

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

[[§ 4561, 4562. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]]

Sections, act Aug. 16, 1954, ch. 736, 68A Stat. 543, imposed a tax on animal oils imported into the United States.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

[[§ 4571, 4572. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]]

Sections, act Aug. 16, 1954, ch. 736, 68A Stat. 543, 544, imposed a tax on seeds and seed oil imported into the United States.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

[[§ 4581, 4582. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]]

Sections, act Aug. 16, 1954, ch. 736, 68A Stat. 544, imposed a tax on imports of any article, merchandise, or combination (except oils specified in section 4511), 10 percent or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified in sections 4561 and 4571, or of the oils, fatty acids, or salts specified in section 4511.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

[[§ 4591 to 4597. Repealed. Pub. L. 94-455, title XIX, § 1904(a)(15), Oct. 4, 1976, 90 Stat. 1814]]

Sections, comprising subchapter F, "Oleomargarine", were struck out in the repeal of this chapter by Pub. L. 94-455.

Section 4591, act Aug. 16, 1954, ch. 736, 68A Stat. 545, related to imposition of a tax on all oleomargarine imported from foreign countries.

Section 4592, act Aug. 16, 1954, ch. 736, 68A Stat. 545, related to definitions of oleomargarine, manufacturer, wholesale dealer, and retail sales.

Section 4593, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to exemptions to tax imposed by section 4591.

Section 4594, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to packing requirements for manufacturers of oleomargarine.

Section 4595, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to wholesale and retail selling requirements for oleomargarine.

Section 4596, act Aug. 16, 1954, ch. 736, 68A Stat. 547, related to filing of bonds by manufacturers of oleomargarine.

Section 4597, act Aug. 16, 1954, ch. 736, 68A Stat. 547, related to books and returns of wholesale dealers and manufacturers.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1976 Amendment note under section 4041 of this title.

[[§ 4601 to 4603. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]]

Section 4601, acts Aug. 16, 1954, ch. 736, 68A Stat. 548; Sept. 2, 1958, Pub. L. 85-859, title I, § 119(b)(4), 72 Stat. 1286, related to applicability of certain tariff provisions.

Sections 4602, 4603, act Aug. 16, 1954, ch. 736, 68A Stat. 548, related to contravention of trade agreements by certain taxes.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

CHAPTER 38—ENVIRONMENTAL TAXES

Subchapter	Sec. ¹
A. Tax on petroleum	4611
B. Tax on certain chemicals	4661
C. Tax on certain imported substances	4671
D. Ozone-depleting chemicals, etc.	4681

PRIOR PROVISIONS

A prior chapter 38, consisting of sections 4521 to 4603 and relating to import taxes, was repealed by Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77, and Pub. L. 94-455, title XIX, § 1904(a)(15), Oct. 4, 1976, 90 Stat. 1814.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7506(b), Dec. 19, 1989, 103 Stat. 2369, added item for subchapter D.

1986—Pub. L. 99-499, title V, § 515(b), Oct. 17, 1986, 100 Stat. 1769, added item for subchapter C.

Pub. L. 99-499, title V, § 514(a)(2), Oct. 17, 1986, 100 Stat. 1767, struck out item for subchapter C.

1980—Pub. L. 96-510, title II, § 231(b), Dec. 11, 1980, 94 Stat. 2804, added item for subchapter C.

Pub. L. 96-510, title II, § 211(a), Dec. 11, 1980, 94 Stat. 2797, added chapter 38 and analysis of subchapters consisting of items A and B.

Subchapter A—Tax on Petroleum

Sec.	
4611.	Imposition of tax.
4612.	Definitions and special rules.

§ 4611. Imposition of tax

(a) General Rule

There is hereby imposed a tax at the rate specified in subsection (c) on—

- (1) crude oil received at a United States refinery, and
- (2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) Tax on certain uses and exportation

(1) In general

If—

- (A) any domestic crude oil is used in or exported from the United States, and
- (B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax at the rate specified in subsection (c) is hereby imposed on such crude oil.

(2) Exception for use on premises where produced

Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on

¹ Section numbers editorially supplied.

the premises where such crude oil was produced.

(c) Rate of tax

(1) In general

The rate of the taxes imposed by this section is the sum of—

- (A) the Hazardous Substance Superfund financing rate, and
- (B) the Oil Spill Liability Trust Fund financing rate.

(2) Rates

For purposes of paragraph (1)—

- (A) the Hazardous Substance Superfund financing rate is 9.7 cents a barrel, and
- (B) the Oil Spill Liability Trust Fund financing rate is 5 cents a barrel.

(d) Persons liable for tax

(1) Crude oil received at refinery

The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) Imported petroleum product

The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) Tax on certain uses or exports

The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

(e) Application of Hazardous Substance Superfund financing rate

(1) In general

Except as provided in paragraphs (2) and (3), the Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996.

(2) No tax if unobligated balance in Fund exceeds \$3,500,000,000

If on December 31, 1993, or December 31, 1994—

(A) the unobligated balance in the Hazardous Substance Superfund exceeds \$3,500,000,000, and

(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance in the Hazardous Substance Superfund will exceed \$3,500,000,000 on December 31 of 1994 or 1995, respectively, if no tax is imposed under section 59A, this section, and sections 4661 and 4671,

then no tax shall be imposed under this section (to the extent attributable to the Hazardous Substance Superfund financing rate) during 1994 or 1995, as the case may be.

(3) No tax if amounts collected exceed \$11,970,000,000

(A) Estimates by Secretary

The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under section 59A, this section (to the extent attributable to

the Hazardous Substance Superfund financing rate), and sections 4661 and 4671 and credited to the Hazardous Substance Superfund during the period beginning January 1, 1987, and ending December 31, 1995.

(B) Termination if \$11,970,000,000 credited before January 1, 1996

If the Secretary estimates under subparagraph (A) that more than \$11,970,000,000 will be credited to the Fund before January 1, 1996, the Hazardous Substance Superfund financing rate under this section shall not apply after the date on which (as estimated by the Secretary) \$11,970,000,000 will be so credited to the Fund.

(f) Application of Oil Spill Liability Trust Fund financing rate

(1) In general

Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995.

(2) No tax if unobligated balance in fund exceeds \$1,000,000,000

The Oil Spill Liability Trust Fund financing rate shall not apply during any calendar quarter if the Secretary estimates that as of the close of the preceding calendar quarter the unobligated balance in the Oil Spill Liability Trust Fund exceeds \$1,000,000,000.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2797; amended Pub. L. 99-499, title V, §§511(a), 512(a), (b), Oct. 17, 1986, 100 Stat. 1760, 1761; Pub. L. 99-509, title VIII, § 8032(a), (c)(1), (2), Oct. 21, 1986, 100 Stat. 1957, 1958; Pub. L. 100-647, title VI, §6108, Nov. 10, 1988, 102 Stat. 3712; Pub. L. 101-221, §8(a), Dec. 12, 1989, 103 Stat. 1891; Pub. L. 101-239, title VII, §7505(a), (b), Dec. 19, 1989, 103 Stat. 2363; Pub. L. 101-508, title XI, §11231(a)(1)(B), (2), (b), Nov. 5, 1990, 104 Stat. 1388-445.)

CODIFICATION

Amendments by Pub. L. 99-509, title VIII, §8031(a), (b), and (d)(1), Oct. 21, 1986, 100 Stat. 1955, to subsecs. (a) to (e) of this section were not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

1990—Subsec. (e)(1). Pub. L. 101-508, §11231(a)(1)(B), substituted “January 1, 1996” for “January 1, 1992”.

Subsec. (e)(2). Pub. L. 101-508, §11231(a)(2), substituted “1993” for “1989” and “1994” for “1990” in introductory provisions and “1994” for “1990” and “1995” for “1991” in subpar. (B) and concluding provisions.

Subsec. (e)(3). Pub. L. 101-508, §11231(b), substituted “\$11,970,000,000” for “\$6,650,000,000” in heading.

Subsec. (e)(3)(A). Pub. L. 101-508, §11231(b), substituted “December 31, 1995” for “December 31, 1991”.

Subsec. (e)(3)(B). Pub. L. 101-508, §11231(a)(1)(B), (b), substituted “January 1, 1996” for “January 1, 1992” in heading and text and “\$11,970,000,000” for “\$6,650,000,000” in heading and twice in text.

1989—Subsec. (c)(2)(A). Pub. L. 101-221 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Hazardous Substance Superfund financing rate is—

“(i) except as provided in clause (ii), 8.2 cents a barrel, and

“(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and”.

Subsec. (c)(2)(B). Pub. L. 101-239, § 7505(b), substituted “5 cents” for “1.3 cents”.

Subsec. (f). Pub. L. 101-239, § 7505(a)(1), amended subsec. (f) generally, substituting pars. (1) and (2) for former pars. (1) general applicability, (2) commencement date, and (3) limit on tax of \$300,000,000.

1988—Subsec. (f)(2)(B). Pub. L. 100-647 substituted “December 31, 1990” for “September 1, 1987”.

1986—Subsecs. (a), (b)(1). Pub. L. 99-499, § 512(a), substituted “at the rate specified in subsection (c)” for “of 0.79 cent a barrel”.

Subsec. (c). Pub. L. 99-509, § 8032(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the rate of the taxes imposed by this section is 8.2 cents a barrel.

“(2) IMPORTED PETROLEUM PRODUCTS.—The rate of the tax imposed by subsection (a)(2) shall be 11.7 cents a barrel.”

Pub. L. 99-499, § 512(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 99-499, § 512(b), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-509, § 8032(c)(1), substituted “Hazardous Substance Superfund financing rate” for “taxes” in heading, substituted “the Hazardous Substance Superfund financing rate under this section” for “the taxes imposed by this section” in par. (1), inserted “(to the extent attributable to the Hazardous Substance Superfund financing rate)” after “this section” in pars. (2) and (3)(A), and substituted “the Hazardous Substance Superfund financing rate under this section shall not apply” for “no tax shall be imposed under this section” in par. (3)(B).

Pub. L. 99-499, §§ 511(a), 512(b), amended subsec. (d) generally and redesignated it as (e). Prior to amendment and redesignation, subsec. (d), termination, read as follows: “The taxes imposed by this section shall not apply after September 30, 1985, except that if on September 30, 1983, or September 30, 1984—

“(1) the unobligated balance in the Hazardous Substance Response Trust Fund as of such date exceeds \$900,000,000, and

“(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed \$500,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above,

then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).”

Subsec. (f). Pub. L. 99-509, § 8032(c)(2), added subsec. (f).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8(b) of Pub. L. 101-221 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Dec. 12, 1989].”

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 8032(d) of Pub. L. 99-509, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 4612, 4661, 4671, and 9507 of this title] shall take effect on the commencement date (as defined in section 4611(f)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section).

“(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—The amendments made by this section shall take

effect only if the Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99-499, approved Oct. 17, 1986] is enacted.”

[Section 7505(d)(1) of Pub. L. 101-239 provided that: “For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509, set out as notes above and under section 9509 of this title], the commencement date is January 1, 1990.”]

Section 511(c) of Pub. L. 99-499 provided that: “The amendments made by this section [amending this section and repealing section 9653 of Title 42, The Public Health and Welfare] shall take effect on January 1, 1987.”

Section 512(d) of Pub. L. 99-499 provided that: “The amendments made by this section [amending this section and section 4612 of this title] shall take effect on January 1, 1987.”

EFFECTIVE DATE

Section 211(c) of Pub. L. 96-510 provided that: “The amendments made by this section [enacting subchapters A and B of this chapter] shall take effect on April 1, 1981.”

SHORT TITLE

For short title of title II of Pub. L. 96-510 as the “Hazardous Substance Response Revenue Act of 1980”, see Short Title of 1980 Amendment note, set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 59A, 4612, 4661, 4671, 9507, 9509 of this title.

§ 4612. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Crude oil

The term “crude oil” includes crude oil condensates and natural gasoline.

(2) Domestic crude oil

The term “domestic crude oil” means any crude oil produced from a well located in the United States.

(3) Petroleum product

The term “petroleum product” includes crude oil.

(4) United States

(A) In general

The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) United States includes continental shelf areas

The principles of section 638 shall apply for purposes of the term “United States”.

(C) United States includes foreign trade zones

The term “United States” includes any foreign trade zone of the United States.

(5) United States refinery

The term “United States refinery” means any facility in the United States at which crude oil is refined.

(6) Refineries which produce natural gasoline

In the case of any United States refinery which produces natural gasoline from natural

gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) Premises

The term “premises” has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) Barrel

The term “barrel” means 42 United States gallons.

(9) Fractional part of barrel

In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) Only 1 tax imposed with respect to any product

No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax imposed by such section has been imposed with respect to such product.

(c) Credit where crude oil returned to pipeline

Under regulations prescribed by the Secretary, if an operator of a United States refinery—

- (1) removes crude oil from a pipeline, and
- (2) returns a portion of such crude oil into a stream of other crude oil in the same pipeline,

there shall be allowed as a credit against the tax imposed by section 4611 to such operator an amount equal to the product of the rate of tax imposed by section 4611 on the crude oil so removed by such operator and the number of barrels of crude oil returned by such operator to such pipeline. Any crude oil so returned shall be treated for purposes of this subchapter as crude oil on which no tax has been imposed by section 4611.

(d) Credit against portion of tax attributable to oil spill rate

There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

- (1) the sum of—
 - (A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deep-water Port Liability Trust Fund and the Off-shore Oil Pollution Compensation Fund, and
 - (B) the interest accrued on such amounts before such date, over
- (2) the amount of such payments taken into account under this subsection for all prior periods.

The preceding sentence shall also apply to amounts paid by the taxpayer into the Trans-Alaska Pipeline Liability Fund to the extent of amounts transferred from such Fund into the Oil Spill Liability Trust Fund. For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section 1504(a)(2) were applied by substituting “100 percent” for “80 percent” shall be treated as 1 taxpayer.

(e) Income tax credit for unused payments into Trans-Alaska Pipeline Liability Fund

(1) In general

For purposes of section 38, the current year business credit shall include the credit determined under this subsection.

(2) Determination of credit

(A) In general

The credit determined under this subsection for any taxable year is an amount equal to the aggregate credit which would be allowed to the taxpayer under subsection (d) for amounts paid into the Trans-Alaska Pipeline Liability Fund had the Oil Spill Liability Trust Fund financing rate not ceased to apply.

(B) Limitation

(i) In general

The amount of the credit determined under this subsection for any taxable year with respect to any taxpayer shall not exceed the excess of—

- (I) the amount determined under clause (ii), over
- (II) the aggregate amount of the credit determined under this subsection for prior taxable years with respect to such taxpayer.

(ii) Overall limitation

The amount determined under this clause with respect to any taxpayer is the excess of—

- (I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Trust Fund were transferred¹ on January 1, 1990, and the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over
- (II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

(3) Cost of income tax credit borne by Trust Fund

(A) In general

The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

(B) Trust Fund balance may not be reduced below \$1,000,000,000

Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds \$1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

¹ So in original. Probably should be “transferred”.

(4) No carryback

No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph.

(f) 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 4611.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2798; amended Pub. L. 99-499, title V, §512(c), Oct. 17, 1986, 100 Stat. 1761; Pub. L. 99-509, title VIII, §8032(b), Oct. 21, 1986, 100 Stat. 1957; Pub. L. 101-239, title VII, §7505(c), Dec. 19, 1989, 103 Stat. 2363; Pub. L. 101-380, title IX, §9002, Aug. 18, 1990, 104 Stat. 574; Pub. L. 102-486, title XIX, §1922(a), Oct. 24, 1992, 106 Stat. 3028.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (e)(4), is the date of the enactment of Pub. L. 102-486, which was approved Oct. 24, 1992.

CODIFICATION

Amendments by Pub. L. 99-509, title VIII, §8031(c), Oct. 21, 1986, 100 Stat. 1955, to subsections (c) and (d) of this section were not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

1992—Subsecs. (e), (f). Pub. L. 102-486 added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (d). Pub. L. 101-380 substituted at end "For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section 1504(a)(2) were applied by substituting '100 percent' for '80 percent' shall be treated as 1 taxpayer." for "Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund."

1989—Subsec. (d). Pub. L. 101-239 inserted at end "The preceding sentence shall also apply to amounts paid by the taxpayer into the Trans-Alaska Pipeline Liability Fund to the extent of amounts transferred from such Fund into the Oil Spill Liability Trust Fund. Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund."

1986—Subsec. (c). Pub. L. 99-499 added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 99-509 added subsec. (d) and redesignated former subsec. (d) as (e).

Pub. L. 99-499 redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 99-509 redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1922(b) of Pub. L. 102-486 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 24, 1992]."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1986 AMENDMENTS

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

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 512(d) of Pub. L. 99-499, set out as a note under section 4611 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4132, 4662, 4682 of this title.

Subchapter B—Tax on Certain Chemicals

Table with 2 columns: Sec. (4661, 4662) and description (Imposition of tax, Definitions and special rules).

§ 4661. Imposition of tax

(a) General rule

There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

(b) Amount of tax

The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

Table with 3 columns: In the case of (chemical name), The tax is the following amount per ton, and tax rate (e.g., Acetylene \$4.87).

Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

For periods before 1992, the item relating to xylene in the preceding table shall be applied by substituting "10.13" for "4.87".

(c) 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. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2798; amended Pub. L. 99-499, title V, §513(a), Oct. 17, 1986, 100 Stat. 1761; Pub. L. 99-509, title VIII, §8032(c)(3), Oct. 21, 1986, 100 Stat. 1958.)

CODIFICATION

Amendment by Pub. L. 99-509, title VIII, §8031(d)(2), Oct. 21, 1986, 100 Stat. 1956, to subsec. (c) of this section was not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-499 inserted at end "For periods before 1992, the item relating to xylene in the preceding table shall be applied by substituting '10.13' for '4.87'."

Subsec. (c). 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 AMENDMENTS

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

Section 513(h) of Pub. L. 99-499, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 4662 of this title] shall take effect on January 1, 1987.

"(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

"(A) REFUND OF TAX PREVIOUSLY IMPOSED.—

"(i) IN GENERAL.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

"(ii) CONDITION TO ALLOWANCE.—Clause (i) shall not apply to a sale of xylene unless the person who (but for clause (i)) would be liable for the tax imposed by section 4661 on such sale meets requirements similar to the requirements of paragraph (1)

of section 6416(a) of such Code. For purposes of the preceding sentence, subparagraph (A) of section 6416(a)(1) of such Code shall be applied without regard to the material preceding 'has not collected'.

"(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act [Oct. 17, 1986] (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

"(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term 'xylene' shall include any isomer of xylene whether or not separated.

"(3) INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (f) [amending section 4662 of this title] shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980 [Pub. L. 96-510, enacting this chapter].

"(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1986.

"(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

"(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (f)) shall apply to exchanges made after December 31, 1986.

"(4) EXPORTS OF TAXABLE SUBSTANCES.—Subclause (II) of section 4662(e)(2)(A)(ii) of such Code (as added by this section) shall not apply to the export of any taxable substance (as defined in section 4672(a) of such Code) before January 1, 1989.

"(5) SALES OF INTERMEDIATE HYDROCARBON STREAMS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) [amending section 4662 of this title] shall apply as if included in the amendments made by section 211 of the Hazardous Substances Response Revenue Act of 1980.

"(B) PURCHASER MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall apply only if the purchaser agrees to be treated as the manufacturer, producer, or importer for purposes of subchapter B of chapter 38 of such Code.

"(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer of such stream paid the tax imposed by section 4661 with respect to such sale on all taxable chemicals contained in such stream.

"(D) REGISTRATION REQUIREMENTS.—Section 4662(b)(10)(C) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1986."

EFFECTIVE DATE

Subchapter effective Apr. 1, 1981, see section 211(c) of Pub. L. 96-510, set out as a note under section 4611 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4611, 4662, 4671, 9507 of this title.

§ 4662. Definitions and special rules**(a) Definitions**

For purposes of this subchapter—

(1) Taxable chemical

Except as provided in subsection (b), the term “taxable chemical” means any substance—

(A) which is listed in the table under section 4661(b), and

(B) 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) Importer

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

(4) Ton

The term “ton” means 2,000 pounds. In the case of any taxable chemical which is a gas, the term “ton” means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

(5) Fractional part of ton

In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) Exceptions; other special rules

For purposes of this subchapter—

(1) Methane or butane used as a fuel

Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

(2) Substances used in the production of fertilizer**(A) In general**

In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia which is a qualified fertilizer substance, no tax shall be imposed under section 4661(a).

(B) Qualified fertilizer substance

For purposes of this section, the term “qualified fertilizer substance” means any substance—

(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fertilizer use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

(C) Qualified fertilizer use

The term “qualified fertilizer use” means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

(D) Taxation of nonqualified sale or use

For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(3) Sulfuric acid produced as a byproduct of air pollution control

In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.

(4) Substances derived from coal

For purposes of this subchapter, the term “taxable chemical” shall not include any substance to the extent derived from coal.

(5) Substances used in the production of motor fuel, etc.**(A) In general**

In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

(B) Qualified fuel substance

For purposes of this section, the term “qualified fuel substance” means any substance—

(i) used in a qualified fuel use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fuel use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fuel use.

(C) Qualified fuel use

For purposes of this subsection, the term “qualified fuel use” means—

(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or

(ii) any use as such a fuel.

(D) Chemicals to which paragraph applies

For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butadiene, ethylene, naphthalene, propylene, toluene, and xylene.

(E) Taxation of nonqualified sale or use

For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(6) Substance having transitory presence during refining process, etc.**(A) In general**

No tax shall be imposed under section 4661(a) on any taxable chemical described in

subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).

(B) Chemicals to which subparagraph (A) applies

The chemicals described in this subparagraph are—

- (i) barium sulfide, cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, and zinc sulfate, and
- (ii) any solution or mixture containing any chemical described in clause (i).

(C) Removal treated as use

Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process.

(7) Special rule for xylene

Except in the case of any substance imported into the United States or exported from the United States, the term “xylene” does not include any separated isomer of xylene.

(8) Recycled chromium, cobalt, and nickel

(A) In general

No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

(B) Exemption not to apply while corrective action uncompleted

Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer at the unit at which the recycling occurs is uncompleted.

(C) Required corrective action

For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

- (i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—
 - (I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or
 - (II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and
- (ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

(D) Special rule for groundwater treatment

In the case of corrective action requiring groundwater treatment, such action shall be treated as completed as of the close of the 10-year period beginning on the date such action is required if such treatment complies with the permit or order applicable under

subparagraph (C)(i) throughout such period. The preceding sentence shall cease to apply beginning on the date such treatment ceases to comply with such permit or order.

(E) Solid waste

For purposes of this paragraph, the term “solid waste” has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.

(9) Substances used in the production of animal feed

(A) In general

In the case of—

- (i) nitric acid,
- (ii) sulfuric acid,
- (iii) ammonia, or
- (iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

(B) Qualified animal feed substance

For purposes of this section, the term “qualified animal feed substance” means any substance—

- (i) used in a qualified animal feed use by the manufacturer, producer, or importer,
- (ii) sold for use by any purchaser in a qualified animal feed use, or
- (iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

(C) Qualified animal feed use

The term “qualified animal feed use” means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

(D) Taxation of nonqualified sale or use

For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the 1st person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(10) Hydrocarbon streams containing mixtures of organic taxable chemicals

(A) In general

No tax shall be imposed under section 4661(a) on any organic taxable chemical while such chemical is part of an intermediate hydrocarbon stream containing one or more organic taxable chemicals.

(B) Removal, etc., treated as use

For purposes of this part, if any organic taxable chemical on which no tax was imposed by reason of subparagraph (A) is isolated, extracted, or otherwise removed from, or ceases to be part of, an intermediate hydrocarbon stream—

- (i) such isolation, extraction, removal, or cessation shall be treated as use by the person causing such event, and

(ii) such person shall be treated as the manufacturer of such chemical.

(C) Registration requirement

Subparagraph (A) shall not apply to any sale of any intermediate hydrocarbon stream unless the registration requirements of clauses (i) and (ii) of subsection (c)(2)(B) are satisfied.

(D) Organic taxable chemical

For purposes of this paragraph, the term “organic taxable chemical” means any taxable chemical which is an organic substance.

(c) Use and certain exchanges by manufacturer, etc.

(1) Use treated as sale

Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

(2) Special rules for inventory exchanges

(A) In general

Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

(i) such exchange shall not be treated as a sale, and

(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

(B) Registration requirement

Subparagraph (A) shall not apply to any inventory exchange unless—

(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person’s registration number and the internal revenue district in which such person is registered.

(C) Inventory exchange

For purposes of this paragraph, the term “inventory exchange” means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1).

(d) Refund or credit for certain uses

(1) In general

Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any taxable chemical, and

(B) such chemical was used by any person in the manufacture or production of any other substance which is a taxable chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it

were an overpayment of tax imposed by such section. In any case to which this paragraph applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section).

(2) Use as fertilizer

Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to make ammonia without regard to subsection (b)(2), and

(B) any person uses such substance as a qualified fertilizer substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(2) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(3) Use as qualified fuel

Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection (b)(5) without regard to subsection (b)(5), and

(B) any person uses such chemical as a qualified fuel substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(4) Use in the production of animal feed

Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(e) Exemption for exports of taxable chemicals

(1) Tax-free sales

(A) In general

No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

(B) Proof of export required

Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

(2) Credit or refund where tax paid**(A) In general**

Except as provided in subparagraph (B), if—

(i) tax under section 4661 was paid with respect to any taxable chemical, and

(ii)(I) such chemical was exported by any person, or

(II) such chemical was used as a material in the manufacture or production of a substance which was exported by any person and which, at the time of export, was a taxable substance (as defined in section 4672(a)),

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

(B) Condition to allowance

No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical or taxable substance (as so defined), or

(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

(3) Refunds directly to exporter

The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations.

(4) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(f) 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 4661.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2799; amended Pub. L. 98-369, div. A, title X, §1019(a)-(c), July 18, 1984, 98 Stat. 1022-1024; Pub. L. 99-499, title V, §513(b)-(g), Oct. 17, 1986, 100 Stat. 1762-1765; Pub. L. 100-647, title II, §2001(a), Nov. 10, 1988, 102 Stat. 3593.)

REFERENCES IN TEXT

Sections 3005, 3004, and 3008 of the Solid Waste Disposal Act, referred to in subsec. (b)(8)(C)(i)(I), and section 1004 of that Act, referred to in subsec. (b)(8)(E), are classified to sections 6925, 6924, 6928, and 6903, respectively, of Title 42, The Public Health and Welfare.

Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (b)(8)(C)(i)(II), is classified to section 9606 of Title 42.

AMENDMENTS

1988—Subsec. (b)(10)(A). Pub. L. 100-647, §2001(a)(2), substituted “one or more” for “a mixture of”.

Subsec. (e)(3), (4). Pub. L. 100-647, §2001(a)(1), added par. (3) and redesignated former par. (3) as (4).

1986—Subsec. (b)(7). Pub. L. 99-499, §513(c), added par. (7).

Subsec. (b)(8). Pub. L. 99-499, §513(d), added par. (8).

Subsec. (b)(9). Pub. L. 99-499, §513(e)(1), added par. (9).

Subsec. (b)(10). Pub. L. 99-499, §513(g), added par. (10).

Subsec. (c). Pub. L. 99-499, §513(f), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Except as provided in subsection (b), if any person manufactures, produces, or imports a taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.”

Subsec. (d)(1). Pub. L. 99-499, §513(b)(2), substituted “which is a taxable chemical” for “the sale of which by such person would be taxable under such section”, in subpar. (B), and substituted “imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)” for “imposed by such section on the other substance manufactured or produced” in last sentence.

Subsec. (d)(4). Pub. L. 99-499, §513(e)(2), added par. (4).

Subsecs. (e), (f). Pub. L. 99-499, §513(b)(1), added subsec. (e) and redesignated former subsec. (e) as (f).

1984—Subsec. (b)(1). Pub. L. 98-369, §1019(a)(3), inserted “or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel”.

Subsec. (b)(2)(A). Pub. L. 98-369, §1019(b)(2)(A), substituted “qualified fertilizer substance” for “qualified substance”.

Subsec. (b)(2)(B) to (D). Pub. L. 98-369, §1019(b)(1), inserted “fertilizer” after “qualified” wherever appearing in subpar. (B), inserted “fertilizer” after “Qualified” in subpar. (C) heading and in text substituted “The term ‘qualified fertilizer use’ means any use in the manufacture or production of fertilizer or for direct application as a fertilizer” for “For purposes of this subsection, the term ‘qualified use’ means any use in the manufacture or production of a fertilizer”, and added subpar. (D).

Subsec. (b)(5), (6). Pub. L. 98-369, §1019(a)(1), added pars. (5) and (6).

Subsec. (c). Pub. L. 98-369, §1019(c), substituted “Except as provided in subsection (b), if” for “If”.

Subsec. (d)(2)(B). Pub. L. 98-369, §1019(b)(2)(B), inserted “fertilizer” after “qualified” and struck out “, or sells such substance for use,” after “such substance”.

Subsec. (d)(3). Pub. L. 98-369, §1019(a)(2), added par. (3).

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 OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, except as otherwise provided, see section 513(h) of Pub. L. 99-499, set out as a note under section 4661 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1019(d) of Pub. L. 98-369 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect as if included in the amendments made by section 211(a) of the Hazardous Substance Response Revenue Act of 1980 [Pub. L. 96-510, which enacted this section].

“(2) WAIVER OF LIMITATION.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the date which for one year after the

date of the enactment of this Act [July 18, 1984] by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such amendments) may, nevertheless, be made or allowed if claim therefor is filed on or before the date which for one year after the date of the enactment of this Act.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4671, 4672, 4682 of this title.

Subchapter C—Tax on Certain Imported Substances

Sec.	
4671.	Imposition of tax.
4672.	Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter C related to tax on hazardous wastes, consisted of sections 4681 and 4682, prior to repeal by Pub. L. 99-499, title V, §514(a)(1), Oct. 17, 1986, 100 Stat. 1767.

§ 4671. Imposition of tax

(a) General rule

There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

(b) Amount of tax

(1) In general

Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals used as materials in the manufacture or production of such substance if such taxable chemicals had been sold in the United States for use in the manufacture or production of such taxable substance.

(2) Rate where importer does not furnish information to Secretary

If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) 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 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

Section 515(c) of Pub. L. 99-499 provided that: “The amendments made by this section [enacting this subchapter] shall take effect on January 1, 1989.”

STUDY AND REPORT

Section 515(d) of Pub. L. 99-499 provided that:

“(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of issues relating to the implementation of—

“(A) the tax imposed by the section 4671 of the Internal Revenue Code of 1986 (as added by this section), and

“(B) the credit for exports of taxable substances under section 4661(e)(2)(A)(ii)(II) of such Code.

In conducting such study, the Secretary of the Treasury or his delegate shall consult with the Environmental Protection Agency and the International Trade Commission.

“(2) REPORT.—The report of the study under paragraph (1) shall be submitted not later than January 1, 1988, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4611, 4672, 4681, 9507 of this title.

§ 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 Customs, 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
Ferchrome 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.)

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.”

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4662 of this title.

Subchapter D—Ozone-Depleting Chemicals, Etc.

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

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6302 of this title.

§ 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 a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base tax amount:
1993	3.35
1994	4.35
1995	5.35.

(C) Base tax amount for later years

The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year.

(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.)

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.

AMENDMENTS

1992—Subsec. (b)(1)(B). Pub. L. 102-486 amended subpar. (B) generally, substituting present provisions for former provisions which provided for base tax amounts in cl. (i) of initially listed chemicals for 1990 to 1994 and in cl. (ii) of newly listed chemicals for 1991 to 1995.

1990—Subsec. (b)(1)(B). Pub. L. 101-508 amended subpar. (B) generally, designating existing provision as cl. (i), inserting “with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C))”, and adding cl. (ii).

Subsec. (b)(1)(C). Pub. L. 101-508 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year after 1994 shall be the base tax amount for 1994 increased by 45 cents for each year after 1994.”

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1931(d) of Pub. L. 102-486 provided that: “The amendments made by this section [amending this sec-

tion and section 4682 of this title] shall apply to taxable chemicals sold or used on or after January 1, 1993.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11203(e) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and section 4682 of this title] shall take effect on January 1, 1991.”

EFFECTIVE DATE

Section 7506(c) of Pub. L. 101-239 provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this subchapter] shall take effect on January 1, 1990.

“(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

“(3) NOTIFICATION OF CHANGES IN INTERNATIONAL AGREEMENTS.—The Secretary of the Treasury or his delegate shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of changes in the Montreal Protocol and of other international agreements to which the United States is a signatory relating to ozone-depleting chemicals.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4682 of this title.

§ 4682. Definitions and special rules

(a) Ozone-depleting chemical

For purposes of this subchapter—

(1) In general

The term “ozone-depleting chemical” means any substance—

(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) Ozone-depleting chemicals

Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane
Carbon tetrachloride	Tetrachloromethane
Methyl chloroform ...	1,1,1-trichloroethane
CFC-13	CF3Cl
CFC-111	C2FCl5
CFC-112	C2F2Cl4
CFC-211	C3FC17
CFC-212	C3F2Cl6
CFC-213	C3F3Cl5
CFC-214	C3F4Cl4
CFC-215	C3F5Cl3
CFC-216	C3F6Cl2
CFC-217	C3F7Cl.

(b) Ozone-depletion factor

For purposes of this subchapter, the term “ozone-depletion factor” means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

Ozone-depleting chemical:	Ozone-depletion factor:
---------------------------	-------------------------

CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0
Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0

and 2d purchasers (if any), meet such registration requirements as may be prescribed by the Secretary.

(B) Credit or refund

Under regulations prescribed by the Secretary, if—

(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

(c) Imported taxable product

For purposes of this subchapter—

(1) In general

The term “imported taxable product” means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

(2) De minimis exception

The term “imported taxable product” shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical (other than methyl chloroform) is used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

(d) Exceptions

(1) Recycling

No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

(2) Use in further manufacture

(A) In general

No tax shall be imposed by section 4681—

(i) on the use of any ozone-depleting chemical in the manufacture or production of any other chemical if the ozone-depleting chemical is entirely consumed in such use,

(ii) on the sale by the manufacturer, producer, or importer of any ozone-depleting chemical—

(I) for a use by the purchaser which meets the requirements of clause (i), or

(II) for resale by the purchaser to a second purchaser for a use by the second purchaser which meets the requirements of clause (i).

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st

(3) Exports

(A) In general

Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

(B) Limit on benefit

(i) In general

The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured, produced, or imported by any person during a calendar year shall not exceed the sum of—

(I) the amount equal to the 1986 export percentage of the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to the maximum quantity of ozone-depleting chemicals permitted to be manufactured or produced by such person during such calendar year under regulations prescribed by the Environmental Protection Agency (other than chemicals with respect to which subclause (II) applies),

(II) the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989), and

(III) the aggregate tax which was imposed by this subchapter with respect to ozone-depleting chemicals imported by such person during the calendar year.

(ii) 1986 export percentage

A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986.

The percentage determined under the preceding sentence shall be computed by taking into account the sum of such person's direct 1986 exports (as determined by the Environmental Protection Agency) and such person's indirect 1986 exports (as allocated to such person by such Agency in determining such person's consumption and production rights for ozone-depleting chemicals).

(C) Separate application of limit for newly listed chemicals

(i) In general

Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

(ii) Application to newly listed chemicals

In applying subparagraph (B) to newly listed chemicals—

(I) subparagraph (B) shall be applied by substituting "1989" for "1986" each place it appears, and

(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

(iii) Newly listed chemical

For purposes of this subparagraph, the term "newly listed chemical" means any substance which appears in the table contained in subsection (a)(2) below Halon-2402.

(e) Other definitions

For purposes of this subchapter—

(1) Importer

The term "importer" means the person entering the article for consumption, use, or warehousing.

(2) United States

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

(f) Special rules

(1) Fractional parts of a pound

In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

(2) 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 this subchapter.

(g) Phase-in of tax on certain substances

(1) Treatment for 1990

(A) Halons

The term "ozone-depleting chemical" shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

(B) Chemicals used in rigid foam insulation

No tax shall be imposed by section 4681—

(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

(I) for use by the purchaser in the manufacture of rigid foam insulation, or

(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

(2) Treatment for 1991, 1992, and 1993

(A) Halons

The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

The applicable percentage in the case of sales or use during 1993 is:

In the case of:	The applicable percentage in the case of sales or use during 1993 is:
Halon-1211	2.49
Halon-1301	0.75
Halon-2402	1.24.

(B) Chemicals used in rigid foam insulation

In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

In the case of sales or use during:	The applicable percentage is:
1991	18
1992	15
1993	7.46.

(3) Overpayments with respect to chemicals used in rigid foam insulation

If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

(A) the tax paid under this subchapter on such substance, over

(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section

34(a) for such year unless claim therefor has been timely filed under this paragraph.

(4) Chemicals used for sterilizing medical instruments and as propellants in metered-dose inhalers

(A) Rate of tax

(i) In general

In the case of—

(I) any use during the applicable period of any substance to sterilize medical instruments or as propellants in metered-dose inhalers, or

(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be equal to \$1.67 per pound.

(ii) Qualified sale

For purposes of clause (i), the term “qualified sale” means any sale by the manufacturer, producer, or importer of any substance—

(I) for use by the purchaser to sterilize medical instruments or as propellants in metered-dose inhalers, or

(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

(B) Overpayments

If any substance on which tax was paid under this subchapter is used during the applicable period by any person to sterilize medical instruments or as propellants in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

(i) the tax paid under this subchapter on such substance, or

(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim therefor has been timely filed under this subparagraph.

(C) Applicable period

For purposes of this paragraph, the term “applicable period” means—

(i) 1993 in the case of substances to sterilize medical instruments, and

(ii) any period after 1992 in the case of propellants in metered-dose inhalers.

(5) Treatment of methyl chloroform

The tax imposed by section 4681 during 1993 by reason of the treatment of methyl chloroform as an ozone-depleting chemical shall be 63.02 percent of the amount of such tax which would (but for this paragraph) be imposed.

(h) Imposition of floor stocks taxes

(1) January 1, 1990, tax

On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

(2) Other tax-increase dates

(A) In general

If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

(B) Amount of tax

The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

(i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over

(ii) the prior tax (if any) imposed by this subchapter on such substance.

(C) Tax-increase date

For purposes of this paragraph, the term “tax-increase date” means January 1 of any calendar year after 1991.

(3) Due date

The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before June 30 of such year.

(4) Application of other laws

All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection.

(Added Pub. L. 101-239, title VII, §7506(a), Dec. 19, 1989, 103 Stat. 2365; amended Pub. L. 101-508, title XI, §§11203(a), (b), (d), 11701(g), Nov. 5, 1990, 104 Stat. 1388-421, 1388-422, 1388-508; Pub. L. 102-486, title XIX, §§1931(b), (c), 1932(a)-(c), Oct. 24, 1992, 106 Stat. 3029-3031.)

PRIOR PROVISIONS

A prior section 4682, 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.

AMENDMENTS

1992—Subsec. (g)(2)(A). Pub. L. 102-486, §1932(a), in table, for sales or use during 1993, decreased applicable percentages from 3.3, 1.0, and 1.6 to 2.49, 0.75, and 1.24 in the case of Halon-1211, Halon-1301, and Halon-2402, respectively, and struck out applicable percentages for sales or use during 1991 and 1992.

Subsec. (g)(2)(B). Pub. L. 102-486, §1931(b), in table decreased applicable percentage in the case of sales or use in 1993 from 10 to 7.46.

Subsec. (g)(4), (5). Pub. L. 102-486, §1932(b), (c), added pars. (4) and (5).

Subsec. (h)(2)(C). Pub. L. 102-486, §1931(c), substituted “any calendar year after 1991” for “1991, 1992, 1993, and 1994”.

1990—Subsecs. (a)(2), (b). Pub. L. 101-508, §11203(a), inserted items for “Carbon tetrachloride” through “CFC-217” in tables.

Subsec. (c)(2). Pub. L. 101-508, §11203(d)(1), inserted “(other than methyl chloroform)”.

Subsec. (d)(3)(B)(i). Pub. L. 101-508, §11701(g)(1), substituted “, produced, or imported” for “or produced” in introductory provisions.

Subsec. (d)(3)(B)(i)(I). Pub. L. 101-508, §11701(g)(2), amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: “the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and”.

Subsec. (d)(3)(B)(i)(II). Pub. L. 101-508, §11701(g)(3), substituted “tax which would (but for this subsection and subsection (g)) be imposed” for “tax imposed”.

Subsec. (d)(3)(B)(i)(III). Pub. L. 101-508, §11701(g)(4), added subcl. (III).

Subsec. (d)(3)(B)(ii). Pub. L. 101-508, §11701(g)(5), substituted last sentence for former last sentence which read as follows: “The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency.”

Subsec. (d)(3)(C). Pub. L. 101-508, §11203(b), added subpar. (C).

Subsec. (h)(3). Pub. L. 101-508, §11203(d)(2), substituted “June 30” for “April 1”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1931(b), (c) of Pub. L. 102-486 applicable to taxable chemicals sold or used on or after Jan. 1, 1993, see section 1931(d) of Pub. L. 102-486, set out as a note under section 4681 of this title.

Section 1932(d) of Pub. L. 102-486 provided that: “The amendments made by this section [amending this section] shall apply to sales and uses on or after January 1, 1993.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11203(a), (b), and (d) of Pub. L. 101-508 effective Jan. 1, 1991, see section 11203(e) of Pub. L. 101-508, set out as a note under section 4681 of this title.

Amendment by section 11701(g) of Pub. L. 101-508 effective, except as otherwise provided, as if included in the provision of the Revenue Reconciliation Act of 1989, Pub. L. 101-239, title VII, to which such amendment relates, see section 11701(n) of Pub. L. 101-508, set out as a note under section 42 of this title.

DEPOSITS FOR FIRST QUARTER OF 1991

Section 11203(f) of Pub. L. 101-508 provided that: “No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) [amending this section] shall be required to be made before April 1, 1991.”

CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

Sec.
4701. Tax on issuer of registration-required obligation not in registered form.

PRIOR PROVISIONS

The provisions of a prior chapter 39, Regulatory Taxes, were set out as:

Subchapter A, Narcotic Drugs and Marihuana, comprising sections 4701 to 4707, 4711 to 4716, 4721 to 4726,

4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, and 4771 to 4776.

Subchapter B, White phosphorus matches, comprising sections 4801 to 4806.

Subchapter C, Adulterated butter and filled cheese, comprising sections 4811 to 4819, 4821, 4822, 4826, 4831 to 4836, 4841, 4842, and 4846.

Subchapter D, Cotton futures, comprising sections 4851 to 4854, 4861 to 4865, and 4871 to 4877.

Subchapter E, Circulation other than of national banks, comprising sections 4881 to 4886.

Subchapter F, Silver bullion, comprising sections 4891 to 4897.

Prior sections 4701 to 4897 were based on act Aug. 16, 1954, ch. 736, 68A Stat. 549-592, as amended.

Sections 4701-4776 were repealed by Pub. L. 91-513, title III, §1101(b)(3)(A), Oct. 27, 1970, 84 Stat. 1292. See section 801 et seq. of Title 21, Food and Drugs.

Sections 4801-4826, 4851-4873, and 4875-4886 were repealed by Pub. L. 94-455, title XIX, §§1904(a)(16)-(18), 1952(b), Oct. 4, 1976, 90 Stat. 1814, 1841.

Sections 4831-4834 and 4836-4846 were repealed by Pub. L. 93-490, §3(a)(1), Oct. 26, 1974, 88 Stat. 1466.

Section 4835 was repealed by Pub. L. 85-881, §1(b)(1), Sept. 2, 1958, 72 Stat. 1704.

Section 4874 was repealed by Pub. L. 91-452, title II, §231(a), Oct. 15, 1970, 84 Stat. 930.

Sections 4891-4897 were repealed by Pub. L. 88-36, title II, §201(a), June 4, 1963, 77 Stat. 54.

AMENDMENTS

1982—Pub. L. 97-248, title III, §310(b)(4)(A), Sept. 3, 1982, 96 Stat. 597, added chapter heading and section analysis.

§ 4701. Tax on issuer of registration-required obligation not in registered form

(a) Imposition of tax

In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

- (1) 1 percent of the principal amount of such obligation, multiplied by
- (2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

(b) Definitions

For purposes of this section—

(1) Registration-required obligation

The term “registration-required obligation” has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 149(a).

(2) Registered form

The term “registered form” has the same meaning as when used in section 163(f).

(Added Pub. L. 97-248, title III, §310(b)(4)(A), Sept. 3, 1982, 96 Stat. 598; amended Pub. L. 99-514, title XIII, §1301(j)(5), Oct. 22, 1986, 100 Stat. 2657.)

AMENDMENTS

1986—Subsec. (b)(1). Pub. L. 99-514 substituted “section 149(a)” for “section 103(j)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an