

signed 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 des-

ignated 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 described 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:

(A) An agreement under—

(i) the Medicare coverage gap discount program under section 1860D-14A of the Social Security Act, or

(ii) the manufacturer discount program under section 1860D-14C of such Act.

(B) A rebate agreement described in section 1927(b) of such Act.

(d) Applicable percentage

For purposes of this section, the term “applicable percentage” means—

(1) in the case of sales of a designated drug during the first 90 days described in subsection (b) with respect to such drug, 65 percent,

(2) in the case of sales of such drug during the 91st day through the 180th day described in subsection (b) with respect to such drug, 75 percent,

(3) in the case of sales of such drug during the 181st day through the 270th day described in subsection (b) with respect to such drug, 85 percent, and

(4) in the case of sales of such drug during any subsequent day, 95 percent.

(e) Definitions

For purposes of this section—

(1) Designated drug

The term “designated drug” means any negotiation-eligible drug (as defined in section 1192(d) of the Social Security Act) included on the list published under section 1192(a) of such Act which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) United States

The term “United States” has the meaning given such term by section 4612(a)(4).

(3) Other terms

The terms “initial price applicability year”, “price applicability period”, and “maximum

fair price” have the meaning given such terms in section 1191 of the Social Security Act.

(f) Special rules

(1) Coordination with rules for possessions of the United States

Rules similar to the rules of paragraphs (2) and (4) of section 4132(c) shall apply for purposes of this section.

(2) Anti-abuse rule

In the case of a sale which was timed for the purpose of avoiding the tax imposed by this section, the Secretary may treat such sale as occurring during a day described in subsection (b).

(g) Exports

Rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this chapter.

(h) Regulations

The Secretary shall prescribe such regulations and other guidance as may be necessary to carry out this section.

(Added Pub. L. 117-169, title I, §11003(a), Aug. 16, 2022, 136 Stat. 1862.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Sections 1191 to 1194 of the Act are classified to sections 1320f to 1320f-3, respectively, of Title 42, The Public Health and Welfare. Sections 1860D-14A and 1860D-14C of the Act are classified to sections 1395w-114a and 1395w-114c, respectively, of Title 42. Section 1927 of the Act is classified to section 1396r-8 of Title 42.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117-169, title I, §11003(d), Aug. 16, 2022, 136 Stat. 1864, provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to sales after the date of the enactment of this Act [Aug. 16, 2022].”

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

Table with 2 columns: Chapter and Sec.1. Rows include Distilled spirits, wines, and beer; Tobacco products and cigarette papers and tubes; Machine guns and certain other firearms; Greenmail; Structured settlement factoring transactions.

Editorial Notes

AMENDMENTS

2002—Pub. L. 107-134, title I, §115(b), Jan. 23, 2002, 115 Stat. 2438, added item relating to chapter 55.

1997—Pub. L. 105-33, title IX, §9302(g)(3)(D), Aug. 5, 1997, 111 Stat. 673, added item relating to chapter 52 and struck out former item relating to chapter 52 “Cigars,

1 Section numbers editorially supplied.

2 Chapter heading amended by Pub. L. 90-618 without corresponding amendment of analysis.

cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes”.

1988—Pub. L. 100-647, title V, §5061(c)(4), Nov. 10, 1988, 102 Stat. 3680, substituted “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes” for “Tobacco, cigars, cigarettes, smokeless tobacco, and cigarette papers and tubes” in item relating to chapter 52.

Pub. L. 100-647, title I, §1018(u)(16), Nov. 10, 1988, 102 Stat. 3590, inserted “smokeless tobacco,” after “cigarettes,” in item relating to chapter 52.

1987—Pub. L. 100-203, title X, §10228(c), Dec. 22, 1987, 101 Stat. 1330-418, added item relating to chapter 54.

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Table with 2 columns: Subchapter and Sec.1. Rows include Gallonage and occupational taxes; Qualification requirements for distilled spirits plants; Operation of distilled spirits plants; Industrial use of distilled spirits; General provisions relating to distilled spirits; Bonded and taxpaid wine premises; Breweries; Miscellaneous plants and warehouses; Miscellaneous general provisions; Penalties, seizures, and forfeitures relating to liquors.

Editorial Notes

PRIOR PROVISIONS

The provisions of a prior chapter 51, Distilled Spirits, Wines, and Beer, were set out as:

Subchapter A, Gallonage and occupational taxes, comprising sections 5001 to 5012, 5021 to 5028, 5041 to 5045, 5051 to 5057, 5061 to 5065, 5081 to 5084, 5091 to 5093, 5101 to 5106, 5111 to 5116, 5121 to 5124, 5131 to 5134, and 5141 to 5149.

Subchapter B, Distilleries, comprising sections 5171 to 5180, 5191 to 5197, and 5211 to 5217.

Subchapter C, Internal Revenue bonded warehouses, comprising sections 5231 to 5233 and 5241 to 5252.

Subchapter D, Rectifying plants, comprising sections 5271 to 5275 and 5281 to 5285.

Subchapter E, Industrial alcohol plants, bonded warehouses, denaturing plants, and denaturation, comprising sections 5301 to 5320 and 5331 to 5334.

Subchapter F, Bonded and taxpaid wine premises, comprising sections 5351 to 5357, 5361 to 5373, 5381 to 5388, 5391, and 5392.

Subchapter G, Breweries, comprising sections 5401 to 5403 and 5411 to 5416.

Subchapter H, Miscellaneous plants and warehouses, comprising sections 5501, 5502, 5511, 5512, and 5521 to 5523.

Subchapter I, Miscellaneous general provisions, comprising sections 5551 to 5557.

Subchapter J, Penalties, seizures, and forfeitures relating to liquors, comprising sections 5601 to 5650, 5661 to 5663, 5671 to 5676, 5681 to 5690, and 5691 to 5693.

Subchapter A—Gallonage and Occupational Taxes

Table with 2 columns: Part and Description. Rows include Gallonage taxes; Miscellaneous provisions.

Editorial Notes

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(1)(B), Aug. 10, 2005, 119 Stat. 1953, substituted “Miscellaneous provisions” for “Occupational tax” in item for part II.

1 Section numbers editorially supplied.