

(e) Leases of automobiles subject to gas guzzler tax**(1) In general**

In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

(2) Payment of tax

In the case of a lease described in paragraph (1)(A)—

(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

(3) Definitions

For purposes of this subsection—

(A) Manufacturer

The term “manufacturer” includes a producer or importer.

(B) Total gas guzzler tax

The term “total gas guzzler tax” means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease.

(Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 9, 1955, ch. 677, §3, 69 Stat. 614; Pub. L. 85-859, title I, §117(a), Sept. 2, 1958, 72 Stat. 1280; Pub. L. 94-455, title XIX, §1904 (a)(3), Oct. 4, 1976, 90 Stat. 1811; Pub. L. 95-618, title II, §201(d), Nov. 9, 1978, 92 Stat. 3184.)

Editorial Notes**AMENDMENTS**

1978—Subsec. (e). Pub. L. 95-618 added subsec. (e).

1976—Subsec. (d)(4). Pub. L. 94-455 struck out par. (4) relating to special transitional rules applicable to leases.

1958—Pub. L. 85-859 substituted “Leases” for “Lease considered as sale” in section catchline.

Subsec. (a). Pub. L. 85-859 redesignated existing provisions as subsec. (a) and struck out provisions which made subsection inapplicable to the lease of an article upon which the tax has been paid in the manner provided in section 4216(d)(1) or the total tax has been paid in the manner provided in section 4216(d)(2) of this title.

Subsecs. (b) to (d). Pub. L. 85-859 added subsecs. (b) to (d).

1955—Act Aug. 9, 1955, exempted lease of an article upon which tax has been paid under section 4216(d)(1) or section 4216(d)(2) of this title.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1955 AMENDMENT

Section effective on first day of first month which begins more than ten days after Aug. 9, 1955, see section 4 of act Aug. 9, 1955, set out as a note under section 4216 of this title.

APPLICATION OF LEASES OF UTILITY TRAILERS

Pub. L. 85-859, title I, §117(c), Sept. 2, 1958, 72 Stat. 1281, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 4216 of this title] shall not apply to any lease of an article if section 4216(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, prior subsec. (d) of section 4216 of this title] applied to any lease of such article before the effective date specified in section 1(c) of this Act.”

§ 4218. Use by manufacturer or importer considered sale**(a) General rule**

If any person manufactures, produces, or imports an article (other than a tire taxable under section 4071) and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him. This subsection shall not apply in the case of gasoline used by any person, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him. For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words “(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)” shall be disregarded.

(b) Tires

If any person manufactures, produces, or imports a tire taxable under section 4071, and sells it on or in connection with the sale of any article, or uses it, then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.

(c) Computation of tax

Except as provided in section 4223(b), in any case in which a person is made liable for tax by the preceding provisions of this section, the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers, thereof, as determined by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 11, 1955, ch. 805, §1(a), (b), 69 Stat. 689; Pub. L. 85-859, title I, §118, Sept. 2, 1958, 72 Stat. 1281; Pub. L. 86-418, §2(a), Apr. 8, 1960, 74 Stat. 38; Pub. L. 87-61, title II, §205(b), June 29, 1961, 75 Stat. 126; Pub. L. 89-44, title II, §208(c), June 21, 1965, 79 Stat. 141; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, §2(b)(1), Feb. 10, 1978, 92 Stat. 11; Pub. L. 98-369, div. A, title VII, §735(c)(7), July 18, 1984, 98 Stat. 983.)

Editorial Notes**AMENDMENTS**

1984—Subsec. (a). Pub. L. 98-369, §735(c)(7)(D), substituted “(other than a tire taxable under section 4071)” for “(other than an article specified in subsection (b), (c), or (d))”.

Subsec. (b). Pub. L. 98-369, §735(c)(7)(A), (B), struck out “and tubes” after “Tires” in heading, and in text substituted “If” for “Except as provided in subsection (d), if”, and struck out “or inner tube” before “taxable under section 4071”.

Subsec. (c). Pub. L. 98-369, §735(c)(7)(C), redesignated subsec. (e) as (c). Former subsec. (c), which related to automotive parts and accessories, was struck out.

Subsec. (d). Pub. L. 98-369, §735(c)(7)(C), struck out subsec. (d) which related to bicycle tires and tubes.

Subsec. (e). Pub. L. 98-369, §735(c)(7)(C), redesignated subsec. (e) as (c).

1978—Subsec. (a). Pub. L. 95-227 inserted provisions relating to applying first sentence of this subsection to coal taxable under section 4121 of this title.

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

1965—Subsec. (b). Pub. L. 89-44, §208(c)(1), (2), struck out references to automobile receiving sets from heading, and “or an automobile radio or television receiving set taxable under section 4141,” before “and sells it”.

Subsec. (c). Pub. L. 89-44, §208(c)(3), (4), struck out reference to radio components and camera lenses from heading, and “a radio or television component taxable under section 4141, or a camera lens taxable under section 4171,” before “and uses it”.

1961—Subsec. (a). Pub. L. 87-61 inserted sentence making subsection inapplicable in the case of gasoline used by any person, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him.

1960—Subsec. (a). Pub. L. 86-418, §2(a)(1), substituted “subsection (b), (c), or (d)” for “subsection (b) or (c)”.

Subsec. (b). Pub. L. 86-418, §2(a)(2), substituted “Except as provided in subsection (d), if any” for “If any.”

Subsecs. (d), (e). Pub. L. 86-418, §2(a)(3), added subsec. (d) and redesignated former subsec. (d) as (e).

1958—Pub. L. 85-859 amended section generally, striking out provisions which related to refrigerator components and to sales free of tax by virtue of section 4220 or 4224 of this title, and substituting provisions making manufacturers, producers and importers of parts or accessories taxable under section 4061(b), radio or television components taxable under section 4141, or camera lenses taxable under section 4171 liable for the tax if they use the parts or accessories otherwise than as material in the manufacture or production of, or as

component parts of, any other article to be manufactured or produced by them, for provisions which made section inapplicable with respect to such parts if they were used by them as material in the manufacture or production of, or as a component part of, any article.

1955—Subsec. (a)(1). Act Aug. 11, 1955, §1(a), inserted as tax exempt articles under this chapter, automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under section 4061(b), 4111, or 4171, respectively, of this title.

Subsec. (b). Act Aug. 11, 1955, §1(b), excepted from application of section automobile parts or accessories, refrigerator, radio, or television components, and camera lenses, taxable under sections 4061(b), 4111, 4141, and 4171, respectively, of this title, when for use by the purchaser in the manufacture or production of, or as a component part of, any article.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1984 AMENDMENT**

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L. 95-227, set out as an Effective Date note under section 4121 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 applicable only in the case of gasoline used on or after October 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after April 8, 1960, see section 4 of Pub. L. 86-418, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1 (c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 11, 1955, effective on first day of first month which begins more than ten days after Aug. 11, 1955, see section 3 of act Aug. 11, 1955, set out as a note under section 6416 of this title.

§ 4219. Application of tax in case of sales by other than manufacturer or importer

In case any person acquires from the manufacturer, producer, or importer of an article, by operation of law or as a result of any transaction not taxable under this chapter, the right to sell such article, the sale of such article by such per-