

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

### § 4103. Certain additional persons liable for tax where willful failure to pay

In any case in which there is a willful failure to pay the tax imposed by section 401(a)(1) or 4081, each person—

(1) who is an officer, employee, or agent of the taxpayer who is under a duty to assure the payment of such tax and who willfully fails to perform such duty, or

(2) who willfully causes the taxpayer to fail to pay such tax,

shall be jointly and severally liable with the taxpayer for the tax to which such failure relates.

(Added Pub. L. 101-508, title XI, §11212(c), Nov. 5, 1990, 104 Stat. 1388-431; amended Pub. L. 103-66, title XIII, §13242(d)(1), Aug. 10, 1993, 107 Stat. 522; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613.)

## Editorial Notes

## AMENDMENTS

2004—Pub. L. 108-357 substituted “or 4081” for “, 4081, or 4091” in introductory provisions.

1993—Pub. L. 103-66 substituted “401(a)(1), 4081,” for “4081” in introductory provisions.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 2004 AMENDMENT

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

## EFFECTIVE DATE OF 1993 AMENDMENT

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

## EFFECTIVE DATE

Section effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 4081 of this title.

### § 4104. Information reporting for persons claiming certain tax benefits

#### (a) In general

The Secretary shall require any person claiming tax benefits—

(1) under the provisions of sections 34, 40, and 40A, to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

(2) under the provisions of section 401(b)(2), 6426, or 6427(e) to file a quarterly return (in such manner as the Secretary may prescribe).

#### (b) Contents of return

Any return filed under this section shall provide such information relating to such benefits

and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

#### (c) Enforcement

With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.

(Added Pub. L. 108-357, title III, §303(a), Oct. 22, 2004, 118 Stat. 1466; amended Pub. L. 115-141, div. U, title IV, §401(a)(220), Mar. 23, 2018, 132 Stat. 1194.)

## Editorial Notes

## AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-141 substituted “sections 34” for “section 34”.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE

Pub. L. 108-357, title III, §303(c), Oct. 22, 2004, 118 Stat. 1466, provided that: “The amendments made by this section [enacting this section] shall take effect on January 1, 2005.”

### § 4105. Two-party exchanges

#### (a) In general

In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

#### (b) Two-party exchange

The term “two-party exchange” means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

(4) The transaction is the subject of a written contract.

(Added Pub. L. 108-357, title VIII, §866(a), Oct. 22, 2004, 118 Stat. 1621.)

## Editorial Notes

## PRIOR PROVISIONS

Prior sections 4111 to 4113, 4121, and 4131 of this title constituted a former subchapter B of this chapter, see Prior Provisions note set out preceding section 4121 of this title.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE

Pub. L. 108-357, title VIII, §866(c), Oct. 22, 2004, 118 Stat. 1622, provided that: “The amendment made by