, 112 Stat. 814, 826; Pub. L. 108-357, title II, §241(a)(2)(C), title VIII, §851(d)(1), Oct. 22, 2004, 118 Stat. 1438, 1608; Pub. L. 109-59, title XI, §11151(b)(3), Aug. 10, 2005, 119 Stat. 1968; Pub. L. 109-280, title XII, §1207(b)(3)(B), Aug. 17, 2006, 120 Stat. 1070.)

PRIOR PROVISIONS

A prior section 6421 was renumbered section 6422 of this title.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-280, which directed the substitution of “(5), or (6)” for “or (5)” in section 6421(c), without specifying the act to be amended, was executed by making the substitution in subsec. (c) of this section, which is section 6421 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (f)(2)(A). Pub. L. 109-59, §11151(b)(3)(A), substituted “aviation which is not commercial aviation (as defined in section 4083(b))” for “noncommercial aviation (as defined in section 4041(c)(2))”.

Subsec. (f)(2)(B). Pub. L. 109-59, §11151(b)(3)(B), substituted “commercial aviation” for “aviation which is not noncommercial aviation”.

2004—Subsec. (e)(2)(C). Pub. L. 108-357, §851(d)(1), added subpar. (C).

Subsec. (f)(3)(B). Pub. L. 108-357, §241(a)(2)(C), amended subpar. (B) generally. Prior to amendment, subpar (B) read as follows: “so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

² So in original. Probably should be “(and)”.

“(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

“(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

“(iii) 4.3 cents per gallon after October 31, 1998.”

1998—Subsecs. (a), (b)(1). Pub. L. 105-206, § 6023(24)(C), substituted “subsection (i)” for “subsection (j)”.

Subsec. (c). Pub. L. 105-206, § 6010(g)(3), substituted “(2) and (3)” for “(2)(A) and (3)” and inserted at end “Subsection (a) shall not apply to gasoline to which this subsection applies.”

Subsec. (d)(2). Pub. L. 105-178, § 9009(b)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

Subsec. (f)(3)(B)(ii). Pub. L. 105-178, § 9006(b)(1)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (f)(3)(B)(iii). Pub. L. 105-178, § 9006(b)(1)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (i) to (k). Pub. L. 105-206, § 6023(24)(A), redesignated subsecs. (j) and (k) as (i) and (j), respectively.

1997—Subsec. (e)(2)(B)(iii), (iv). Pub. L. 105-34 struck out cls. (iii) and (iv) which read as follows:

“(iii) EXCEPTION FOR DIESEL FUEL.—The term ‘off-highway business use’ shall include the use of diesel fuel in a boat in the active conduct of—

“(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

“(II) except as provided in clause (iv), any other trade or business.

“(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

“(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

“(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999.”

1996—Subsec. (f)(2)(A). Pub. L. 104-188 substituted “4041(c)(2)” for “4041(c)(4)”.

1993—Subsec. (c). Pub. L. 103-66, § 13242(d)(22), inserted at end “The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f).”

Subsec. (e)(1). Pub. L. 103-66, § 13242(d)(20), substituted “section 4083(a)” for “section 4082(b)”.

Subsec. (e)(2)(B). Pub. L. 103-66, § 13163(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘off-highway business use’ does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.”

Subsec. (f)(2)(B). Pub. L. 103-66, § 13242(d)(23), inserted before period at end “and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon”.

Subsec. (f)(3). Pub. L. 103-66, § 13242(d)(24), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate on gasoline used as a fuel in a train.”

Pub. L. 103-66, § 13241(f)(6), inserted “and deficit reduction tax” after “tax” in heading and “and at the deficit reduction rate” after “financing rate” in text.

Subsec. (i). Pub. L. 103-66, § 13241(f)(7), struck out heading and text of subsec. (i). Text read as follows:

“Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.”

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

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

1989—Subsec. (g)(2). Pub. L. 101-239 substituted “section 7602(a)” for “section 7602”.

1988—Subsec. (a). Pub. L. 100-647, § 2001(d)(3)(F), substituted “paragraph (2) of subsection (f)” for “paragraph (3) of subsection (e)”.

Pub. L. 100-647, § 1017(c)(7), substituted “subsection (j)” for “subsection (i)”.

Subsec. (b)(1). Pub. L. 100-647, § 1017(c)(7), substituted “subsection (j)” for “subsection (i)”.

Subsec. (d)(3). Pub. L. 100-647, § 1017(c)(15), added par. (3).

Subsec. (f)(2). Pub. L. 100-647, § 2001(d)(3)(E), added par. (2) and struck out former par. (2) which read as follows: “This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in non-commercial aviation (as defined in section 4041(c)(4)).”

Subsec. (f)(3). Pub. L. 100-647, § 2001(d)(3)(E), added par. (3).

Subsec. (f)(4). Pub. L. 100-647, § 2001(d)(3)(E), struck out par. (4) which read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business.”

Subsec. (i). Pub. L. 100-647, § 1017(c)(6), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j).

Subsec. (j). Pub. L. 100-647, § 1017(c)(6), (8), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j), and substituted “subsection (d)(2)” for “subsection (c)(2)” in par. (2). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 100-647, § 1017(c)(6), redesignated former subsec. (j) as (k).

1987—Subsec. (e)(2)(C). Pub. L. 100-203, § 10502(d)(9), struck out subpar. (C) which specified section 4221(a)(3) and (d)(3), section 6416(b)(2)(B), and section 4041(g)(1) as provisions exempting from tax, gasoline and special motor fuels used for commercial fishing vessels.

Subsec. (i). Pub. L. 100-17 substituted “1993” for “1988” in the subsec. (h) which was redesignated (i) by section 1703(c) of Pub. L. 99-514.

Subsec. (j). Pub. L. 100-203, § 10502(d)(10), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: “For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.”

1986—Pub. L. 99-514, § 1703(c)(2)(D), substituted “, used by local transit systems, or sold for certain exempt purposes” for “or by local transmit systems” in section catchline.

Subsec. (c). Pub. L. 99-514, § 1703(c)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99-514, § 1703(c)(1)(A), (2)(A), redesignated subsec. (c) as (d) and, in par. (1), substituted “not more than claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)” for “and not more than one claim may be filed under subsection (b)”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-514, § 1703(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(4). Pub. L. 99-499, § 521(c)(2)(B), added par. (4).

Subsec. (f). Pub. L. 99-514, § 1703(c)(1)(A), (2)(B), redesignated subsec. (e) as (f), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) “Exempt sales” which read as follows: “No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount

which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline." Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 99-499, §521(c)(2)(A), substituted "Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section" for "This section".

Subsec. (i). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (h), relating to effective date, as (i).

1984—Subsec. (i)(3). Pub. L. 98-369 substituted "section 34" for "section 39".

1983—Subsec. (a). Pub. L. 97-424, §511(c)(1), substituted provision that, except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081, for provision that, except as provided in subsection (i), if gasoline were used in a qualified business use, the Secretary would pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax had been paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax had been paid at the rate of 4 cents a gallon.

Subsec. (d)(2). Pub. L. 97-424, §511(c)(3), substituted "Off-Highway" for "Qualified" in heading, and "off-highway business use" for "qualified business use" wherever appearing in text.

Subsec. (d)(2)(C). Pub. L. 97-424, §515(b)(7), substituted "and special motor fuels" for "special motor fuels, and lubricating oil" after "gasoline".

Subsec. (h). Pub. L. 97-424, §516(a)(6), substituted "1988" for "1984".

Subsec. (j)(4). Pub. L. 97-473 added par. (4).

1980—Subsec. (d)(2)(B). Pub. L. 96-222 inserted provisions requiring that the preceding sentence not apply to use in a vessel employed in the fisheries or in the whaling business.

1978—Subsec. (a). Pub. L. 95-618, §222(a)(1)(A), substituted "Except as provided in subsection (i), if gasoline is used in a qualified business use" for "Except as provided in subsection (i), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a vehicle owned by the United States, is used on the highway".

Subsec. (b). Pub. L. 95-618, §233(a)(1), among other changes, provided for the refund or credit of the taxes paid on gasoline but only to the extent such gasoline is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Subsec. (d)(2). Pub. L. 95-618, §233(a)(3)(A), redesignated par. (3) as (2), and struck out former par. (2) which defined "commuter fare revenue".

Subsec. (d)(3). Pub. L. 95-618, §§222(a)(1)(B), 233(a)(3)(A), added par. (3) and redesignated former par. (3) as (2).

Subsec. (h). Pub. L. 95-599 substituted "1984" for "1979".

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(27)(A)(i), (b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing, and substituted "in the case of gasoline used as a fuel" for "in the case of gasoline used after June 30, 1970, as a fuel".

Subsec. (b)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (c). Pub. L. 94-455, §1906(a)(27)(B), among other changes, struck out provisions relating to gaso-

line used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (e)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (e)(3). Pub. L. 94-455, §1906(a)(27)(A)(i), struck out "after June 30, 1970," after "used".

Subsecs. (f), (g). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (h). Pub. L. 94-455, §1906(a)(27)(C), struck out "after June 30, 1956, and" after "purchased".

Pub. L. 94-280 substituted "1979" for "1977".

Subsec. (i)(1). Pub. L. 94-455, §1906(a)(27)(D)(i), struck out "with respect to gasoline used after June 30, 1965," after "subsections (a) and (b)".

Subsec. (i)(2). Pub. L. 94-455, §1906(a)(27)(D)(ii), substituted "subsection (c)(2)" for "subsection (c)(3)(B)".

Subsec. (i)(3). Pub. L. 94-455, §1906(a)(27)(D)(iii), struck out "for gasoline used after June 30, 1965" after "subtitle A".

1970—Subsec. (a). Pub. L. 91-258, §205(b)(1)(A), inserted requirement that, except as provided in par. (3) of subsec. (e) of this section, where gasoline is used after June 30, 1970, as a fuel in an aircraft, the Secretary or his delegate pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

Subsec. (c)(3)(A)(ii). Pub. L. 91-258, §207(b), substituted "a claim for credit or refund of overpayment of income tax" for "an income tax return" after "time prescribed by law for filing".

Subsec. (e)(3). Pub. L. 91-258, §205(b)(1)(B), added par. (3).

Subsec. (h). Pub. L. 91-605 substituted "1977" for "1972".

Subsec. (j)(1). Pub. L. 91-258, §205(c)(8), substituted "For rate of tax in case of special fuels used in non-commercial aviation or for nonhighway purposes, see section 4041" for "For reduced rate of tax in case of diesel fuel and special motor fuels used for certain non-highway purposes, see subsections (a) and (b) of section 4041".

Subsec. (j)(2). Pub. L. 91-258, §205(c)(8), redesignated par. (4) as (2). Former par. (2), which provided "For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J)", was struck out.

Subsec. (j)(3). Pub. L. 91-258, §205(c)(8), redesignated par. (5) as (3). Former par. (3), which provided "For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H)", was struck out.

Subsec. (j)(4), (5). Pub. L. 91-258, §205(c)(8), redesignated pars. (4) and (5) as (2) and (3), respectively.

1965—Subsec. (a). Pub. L. 89-44, §809(b)(1)(A), substituted "Except as provided in subsection (i), if" for "If".

Subsec. (b). Pub. L. 89-44, §809(b)(1)(A), substituted "Except as provided in subsection (i), if" for "If".

Subsec. (c)(1). Pub. L. 89-44, §809(b)(2)(A), struck out "General rule" in heading and inserted in lieu thereof "Gasoline used before July 1, 1965", and substituted "paragraphs (2) and (3)" for "Paragraph (2)" after "Except as provided in".

Subsec. (c)(2). Pub. L. 89-44, §809(b)(2)(B), substituted "Except as provided in paragraph (3), if" for "If".

Subsec. (c)(3). Pub. L. 89-44, §809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89-44, §809(b)(3), substituted "payable" for "paid" in first sentence.

Subsecs. (i), (j). Pub. L. 89-44, §809(b)(1)(B), added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (b)(1)(B), (2). Pub. L. 87-508, §5(c)(2)(A), substituted "commuter fare revenue" for "tax-exempt passenger fare revenue" in two places and struck out "(not including the tax imposed by section 4261, relating to the tax on transportation of persons)" after "total passenger fare revenue" in two places.

Subsec. (d)(2). Pub. L. 87-508, §5(c)(2)(B), substituted definition of "commuter fare revenue" for definition of "tax-exempt passenger fare revenue".

1961—Subsec. (h). Pub. L. 87-61, substituted "October 1, 1972" for "July 1, 1972".

1959—Subsec. (a). Pub. L. 86-342 substituted "1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon" for "1 cent for each gallon of gasoline so used".

Subsec. (b)(1)(A). Pub. L. 86-342 substituted "1 cent at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon" for "1 cent for each gallon of gasoline so used".

1958—Subsec. (c). Pub. L. 85-859, §164(a), permitted, in cases where \$1,000 or more is payable to any person with respect to gasoline used during a calendar quarter, the filing of a claim on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

Subsec. (i)(2), (3). Pub. L. 85-859, §163(d)(3), substituted "section 6416(b)(2)(I) and (J)" for "section 6416(b)(2) (J) and (K)" in cl. (2), and "section 6416(b)(2)(H)" for "section 6416(b)(2)(L)" in cl. (3).

1956—Subsec. (d)(2). Act July 25, 1956, substituted "4263(a)" for "4262(b)".

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 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11151(f)(1) of Pub. L. 109-59, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(C) 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.

Amendment by section 851(d)(1) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 851(d)(4) of Pub. L. 108-357, set out as a note under section 4082 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 6023(24)(A), (C) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(3) of 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.

Pub. L. 105-178, title IX, §9009(c), June 9, 1998, 112 Stat. 507, provided that: "The amendments made by this section [amending this section and section 6427 of this title] shall take effect on October 1, 1998."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by 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.

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 13163(b) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13163(d) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13241(f)(6), (7) 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(d)(20), (22)-(24) 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 1988 AMENDMENT

Amendment by section 1017(c)(6)-(8), (15) 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)(3)(E), (F) 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.

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

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 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(c)(1), (3) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97-424, set out as a note under section 4041 of this title.

Amendment by section 515(b)(7) of Pub. L. 97-424 applicable with respect 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 provisions 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 AMENDMENT

Amendment by section 222(a)(1) of Pub. L. 95-618 applicable with respect to uses after Dec. 31, 1978, see section 222(b) of Pub. L. 95-618, set out as a note under section 4041 of this title.

Amendment by section 233(a)(1), (3)(A) 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.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1906(a)(27)(A)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: "The amendments made by clause (i) [amending this section] shall only apply with respect to gasoline used as a fuel after June 30, 1970."

Amendment by section 1906(a)(27)(B)–(D), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 205(b)(1), (c)(8) of Pub. L. 91-258 effective July 1, 1970, and amendment by section 207(b) of Pub. L. 91-258 applicable with respect to taxable years ending after June 30, 1970, see section 211(a), (b) of Pub. L. 91-258, 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 gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: "The amendments made by subsection (c)(2) [amending this section] shall apply only in respect of claims filed with respect to gasoline used on or after November 16, 1962."

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 1958 AMENDMENT

Amendment by section 163(d)(3) of 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, set out as a note under section 6415 of this title.

Pub. L. 85-859, title I, §164(b), Sept. 2, 1958, 72 Stat. 1312, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to claims the last day for the filing of which occurs after the effective date specified in section 1(c) of this Act."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 25, 1956, applicable to amounts paid on or after first day of first month which begins more than sixty days after July 25, 1956, for transportation commencing on or after such first day, see section 6 of act July 25, 1956, set out as a note under section 4261 of this title.

§ 6422. Cross references

(1) For limitations on credits and refunds, see **subchapter B of chapter 66**.

(2) For overpayment in case of adjustments to accrued foreign taxes, see **section 905(c)**.

(3) For credit or refund in case of deficiency dividends paid by a personal holding company, see **section 547**.

(4) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see **section 7486**.

(5) For refund or redemption of stamps, see **chapter 69**.

(6) For abatement, credit, or refund in case of jeopardy assessments, see **chapter 70**.

(7) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see **section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742)**.

(8) For restrictions on transfers and assignments of claims against the United States, see **section 3727 of title 31, United States Code**.

(9) For set-off of claims against amounts due the United States, see **section 3728 of title 31, United States Code**.

(10) For special provisions relating to alcohol and tobacco taxes, see **subtitle E**.

(11) For¹ credit or refund in case of deficiency dividends paid by a regulated investment company or real estate investment trust, see **section 860**.

(12) For special rules in the case of a credit or refund attributable to partnership items, see **section 6227 and subsections (c) and (d) of section 6230**.

(Aug. 16, 1954, ch. 736, 68A Stat. 802, §6420; renumbered §6421, Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; renumbered §6422, June 29, 1956, ch. 462, title II, §208(c), 70 Stat. 394; amended Pub. L. 85-859, title II, §204(4), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 88-36, title II, §201(c), June 4, 1963, 77 Stat. 54; Pub. L. 94-455, title XVI, §1601(f)(1), title XIX, §§1901(b)(36)(B), 1906(a)(28), Oct. 4, 1976, 90 Stat. 1746, 1802, 1828; Pub. L. 95-600, title III, §362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97-248, title IV, §402(c)(4), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97-258, §3(f)(8), (9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101-508, title XI, §11801(c)(17)(A), Nov. 5, 1990, 104 Stat. 1388-527; Pub. L. 105-34, title XI, §1131(c)(3), Aug. 5, 1997, 111 Stat. 980.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in par. (7), was repealed by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1997—Pars. (5) to (13). Pub. L. 105-34 struck out par. (5) and redesignated pars. (6) to (13) as (5) to (12), respectively. Prior to amendment, par. (5) read as follows: "For abatement or refund of tax on transfers to avoid income tax, see section 1494(b)."

1990—Pub. L. 101-508 struck out par. (6) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (7) to (12), (14), and (15)) by redesignating such pars. as (6) to (13), respectively. Prior to amendment, par. (6) provided a cross reference to section 1481 of this title for overpayment in certain renegotiations of war contracts.

1982—Par. (10). Pub. L. 97-258, §3(f)(8), substituted "section 3727 of title 31, United States Code" for "R.S. 3477 (31 U.S.C. 203)".

Par. (11). Pub. L. 97-258, §3(f)(9), substituted "section 3728 of title 31, United States Code" for "the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)".

Par. (15). Pub. L. 97-248 added par. (15).

1978—Par. (14). Pub. L. 95-600 inserted "regulated investment company or" before "real estate investment trust" and substituted "section 860" for "section 859".

1976—Par. (2). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (3) as (2). Former par. (2), which set forth a cross reference to section 1321 of this title for overpayment arising out of adjustments incident to involuntary liquidation of inventory, was struck out.

Pars. (3) to (8). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (4) to (9) as (3) to (8), respectively.

Par. (9). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(A), redesignated par. (10) as (9) and substituted "(50 U.S.C. App. 1742)" for "(60 Stat. 48; 50 U.S.C. App. 1742)". Former par. (9) redesignated (8).

Par. (10). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Par. (11). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(B), redesignated par. (12) as (11) and substituted "(31 U.S.C. 227)" for "(47 Stat. 1516; 31 U.S.C. 227)". Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (12) and (13) as (11) and (12), respectively.

Par. (14). Pub. L. 94-455, §1601(f)(1), added par. (14).

¹ So in original. Probably should be capitalized.

1963—Pars. (7) to (14). Pub. L. 88-36 redesignated pars. (8) to (14) as (7) to (13), respectively. Former par. (7), which was cross reference provision for abatement or refund in case of tax on silver bullion to section 4894, was struck out.

1958—Pub. L. 85-859 substituted "subtitle E" for "sections 5011, 5044, 5057, 5063, 5705, and 5707" in par. (14).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95-600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(f)(1) of Pub. L. 94-455, see section 1608(a) of Pub. L. 94-455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(B) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(28) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88-36, title II, June 4, 1963, 77 Stat. 54.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 6423. Conditions to allowance in the case of alcohol and tobacco taxes

(a) Conditions

No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary)—

(1) that he bore the ultimate burden of the amount claimed; or

(2) that he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) that (A) the owner of the commodity furnished him the amount claimed for payment

of the tax, (B) he has filed with the Secretary the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) Filing of claims

No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.

(c) Application of section

This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) any claim for drawback, and

(2) any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed.

(d) Meaning of terms

For purposes of this section—

(1) Alcohol or tobacco tax

The term "alcohol or tobacco tax" means—

(A) any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) in the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) Tax

The term "tax" includes a tax and an exaction denominated a "tax", and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) Ultimate burden

The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a)(1), and the owner referred to in subsection (a)(3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) he has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) no understanding or agreement exists for any such relief or shifting, and

(C) if he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary may require to insure faithful compliance with his agreement.

(Added Pub. L. 85-323, § 1, Feb. 11, 1958, 72 Stat. 9; amended Pub. L. 94-455, title XIX, § 1906(a)(29), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §1906(a)(29)(A), among other changes, struck out provisions allowing any claimant who has on or before Apr. 30, 1958, filed a claim for any amount to which subsec. (a) applies, may file a superseding claim after Apr. 30, 1958, conforming to the requirements of this section and covering the amount claimed in such prior claim.

Subsec. (c). Pub. L. 94-455, §1906(a)(29)(B), (C), redesignated subsec. (d) as (c) and struck out par. (3) relating to any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957. Former subsec. (c), relating to disallowance of any suit or proceeding which was barred on Apr. 30, 1958, was struck out.

Subsecs. (d), (e). Pub. L. 94-455, §1906(a)(29)(B), (b)(13)(A), redesignated subsec. (e) as (d) and struck out “or his delegate” after “Secretary”. Former subsec. (d) redesignated (c).

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 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Pub. L. 85-323, §3, Feb. 11, 1958, 72 Stat. 10, provided that this section shall not apply to any credit or refund allowed or made before May 1, 1958.

[§ 6424. Repealed. Pub. L. 97-424, title V, § 515(b)(5), Jan. 6, 1983, 96 Stat. 2181]

Section, added Pub. L. 89-44, title II, §202(b), June 21, 1965, 79 Stat. 137; amended Pub. L. 91-258, title II, §207(b), May 21, 1970, 84 Stat. 248; Pub. L. 94-455, title XIX, §1906(a)(30), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834; Pub. L. 95-618, title II, §§222(a)(3), 233(b)(1), (2)(A), Nov. 9, 1978, 92 Stat. 3187, 3191; Pub. L. 97-473, title II, §202(b)(13), Jan. 14, 1983, 96 Stat. 2610, had provided for payments by the Secretary of an amount equal to 6 cents for each gallon of lubricating oil used in a qualified business use or in a qualified bus to certain ultimate purchasers of the lubricating oil.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as an Effective Date of 1983 Amendment note under section 34 of this title.

§ 6425. Adjustment of overpayment of estimated income tax by corporation

(a) Application of adjustment

(1) Time for filing

A corporation may, after the close of the taxable year and on or before the 15th day of the third month thereafter, and before the day on which it files a return for such taxable year, file an application for an adjustment of an overpayment by it of estimated income tax for such taxable year. An application under this subsection shall not constitute a claim for credit or refund.

(2) Form of application, etc.

An application under this subsection shall be verified in the manner prescribed by section 6065 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Secretary. The application shall set forth—

(A) the estimated income tax paid by the corporation during the taxable year,

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year,

(C) the amount of the adjustment, and

(D) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) Allowance of adjustment

(1) Limited examination of application

Within a period of 45 days from the date on which an application for an adjustment is filed under subsection (a), the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Secretary may disallow, without further action, any application which he finds contains material omissions or errors which he deems cannot be corrected within such 45 days.

(2) Adjustment credited or refunded

The Secretary, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation and shall refund the remainder to the corporation.

(3) Limitation

No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation on its application as its income tax liability for the taxable year, and (B) \$500.

(4) Effect of adjustment

For purposes of this title (other than section 6655), any adjustment under this section shall be treated as a reduction, in the estimated income tax paid, made on the day the credit is allowed or the refund is paid.

(c) Definitions

For purposes of this section and section 6655(h) (relating to excessive adjustment)—

(1) The term “income tax liability” means the excess of—

(A) The¹ sum of—

(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

(ii) the tax imposed by section 55, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

(2) The amount of an adjustment under this section is equal to the excess of—

(A) the estimated income tax paid by the corporation during the taxable year, over

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year.

¹ So in original. Probably should not be capitalized.

(d) Consolidated returns

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(Added Pub. L. 90-364, title I, §103(d)(1), June 28, 1968, 82 Stat. 262; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-499, title V, §516(b)(4)(C), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99-514, title VII, §701(d)(2), Oct. 22, 1986, 100 Stat. 2342; Pub. L. 100-203, title X, §10301(b)(4), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 113-295, div. A, title II, §221(a)(12)(J), Dec. 19, 2014, 128 Stat. 4039.)

AMENDMENTS

2014—Subsec. (c)(1)(A). Pub. L. 113-295 inserted “plus” at end of cl. (i), substituted “over” for “plus” at end of cl. (ii), and struck out cl. (iii) which read as follows: “the tax imposed by section 59A, over”.

1987—Subsec. (c). Pub. L. 100-203 substituted “section 6655(h)” for “section 6655(g)”.

1986—Subsec. (c)(1)(A). Pub. L. 99-514 amended subpar. (A) generally, restating existing provisions as cl. (i) and adding cl. (ii).

Pub. L. 99-499 amended subsec. (c)(1)(A), as amended by the Tax Reform Act of 1986 (Pub. L. 99-514), by striking out “plus” at end of cl. (i), substituting “plus” for “over” at end of cl. (ii), and adding cl. (iii).

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

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 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, set out as notes under sections 6154 and 51 of this title, see section 103(f) of Pub. L. 90-364, set out as an Effective Date of 1968 Amendment note under section 6154 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 6426. Credit for alcohol fuel, biodiesel, and alternative fuel mixtures**(a) Allowance of credits**

There shall be allowed as a credit—

(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and

(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).

No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.

(b) Alcohol fuel mixture credit**(1) In general**

For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable amount is—

(i) in the case of calendar years beginning before 2009, 51 cents, and

(ii) in the case of calendar years beginning after 2008, 45 cents.¹

(B) Mixtures not containing ethanol

In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(C) Reduction delayed until annual production or importation of 7,500,000,000 gallons

In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting “51 cents” for “45 cents”.

(3) Alcohol fuel mixture

For purposes of this subsection, the term “alcohol fuel mixture” means a mixture of alcohol and a taxable fuel which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

(4) Other definitions

For purposes of this subsection—

¹ So in original.

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include—

- (i) alcohol produced from petroleum, natural gas, or coal (including peat), or
- (ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) Taxable fuel

The term “taxable fuel” has the meaning given such term by section 4083(a)(1).

(5) Volume of alcohol

For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2011.

(c) Biodiesel mixture credit**(1) In general**

For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection, the applicable amount is \$1.00.

(3) Biodiesel mixture

For purposes of this section, the term “biodiesel mixture” means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

- (A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
- (B) is used as a fuel by the taxpayer producing such mixture.

(4) Certification for biodiesel

No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

(5) Other definitions

Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2014.

(d) Alternative fuel credit**(1) In general**

For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, sold by the taxpayer for use as a fuel in aviation, or so used by the taxpayer.

(2) Alternative fuel

For purposes of this section, the term “alternative fuel” means—

- (A) liquefied petroleum gas,
- (B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),
- (C) compressed or liquefied natural gas,
- (D) liquefied hydrogen,
- (E) any liquid fuel which meets the requirements of paragraph (4) and which is derived from coal (including peat) through the Fischer-Tropsch process,
- (F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and
- (G) liquid fuel derived from biomass (as defined in section 45K(c)(3)).

Such term does not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

(3) Gasoline gallon equivalent

For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Carbon capture requirement**(A) In general**

The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility’s total carbon dioxide emissions.

(B) Applicable percentage

For purposes of subparagraph (A), the applicable percentage is—

- (i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and
- (ii) 75 percent in the case of fuel produced after December 30, 2009.

(5) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2014.

(e) Alternative fuel mixture credit**(1) In general**

For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alter-

native fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture

For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

(3) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2014.

(f) Mixture not used as a fuel, etc.

(1) Imposition of tax

If—

(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

(B) any person—

(i) separates the alcohol or biodiesel from the mixture, or

(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) Applicable laws

All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

(g) Coordination with exemption from excise tax

Rules similar to the rules under section 40(c) shall apply for purposes of this section.

(h) Denial of double benefit

No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40 or 40A.

(i) Limitation to fuels with connection to the United States

(1) Alcohol

No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

(2) Biodiesel and alternative fuels

No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term “United States” includes any possession of the United States.

(Added Pub. L. 108–357, title III, §301(a), Oct. 22, 2004, 118 Stat. 1459; amended Pub. L. 109–58, title XIII, §1344(a), Aug. 8, 2005, 119 Stat. 1052; Pub. L. 109–59, title XI, §§11113(b)(1)–(3)(A), 11151(e)(2), Aug. 10, 2005, 119 Stat. 1947, 1948, 1969; Pub. L. 110–172, §5(a)(2), (3), Dec. 29, 2007, 121 Stat. 2479; Pub. L. 110–234, title XV, §§15331(b), 15332(b), May 22, 2008, 122 Stat. 1516; Pub. L. 110–246, §4(a), title XV, §§15331(b), 15332(b), June 18, 2008, 122 Stat. 1664, 2278; Pub. L. 110–343, div. B, title II, §§202(a), (b)(2), 203(c)(1), 204(a)(1), (2), (b), (c), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111–312, title VII, §§701(b)(1), 704(a), (b), 708(b)(1), Dec. 17, 2010, 124 Stat. 3310–3312; Pub. L. 112–240, title IV, §§405(b)(1), 412(a), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113–295, div. A, title I, §160(a)(1), (b)(1), (c)(1), Dec. 19, 2014, 128 Stat. 4022.)

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.

PRIOR PROVISIONS

A prior section 6426, added Pub. L. 91–258, title II, §206(c), May 21, 1970, 84 Stat. 245; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a refund of aircraft use tax where plane transports for hire in foreign air commerce, prior to repeal by Pub. L. 97–248, title II, §280(c)(2)(G), (d), Sept. 3, 1982, 96 Stat. 564, 565, applicable with respect to transportation beginning after Aug. 31, 1982.

AMENDMENTS

2014—Subsec. (c)(6). Pub. L. 113–295, §160(a)(1), substituted “December 31, 2014” for “December 31, 2013”.

Subsecs. (d)(5), (e)(3). Pub. L. 113–295, §160(c)(1), which directed striking out “(September 30, 2014 in the case of any sale or use involving liquefied hydrogen)”, was executed by striking out “(September 30, 2014, in the case of any sale or use involving liquefied hydrogen)” before period at end, to reflect the probable intent of Congress.

Pub. L. 113–295, §160(b)(1), substituted “December 31, 2014” for “December 31, 2013”.

2013—Subsec. (c)(6). Pub. L. 112–240, §405(b)(1), substituted “December 31, 2013” for “December 31, 2011”.

Subsecs. (d)(5), (e)(3). Pub. L. 112–240, §412(a), substituted “December 31, 2013” for “December 31, 2011”.

2010—Subsec. (b)(6). Pub. L. 111–312, §708(b)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (c)(6). Pub. L. 111–312, §701(b)(1), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (d)(2). Pub. L. 111–312, §704(b), substituted “biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp” for “or biodiesel” in concluding provisions.

Subsecs. (d)(5), (e)(3). Pub. L. 111–312, §704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (b)(2)(A). Pub. L. 110–246, §15331(b)(3), substituted “subparagraphs (B) and (C)” for “subparagraph (B)” in introductory provisions.

Pub. L. 110–246, §15331(b)(1), substituted “the applicable amount is—” for “the applicable amount is 51 cents” and added cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 110–246, §15331(b)(2), added subpar. (C).

Subsec. (b)(5), (6). Pub. L. 110–246, §15332(b), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(2). Pub. L. 110–343, §202(b)(2), amended par. (2) generally. Prior to amendment, text read as follows: “For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

“(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is \$1.00.”

Subsec. (c)(6). Pub. L. 110-343, §202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (d)(1). Pub. L. 110-343, §204(b)(2), inserted “sold by the taxpayer for use as a fuel in aviation,” after “motorboat.”

Subsec. (d)(2)(E). Pub. L. 110-343, §204(c)(2), inserted “which meets the requirements of paragraph (4) and which is” after “any liquid fuel”.

Subsec. (d)(2)(F), (G). Pub. L. 110-343, §204(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (d)(4). Pub. L. 110-343, §204(c)(1), added par. (4). Former par. (4) redesignated (5).

Pub. L. 110-343, §204(a)(1), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (d)(5). Pub. L. 110-343, §204(c)(1), redesignated par. (4) as (5).

Subsec. (e)(3). Pub. L. 110-343, §204(a)(2), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (i). Pub. L. 110-343, §203(c)(1), added subsec. (i).

2007—Subsec. (d)(2)(F). Pub. L. 110-172, §5(a)(2), substituted “fuel” for “hydrocarbons”.

Subsec. (h). Pub. L. 110-172, §5(a)(3), added subsec. (h).

2005—Pub. L. 109-59, §11113(b)(3)(A), substituted “alcohol fuel, biodiesel, and alternative fuel” for “alcohol fuel and biodiesel” in section catchline.

Subsec. (a). Pub. L. 109-59, §11113(b)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows:

“There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

“(1) the alcohol fuel mixture credit, plus

“(2) the biodiesel mixture credit.”

Subsec. (c)(6). Pub. L. 109-58 substituted “2008” for “2006”.

Subsec. (d). Pub. L. 109-59, §11113(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (d)(2)(F). Pub. L. 109-59, §11151(e)(2), substituted “section 45K(c)(3)” for “section 29(c)(3)”.

Subsecs. (e) to (g). Pub. L. 109-59, §11113(b)(2), added subsec. (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, §160(d), Dec. 19, 2014, 128 Stat. 4022, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2013.

“(2) LIQUEFIED HYDROGEN.—The amendments made by subsection (c) [amending this section and section 6427 of this title] shall apply to fuel sold or used after September 30, 2014.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(1) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112-240, set out as a note under section 40A of this title.

Pub. L. 112-240, title IV, §412(c), Jan. 2, 2013, 126 Stat. 2343, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(1) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111-312, set out as a note under section 40A of this title.

Pub. L. 111-312, title VII, §704(d), Dec. 17, 2010, 124 Stat. 3311, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2009.”

Pub. L. 111-312, title VII, §708(b)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to periods after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a), (b)(2) of Pub. L. 110-343 applicable to fuel produced, and sold or used, after Dec. 31, 2008, see section 202(g)(1) of Pub. L. 110-343, set out as a note under section 40A of this title.

Amendment by section 203(c)(1) of Pub. L. 110-343 applicable to claims for credit or payment made on or after May 15, 2008, see section 203(d) of Pub. L. 110-343, set out as a note under section 40 of this title.

Pub. L. 110-343, div. B, title II, §204(d), Oct. 3, 2008, 122 Stat. 3835, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after the date of the enactment of this Act [Oct. 3, 2008].”

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 15331(b) of Pub. L. 110-246 effective June 18, 2008, see section 15331(c) of Pub. L. 110-246, set out as a note under section 40 of this title.

Amendment by section 15332(b) of Pub. L. 110-246 applicable to fuel sold or used after Dec. 31, 2008, see section 15332(c) of Pub. L. 110-246, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-172, §5(b), Dec. 29, 2007, 121 Stat. 2479, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect as if included in the provisions of the SAFETEA-LU [Pub. L. 109-59] to which they relate.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 11113(b)(1)–(3)(A) 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.

Amendment by section 11151(e)(2) of Pub. L. 109-59 effective as if included in the provision of the Energy Tax Incentives Act of 2005, Pub. L. 109-58, title XIII, to which such amendment relates, see section 11151(f)(3) of Pub. L. 109-59, set out as a note under section 38 of this title.

EFFECTIVE DATE

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

SPECIAL RULE FOR CERTAIN PERIODS DURING 2014

Pub. L. 113-295, div. A, title I, §160(e), Dec. 19, 2014, 128 Stat. 4023, provided that: “Notwithstanding any other provision of law, in the case of—

“(1) any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act [Dec. 19, 2014], and

“(2) any alternative fuel credit properly determined under section 6426(d) of such Code for such periods,

such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 19, 2014] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Sec-

retary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULES FOR 2010

Pub. L. 111-312, title VII, §701(c), Dec. 17, 2010, 124 Stat. 3310, provided that: “Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

Pub. L. 111-312, title VII, §704(c), Dec. 17, 2010, 124 Stat. 3311, provided that: “Notwithstanding any other provision of law, in the case of any alternative fuel credit or any alternative fuel mixture credit properly determined under subsection (d) or (e) of section 6426 of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

- (1) the amount of tax imposed on the sale of the fuel to him, reduced by
- (2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other

than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

- (i) which is available to the general public, and
- (ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term “qualified local bus” means any local bus—

- (i) which has a seating capacity of at least 20 adults (not including the driver), and
- (ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(4) Refunds for use of diesel fuel in certain intercity buses

With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph

(1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(A) is registered under section 4101, and

(B) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that “liquid taxable under section 4041” shall be substituted for “gasoline” each place it appears in such paragraph (4)).

(d) Use by certain aircraft museums or in certain other aircraft uses

Except as provided in subsection (k), if—

(1) any gasoline on which tax was imposed by section 4081, or

(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(l), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

(e) Alcohol, biodiesel, or alternative fuel

Except as provided in subsection (k)—

(1) Used to produce a mixture

If any person produces a mixture described in section 6426 in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit or the alternative fuel mixture credit with respect to such mixture.

(2) Alternative fuel

If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.

(3) Coordination with other repayment provisions

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel with respect to which an amount is allowed as a credit under section 6426.

(4) Registration requirement for alternative fuels

The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.

(5) Limitation to fuels with connection to the United States

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).

(6) Termination

This subsection shall not apply with respect to—

(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2011,

(B) any biodiesel mixture (as defined in section 6426(c)(3)) sold or used after December 31, 2014,

(C) any alternative fuel (as defined in section 6426(d)(2)) sold or used after December 31, 2014, and

(D) any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011.

[(f) Repealed. Pub. L. 109–59, title XI, § 11151(a)(1), Aug. 10, 2005, 119 Stat. 1968]

[(g) Repealed. Pub. L. 104–188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]

(h) Blend stocks not used for producing taxable fuel

(1) Gasoline blend stocks or additives not used for producing gasoline

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

(2) Diesel fuel blend stocks or additives not used for producing diesel

Except as provided in subsection (k), if any diesel fuel blend stock is not used by any person to produce diesel fuel and such person establishes that the ultimate use of such diesel fuel blend stock is not to produce diesel fuel, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such diesel fuel blend stock.

(i) Time for filing claims; period covered

(1) General rule

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (l), (m), or (o) by any person with respect to fuel used

during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exceptions

(A) In general

If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), (m), and (o) of this section and section 6421 to such person with respect to fuel used during—

- (i) such quarter, or
- (ii) any prior quarter (for which no other claim has been filed) during such taxable year,

a claim may be filed under this section with respect to such fuel.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

(C) Nonapplication of paragraph

This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).

(3) Special rule for mixture credits and the alternative fuel credit

(A) In general

A claim may be filed under subsection (e)(1) by any person with respect to a mixture described in section 6426 or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2)) for any period—

- (i) for which \$200 or more is payable under such subsection (e)(1) or (e)(2), and
- (ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

(B) Payment of claim

Notwithstanding subsection (e)(1) or (e)(2), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

(C) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(4) Special rule for vendor refunds

(A) In general

A claim may be filed under paragraph (4)(C) or (5) of subsection (l) by any person

with respect to fuel sold by such person for any period—

- (i) for which \$200 or more (\$100 or more in the case of kerosene) is payable under paragraph (4)(C) or (5) of subsection (l), and
- (ii) which is not less than 1 week.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under subsections (b)(4), (l)(4)(C)(ii), and (l)(5).

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(j) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041 and 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(k) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under this section only to—

- (A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or
- (B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

(3) Allowance of credit against income tax

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

(l) Nontaxable uses of diesel fuel and kerosene

(1) In general

Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any

payment made to the ultimate vendor under paragraph (4)(C)(i).

(2) Nontaxable use

For purposes of this subsection, the term “nontaxable use” means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.

(3) Refund of certain taxes on fuel used in diesel-powered trains

For purposes of this subsection, the term “nontaxable use” includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

(4) Refunds for kerosene used in aviation

(A) Kerosene used in commercial aviation

In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

(B) Kerosene used in noncommercial aviation

In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

(i) any tax imposed by subsection (c) or (d)(2) of section 4041, and

(ii) so much of the tax imposed by section 4081 as is attributable to—

(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

(C) Payments to ultimate, registered vendor

(i) In general

With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment

under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(I) is registered under section 4101, and

(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(ii) Payments for kerosene used in non-commercial aviation

The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

(I) is registered under section 4101, and

(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to State and local governments

(A) In general

Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.

(B) Sales of kerosene not for use in motor fuel

Paragraph (1) shall not apply to kerosene (other than kerosene used in aviation) sold by a vendor—

(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

(C) Payment to ultimate, registered vendor

Except as provided in subparagraph (D), the amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

(i) is registered under section 4101, and

(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(D) Credit card issuer

For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate

purchaser and only such ultimate purchaser may claim such amount.

(m) Diesel fuel used to produce emulsion

(1) In general

Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) Definitions

For purposes of paragraph (1)—

(A) Regular tax rate

The term “regular tax rate” means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

(B) Incentive tax rate

The term “incentive tax rate” means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

(n) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(o) Payments for taxes imposed by section 4041(d)

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

(p) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Pub. L. 91-258, title II, §207(a), May 21, 1970, 84 Stat. 246; amended Pub. L. 94-455, title XIX, §1906(a)(31)(A), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 94-530, §1(b), (c)(2)-(5), Oct. 17, 1976, 90 Stat. 2487, 2488; Pub. L. 95-458, §3(b), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 95-599, title V, §505(a), (b), (c)(2)-(4), Nov. 6, 1978, 92 Stat. 2758-2760; Pub. L. 95-600, title VII, §703(l)(3), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 95-618, title II, §233(a)(2), Nov. 9, 1978, 92 Stat. 3190; Pub. L. 96-223, title II, §232(d)(1), (2), (4)(B)-(D), Apr. 2, 1980, 94 Stat. 277, 278; Pub. L. 96-541, §4, Dec. 17, 1980, 94 Stat. 3205; Pub. L. 97-248, title II, §279(b)(2), Sept. 3, 1982, 96 Stat. 563; Pub. L. 97-424, title V, §§511(d)(4), (e)(1)-(3), (g)(2)(B)-(D), 516(b)(5), Jan. 6, 1983, 96 Stat. 2171, 2172, 2173, 2183; Pub. L. 97-473, title II, §202(b)(13), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), title VII, §§732(a)(3), 734(c)(2), title IX, §§911(b), (d)(2)(B)-(F), 912(d),

914, 915(a), July 18, 1984, 98 Stat. 846, 977, 979, 1005-1008; Pub. L. 99-499, title V, §521(c)(3)(A), (B)(i), (C), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99-514, title IV, §422(b), title XVII, §1703(d), (e)(1), (2)(A)-(E), title XVIII, §§1877(b), 1899A(55), (56), Oct. 22, 1986, 100 Stat. 2230, 2777, 2778, 2902, 2961, as amended by Pub. L. 99-499, title V, §521(c)(3)(B)(ii), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 100-17, title V, §502(b)(8), (9), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, §10502(c), Dec. 22, 1987, 101 Stat. 1330-442; Pub. L. 100-223, title IV, §405(b)(1), (2), Dec. 30, 1987, 101 Stat. 1534, 1535; Pub. L. 100-647, title I, §1017(c)(3), (10), title II, §§2001(d)(7)(B)-(D), 2004(s)(2), (3), title III, §3002(a)-(c), Nov. 10, 1988, 102 Stat. 3576, 3596, 3609, 3615, 3616; Pub. L. 101-239, title VII, §§7501(b)(3), 7812(a), 7822(b)(1)-(4), 7841(d)(20), Dec. 19, 1989, 103 Stat. 2361, 2412, 2424, 2425, 2429; Pub. L. 101-508, title XI, §§11211(b)(4)(B), (5), (6)(E)(ii), (d)(7), (8), 11213(b)(3), 11801(a)(46), (c)(23), Nov. 5, 1990, 104 Stat. 1388-425 to 1388-427, 1388-433, 1388-522, 1388-528; Pub. L. 102-240, title VIII, §8002(b)(7), (8), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(f)(8)-(10), 13242(c), (d)(21), (25)-(31), Aug. 10, 1993, 107 Stat. 512, 521, 524, 525; Pub. L. 104-188, title I, §§1606(a), (b)(2), 1702(b)(2)(B), 1703(k), Aug. 20, 1996, 110 Stat. 1839, 1868, 1877; Pub. L. 105-34, title X, §1032(c)(3), (e)(7)-(10), Aug. 5, 1997, 111 Stat. 934, 935; Pub. L. 105-178, title IX, §§9003(a)(2), 9006(b)(2), 9009(a)-(b)(2), June 9, 1998, 112 Stat. 502, 506, 507; Pub. L. 105-206, title VI, §§6016(b), 6017(a), 6023(16), (25), (26), July 22, 1998, 112 Stat. 822, 825, 826; Pub. L. 108-357, title II, §241(a)(2)(D), title III, §301(c)(9), (10), title VIII, §§851(d)(3), 853(c), (d)(2)(J), (K), 857(b), (c), 870(b), Oct. 22, 2004, 118 Stat. 1438, 1462, 1609, 1611, 1613, 1617, 1624; Pub. L. 109-58, title XIII, §§1343(b)(1), (3), 1344(a), Aug. 8, 2005, 119 Stat. 1051, 1052; Pub. L. 109-59, title XI, §§11113(b)(3)(C), 11151(a), 11161(b)(2), (3)(B), (D)-(F), 11162(a), (b), 11163(c), Aug. 10, 2005, 119 Stat. 1948, 1968, 1970-1974; Pub. L. 109-432, div. A, title IV, §420(a), (b)(1), (3), (4), Dec. 20, 2006, 120 Stat. 2968, 2969; Pub. L. 110-172, §§5(a)(1), 11(a)(37)-(39)(A), (e)(1), Dec. 29, 2007, 121 Stat. 2478, 2487-2489; Pub. L. 110-343, div. B, title II, §§202(a), 203(c)(2), 204(a)(3), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111-312, title VII, §§701(b)(2), 704(a), 708(c)(1), Dec. 17, 2010, 124 Stat. 3310-3312; Pub. L. 112-240, title IV, §§405(b)(2), 412(b), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113-295, div. A, title I, §160(a)(2), (b)(2), (c)(2), Dec. 19, 2014, 128 Stat. 4022.)

REFERENCES IN TEXT

Section 4081(c), referred to in subsec. (f)(1), was repealed by Pub. L. 108-357, title III, §301(c)(7), Oct. 22, 2004, 118 Stat. 1461.

Section 4091, referred to in subsec. (f)(1), (2)(A)(ii), (B)(ii), was repealed by Pub. L. 108-357, title VIII, §853(d)(1), Oct. 22, 2004, 118 Stat. 1612.

AMENDMENTS

2014—Subsec. (e)(6)(B). Pub. L. 113-295, §160(a)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(C). Pub. L. 113-295, §160(c)(2)(A), (B), substituted “any” for “except as provided in subparagraph (D), any” and inserted “and” at end.

Pub. L. 113-295, §160(b)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(D), (E). Pub. L. 113-295, §160(c)(2)(C), re-designated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “any alternative fuel

(as so defined) involving liquefied hydrogen sold or used after September 30, 2014, and”.

2013—Subsec. (e)(6)(B). Pub. L. 112-240, § 405(b)(2), substituted “December 31, 2013” for “December 31, 2011”.

Subsec. (e)(6)(C). Pub. L. 112-240, § 412(b)(1), substituted “(as defined in section 6426(d)(2))” for “or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426)” and “December 31, 2013,” for “December 31, 2011, and”.

Subsec. (e)(6)(D). Pub. L. 112-240, § 412(b)(2)(A), struck out “or alternative fuel mixture” after “any alternative fuel”.

Subsec. (e)(6)(E). Pub. L. 112-240, § 412(b)(2)(B), (3), added subpar. (E).

2010—Subsec. (e)(6)(A). Pub. L. 111-312, § 708(c)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (e)(6)(B). Pub. L. 111-312, § 701(b)(2), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (e)(6)(C). Pub. L. 111-312, § 704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (e)(5). Pub. L. 110-343, § 203(c)(2), added par. (5). Former par. (5) redesignated (6).

Subsec. (e)(5)(B). Pub. L. 110-343, § 202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (e)(6). Pub. L. 110-343, § 203(c)(2), redesignated par. (5) as (6).

Subsec. (e)(6)(C). Pub. L. 110-343, § 204(a)(3), which directed amendment of subsec. (e)(5)(C) by substituting “December 31, 2009” for “September 30, 2009”, was executed by making the substitution in par. (6)(C), to reflect the probable intent of Congress and the redesignation of par. (5) as (6) by Pub. L. 110-343, § 203(c)(2). See above.

2007—Subsec. (e)(3). Pub. L. 110-172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5). Pub. L. 110-172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5)(B). Pub. L. 110-172, § 11(e)(1), substituted “2008” for “2006”.

Subsec. (i)(3). Pub. L. 110-172, § 5(a)(1)(C), substituted “mixture credits and the alternative fuel credit” for “alcohol fuel and biodiesel mixture credit” in heading.

Subsec. (i)(3)(A). Pub. L. 110-172, § 5(a)(1)(A), in introductory provisions, inserted “or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2))” after “section 6426”.

Subsec. (i)(3)(A)(i), (B). Pub. L. 110-172, § 5(a)(1)(B), inserted “or (e)(2)” after “subsection (e)(1)”.

Subsec. (l)(4)(A)(ii). Pub. L. 110-172, § 11(a)(38), which directed substitution of “section 4081(a)(2)(A)(iii)” for “section 4081(a)(2)(iii)”, could not be executed, because “section 4081(a)(2)(iii)” did not appear subsequent to amendment by Pub. L. 109-432, § 420(a). See 2006 Amendment note below.

Subsecs. (p), (q). Pub. L. 110-172, § 11(a)(39)(A), redesignated subsec. (q) as (p) and struck out heading and text of former subsec. (p). Text of former subsec. (p) read as follows: “Except as provided in subsection (k), if—

“(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

“(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4 cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used.”

2006—Subsec. (i)(4)(A). Pub. L. 109-432, § 420(b)(3), substituted “paragraph (4)(C) or (5)” for “paragraph (4)(B), (5), or (6)” in introductory provisions and cl. (i) and “(l)(4)(C)(ii), and (l)(5)” for “(l)(5), and (l)(6)” in concluding provisions.

Subsec. (l)(1). Pub. L. 109-432, § 420(b)(4), substituted “paragraph (4)(C)(i)” for “paragraph (4)(B)”.

Subsec. (l)(4). Pub. L. 109-432, § 420(a), amended heading and text of par. (4) generally, substituting provisions relating to refunds for kerosene used in commercial aviation, refunds for kerosene used in noncommer-

cial aviation, and payments to ultimate, registered vendor, consisting of subpars. (A) to (C), for provisions relating to refunds for kerosene used in commercial aviation and payment to ultimate, registered vendor, consisting of subpars. (A) and (B).

Subsec. (l)(5), (6). Pub. L. 109-432, § 420(b)(1), redesignated par. (6) as (5) and struck out former par. (5), which related to refunds for kerosene used in non-commercial aviation.

2005—Subsec. (e). Pub. L. 109-59, § 11113(b)(3)(C)(ix), substituted “, biodiesel, or alternative fuel” for “or biodiesel used to produce alcohol fuel and biodiesel mixtures” in heading.

Subsec. (e)(1). Pub. L. 109-59, § 11113(b)(3)(C)(i), inserted “or the alternative fuel mixture credit” after “biodiesel mixture credit”.

Subsec. (e)(2). Pub. L. 109-59, § 11113(b)(3)(C)(iii), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 109-59, § 11113(b)(3)(C)(iv), substituted “under paragraph (1) or (2) with respect to any mixture or alternative fuel” for “under paragraph (1) with respect to any mixture”.

Pub. L. 109-59, § 11113(b)(3)(C)(ii), redesignated par. (2) as (3).

Subsec. (e)(4). Pub. L. 109-59, § 11113(b)(3)(C)(v), added par. (4).

Subsec. (e)(4)(B). Pub. L. 109-58, § 1344(a), which directed amendment of par. (4)(B) by substituting “2008” for “2006”, could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, § 11113(b)(3)(C)(v). See 2007 Amendment note above relating to subsec. (e)(5)(B).

Subsec. (e)(5). Pub. L. 109-59, § 11113(b)(3)(C)(ii), which directed amendment of subsec. (e) by redesignating par. (4) as (5), could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, § 11113(b)(3)(C)(v). See 2005 and 2007 Amendment notes above.

Subsec. (e)(5)(C), (D). Pub. L. 109-59, § 11113(b)(3)(C)(vi)–(viii), added subpars. (C) and (D).

Subsec. (f). Pub. L. 109-59, § 11151(a)(1), struck out subsec. (f) which related to payment by Secretary of an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to any gasoline, diesel fuel, kerosene, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate, which is used by any person in producing a mixture described in section 4081(c) or 4091(c)(1)(A), and which is sold or used in such person’s trade or business.

Subsec. (i)(1), (2)(A). Pub. L. 109-58, § 1343(b)(3), inserted “(m),” after “(l),” in par. (1) and in par. (2)(A) in introductory provisions.

Subsec. (i)(4)(A). Pub. L. 109-59, § 11161(b)(3)(D)(ii), which directed amendment of subpar. (A) by substituting “subsections (b)(4), (l)(5), and (l)(6)” for “subsection (b)(4) and subsection (l)(5)” in concluding provisions, was executed by making the substitution for “subsections (b)(4) and subsection (l)(5)” to reflect the probable intent of Congress.

Pub. L. 109-59, § 11161(b)(3)(D)(i), substituted “paragraph (4)(B), (5), or (6)” for “paragraph (4)(B) or (5)” in two places.

Subsec. (l). Pub. L. 109-59, § 11161(b)(3)(B), substituted “and kerosene” for “, kerosene and aviation fuel” in heading.

Subsec. (l)(2). Pub. L. 109-59, § 11161(b)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘nontaxable use’ means—

“(A) in the case of diesel fuel or kerosene, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

“(B) in the case of aviation-grade kerosene—

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

“(ii) any use in commercial aviation (within the meaning of section 4083(b)).”

Subsec. (I)(4). Pub. L. 109-59, §11161(b)(3)(E)(iv), substituted “kerosene used in commercial aviation” for “aviation-grade kerosene” in heading.

Subsec. (I)(4)(A). Pub. L. 109-59, §11161(b)(3)(E)(i), struck out “aviation-grade” before “kerosene” in introductory provisions.

Subsec. (I)(4)(A)(ii). Pub. L. 109-59, §11161(b)(3)(E)(ii), substituted “section 4081(a)(2)(iii)” for “section 4081(a)(2)(A)(iv)”.

Subsec. (I)(4)(B). Pub. L. 109-59, §11161(b)(3)(E)(iii), substituted “kerosene used in commercial aviation as described in subparagraph (A)” for “aviation-grade kerosene” in introductory provisions.

Subsec. (I)(5). Pub. L. 109-59, §11161(b)(2)(B), added par. (5). Former par. (5) redesignated (6).

Subsec. (I)(6). Pub. L. 109-59, §11162(b), struck out “farmers and” before “State and local governments” in heading.

Pub. L. 109-59, §11161(b)(2)(B), redesignated par. (5) as (6).

Subsec. (I)(6)(A). Pub. L. 109-59, §11162(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to diesel fuel or kerosene used—

“(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

“(ii) by a State or local government.”

Subsec. (I)(6)(B). Pub. L. 109-59, §11161(b)(3)(F), substituted “kerosene used in aviation” for “aviation-grade kerosene” in introductory provisions.

Subsec. (I)(6)(C). Pub. L. 109-59, §11163(c)(1), substituted “Except as provided in subparagraph (D), the amount” for “The amount” in introductory provisions.

Subsec. (I)(6)(D). Pub. L. 109-59, §11163(c)(2), added subpar. (D).

Subsecs. (m), (n). Pub. L. 109-58, §1343(b)(1), added subsec. (m) and redesignated former subsec. (m) as (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (n) as (o). Former subsec. (o) redesignated (p).

Pub. L. 109-59, §11151(a)(2), which directed the redesignation of subsec. (p) as (o) and the striking of former subsec. (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (p). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Pub. L. 109-59, §11151(a)(2), which directed the redesignation of subsec. (p) as (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (q). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (p) as (q).

2004—Subsec. (b)(4). Pub. L. 108-357, §857(b), added par. (4).

Subsec. (e). Pub. L. 108-357, §301(c)(9), added subsec. (e).

Subsec. (h). Pub. L. 108-357, §870(b), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.”

Subsec. (i)(2)(C). Pub. L. 108-357, §851(d)(3), added subpar. (C).

Subsec. (i)(3). Pub. L. 108-357, §301(c)(10)(F), substituted “alcohol fuel and biodiesel mixture” for “alcohol mixture” in heading.

Subsec. (i)(3)(A). Pub. L. 108-357, §301(c)(10)(A)–(C), substituted “a mixture described in section 6426” for “gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” in introductory provisions, substituted “subsection (e)(1)” for “subsection (f)” in two places, and inserted concluding provisions.

Subsec. (i)(3)(B). Pub. L. 108-357, §301(c)(10)(D), (E), substituted “subsection (e)(1)” for “subsection (f)(1)” and “45 days of the date of the filing of such claim (20 days in the case of an electronic claim)” for “20 days of the date of the filing of such claim”.

Subsec. (i)(4)(A). Pub. L. 108-357, §857(c), which directed the insertion of “subsections (b)(4) and” after “filed under”, was executed by making the insertion in concluding provisions, to reflect the probable intent of Congress.

Pub. L. 108-357, §853(c)(2), substituted “paragraph (4)(B) or (5) of subsection (I)” for “subsection (I)(5)” in introductory provisions and in cl. (i) and substituted “subsection (I)(5)” for “the preceding sentence” before period at end of concluding provisions.

Subsec. (j)(1). Pub. L. 108-357, §853(d)(2)(J), substituted “and 4081” for “, 4081, and 4091”.

Subsec. (I)(1). Pub. L. 108-357, §853(d)(2)(K)(i), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “Except as otherwise provided in this subsection and in subsection (k), if—

“(A) any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081, or

“(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.”

Subsec. (I)(2)(B). Pub. L. 108-357, §853(c)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.”

Subsec. (I)(3)(B). Pub. L. 108-357, §241(a)(2)(D), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

“(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

“(iii) 4.3 cents per gallon after October 31, 1998.”

Subsec. (I)(4). Pub. L. 108-357, §853(c)(1), amended heading and text of par. (4) generally. Text read as follows: “In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

“(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.”

Subsec. (I)(5)(B). Pub. L. 108-357, §853(d)(2)(K)(ii), substituted “Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)” for “Paragraph (1)(A) shall not apply to kerosene” in introductory provisions.

1998—Subsec. (d). Pub. L. 105-206, §6016(b), in heading, substituted “other aircraft uses” for “helicopters” and, in concluding provisions, inserted “or a fixed-wing aircraft” after “helicopter”.

Subsec. (f)(3). Pub. L. 105-206, §6023(25), struck out “, (e),” after “subsection (d)”.

Subsec. (f)(4). Pub. L. 105-178, §9003(a)(2), substituted “2007” for “1999”.

Subsec. (i)(1). Pub. L. 105-206, §6023(26)(B), substituted “(o)” for “(q)”.

Subsec. (i)(2)(A). Pub. L. 105-206, §6023(26)(B), substituted “(o)” for “(q)”.

Pub. L. 105-178, §9009(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under subsections (a), (b), (d), (h), and (q) to any person with respect to fuel used during any

of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.”

Subsec. (i)(2)(B). Pub. L. 105-206, § 6017(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

Subsec. (i)(4), (5). Pub. L. 105-178, § 9009(b)(1), redesignated par. (5) as (4) and struck out par. (4) which read as follows:

“(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (I).—

“(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least \$750 is payable under subsection (I) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (I) with respect to such fuel.

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.”

Subsec. (k)(2). Pub. L. 105-178, § 9009(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).”

Subsec. (l)(3)(B)(ii). Pub. L. 105-178, § 9006(b)(2)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (l)(3)(B)(iii). Pub. L. 105-178, § 9006(b)(2)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (m) to (p). Pub. L. 105-206, § 6023(26)(A), redesignated subsecs. (n), (p), (q), and (r) as (m), (n), (o), and (p), respectively.

Subsec. (q). Pub. L. 105-206, § 6023(26)(A), redesignated subsec. (q) as (o).

Subsec. (q)(2). Pub. L. 105-206, § 6023(16), substituted “section 4041(c)(2)” for “section 4041(c)(4)”.

Subsec. (r). Pub. L. 105-206, § 6023(26)(A), redesignated subsec. (r) as (p).

1997—Subsec. (f). Pub. L. 105-34, § 1032(e)(7), inserted “kerosene,” after “diesel fuel,” in subsec. heading and in text of par. (1).

Subsec. (f)(2)(A)(i), (B)(i). Pub. L. 105-34, § 1032(e)(8), substituted “, diesel fuel, or kerosene” for “or diesel fuel”.

Subsec. (f)(3). Pub. L. 105-34, § 1032(e)(7), inserted “kerosene,” after “diesel fuel.”

Subsec. (i)(3)(A). Pub. L. 105-34, § 1032(e)(9), substituted “, diesel fuel, or kerosene” for “or diesel fuel” in introductory provisions.

Subsec. (i)(4). Pub. L. 105-34, § 1032(e)(10), amended heading generally. Prior to amendment, heading read as follows: “Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4081 or 4091”.

Subsec. (i)(5)(A)(i). Pub. L. 105-34, § 1032(c)(3)(E), inserted “(\$100 or more in the case of kerosene)” after “\$200 or more”.

Subsec. (l). Pub. L. 105-34, § 1032(c)(3)(D), inserted “, kerosene,” after “diesel fuel” in heading.

Subsec. (l)(1)(A), (2)(A). Pub. L. 105-34, § 1032(c)(3)(A), inserted “or kerosene” after “diesel fuel”.

Subsec. (l)(5). Pub. L. 105-34, § 1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in heading.

Subsec. (l)(5)(A). Pub. L. 105-34, § 1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in introductory provisions.

Subsec. (l)(5)(B). Pub. L. 105-34, § 1032(c)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (l)(5)(C). Pub. L. 105-34, § 1032(c)(3)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)” in introductory provisions.

1996—Subsec. (f)(4). Pub. L. 104-188, § 1703(k), substituted “1999” for “1995”.

Subsec. (g). Pub. L. 104-188, § 1606(a), struck out subsec. (g) which related to advance repayment of increased diesel fuel tax to original purchasers of diesel-powered automobiles and light trucks.

Subsec. (i)(1), (2)(A). Pub. L. 104-188, § 1606(b)(2), struck out “(g),” after “(d),” and “(or a qualified diesel powered highway vehicle purchased)” after “with respect to fuel used” wherever appearing.

Subsec. (l)(4). Pub. L. 104-188, § 1702(b)(2)(B), amended par. (4), as in effect before the amendments made by the Revenue Reconciliation Act of 1993 [ch. I, §§ 13001-13444, of title XIII of Pub. L. 103-66], by inserting before the period “unless such fuel was used by a State or any political subdivision thereof”. See 1993 Amendment note below for subsec. (l).

1993—Subsec. (a). Pub. L. 103-66, § 13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)” in introductory provisions.

Subsec. (b)(1). Pub. L. 103-66, § 13242(d)(25), substituted “if any fuel other than gasoline (as defined in section 4083(a))” for “if any fuel” in introductory provisions and “4081” for “4091” in introductory and concluding provisions.

Subsec. (b)(2). Pub. L. 103-66, § 13241(f)(8)(B), substituted “Reduction” for “3-cent reduction” in heading.

Subsec. (b)(2)(A). Pub. L. 103-66, § 13242(d)(25)(B), substituted “4081” for “4091”.

Pub. L. 103-66, § 13241(f)(8)(A), substituted “7.4 cents” for “3.1 cents”.

Subsec. (c). Pub. L. 103-66, § 13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)”.

Subsec. (f)(1). Pub. L. 103-66, § 13242(d)(26)(A), substituted “or 4091(c)(1)(A)” for “, 4091(c)(1)(A), or 4091(d)(1)(A)”.

Subsec. (f)(2). Pub. L. 103-66, § 13242(d)(26)(B), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “For purposes of paragraph (1)—

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

“(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.”

Subsec. (h). Pub. L. 103-66, § 13242(d)(27), substituted “section 4083(a)(2)” for “section 4082(b)”.

Subsec. (i)(1). Pub. L. 103-66, § 13242(c)(2)(B), substituted “otherwise provided in this subsection” for “provided in paragraphs (2), (3), and (4)”.

Subsec. (i)(3). Pub. L. 103-66, § 13242(d)(28)(A), substituted “alcohol mixture” for “gasohol” in heading.

Subsec. (i)(3)(A). Pub. L. 103-66, § 13242(d)(28)(B), substituted “gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” for “gasoline used to produce gasohol (as defined in section 4081(c)(1))”.

Subsec. (i)(3)(C). Pub. L. 103-66, § 13242(c)(2)(D), added subpar. (C).

Subsec. (i)(4). Pub. L. 103-66, § 13242(d)(30), inserted “4081 or” before “4091” in heading.

Subsec. (i)(5). Pub. L. 103-66, § 13242(c)(2)(A), added par. (5).

Subsec. (j)(1). Pub. L. 103-66, §13242(d)(29), substituted “sections 4041, 4081, and 4091” for “section 4041”.

Subsec. (k)(2). Pub. L. 103-66, §13242(c)(2)(C), substituted “(4), or (5)” for “or (4)”.

Subsec. (l). Pub. L. 103-66, §13242(d)(31), amended subsec. heading and headings and text of pars. (1) to (4) generally. Prior to amendment, pars. (1) to (4) read as follows:

“(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

“(2) NONTAXABLE USE.—For purposes of this subsection, the term ‘nontaxable use’ means, with respect to any fuel, any use of such fuel if such use is exempt under section 4041 from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

“(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

“(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.”

Pub. L. 103-66, §13241(f)(9), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

“(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

“(A) fuel used in a diesel-powered train, and

“(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

“(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section.” See 1996 Amendment note for subsec. (l)(4) above.

Subsec. (l)(5). Pub. L. 103-66, §13242(c)(1), added par. (5).

Subsec. (m). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (m). Text read as follows: “For purposes of subsection (a), in the case of gasoline—

“(1) on which tax was imposed under section 4041(c)(2),

“(2) on which tax was not imposed under section 4081, and

“(3) which was not used as an off-highway business use (within the meaning of section 6421(e)(2)), the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.”

Subsec. (o). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (o). Text read as follows:

“Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (l) shall only apply with respect to fuels purchased before October 1, 1999.”

1991—Subsecs. (g)(5), (o). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (b)(2)(A). Pub. L. 101-508, §11211(b)(5), substituted “shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be” for “shall not exceed 12 cents”.

Subsec. (e). Pub. L. 101-508, §11801(a)(46), struck out subsec. (e) which required payment of refunds of gasoline or fuel tax to ultimate purchasers where such gasoline or fuel was used in a qualified taxicab engaged exclusively in furnishing qualified taxicab services.

Subsec. (f). Pub. L. 101-508, §11213(b)(3), amended subsec. (f) generally, restructuring and restating pars. (1) to (3) as (1) to (4) and extending the termination date from Sept. 30, 1993, to Sept. 30, 1995.

Subsec. (g)(5). Pub. L. 101-508, §11211(d)(7), substituted “1995” for “1993”.

Subsec. (i)(1). Pub. L. 101-508, §11801(c)(23)(A), struck out “(e).” before “(g).”

Subsec. (i)(2)(A). Pub. L. 101-508, §11801(c)(23)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “If—

“(i) \$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (q), or

“(ii) \$50 or more is payable under subsection (e), to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.”

Subsec. (i)(2)(B), (C). Pub. L. 101-508, §11801(c)(23)(C), redesignated subpar. (C) as (B) and struck out former subpar. (B) “Special rule” which read as follows: “If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).”

Subsec. (l)(1). Pub. L. 101-508, §11211(b)(4)(B)(ii), inserted reference to par. (4).

Subsec. (l)(4). Pub. L. 101-508, §11211(b)(4)(B)(i), added par. (4).

Subsec. (o). Pub. L. 101-508, §11211(d)(8), substituted “1995” for “1993”.

Subsec. (q). Pub. L. 101-508, §11211(b)(6)(E)(ii), substituted heading for one which read: “Gasoline used in noncommercial aviation during period rate reduction in effect” and amended text generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if—

“(1) any tax is imposed by section 4081 on any gasoline,

“(2) such gasoline is used during 1991 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

“(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1991 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.”

1989—Subsec. (f)(1)(B). Pub. L. 101-239, §7812(a), made technical correction to directory language of Pub. L. 100-647, §2001(d)(7)(C), see 1988 Amendment note below.

Subsec. (i)(1). Pub. L. 101-239, §7822(b)(1), substituted “subsection (a), (b), (c), (d), (e), (g), (h), (l), or (q) by any person” for “subsection (a), (b), (c), (d), (e), (g), (h), or (l) by any person”.

Subsec. (i)(2)(A)(i). Pub. L. 101-239, §7822(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as

follows: “\$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and or”.

Subsec. (i)(2)(B). Pub. L. 101-239, § 7822(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “If the requirements of clause (ii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause of subparagraph (A) the requirements of which are met by such person for such quarter.”

Subsec. (j)(2). Pub. L. 101-239, § 7841(d)(20), substituted “section 7602(a)” for “section 7602”.

Subsec. (p). Pub. L. 101-239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

Subsec. (q). Pub. L. 101-239, § 7501(b)(3), substituted “1991” for “1990” in pars. (2) and (3).

Pub. L. 101-239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

1988—Subsec. (f)(1)(A). Pub. L. 100-647, § 2001(d)(7)(B), substituted “regular tax rate” for “regular Highway Trust Fund financing rate” in two places and “incentive tax rate” for “incentive Highway Trust Fund Financing rate”, notwithstanding directory language that “incentive tax rate” was to be substituted for “Highway Trust Fund financing rate”.

Subsec. (f)(1)(B). Pub. L. 100-647, § 2001(d)(7)(C), as amended by Pub. L. 101-239, § 7812(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) defined “regular Highway Trust Fund financing rate” and “incentive Highway Trust Fund Financing rate”.

Subsec. (i)(1). Pub. L. 100-647, § 3002(c)(1), substituted “paragraphs (2), (3), and (4)” for “paragraph (2)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-647, § 3002(c)(2), struck out “(I),” after “and”.

Subsec. (i)(4). Pub. L. 100-647, § 3002(a), added par. (4).

Subsec. (k)(2). Pub. L. 100-647, § 3002(b), substituted “paragraph (2), (3), or (4)” for “paragraph (2) or (3)”.

Pub. L. 100-647, § 1017(c)(10), substituted “paragraph (2) or (3) of subsection (i).” for “subsection” and all that followed, thereby effecting the purpose of the amendment contained in section 1703(e)(2)(E) of Pub. L. 99-514. See 1986 Amendment note below.

Subsec. (l)(2). Pub. L. 100-647, § 2001(d)(7)(D), inserted “under section 4041” after “exempt”.

Subsec. (l)(3)(B). Pub. L. 100-647, § 2004(s)(2), inserted “(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))” after “aircraft”.

Subsec. (m)(3). Pub. L. 100-647, § 1017(c)(3), substituted “6421(e)(2)” for “6421(d)(2)”.

Subsecs. (p), (q). Pub. L. 100-647, § 2004(s)(3), redesignated subsec. (p), relating to gasoline used in non-commercial aviation during period rate reduction in effect, as (q). Former subsec. (q), relating to cross references, redesignated (r).

Subsec. (r). Pub. L. 100-647, § 2004(s)(3), redesignated subsec. (q), relating to cross references, as (r).

1987—Subsec. (b)(1). Pub. L. 100-203, § 10502(c)(2), substituted “section 4041(a) or 4091” for first reference to “subsection (a) of section 4041”, “section 4041(a) or 4091, as the case may be” for second reference to “subsection (a) of section 4041”.

Subsec. (e)(1)(B). Pub. L. 100-203, § 10502(c)(3), inserted “or 4091” after “section 4041”.

Subsec. (f). Pub. L. 100-203, § 10502(c)(4), amended subsec. (f) generally, substituting new heading for “Gasoline used to produce certain alcohol fuels”, and revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (g)(5). Pub. L. 100-17, § 502(b)(8), substituted “1993” for “1988”.

Subsec. (i)(1). Pub. L. 100-223, § 405(b)(2)(A), which directed substitution of “(h), or (p)” for “or (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, § 10502(c)(5)(A), substituted “(h), or (l)” for “or (h)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-223, § 405(b)(2)(B), which directed substitution of “(h), and (p)” for “and (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, § 10502(c)(5)(B), substituted “(h), and (l)” for “and (h)”.

Subsecs. (l) to (n). Pub. L. 100-203, § 10502(c)(1), added subsec. (l) and redesignated former subsecs. (l) to (n) as (m) to (o), respectively.

Subsec. (o). Pub. L. 100-203, § 10502(c)(1), (6), redesignated subsec. (n) as (o) and amended it generally, substituting new heading for “Termination of subsections (a), (b), (c), (d), (g), and (h)” and amending text generally. Prior to amendment, text read as follows: “Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), and (h) shall only apply with respect to fuels purchased before October 1, 1993.” Former subsec. (o) redesignated (p).

Pub. L. 100-17, § 502(b)(9), substituted “1993” for “1988” in subsec. (m), which was successively redesignated to subsec. (o) by Pub. L. 99-514 and Pub. L. 100-203.

Subsec. (p). Pub. L. 100-223, § 405(b)(1), added subsec. (p). Former subsec. (p) redesignated (q).

Pub. L. 100-203, § 10502(c)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Subsec. (q). Pub. L. 100-223, § 405(b)(1), redesignated subsec. (p), relating to payments for taxes imposed by section 4041(d), as (q).

Pub. L. 100-203, § 10502(c)(1), redesignated subsec. (p), relating to cross references, as (q).

1986—Subsec. (a). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(1). Pub. L. 99-514, § 1899A(55), substituted “otherwise provided in this subsection” for “provided in paragraph (2)”.

Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(2)(A). Pub. L. 99-514, § 1877(b)(2), substituted “subparagraphs (B) and (C)” for “subparagraph (B)”.

Subsec. (b)(2)(B). Pub. L. 99-514, § 1877(b)(1), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 99-514, § 1877(b)(1), (3), redesignated subpar. (B) as (C) and substituted “Exception for certain intracity transportation” for “Exception” in heading. Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 99-514, § 1877(b)(1), redesignated former subpar. (C) as (D).

Subsecs. (c), (d), (e)(1). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (e)(3). Pub. L. 99-514, § 422(b), substituted “September 30, 1988” for “September 30, 1985”.

Subsec. (f)(1). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Pub. L. 99-499, § 521(c)(3)(C), which directed the substitution of “at the Highway Trust Fund financing rate” for “at the rate”, was executed by making the substitution for the first such reference as the probable intent of Congress.

Subsec. (g)(1). Pub. L. 99-514, § 1899A(56), substituted “amount” for “anount”.

Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (h). Pub. L. 99-514, § 1703(e)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 99-514, § 1703(d)(1)(B)(i), (e)(2)(B), struck out “(f)” after “subsection (a), (b), (c), (d), (e),” and substituted “(g), or (h)” for “or (g)”.

Subsec. (i)(2)(A). Pub. L. 99-514, § 1703(d)(1)(B)(ii), inserted “or” at end of cl. (i), struck out “or” at end of cl. (ii), and struck out cl. (iii) which read as follows: “\$200 or more is payable under subsection (f),”.

Subsec. (i)(2)(A)(i). Pub. L. 99-514, § 1703(e)(2)(C), substituted “(g), and (h)” for “and (g)”.

Subsec. (i)(2)(B). Pub. L. 99-514, § 1703(d)(1)(B)(iii)(III), struck out “(or clauses)” after “referred to in the

clause". Notwithstanding directory language that the amendment be made to subpar. (A) of this par., the amendment was executed to subpar. (B), the only place in the section where "(or clauses)" appeared, to reflect the probable intent of Congress.

Pub. L. 99-514, §1703(d)(1)(B)(iii), struck out "or clause (iii)" after "If the requirements of clause (ii)". Notwithstanding directory language that the amendment be made to subsec. (f)(2)(B) of this section, the amendment was executed to subsec. (i)(2)(B), the only place in the section where "or clause (iii)" appeared, to reflect the probable intent of Congress.

Subsec. (i)(3). Pub. L. 99-514, §1703(d)(1), added par. (3).

Subsec. (j). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 99-514, §1703(e)(2)(E), which directed the substitution of "(i)(2)" for "subsection (h)(2)" in subsec. (i)(2) (as so redesignated), was executed to subsec. (k)(2), the only place in the section where "subsection (h)(2)" appeared, to reflect the probable intent of Congress. See 1988 Amendment note above.

Pub. L. 99-514, §1703(d)(1)(B)(iv), substituted "subsection (h)(2) or (h)(3)" for "subsection (h)(2)".

Subsec. (l). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Pub. L. 99-499, §521(c)(3)(A), substituted "Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections" for "Subsection".

Subsec. (n). Pub. L. 99-514, §1703(e)(1)(A), (2)(C), (D), redesignated subsec. (m) as (n) and substituted "(g), and (h)" for "and (g)" in heading and text. Former subsec. (n) redesignated (o).

Pub. L. 99-499, §521(c)(3)(B)(i), added subsec. (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 99-514, §1703(e)(1)(A), as amended by Pub. L. 99-499, §521(c)(3)(B)(ii), redesignated subsec. (n), as added by Pub. L. 99-499, §521(c)(3)(B)(i), as (o). Former subsec. (o) redesignated (p).

Pub. L. 99-499, §521(c)(3)(B)(i), redesignated subsec. (n) as (o).

Subsec. (p). Pub. L. 99-514, §1703(e)(1)(A), as amended by Pub. L. 99-499, §521(c)(3)(B)(ii), redesignated subsec. (o) as (p).

1984—Subsecs. (a), (b)(1). Pub. L. 98-369, §911(d)(2)(B), substituted "subsection (j)" for "subsection (i)".

Subsec. (b)(2), (3). Pub. L. 98-369, §915(a), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d), (e)(1). Pub. L. 98-369, §911(d)(2)(B), substituted "subsection (j)" for "subsection (i)".

Subsec. (e)(3). Pub. L. 98-369, §914, substituted "September 30, 1985" for "September 30, 1984".

Subsec. (f)(1). Pub. L. 98-369, §911(d)(2)(B), substituted "subsection (j)" for "subsection (i)".

Pub. L. 98-369, §912(d), substituted "5½ cents" for "4½ cents".

Pub. L. 98-369, §732(a)(3), substituted "4½ cents" for "5 cents".

Subsec. (g). Pub. L. 98-369, §911(b), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 98-369, §911(b), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 98-369, §911(d)(2)(C), substituted "(f), or (g)" for "or (f)", and inserted "(or a qualified diesel powered highway vehicle purchased)" after "fuel used" in two places.

Subsec. (h)(2)(A). Pub. L. 98-369, §911(d)(2)(D), substituted "(e), and (g)" for "and (e)", and inserted "(or a qualified diesel powered highway vehicle purchased)" after "fuel used" in two places.

Subsec. (i). Pub. L. 98-369, §911(b), redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(3). Pub. L. 98-369, §474(r)(38), substituted "section 34" for "section 39".

Subsec. (j). Pub. L. 98-369, §911(b), redesignated former subsec. (i), relating to income tax credit in lieu of payment, as (j). Former subsec. (j), relating to special rules with respect to noncommercial aviation, redesignated (k).

Pub. L. 98-369, §734(c)(2), added subsec. (j) relating to special rules with respect to noncommercial aviation. Former subsec. (j), relating to regulations, redesignated (k).

Subsec. (j)(2). Pub. L. 98-369, §911(d)(2)(E), which directed the amendment of subsec. (k)(2) by substituting "(h)(2)" for "(g)(2)" was executed to subsec. (j)(2) to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 98-369, §911(b), redesignated former subsec. (j), relating to special rules with respect to noncommercial aviation, as (k). Former subsec. (k), relating to regulations, redesignated (l).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (j), relating to regulations, as (k). Former subsec. (k), relating to termination of subsections, redesignated (l).

Subsec. (l). Pub. L. 98-369, §911(b), redesignated former subsec. (k), relating to regulations, as (l). Former subsec. (l), relating to termination of subsections, redesignated (m).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (k), relating to termination of subsections, as (l). Former subsec. (l), relating to cross references, redesignated (m).

Subsec. (m). Pub. L. 98-369, §911(b), (d)(2)(F), redesignated former subsec. (l), relating to termination of subsections, as (m) and substituted "(d), and (g)" for "and (d)" in heading and text. Former subsec. (m), relating to cross references, redesignated (n).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (l), relating to cross references, as (m).

Subsec. (n). Pub. L. 98-369, §911(b), redesignated former subsec. (m), relating to cross references, as (n). 1983—Subsec. (a). Pub. L. 97-424, §511(g)(2)(B), substituted "section 4041(a) or (c)" for "section 4041(a), (b), or (c)".

Subsec. (b)(1). Pub. L. 97-424, §511(g)(2)(C), substituted "subsection (a) of section 4041" for "subsection (a) or (b) of section 4041" wherever appearing.

Subsec. (c). Pub. L. 97-424, §511(g)(2)(D), substituted "section 4041(a) or (c)" for "section 4041(a), (b), or (c)".

Subsec. (e)(1). Pub. L. 97-424, §511(e)(1), substituted "an amount determined at the rate of 4 cents a gallon" for "an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel".

Subsec. (e)(2)(A)(ii). Pub. L. 97-424, §511(e)(3), struck out "is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and" after "(ii)".

Subsec. (e)(3). Pub. L. 97-424, §511(e)(2), substituted "September 30, 1984" for "December 31, 1982".

Subsec. (f)(1). Pub. L. 97-424, §511(d)(4), substituted "on which a tax" for "on which tax", inserted "at the rate of 9 cents a gallon" after "is imposed by section 4081", and substituted "the amount determined at the rate of 5 cents a gallon" for "the aggregate amount of the tax imposed on such gasoline".

Subsec. (f)(2). Pub. L. 97-424, §511(d)(4), substituted provision that no amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421, for provision that no amount would be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount was payable under paragraph (1).

Subsec. (k). Pub. L. 97-424, §516(b)(5), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(3). Pub. L. 97-473 purported to add par. (3). See par. below for subsec. (l)(3).

Subsec. (l). Pub. L. 97-424, §516(b)(5), redesignated former subsec. (k) as (l).

Subsec. (l)(3). Pub. L. 97-473 added par. (3). Notwithstanding the directory language that par. (3) be added

to subsec. (k), it was added to subsec. (l) to reflect the probable intent of Congress and the intervening redesignation of subsec. (k) as (l) by Pub. L. 97-424.

1982—Subsec. (d). Pub. L. 97-248 inserted “or in certain helicopters” after “museums” in heading and “or is used in a helicopter for a purpose described in section 4041(l),” after “section 4041(h)(2)(C),” in text.

1980—Subsecs. (a), (b)(1), (c), (d), (e)(1). Pub. L. 96-223, § 232(d)(4)(B), substituted “subsection (i)” for “subsection (h)”.

Subsec. (e)(3). Pub. L. 96-541 extended subsec. (e) termination date to Dec. 31, 1982, from Dec. 31, 1980.

Subsecs. (f), (g). Pub. L. 96-223, § 232(d)(1)(A), (2), (4)(C), added subsec. (f), redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, inserted reference to subsec. (f) in par. (1), added par. (2)(A)(iii), and, in par. (2)(B), substituted “If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter” for “If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e)”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96-223, § 232(d)(1)(A), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96-223, § 232(d)(1)(A), (4)(D), redesignated former subsec. (h) as (i), and in par. (2) of subsec. (i) as so redesignated, substituted “subsection (g)(2)” for “subsection (f)(2)”. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Pub. L. 96-223, § 232(d)(1)(A), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1978—Subsec. (a). Pub. L. 95-599, § 505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (b). Pub. L. 95-618, among other changes, provided for the refund or credit of the taxes paid on fuel pursuant to section 4041(a) or (b) but only to the extent such fuel is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Pub. L. 95-599, § 505(c)(2), substituted “subsection (h)” for “subsection (g)”. See Effective Date of 1978 Amendment note below.

Subsec. (c). Pub. L. 95-599, § 505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Pub. L. 95-458 substituted provision requiring that the rules of section 6420(c)(4) be applied in determining the user and purchaser of fuel if the fuel was used on a farm by any person other than the owner, tenant, or operator for provision which deemed the owner, tenant, or operator of the farm as the user and purchaser if fuel was used on the farm by any other person.

Subsec. (d). Pub. L. 95-600 struck out “or his delegate” after “Secretary”.

Pub. L. 95-599, § 505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (e). Pub. L. 95-599, § 505(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95-599, § 505(a)(1), (b), (c)(3), redesignated former subsec. (e) as (f) and, in par. (1), substituted “(d), or (e)” for “or (d)” and amended par. (2) generally, designating existing provisions as subpars. (A)(i) and (c) and adding subpars. (A)(ii) and (B). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-599, § 505(a)(1), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-599, § 505(a)(1), (c)(4), redesignated former subsec. (g) as (h) and substituted “(f)(2)” for “(e)(2)”. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 95-599, § 505(a)(1), redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1976—Subsec. (a). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” after “sale of any fuel and” and “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used by the purchaser” and “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used on a farm” and “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-530, § 1(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e)(1). Pub. L. 94-530, § 1(b), (c)(3), redesignated former subsec. (d)(1) as (e)(1) and substituted “(a), (b), (c), or (d)” for “(a), (b), or (c)”. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 94-530, § 1(b), (c)(4), redesignated former subsec. (d)(2) as (e)(2) and substituted “(a), (b), and (d)” for “(a) and (b)”.

Subsec. (f). Pub. L. 94-530, § 1(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g) and amended.

Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (g). Pub. L. 94-530, § 1(b), (c)(5), redesignated former subsec. (f) as (g) and substituted “subsection (e)(2)” for “subsection (d)(2)” in par. (2).

Subsecs. (h), (i). Pub. L. 94-530, § 1(b), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (h). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 160(a)(2), (b)(2) of Pub. L. 113-295 applicable to fuel sold or used after Dec. 31, 2013, see section 160(d)(1) of Pub. L. 113-295, set out as a note under section 6426 of this title.

Amendment by section 160(c)(2) of Pub. L. 113-295 applicable to fuel sold or used after Sept. 30, 2014, see section 160(d)(2) of Pub. L. 113-295, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(2) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112-240, set out as a note under section 40A of this title.

Amendment by section 412(b) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 412(c) of this title, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(2) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111-312, set out as a note under section 40A of this title.

Amendment by section 704(a) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 704(d) of Pub. L. 111-312, set out as a note under section 6426 of this title.

Pub. L. 111-312, title VII, § 708(c)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to sales and uses after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a) of Pub. L. 110-343 applicable to fuel produced, and sold or used, after Dec. 31, 2008, see section 202(g)(1) of Pub. L. 110-343, set out as a note under section 40A of this title.

Amendment by section 203(c)(2) of Pub. L. 110-343 applicable to claims for credit or payment made on or

after May 15, 2008, see section 203(d) of Pub. L. 110-343, set out as a note under section 40 of this title.

Amendment by section 204(a)(3) of Pub. L. 110-343 applicable to fuel sold or used after Oct. 3, 2008, see section 204(d) of Pub. L. 110-343, set out as a note under section 6426 of this title.

EFFECTIVE AND TERMINATION DATES OF 2007
AMENDMENT

Amendment by section 5(a)(1) of Pub. L. 110-172 effective as if included in the provisions of the SAFETEA-LU, Pub. L. 109-59, to which such amendment relates, see section 5(b) of Pub. L. 110-172, set out as a note under section 6426 of this title.

Amendment by section 11(e)(1) 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 amendment relates, see section 11(e)(3) of Pub. L. 110-172, set out as a note under section 41 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §420(c), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4082, 9502, and 9503 of this title] shall apply to kerosene sold after September 30, 2005.

“(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act [Dec. 20, 2006], the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.”

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by section 1113(b)(3)(C) of Pub. L. 109-59 applicable to any sale or use for any period after Sept. 30, 2006, see section 1113(d) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by section 11151(a) of Pub. L. 109-59 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11151(f)(1) of Pub. L. 109-59, set out as a note under section 4081 of this title.

Amendment by section 11161(b)(2), (3)(B), (D)-(F) 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, §11162(c), Aug. 10, 2005, 119 Stat. 1973, provided that: “The amendments made by this section [amending this section] shall apply to sales after September 30, 2005.”

Amendment by section 11163(c) of Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

Amendment by section 1343(b)(1), (3) of Pub. L. 109-58 effective Jan. 1, 2006, see section 1343(c) of Pub. L. 109-58, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(D) 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.

Amendment by section 301(c)(9), (10) 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 851(d)(3) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 851(d)(4) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 853(c), (d)(2)(J), (K) 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.

Amendment by section 857(b), (c) of Pub. L. 108-357 applicable to fuel sold after Dec. 31, 2004, see section 857(d) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 870(b) of Pub. L. 108-357 applicable to fuel removed, sold, or used after Dec. 31, 2004, see section 870(c) of Pub. L. 108-357, set out as a note under section 4083 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-206, title VI, §6017(b), July 22, 1998, 112 Stat. 822, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178].”

Amendment by section 6023(16), (25), and (26) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6016(b) of 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.

Amendment by section 9009(a)-(b)(2) of Pub. L. 105-178 effective Oct. 1, 1998, see section 9009(c) of Pub. L. 105-178, set out as a note under section 6421 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

Amendment by section 1606(a), (b)(2) of Pub. L. 104-188 applicable to vehicles purchased after Aug. 20, 1996, see section 1606(c) of Pub. L. 104-188, set out as a note under section 34 of this title.

Amendment by section 1702(b)(2)(B) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Amendment by section 1703(k) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(8)-(10) 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(c), (d)(21), (25)-(31) 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 1990 AMENDMENT

Amendment by section 11211(b)(4)(B), (5), (6)(E)(ii) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11213(b)(3) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11213(b)(4) of Pub. L. 101-508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7812(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the

provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Amendment by section 7822(b)(1)-(4) of Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(3), (10) 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.

Pub. L. 100-647, title II, §2001(d)(7)(E), Nov. 10, 1988, 102 Stat. 3597, provided that: "The amendments made by this paragraph [amending this section] shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987 [Pub. L. 100-203]."

Amendment by section 2004(s)(2), (3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title III, §3002(d), Nov. 10, 1988, 102 Stat. 3616, provided that: "The amendments made by this section [amending this section] shall apply to fuel used after December 31, 1988."

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

Amendment by section 1703(d), (e)(1), (2)(A)-(E) of 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 section 1877(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.

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 474(r)(38) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 732(a)(3) 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 734(c)(2) of Pub. L. 98-369 effective on first day of first calendar quarter beginning after July 18, 1984, see section 734(c)(3) of Pub. L. 98-369, set out as a note under section 4082 of this title.

Pub. L. 98-369, div. A, title IX, §911(e), July 18, 1984, 98 Stat. 1007, provided that: "The amendments made by this section [amending this section and sections 34, 4041, 7210, 7603 to 7605, 7609, 7610, and 9503 of this title] shall take effect on August 1, 1984."

Amendment by section 912(d) 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.

Pub. L. 98-369, div. A, title IX, §915(b), July 18, 1984, 98 Stat. 1009, provided that: "The amendments made by this section [amending this section] shall take effect on August 1, 1984."

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511 of Pub. L. 97-424 effective Apr. 1, 1983, except that amendment by section 511(e)(2) of Pub. L. 97-424 is effective Jan. 1, 1983, and amendment by section 511(e)(3) of Pub. L. 97-424 is applicable with respect to fuel purchased after Dec. 31, 1982, and before Jan. 1, 1984, see section 511(h) of Pub. L. 97-424, set out as an Effective Date of 1983 Amendment note under section 4041 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Sept. 1, 1982, see section 279(c) of Pub. L. 97-248, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-223, title II, §232(h)(2), Apr. 2, 1980, 94 Stat. 281, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) IN GENERAL.—The amendments made by subsection (d) [amending this section and sections 39 [now 34], 4081, 7210, 7603, 7604, 7605, 7609, and 7610 of this title] shall take effect on January 1, 1979.

"(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act [Apr. 2, 1980] which is described in section 6427(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act."

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by 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.

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

Pub. L. 95-599, title V, §505(d), Nov. 6, 1978, 92 Stat. 2760, provided that: "The amendments made by this section [amending this section and sections 39 [now 34], 7210, 7603, 7604, 7605, 7609 and 7610 of this title] shall take effect on January 1, 1979."

Amendment by Pub. L. 95-458 effective on first day of first calendar quarter beginning more than 90 days after Oct. 14, 1978, see section 3(d) of Pub. L. 95-458, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

Pub. L. 94-455, title XIX, §1906(a)(31)(B), Oct. 4, 1976, 90 Stat. 1829, provided that: "The amendments made by subparagraph (A) [amending this section] shall apply with respect to fuel used or resold after June 30, 1970."

EFFECTIVE DATE

Section applicable with respect to taxable years ending after June 30, 1970, see section 211(b) of Pub. L. 91-258, set out as an Effective Date of 1956 Amendments note under section 4041 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(a)(46), (c)(23) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, prop-

erty acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CONSTRUCTION OF AMENDMENT BY PUB. L. 109-59

Pub. L. 110-172, §11(a)(39)(B), Dec. 29, 2007, 121 Stat. 2488, provided that: “The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) of section 11151(a) of the SAFETEA-LU [Pub. L. 109-59, amending this section] had never been enacted.”

SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES

Pub. L. 109-432, div. A, title IV, §420(d), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users [Aug. 10, 2005]).

“(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

“(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act [Dec. 20, 2006].

“(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

“(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.”

FORMAT FOR FILING

Pub. L. 108-357, title III, §301(e), Oct. 22, 2004, 118 Stat. 1463, provided that: “The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than December 31, 2004.”

EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS

Pub. L. 105-34, title XVI, §1601(g)(1), Aug. 5, 1997, 111 Stat. 1091, provided that: “Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act [Aug. 5, 1997].”

TREATMENT OF AMENDMENT BY SECTION 10502(c)(4) OF PUB. L. 100-203

Pub. L. 100-647, title II, §2001(d)(7)(A), Nov. 10, 1988, 102 Stat. 3596, provided that: “The amendment made by

section 10502(c)(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, see Tables for classification] except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.”

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.

STUDY OF TAXICAB FUEL RATES

Pub. L. 97-424, title V, §511(e)(4), Jan. 6, 1983, 96 Stat. 2172, directed Secretary of the Treasury or his delegate to conduct a study of reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code, and transmit a report on study to Congress, together with such recommendations as he may deem advisable, not later than Jan. 1, 1984.

[§ 6428. Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(112)(A), Dec. 19, 2014, 128 Stat. 4054]

Section, added Pub. L. 107-16, title I, §101(b)(1), June 7, 2001, 115 Stat. 42; amended Pub. L. 107-147, title IV, §411(a), Mar. 9, 2002, 116 Stat. 44; Pub. L. 110-185, title I, §101(a), Feb. 13, 2008, 122 Stat. 613; Pub. L. 110-245, title I, §§101(a), 102(b), June 17, 2008, 122 Stat. 1625, related to 2008 recovery rebate for individuals.

A prior section 6428, added Pub. L. 94-12, title I, §101(a), Mar. 29, 1975, 89 Stat. 27; amended Pub. L. 97-34, title I, §101(b)(1), Aug. 13, 1981, 95 Stat. 182; Pub. L. 97-448, title I, §101(a)(2), Jan. 12, 1983, 96 Stat. 2365, related to the 1981 rate reduction tax credit, prior to repeal by Pub. L. 101-508, title XI, §11801(a)(47), Nov. 5, 1990, 104 Stat. 1388-522.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS

Pub. L. 111-5, div. B, title II, §2201, Feb. 17, 2009, 123 Stat. 450, provided for a \$250 payment to individuals who, for any month during the 3-month period ending with the month which ended prior to the month that included Feb. 17, 2009, were entitled to certain Social Security, railroad retirement, or veterans benefit payments or were eligible for certain SSI cash benefits.

SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES

Pub. L. 111-5, div. B, title II, §2202, Feb. 17, 2009, 123 Stat. 454, as amended by Pub. L. 113-295, §209(i), Dec. 19, 2014, 128 Stat. 4030, provided that:

“(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for the first taxable year beginning in 2009 an amount equal [to] \$250 (\$500 in the case of a joint return where both spouses are eligible individuals).

“(b) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means any individual—

“(A) who receives during the first taxable year beginning in 2009 any amount as a pension or annu-

ity for service performed in the employ of the United States or any State, political subdivision of a State, or any instrumentality thereof, which is not considered employment for purposes of chapter 21 of the Internal Revenue Code of 1986, and

“(B) who does not receive a payment under section 2201 [set out above] during such taxable year.”

“(2) IDENTIFICATION NUMBER REQUIREMENT.—Such term shall not include any individual who does not include on the return of tax for the taxable year—

“(A) such individual’s social security account number, and

“(B) in the case of a joint return, the social security account number of one of the taxpayers on such return.

For purposes of the preceding sentence, the social security account number shall not include a TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) issued by the Internal Revenue Service. Any omission of a correct social security account number required under this subparagraph [probably should be “this paragraph”] shall be treated as a mathematical or clerical error for purposes of applying section 6213(g)(2) of such Code to such omission.

“(C) TREATMENT OF CREDIT.—

“(1) REFUNDABLE CREDIT.—

“(A) IN GENERAL.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986.

“(B) APPROPRIATIONS.—For purposes of section 1324(b)(2) of title 31, United States Code, the credit allowed by subsection (a) shall be treated in the same manner [as] a refund from the credit allowed under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).

“(2) DEFICIENCY RULES.—For purposes of section 6211(b)(4)(A) of the Internal Revenue Code of 1986, the credit allowable by subsection (a) shall be treated in the same manner as the credit allowable under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).

“(d) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(e) TREATMENT OF POSSESSIONS.—

“(1) PAYMENTS TO MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of credits allowed under subsection (a) with respect to taxable years beginning in 2009. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under this section to any person to whom a credit is allowed against taxes imposed by the possession by reason of the credit allowed under subsection (a) for such taxable year.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ‘possession of the United States’ includes the Commonwealth of the Northern Mariana Islands.

“(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if

the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).”

[§ 6429. Repealed. Pub. L. 113–295, div. A, title II, § 221(a)(113), Dec. 19, 2014, 128 Stat. 4054]

Section, added Pub. L. 108–27, title I, §101(b)(1), May 28, 2003, 117 Stat. 753, related to advance payment of portion of increased child credit for 2003.

A prior section 6429, added Pub. L. 96–499, title XI, §1131(a)(1), Dec. 5, 1980, 94 Stat. 2691; amended Pub. L. 97–34, title VI, §601(a)(1)–(5), Aug. 13, 1981, 95 Stat. 335, 336; Pub. L. 97–448, title I, §106(a)(1), (3), Jan. 12, 1983, 96 Stat. 2387, 2388, related to credit and refund of chapter 45 windfall profit taxes on domestic crude oil paid by royalty owners, prior to repeal by Pub. L. 100–418, title I, §1941(b)(1), (c), Aug. 23, 1988, 102 Stat. 1323, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

§ 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate

No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels—

- (1) which are exempt from tax under section 4081(a) by reason of section 4082(f)(2),
- (2) which are exempt from tax under section 4041(d) by reason of the last sentence of paragraph (5) thereof, or
- (3) with respect to which the rate increase under section 4081(a)(2)(B) is zero by reason of section 4082(e)(2).

(Added Pub. L. 109–58, title XIII, §1362(b)(3)(A), Aug. 8, 2005, 119 Stat. 1059; amended Pub. L. 110–172, §6(d)(2)(D), Dec. 29, 2007, 121 Stat. 2481.)

PRIOR PROVISIONS

A prior section 6430, added Pub. L. 97–448, title I, §106(a)(4)(A), Jan. 12, 1983, 96 Stat. 2388, related to credit or refund of windfall profit taxes to certain trust beneficiaries, prior to repeal by Pub. L. 100–418, title I, §1941(b)(1), (c), Aug. 23, 1988, 102 Stat. 1323, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

AMENDMENTS

2007—Pub. L. 110–172 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.”

EFFECTIVE DATE OF 2007 AMENDMENT

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

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 4041 of this title.

REFUND AUTHORIZED FOR CERTAIN TAXES

Pub. L. 110-172, §6(d)(1)(C), Dec. 29, 2007, 121 Stat. 2480, provided that: “Notwithstanding section 6430 of the Internal Revenue Code of 1986, a refund, credit, or payment may be made under subchapter B of chapter 65 of such Code for taxes imposed with respect to any liquid after September 30, 2005, and before the date of the enactment of this Act [Dec. 29, 2007] under section 4041(d)(1) or 4042 of such Code at the Leaking Underground Storage Tank Trust Fund financing rate to the extent that tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”

§ 6431. Credit for qualified bonds allowed to issuer

(a) In general

In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

(b) Payment of credit

The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

(c) Application of arbitrage rules

For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

(d) Interest payment date

For purposes of this subsection, the term “interest payment date” means each date on which interest is payable by the issuer under the terms of the bond.

(e) Qualified bond

For purposes of this subsection, the term “qualified bond” has the meaning given such term in section 54AA(g).

(f) Application of section to certain qualified tax credit bonds

(1) In general

In the case of any specified tax credit bond—

(A) such bond shall be treated as a qualified bond for purposes of this section,

(B) subsection (a) shall be applied without regard to the requirement that the qualified bond be issued before January 1, 2011,

(C) the amount of the payment determined under subsection (b) with respect to any interest payment due under such bond shall be equal to the lesser of—

(i) the amount of interest payable under such bond on such date, or

(ii) the amount of interest which would have been payable under such bond on such date if such interest were determined at the applicable credit rate determined under section 54A(b)(3),

(D) interest on any such bond shall be includible in gross income for purposes of this title,

(E) no credit shall be allowed under section 54A with respect to such bond,

(F) any payment made under subsection (b) shall not be includible as income for purposes of this title, and

(G) the deduction otherwise allowed under this title to the issuer of such bond with respect to interest paid under such bond shall be reduced by the amount of the payment made under this section with respect to such interest.

(2) Special rule for new clean renewable energy bonds and qualified energy conservation bonds

In the case of any specified tax credit bond described in clause (i) or (ii) of paragraph (3)(A), the amount determined under paragraph (1)(C)(ii) shall be 70 percent of the amount so determined without regard to this paragraph and sections 54C(b) and 54D(b).

(3) Specified tax credit bond

For purposes of this subsection, the term “specified tax credit bond” means any qualified tax credit bond (as defined in section 54A(d)) if—

(A) such bond is—

(i) a new clean renewable energy bond (as defined in section 54C),

(ii) a qualified energy conservation bond (as defined in section 54D),

(iii) a qualified zone academy bond (as defined in section 54E) determined without regard to any allocation relating to the national zone academy bond limitation for years after 2010 or any carryforward of any such allocation, or

(iv) a qualified school construction bond (as defined in section 54F), and

(B) the issuer of such bond makes an irrevocable election to have this subsection apply.

(Added Pub. L. 111-5, div. B, title I, §1531(b), Feb. 17, 2009, 123 Stat. 359; amended Pub. L. 111-147, title III, §301(a), Mar. 18, 2010, 124 Stat. 77; Pub. L. 111-312, title VII, §758(b), Dec. 17, 2010, 124 Stat. 3323; Pub. L. 113-295, div. A, title II, §202(d), Dec. 19, 2014, 128 Stat. 4024.)

AMENDMENTS

2014—Subsec. (f)(3)(A)(iii). Pub. L. 113-295 substituted “years after 2010” for “2011” and “of any such allocation” for “of such allocation”.

2010—Subsec. (f). Pub. L. 111-147 added subsec. (f).

Subsec. (f)(3)(A)(iii). Pub. L. 111-312 inserted “determined without regard to any allocation relating to the national zone academy bond limitation for 2011 or any carryforward of such allocation” after “54E”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provision of the American Taxpayer Relief Act of 2012, Pub. L. 112-240, to which such amendment relates, see section 202(f) of Pub. L. 113-295, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to obligations issued after Dec. 31, 2010, see section 758(c) of Pub.

L. 111-312, set out as a note under section 54E of this title.

Pub. L. 111-147, title III, §301(c)(1), Mar. 18, 2010, 124 Stat. 78, provided that: “The amendment made by subsection (a) [amending this section] shall apply to bonds issued after the date of the enactment of this Act [Mar. 18, 2010].”

EFFECTIVE DATE

Section applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as an Effective Date of 2009 Amendment note under section 54 of this title.

§ 6432. COBRA premium assistance

(a) In general

The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed as provided in subsection (c) for the amount of premiums not paid by assistance eligible individuals by reason of section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009.

(b) Person entitled to reimbursement

For purposes of subsection (a), except as otherwise provided by the Secretary, the person to whom premiums are payable under COBRA continuation coverage shall be treated as being—

(1) in the case of any group health plan which is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), the plan,

(2) in the case of any group health plan not described in paragraph (1)—

(A) which is subject to the COBRA continuation provisions contained in—

- (i) the Internal Revenue Code of 1986,
- (ii) the Employee Retirement Income Security Act of 1974,
- (iii) the Public Health Service Act, or
- (iv) title 5, United States Code, or

(B) under which some or all of the coverage is not provided by insurance,

the employer maintaining the plan, and

(3) in the case of any group health plan not described in paragraph (1) or (2), the insurer providing the coverage under the group health plan.

(c) Method of reimbursement

Except as otherwise provided by the Secretary—

(1) Treatment as payment of payroll taxes

Each person entitled to reimbursement under subsection (a) (and filing a claim for such reimbursement at such time and in such manner as the Secretary may require) shall be treated for purposes of this title and section 1324(b)(2) of title 31, United States Code, as having paid to the Secretary, on the date that the assistance eligible individual's premium payment is received, payroll taxes in an amount equal to the portion of such reimbursement which relates to such premium. To the extent that the amount treated as paid under the preceding sentence exceeds the amount of such person's liability for such taxes, the Secretary shall credit or refund such excess in the same manner as if it were an overpayment of such taxes.

(2) Overstatements

Any overstatement of the reimbursement to which a person is entitled under this section (and any amount paid by the Secretary as a result of such overstatement) shall be treated as an underpayment of payroll taxes by such person and may be assessed and collected by the Secretary in the same manner as payroll taxes.

(3) Reimbursement contingent on payment of remaining premium

No reimbursement may be made under this section to a person with respect to any assistance eligible individual until after the reduced premium required under section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009 with respect to such individual has been received.

(d) Definitions

For purposes of this section—

(1) Payroll taxes

The term “payroll taxes” means—

(A) amounts required to be deducted and withheld for the payroll period under section 3402 (relating to wage withholding),

(B) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

(C) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

(2) Person

The term “person” includes any governmental entity.

(e) Employer determination of qualifying event as involuntary termination

For purposes of this section, in any case in which—

(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee's employment, and

(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee's employment.

(f) Reporting

Each person entitled to reimbursement under subsection (a) for any period shall submit such reports (at such time and in such manner) as the Secretary may require, including—

(1) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a),

(2) a report of the amount of payroll taxes offset under subsection (a) for the reporting

period and the estimated offsets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a), and

(3) a report containing the TINs of all covered employees, the amount of subsidy reimbursed with respect to each covered employee and qualified beneficiaries, and a designation with respect to each covered employee as to whether the subsidy reimbursement is for coverage of 1 individual or 2 or more individuals.

(g) Regulations

The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including—

(1) the requirement to report information or the establishment of other methods for verifying the correct amounts of reimbursements under this section, and

(2) the application of this section to group health plans that are multiemployer plans (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974).

(Added Pub. L. 111-5, div. B, title III, §3001(a)(12)(A), Feb. 17, 2009, 123 Stat. 461; amended Pub. L. 111-144, §3(b)(5)(C), Mar. 2, 2010, 124 Stat. 45.)

REFERENCES IN TEXT

The American Recovery and Reinvestment Act of 2009, referred to in subsecs. (a), (c)(3), and (e)(1), is Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 115. Section 3001(a) of title III of division B of the Act enacted this section and sections 139C and 6720C of this title, amended section 35 of this title, and enacted provisions set out a note below. Section 3001(a)(1)(A), (3)(C) of the Act is set out as a note below. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsecs. (b)(1), (2)(A)(ii) and (g)(2), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. Section 3(37) of the Act is classified to section 1002(37) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Public Health Service Act, referred to in subsec. (b)(2)(A)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-144, §3(b)(5)(C)(i), substituted “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009” for “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009”.

Subsec. (c)(3). Pub. L. 111-144, §3(b)(5)(C)(ii), substituted “section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009” for “section 3002(a)(1)(A) of such Act”.

Subsecs. (e) to (g). Pub. L. 111-144, §3(b)(5)(C)(iii), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-144, §3(c), Mar. 2, 2010, 124 Stat. 45, provided that: “The amendments made by this section [amending this section and sections 35, 139C, and 6720C of this title, and amending provisions set out as a note

under this section] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5, set out below] to which they relate, except that—

“(1) the amendments made by subsection (b)(1) [amending provisions set out as a note under this section] shall apply to periods of coverage beginning after the date of the enactment of this Act [Mar. 2, 2010];

“(2) the amendments made by subsection (b)(2) [amending provisions set out as a note under this section] shall take effect as if included in the amendments made by section 1010 of division B of the Department of Defense Appropriations Act, 2010 [Pub. L. 111-118, amending provisions set out a note under this section]; and

“(3) the amendments made by subsections (b)(3) and (b)(4) [amending provisions set out as a note under this section] shall take effect on the date of the enactment of this Act [Mar. 2, 2010].”

EFFECTIVE DATE

Section applicable to premiums to which section 3001(a)(1)(A) of Pub. L. 111-5, set out as a note below, applies, see section 3001(a)(12)(D) of Pub. L. 111-5, set out as a note below.

PREMIUM ASSISTANCE FOR COBRA BENEFITS

Pub. L. 111-5, div. B, title III, §3001, Feb. 17, 2009, 123 Stat. 455, as amended by Pub. L. 111-118, div. B, §1010(a)-(d), Dec. 19, 2009, 123 Stat. 3472, 3473; Pub. L. 111-144, §3(a), (b)(1)-(4), Mar. 2, 2010, 124 Stat. 43, 44; Pub. L. 111-157, §3(a), (b), Apr. 15, 2010, 124 Stat. 1117; Pub. L. 113-295, div. A, title II, §209(j)(3), Dec. 19, 2014, 128 Stat. 4031, provided that:

“(A) PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

“(1) PROVISION OF PREMIUM ASSISTANCE.—

“(A) REDUCTION OF PREMIUMS PAYABLE.—In the case of any premium for a period of coverage beginning on or after the date of the enactment of this Act [Feb. 17, 2009] for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (or a person other than such individual’s employer pays on behalf of such individual) 35 percent of the amount of such premium (as determined without regard to this subsection).

“(B) PLAN ENROLLMENT OPTION.—

“(i) IN GENERAL.—Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in coverage under a plan offered by the employer involved, or the employee organization involved (including, for this purpose, a joint board of trustees of a multiemployer trust affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

“(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

“(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

“(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

“(III) the different coverage in which the individual elects to enroll is coverage that is also

offered to the active employees of the employer at the time at which such election is made; and

“(IV) the different coverage is not—

“(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

“(bb) a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

“(cc) coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

“(C) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6432 of the Internal Revenue Code of 1986, as added by paragraph (12).

“(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

“(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof) or is eligible for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], or

“(ii) the earliest of—

“(I) the date which is 15 months after the first day that paragraph (1)(A) applies with respect to such individual,

“(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

“(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

“(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

“(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

“(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘assistance eligible individual’ means any qualified beneficiary if—

“(A) such qualified beneficiary is eligible for COBRA continuation coverage related to a qualifying event occurring during the period that begins with September 1, 2008, and ends with May 31, 2010,

“(B) such qualified beneficiary elects such coverage, and

“(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee’s employment and occurred during such period or consists of a reduction of hours followed by such an involuntary termination of employment during such period (as described in paragraph (17)(C)).

“(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

“(A) IN GENERAL.—For purposes of applying section 605(a) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1165(a)], section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act [42 U.S.C. 300bb-5(a)], and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who does not have an election of COBRA continuation coverage in effect on the date of the enactment of this Act [Feb. 17, 2009] but who would be an assistance eligible individual if such election were so in effect, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the period beginning on the date of the enactment of this Act and ending 60 days after the date on which the notification required under paragraph (7)(C) is provided to such individual.

“(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

“(i) shall commence with the first period of coverage beginning on or after the date of the enactment of this Act [Feb. 17, 2009], and

“(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

“(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

“(i) beginning on the date of the qualifying event, and

“(ii) ending with the beginning of the period described in subparagraph (B)(i),

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181(c)(2)], section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act [former 42 U.S.C. 300gg(c)(2); now 42 U.S.C. 300gg-3(c)(2)].

“(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan, the Secretary of Labor (or the Secretary of Health and Human Services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1161 et seq.]), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual’s eligibility within 15 business days after receipt of such individual’s application for review under this paragraph. Either Secretary’s determination upon review of the denial shall be de novo and shall be the final determination of such Secretary. A reviewing court shall grant deference to such Secretary’s determination. The provisions of this paragraph, paragraphs (1) through (4), and paragraph (7) shall be treated as provisions of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] for purposes of part 5 of subtitle B of such title [29 U.S.C. 1131 et seq.]. In addition to civil actions that may be brought to enforce applicable provisions of such Act [29 U.S.C. 1001 et seq.] or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty

against a plan sponsor or health insurance issuer of not more than \$110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor's or issuer's receipt of the determination.

“(6) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible individual under this subsection shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.

“(7) NOTICES TO INDIVIDUALS.—

“(A) GENERAL NOTICE.—

“(i) IN GENERAL.—In the case of notices provided under section 606(a)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(a)(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), have a qualifying event relating to COBRA continuation coverage, the requirements of such sections shall not be treated as met unless such notices include an additional notification to the recipient of—

“(I) the availability of premium reduction with respect to such coverage under this subsection, and

“(II) the option to enroll in different coverage if the employer permits assistance eligible individuals to elect enrollment in different coverage (as described in paragraph (1)(B)).

“(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

“(iii) FORM.—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

“(B) SPECIFIC REQUIREMENTS.—Each additional notification under subparagraph (A) shall include—

“(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

“(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

“(iii) a description of the extended election period provided for in paragraph (4)(A),

“(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] and the penalty provided under section 6720C of the Internal Revenue Code of 1986 for failure to so notify the plan,

“(v) a description, displayed in a prominent manner, of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium, and

“(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B).

“(C) NOTICE IN CONNECTION WITH EXTENDED ELECTION PERIODS.—In the case of any assistance eligible individual (or any individual described in paragraph (4)(A)) who became entitled to elect COBRA continuation coverage before the date of the enactment of this Act [Feb. 17, 2009], the administrator of the group health plan (or other entity) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A) and failure to provide such notice shall be treated as a failure to meet the notice requirements under the applicable COBRA continuation provision.

“(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act [Feb. 17, 2009]—

“(i) the Secretary of the [sic] Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph (other than the additional notification described in clause (ii)), and

“(ii) in the case of any additional notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such additional notification.

“(8) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this subsection, including the prevention of fraud and abuse under this subsection, except that the Secretary of Labor and the Secretary of Health and Human Services may prescribe such regulations (including interim final regulations) or other guidance as may be necessary or appropriate to carry out the provisions of paragraphs (5), (7), and (9).

“(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on websites of the Departments of Labor, Treasury, and Health and Human Services.

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

“(A) ADMINISTRATOR.—The term ‘administrator’ has the meaning given such term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(16)(A)].

“(B) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1161 et seq.] (other than under section 609 [29 U.S.C. 1169]), title XXII of the Public Health Service Act [42 U.S.C. 300bb-1 et seq.], section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides comparable continuation coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.

“(C) COBRA CONTINUATION PROVISION.—The term ‘COBRA continuation provision’ means the provisions of law described in subparagraph (B).

“(D) COVERED EMPLOYEE.—The term ‘covered employee’ has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(2)].

“(E) QUALIFIED BENEFICIARY.—The term ‘qualified beneficiary’ has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(3)].

“(F) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)].

“(G) STATE.—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(H) PERIOD OF COVERAGE.—Any reference in this subsection to a period of coverage shall be treated as a reference to a monthly or shorter period of coverage with respect to which premiums are charged with respect to such coverage.

“(11) REPORTS.—

“(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor [now Committee on Education and the Workforce], the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

“(i) the number of individuals provided such assistance as of the date of the report; and

“(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

“(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes—

“(i) the number of individuals provided premium reduction under this section;

“(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

“(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

“(12) COBRA PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—[Enacted this section.]

“(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—In determining any amount transferred or appropriated to any fund under the Social Security Act [42 U.S.C. 301 et seq.], section 6432 of the Internal Revenue Code of 1986 shall not be taken into account.

“(C) CLERICAL AMENDMENT.—[Amended analysis of this subchapter.]

“(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

“(E) SPECIAL RULE.—

“(i) IN GENERAL.—In the case of an assistance eligible individual who pays, with respect to the first period of COBRA continuation coverage to which subsection (a)(1)(A) applies or the immediately subsequent period, the full premium amount for such coverage, the person to whom such payment is payable shall—

“(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (a)(1)(A); or

“(II) provide credit to the individual for such amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

“(ii) REIMBURSING EMPLOYER.—A person to which clause (i) applies shall be reimbursed as provided for in section 6432 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

“(iii) PAYMENT OR CREDITS.—Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of the credit outstanding shall be made to the individual within 60 days of such day.

“(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—[Enacted section 6720C of this title.]

“(B) CLERICAL AMENDMENT.—[Amended analysis of part I of subchapter B of chapter 68 of this title.]

“(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to failures occurring after the date of the enactment of this Act [Feb. 17, 2009].

“(14) COORDINATION WITH HCTC.—

“(A) IN GENERAL.—[Amended section 35 of this title.]

“(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].

“(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME.—

“(A) IN GENERAL.—[Enacted section 139C of this title.]

“(B) CLERICAL AMENDMENT.—[Amended analysis of part III of subchapter B of chapter 1 of this title.]

“(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].

“(16) RULES RELATED TO 2009 EXTENSION.—

“(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual’s transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

“(i) such individual was covered under the COBRA continuation coverage to which such premium relates for the period of coverage immediately preceding such transition period, and

“(ii) such individual pays, the amount of such premium, after the application of paragraph (1)(A), by the latest of—

“(I) 60 days after the date of the enactment of this paragraph [Dec. 19, 2009],

“(II) 30 days after the date of provision of the notification required under subparagraph (D)(ii), or

“(III) the end of the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986.

“(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual’s transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

“(C) TRANSITION PERIOD.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘transition period’ means, with respect to any assistance eligible individual, any period of coverage if—

“(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010 [Dec. 19, 2009]; and

“(II) paragraph (1)(A) applies to such period by reason of the amendment made by section 1010(b) of the Department of Defense Appropriations Act, 2010 [Pub. L. 111–118].

“(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph [probably should be ‘subparagraph’], irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

“(D) NOTIFICATION.—

“(i) IN GENERAL.—In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to COBRA continuation coverage on or after such date, the administrator of the group health plan (or other entity) involved shall provide an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010 [Pub. L. 111–118], within 60 days after the date of the enactment of such Act [Dec. 19, 2009] or, in the case of a qualifying event occurring after such date of enactment, consistent with the timing of notifications under paragraph (7)(A).

“(ii) TO INDIVIDUALS WHO LOST ASSISTANCE.—In the case of an assistance eligible individual described in subparagraph (A)(i) who did not timely pay the premium for any period of coverage during such individual’s transition period or paid the premium for such period without regard to paragraph (1)(A), the administrator of the group health plan (or other entity) involved shall provide to such individual, within the first 60 days of such individual’s transition period, an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, including information on the ability under subparagraph (A) to make retroactive premium payments with respect to the transition period of the individual in order to maintain COBRA continuation coverage.

“(iii) APPLICATION OF RULES.—Rules similar to the rules of paragraph (7) shall apply with respect to notifications under this subparagraph.

“(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

“(A) NEW ELECTION PERIOD.—

“(i) IN GENERAL.—For the purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual on or after the date of the enactment of this paragraph [Mar. 2, 2010] shall be treated as a qualifying event.

“(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual’s continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

“(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual re-

ferred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

“(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

“(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual’s involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

“(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred on or after the date of the enactment of this paragraph.

“(18) RULES RELATED TO APRIL AND MAY 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after April 1, 2010 and prior to the date of the enactment of this paragraph [Apr. 15, 2010], rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.

“(b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—

“(1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—If—

“(A) premium assistance is provided under this section with respect to any COBRA continuation coverage which covers the taxpayer, the taxpayer’s spouse, or any dependent (within the meaning of section 152 of the Internal Revenue Code of 1986, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of the taxpayer during any portion of the taxable year, and

“(B) the taxpayer’s modified adjusted gross income for such taxable year exceeds \$125,000 (\$250,000 in the case of a joint return), then the tax imposed by chapter 1 of such Code with respect to the taxpayer for such taxable year shall be increased by the amount of such assistance.

“(2) PHASE-IN OF RECAPTURE.—

“(A) IN GENERAL.—In the case of a taxpayer whose modified adjusted gross income for the taxable year does not exceed \$145,000 (\$290,000 in the case of a joint return), the increase in the tax imposed under paragraph (1) shall not exceed the phase-in percentage of such increase (determined without regard to this paragraph).

“(B) PHASE-IN PERCENTAGE.—For purposes of this subsection, the term ‘phase-in percentage’ means the ratio (expressed as a percentage) obtained by dividing—

“(i) the excess of [sic] described in subparagraph (B) of paragraph (1), by

“(ii) \$20,000 (\$40,000 in the case of a joint return).

“(3) OPTION FOR HIGH-INCOME INDIVIDUALS TO WAIVE ASSISTANCE AND AVOID RECAPTURE.—Notwithstanding subsection (a)(3), an individual shall not be treated as an assistance eligible individual for purposes of this section and section 6432 of the Internal Revenue Code of 1986 if such individual—

“(A) makes a permanent election (at such time and in such form and manner as the Secretary of

the Treasury may prescribe) to waive the right to the premium assistance provided under this section, and

“(B) notifies the entity to whom premiums are reimbursed under section 6432(a) of such Code of such election.

“(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term ‘modified adjusted gross income’ means the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 of such Code.

“(5) CREDITS NOT ALLOWED AGAINST TAX, ETC.—For purposes determining regular tax liability under section 26(b) of such Code, the increase in tax under this subsection shall not be treated as a tax imposed under chapter 1 of such Code.

“(6) REGULATIONS.—The Secretary of the Treasury shall issue such regulations or other guidance as are necessary or appropriate to carry out this subsection, including requirements that the entity to whom premiums are reimbursed under section 6432(a) of the Internal Revenue Code of 1986 report to the Secretary, and to each assistance eligible individual, the amount of premium assistance provided under subsection (a) with respect to each such individual.

“(7) EFFECTIVE DATE.—The provisions of this subsection shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].”

[Pub. L. 111-157, §3(c), Apr. 15, 2010, 124 Stat. 1117, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111-5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5].”]

[Pub. L. 111-118, div. B, §1010(e), Dec. 19, 2009, 123 Stat. 3473, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111-5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5] to which they relate.”]

CHAPTER 66—LIMITATIONS

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Subchapter A—Limitations on Assessment and Collection

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§ 6501. Limitations on assessment and collection

(a) General rule

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be

begun after the expiration of such period. For purposes of this chapter, the term “return” means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) Time return deemed filed

(1) Early return

For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 3, 4, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) Return of certain employment and withholding taxes

For purposes of this section, if a return of tax imposed by chapter 3, 4, 21, or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) Return executed by Secretary

Notwithstanding the provisions of paragraph (2) of section 6020(b), the execution of a return by the Secretary pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

(4) Return of excise taxes

For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

(c) Exceptions

(1) False return

In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) Willful attempt to evade tax

In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) No return

In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) Extension by agreement

(A) In general

Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the

¹ Section numbers editorially supplied.