

tion [enacting this section and section 18091 of Title 42, The Public Health and Welfare] shall apply to taxable years ending after December 31, 2013.”

CONSTRUCTION OF 2018 AMENDMENT

Pub. L. 115-271, title IV, §4003(c), Oct. 24, 2018, 132 Stat. 3960, provided that: “Nothing in the amendment made by subsection (a) [amending this section] shall preempt any State law requiring the provision of medical treatment for children, especially those who are seriously ill.”

CHAPTER 49—COSMETIC SERVICES

Sec.

5000B. Imposition of tax on indoor tanning services.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 49, added Pub. L. 111-148, title IX, §9017(a), Mar. 23, 2010, 124 Stat. 872, which related to elective cosmetic medical procedures and consisted of section 5000B, was not set out in the Code in view of Pub. L. 111-148, title X, §10907(a), Mar. 23, 2010, 124 Stat. 1020, which provided that the amendments made by section 9017 of Pub. L. 111-148 were deemed null, void, and of no effect.

§ 5000B. Imposition of tax on indoor tanning services

(a) In general

There is hereby imposed on any indoor tanning service a tax equal to 10 percent of the amount paid for such service (determined without regard to this section), whether paid by insurance or otherwise.

(b) Indoor tanning service

For purposes of this section—

(1) In general

The term “indoor tanning service” means a service employing any electronic product designed to incorporate 1 or more ultraviolet lamps and intended for the irradiation of an individual by ultraviolet radiation, with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

(2) Exclusion of phototherapy services

Such term does not include any phototherapy service performed by a licensed medical professional.

(c) Payment of tax

(1) In general

The tax imposed by this section shall be paid by the individual on whom the service is performed.

(2) Collection

Every person receiving a payment for services on which a tax is imposed under subsection (a) shall collect the amount of the tax from the individual on whom the service is performed and remit such tax quarterly to the Secretary at such time and in such manner as provided by the Secretary.

(3) Secondary liability

Where any tax imposed by subsection (a) is not paid at the time payments for indoor tanning services are made, then to the extent that such tax is not collected, such tax shall

be paid by the person who performs the service.

(Added Pub. L. 111-148, title X, §10907(b), Mar. 23, 2010, 124 Stat. 1020.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5000B, added Pub. L. 111-148, title IX, §9017(a), Mar. 23, 2010, 124 Stat. 872, which related to tax on elective cosmetic medical procedures, and section 9017(c) of Pub. L. 111-148, which provided that the amendments made by section 9017 of Pub. L. 111-148 were applicable to procedures performed on or after Jan. 1, 2010, were not set out in the Code in view of Pub. L. 111-148, title X, §10907(a), Mar. 23, 2010, 124 Stat. 1020, which provided that the provisions of, and amendments made by, section 9017 of Pub. L. 111-148 were deemed null, void, and of no effect.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-148, title X, §10907(d), Mar. 23, 2010, 124 Stat. 1021, provided that: “The amendments made by this section [enacting this section] shall apply to services performed on or after July 1, 2010.”

CHAPTER 50—FOREIGN PROCUREMENT

Sec.

5000C. Imposition of tax on certain foreign procurement.

§ 5000C. Imposition of tax on certain foreign procurement

(a) Imposition of tax

There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

(b) Specified Federal procurement payment

For purposes of this section, the term “specified Federal procurement payment” means any payment made pursuant to a contract with the Government of the United States for—

- (1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or
- (2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

(c) Foreign person

For purposes of this section, the term “foreign person” means any person other than a United States person.

(d) Administrative provisions

(1) Withholding

The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

(2) Other administrative provisions

For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 111-347, title III, §301(a)(1), Jan. 2, 2011, 124 Stat. 3666.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-347, title III, §301(a)(3), Jan. 2, 2011, 124 Stat. 3666, provided that: “The amendments made by this subsection [enacting this section] shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act [Jan. 2, 2011].”

PROHIBITION ON REIMBURSEMENT OF FEES

Pub. L. 111-347, title III, §301(b), Jan. 2, 2011, 124 Stat. 3666, provided that:

“(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

“(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

“(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 133].”

APPLICATION

Pub. L. 111-347, title III, §301(c), Jan. 2, 2011, 124 Stat. 3666, provided that: “This section [enacting this section and provisions set out as notes under this section] and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.”

CHAPTER 50A—DESIGNATED DRUGS

Sec.

5000D. Designated drugs during noncompliance periods.

§ 5000D. Designated drugs during noncompliance periods**(a) In general**

There is hereby imposed on the sale by the manufacturer, producer, or importer of any designated drug during a day described in subsection (b) a tax in an amount such that the applicable percentage is equal to the ratio of—

(1) such tax, divided by

(2) the sum of such tax and the price for which so sold.

(b) Noncompliance periods

A day is described in this subsection with respect to a designated drug if it is a day during one of the following periods:

(1) The period beginning on the March 1st (or, in the case of initial price applicability year 2026, the October 2nd) immediately following the date on which such drug is included on the list published under section 1192(a) of the Social Security Act and ending on the earlier of—

(A) the first date on which the manufacturer of such designated drug has in place an agreement described in section 1193(a) of such Act with respect to such drug, or

(B) the date that the Secretary of Health and Human Services has made a determination described in section 1192(c)(1) of such Act with respect to such designated drug.

(2) The period beginning on the November 2nd immediately following the March 1st de-

scribed in paragraph (1) (or, in the case of initial price applicability year 2026, the August 2nd immediately following the October 2nd described in such paragraph) and ending on the earlier of—

(A) the first date on which the manufacturer of such designated drug and the Secretary of Health and Human Services have agreed to a maximum fair price under an agreement described in section 1193(a) of the Social Security Act, or

(B) the date that the Secretary of Health and Human Services has made a determination described in section 1192(c)(1) of such Act with respect to such designated drug.

(3) In the case of any designated drug which is a selected drug (as defined in section 1192(c) of the Social Security Act) that the Secretary of Health and Human Services has selected for renegotiation under section 1194(f) of such Act, the period beginning on the November 2nd of the year that begins 2 years prior to the first initial price applicability year of the price applicability period for which the maximum fair price established pursuant to such renegotiation applies and ending on the earlier of—

(A) the first date on which the manufacturer of such designated drug has agreed to a renegotiated maximum fair price under such agreement, or

(B) the date that the Secretary of Health and Human Services has made a determination described in section 1192(c)(1) of such Act with respect to such designated drug.

(4) With respect to information that is required to be submitted to the Secretary of Health and Human Services under an agreement described in section 1193(a) of the Social Security Act, the period beginning on the date on which such Secretary certifies that such information is overdue and ending on the date that such information is so submitted.

(c) Suspension of tax**(1) In general**

A day shall not be taken into account as a day during a period described in subsection (b) if such day is also a day during the period—

(A) beginning on the first date on which—

(i) the notice of terminations of all applicable agreements of the manufacturer have been received by the Secretary of Health and Human Services, and

(ii) none of the drugs of the manufacturer of the designated drug are covered by an agreement under section 1860D-14A or 1860D-14C of the Social Security Act, and

(B) ending on the last day of February following the earlier of—

(i) the first day after the date described in subparagraph (A) on which the manufacturer enters into any subsequent applicable agreement, or

(ii) the first date any drug of the manufacturer of the designated drug is covered by an agreement under section 1860D-14A or 1860D-14C of the Social Security Act.

(2) Applicable agreement

For purposes of this subsection, the term “applicable agreement” means the following: