

on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

(3) Authority to prescribe rate in lieu of paragraph (2) rate

The Secretary may prescribe for each taxable substance a tax which, if prescribed, shall apply in lieu of the tax specified in paragraph (2) with respect to such substance. The tax prescribed by the Secretary shall be equal to the amount of tax which would be imposed by subsection (a) with respect to the taxable substance if such substance were produced using the predominant method of production of such substance.

(c) Exemptions for substances taxed under sections 4611 and 4661

No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

(d) Tax-free sales, etc. for substances used as certain fuels or in the production of fertilizer or animal feed

Rules similar to the following rules shall apply for purposes of applying this section with respect to taxable substances used or sold for use as described in such rules:

(1) Paragraphs (2), (5), and (9) of section 4662(b) (relating to tax-free sales of chemicals used as fuel or in the production of fertilizer or animal feed).

(2) Paragraphs (2), (3), and (4) of section 4662(d) (relating to refund or credit of tax on certain chemicals used as fuel or in the production of fertilizer or animal feed).

(e) Termination

No tax shall be imposed under this section during any period during which the Hazardous Substance Superfund financing rate under section 4611 does not apply.

(Added Pub. L. 99-499, title V, §515(a), Oct. 17, 1986, 100 Stat. 1767; amended Pub. L. 99-509, title VIII, §8032(c)(3), Oct. 21, 1986, 100 Stat. 1958.)

AMENDMENTS

1986—Subsec. (e). Pub. L. 99-509 substituted “the Hazardous Substance Superfund financing rate under section 4611 does not apply” for “no tax is imposed under section 4611(a)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 effective on commencement date as defined in former section 4611(f)(2), see section 8032(d) of Pub. L. 99-509, set out as a note under section 4611 of this title.

EFFECTIVE DATE

Pub. L. 99-499, title V, §515(c), Oct. 17, 1986, 100 Stat. 1769, provided that: “The amendments made by this section [enacting this subchapter] shall take effect on January 1, 1989.”

STUDY AND REPORT

Pub. L. 99-499, title V, §515(d), Oct. 17, 1986, 100 Stat. 1769, directed the Secretary of the Treasury or his delegate to conduct a study of issues relating to the implementation of the tax imposed by this section and cer-

tain credit for exports of taxable substances, and report to Congress not later than Jan. 1, 1988.

§ 4672. Definitions and special rules

(a) Taxable substance

For purposes of this subchapter—

(1) In general

The term “taxable substance” means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

(2) Determination of substances on list

A substance shall be listed under paragraph (1) if—

(A) the substance is contained in the list under paragraph (3), or

(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of U.S. Customs and Border Protection, that taxable chemicals constitute more than 50 percent of the weight (or more than 50 percent of the value) of the materials used to produce such substance (determined on the basis of the predominant method of production).

If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed.

(3) Initial list of taxable substances

Cumene	Methylene chloride
Styrene	Polypropylene
Ammonium nitrate	Propylene glycol
Nickel oxide	Formaldehyde
Isopropyl alcohol	Acetone
Ethylene glycol	Acrylonitrile
Vinyl chloride	Methanol
Polyethylene resins, total	Propylene oxide
Polybutadiene	Polypropylene resins
Styrene-butadiene, latex	Ethylene oxide
Styrene-butadiene, snpf	Ethylene dichloride
Synthetic rubber, not containing fillers	Cyclohexane
Urea	Isophthalic acid
Ferronickel	Maleic anhydride
Ferrochromium nov 3 pct	Phthalic anhydride
Ferrochrome ov 3 pct. carbon	Ethyl methyl ketone
Unwrought nickel	Chloroform
Nickel waste and scrap	Carbon tetrachloride
Wrought nickel rods and wire	Chromic acid
Nickel powders	Hydrogen peroxide
Phenolic resins	Polystyrene homopolymer resins
Polyvinylchloride resins	Melamine
Polystyrene resins and copolymers	Acrylic and methacrylic acid resins
Ethyl alcohol for nonbeverage use	Vinyl resins
Ethylbenzene	Vinyl resins, NSPF.

(4) Modifications to list

The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B)

and may remove from such list only substances which meet neither of such tests.

(b) Other definitions

For purposes of this subchapter—

(1) Importer

The term “importer” means the person entering the taxable substance for consumption, use, or warehousing.

(2) Taxable chemicals; United States

The terms “taxable chemical” and “United States” have the respective meanings given such terms by section 4662(a).

(c) Disposition of revenues from Puerto Rico and the Virgin Islands

The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4671.

(Added Pub. L. 99-499, title V, §515(a), Oct. 17, 1986, 100 Stat. 1768; amended Pub. L. 100-647, title II, §2001(b), Nov. 10, 1988, 102 Stat. 3594; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100-647, §2001(b)(2), inserted at end “If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed.”

Subsec. (a)(2)(B). Pub. L. 100-647, §2001(b)(1), inserted “(or more than 50 percent of the value)” after “weight”.

Subsec. (a)(4). Pub. L. 100-647, §2001(b)(3), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

“(A) IN GENERAL.—The Secretary may add substances to or remove substances from the list under paragraph (3) (including items listed by reason of paragraph (2)) as necessary to carry out the purposes of this subchapter.

“(B) AUTHORITY TO ADD SUBSTANCES TO LIST BASED ON VALUE.—The Secretary may, to the extent necessary to carry out the purposes of this subchapter, add any substance to the list under paragraph (3) if such substance would be described in paragraph (2)(B) if ‘value’ were substituted for ‘weight’ therein.”

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (a)(2)(B) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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

Section effective Jan. 1, 1989, see section 515(c) of Pub. L. 99-499, set out as a note under section 4671 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Sec-

retary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Subchapter D—Ozone-Depleting Chemicals, Etc.

Sec.	
4681.	Imposition of tax.
4682.	Definitions and special rules.

§ 4681. Imposition of tax

(a) General rule

There is hereby imposed a tax on—

(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

(2) any imported taxable product sold or used by the importer thereof.

(b) Amount of tax

(1) Ozone-depleting chemicals

(A) In general

The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

(i) the base tax amount, multiplied by

(ii) the ozone-depletion factor for such chemical.

(B) Base tax amount

The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be \$5.35 increased by 45 cents for each year after 1995.

(2) Imported taxable product

(A) In general

The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

(B) Certain rules to apply

Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

(Added Pub. L. 101-239, title VII, §7506(a), Dec. 19, 1989, 103 Stat. 2364; amended Pub. L. 101-508, title XI, §11203(c), Nov. 5, 1990, 104 Stat. 1388-422; Pub. L. 102-486, title XIX, §1931(a), Oct. 24, 1992, 106 Stat. 3029; Pub. L. 105-34, title XIV, §1432(c)(1), Aug. 5, 1997, 111 Stat. 1050.)

PRIOR PROVISIONS

A prior section 4681, added Pub. L. 96-510, title II, §231(a), Dec. 11, 1980, 94 Stat. 2804, was contained in subchapter C of this chapter prior to repeal by Pub. L. 99-499, title V, §514(a)(1), (c), Oct. 17, 1986, 100 Stat. 1767, effective Oct. 1, 1983, with provision for waiver of statute of limitations on claims for overpayment.