AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 6342. Application of proceeds of levy

(a) Collection of liability

Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2)[1] thereof), or by sale of seized property) or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

(1) Expense of levy and sale

First, against the expenses of the proceedings;

(2) Specific tax liability on seized property

If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) Liability of delinquent taxpayer

The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

(b) Surplus proceeds

Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary to the person or persons legally entitled thereto.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89–719, title I, § 104(h), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

Section 6332(c), referred to in subsec. (a), was redesignated section 6332(d) by Pub. L. 100–647, title VI, § 6236(e)(1), Nov. 10, 1988, 102 Stat. 3739.

The internal revenue law, referred to in subsec. (a)(2), is classified generally to this title.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (a). Pub. L. 89–719 inserted in introductory provisions, references to an exception in the case of surrender under section 6332(c)(2) and to sale of property redeemed by the United States if the interest of the United States in such property was a lien arising under the provisions of this title, struck out ''under this subchapter'' after ''proceedings'' in par. (1), and inserted ''or the sale was conducted'' after ''levy was made'' in par. (3).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Deposit fund account containing surplus proceeds in sales under levy, see section 7809 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6207 of this title.

§ 6343. Authority to release levy and return property

(a) Release of levy and notice of release

(1) In general

Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

(B) release of such levy will facilitate the collection of such liability,

(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

(2) Expedited determination on certain business property

In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) Subsequent levy

The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

(b) Return of property

If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

(1) the specific property levied upon,

(2) an amount of money equal to the amount of money levied upon, or

(3) an amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned

[1] See References in Text note below.

at any time before the expiration of 9 months from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(c) Interest

Interest shall be allowed and paid at the overpayment rate established under section 6621—

(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days.

(d) Return of property in certain cases

If—

(1) any property has been levied upon, and

(2) the Secretary determines that—

(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the return of such property will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).

(e) Release of levy upon agreement that amount is not collectible

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89–719, title I, § 104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 4(a), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 99–514, title XV, § 1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100–647, title VI, § 6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104–168, title V, § 501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105–206, title I, § 1102(d)(1)(B), title III, § 3432(a), July 22, 1998, 112 Stat. 704, 759.)

AMENDMENTS

1998—Subsec. (d)(2)(D). Pub. L. 105–206, § 1102(d)(1)(B), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' in two places.

Subsec. (e). Pub. L. 105–206, § 3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104–168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100–647 inserted ''and notice of release'' after ''levy'' in heading and amended text generally. Prior to amendment, text read as follows: ''It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.''

1986—Subsec. (c). Pub. L. 99–514 substituted ''the overpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1979—Subsec. (c). Pub. L. 96–167 added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Pub. L. 89–719 inserted ''and return property'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102 of Pub. L. 105–206 effective July 22, 1998, see section 1102(f) of Pub. L. 105–206, set out as a note under section 7803 of this title.

Pub. L. 105–206, title III, § 3432(b), July 22, 1998, 112 Stat. 759, provided that: ''The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100–647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c)(1) of Pub. L. 96–167 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Period of limitation for collection where release of levy under this section occurs, see section 6502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6331, 6502, 6503, 6532 of this title.

§ 6344. Cross references

(a) Length of period

For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6502(a).

(b) Delinquent collection officers

For distraint proceedings against delinquent internal revenue officers, see section 7804(c).

(c) Other references

For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91–172, title I, § 101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93–406, title II, § 1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title XIII, § 1307(d)(2)(F)(v), title XVI, § 1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96–223, title I, § 101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100–418, title I, § 1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105–206, title I, § 1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–206 substituted ''section 7804(c)'' for ''section 7803(d)''.

1988—Subsec. (a)(1). Pub. L. 100–418 substituted ''or 44'' for ''44, or 45''.

1980—Subsec. (a)(1). Pub. L. 96–223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94–455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93–406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91–172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

[Subchapter E—Repealed]

[§§ 6361 to 6365. Repealed. Pub. L. 101–508, title XI, § 11801(a)(45), Nov. 5, 1990, 104 Stat. 1388–522]

Section 6361, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95–473, § 2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95–600, title IV, § 421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97–248, title II, § 201(d)(7), formerly § 201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97–448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97–354, § 5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97–424, title V, § 547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98–369, div. A, title IV, §§ 412(b)(6), 474(r)(35), title VII, § 721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99–514, title XIII, § 1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–620, title IV, § 402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94–455, title XIX, § 1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97–248, title III, §§ 307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter		Sec.[1]
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Subchapter A—Procedure in General

Sec.
6401. Amounts treated as overpayments.
6402. Authority to make credits or refunds.
6403. Overpayment of installment.
6404. Abatements.
6405. Reports of refunds and credits.
6406. Prohibition of administrative review of decisions.
6407. Date of allowance of refund or credit.
6408. State escheat laws not to apply.

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10621(b), Dec. 22, 1987, 101 Stat. 1330–452, added item 6408.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1464, 7422, 7851 of this title.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term ''overpayment'' includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

[1] Section numbers editorially supplied.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, and G of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89–44, title VIII, § 809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91–172, title III, § 331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91–258, title II, § 207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94–12, title II, § 204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94–455, title VII, § 701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95–600, title VII, § 701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95–618, title III, § 301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96–222, title I, § 103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96–223, title II, § 223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97–248, title III, §§ 307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98–369, div. A, title IV, § 474(r)(36), title VII, § 735(c)(16), July 18, 1984, 98 Stat. 846, 985; Pub. L. 99–514, title XII, § 1246(b), Oct. 22, 1986, 100 Stat. 2582; Pub. L. 100–647, title I, § 1012(s)(1)(B), Nov. 10, 1988, 102 Stat. 3527; Pub. L. 105–206, title VI, § 6022(a), July 22, 1998, 112 Stat. 824.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–206 substituted ''D, and G'' for ''and D''.

1988—Subsec. (b)(2). Pub. L. 100–647 amended last sentence generally, substituting ''credit so allowed by reason of section 1446'' for ''amount deducted and withheld under section 1446''.

1986—Subsec. (b)(2). Pub. L. 99–514 inserted last sentence.

1984—Subsec. (b). Pub. L. 98–369, § 474(r)(36), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If the amount allowable as credits under sections 31 (relating to tax withheld on wages) and 39 (relating to certain uses of gasoline and special fuels), and 43 (relating to earned income credit), exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, and 43), the amount of such excess shall be considered an overpayment. For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31.''

Pub. L. 98–369, § 735(c)(16), substituted ''and special fuels'' for '', special fuels, and lubricating oil''.

1983—Subsec. (b). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended by inserting '', interest, dividends, and patronage dividends'' after ''tax withheld on wages''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–247 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (d). Pub. L. 96–223 struck out subsec. (d) which made a cross reference to section 46(a)(9)(C) for a rule allowing a refund for excess investment credit attributable to solar or wind energy property.

Pub. L. 96–222 substituted ''46(a)(9)(C)'' for ''46(a)(10)(C)''.

1978—Subsec. (b). Pub. L. 95–600 inserted provisions relating to credit to a nonresident alien individual.

Subsec. (d). Pub. L. 95–618 added subsec. (d).

1976—Subsec. (b). Pub. L. 94–455 substituted ''wages) and'' and ''lubricating oil), and'' for ''wages),'' and ''lubricating oil),'', respectively; and pars. (2) and (3) made identical change: striking out ''and 667(b) (relating to taxes paid by certain trusts)'' after ''(relating to earned income credit)''.

1975—Subsec. (b). Pub. L. 94–12 inserted ''43 (relating to earned income credit),'' before ''and 667(b)'' and substituted '', 39, and 43'' for ''and 39''.

1970—Subsec. (b). Pub. L. 91–258 inserted reference to credits under section 39 relating to certain uses of special fuels.

1969—Subsec. (b). Pub. L. 91–172 struck out ''under sections 31 and 39'' after ''Excessive credits'' in heading and inserted in text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89–44 substituted ''Excessive credits under sections 31 and 39'' for ''Excessive withholding'' in heading and expanded text to include credits under section 39.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title VI, § 6022(b), July 22, 1998, 112 Stat. 824, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986 [Pub. L. 99–514].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1987, see section 1012(s)(1)(D) of Pub. L. 100–647, set out as a note under section 1446 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to distributions after Dec. 31, 1987, or, if earlier, the effective date of the initial regulations issued under section 1446 of this title, which date shall not be earlier than Jan. 1, 1987, see section 1246(d) of Pub. L. 99–514, set out as an Effective Date note under section 1446 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(36) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 735(c)(16) of Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–223 applicable to qualified investment for taxable years beginning after Dec. 31, 1979, see section 223(b)(3) of Pub. L. 96–223, set out as a note under section 46 of this title.

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600, to the extent amendment relates to chapter 1 or 5 of this title, applicable to taxable years ending on or after Dec. 31, 1975, and, to the extent amendment relates to wage withholding under chapter 24 of this title, applicable to remuneration paid on or after the first day of the first month which begins more than 90 days after Nov. 6, 1978, see section 701(u)(15)(E) of Pub. L. 95–600, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(h) of Pub. L. 94–455, set out as a note under section 667 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94–12, as amended, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–258 effective July 1, 1970, see section 211(a) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years beginning before Jan. 1, 1970, see section 331(d) of Pub. L. 91–172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

CROSS REFERENCES

Civil actions for refund, see section 7422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35, 6514 of this title.

§ 6402. Authority to make credits or refunds

(a) General rule

In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c), (d), and (e) refund any balance to such person.

(b) Credits against estimated tax

The Secretary is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary to be an overpayment of the income tax for a preceding taxable year.

(c) Offset of past-due support against overpayments

The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26)[1] or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.

(d) Collection of debts owed to Federal agencies

(1) In general

Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26)[1] of the Social Security Act and before such overpayment is reduced pursuant to subsection (e) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment

[1] See References in Text note below.

by such person shall be applied against such debts in the order in which such debts accrued.

(3) Treatment of OASDI overpayments

(A) Requirements

Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

(B) Notice; protection of other persons filing joint return

(i) Notice

In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

(ii) Adjustments based on protections given to other taxpayers on joint return

If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

(C) Deposit of amount of reduction into appropriate trust fund

In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Commissioner of Social Security, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Commissioner of Social Security.

(D) OASDI overpayment

For purposes of this paragraph, the term ''OASDI overpayment'' means any overpayment of benefits made to an individual under title II of the Social Security Act.

(e) Collection of past-due, legally enforceable State income tax obligations

(1) In general

Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

(2) Offset permitted only against residents of State seeking offset

Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

(3) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(4) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C)

is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

(5) Past-due, legally enforceable State income tax obligation

For purposes of this subsection, the term ''past-due, legally enforceable State income tax obligation'' means a debt—

(A)(i) which resulted from—

(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

(ii) which is no longer subject to judicial review; or

(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term ''State income tax'' includes any local income tax administered by the chief tax administration agency of the State.

(6) Regulations

The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(7) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(f) Review of reductions

No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c), (d), or (e). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency or State to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

(g) Federal agency

For purposes of this section, the term ''Federal agency'' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

(h) Treatment of payments to States

The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c) or (e) to a State shall be treated as a payment to the person or persons making the overpayment.

(i) Cross reference

For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.

(j) Refunds to certain fiduciaries of insolvent members of affiliated groups

Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

(k) Explanation of reason for refund disallowance

In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.

(Aug. 6, 1954, ch. 736, 68A Stat. 791; Pub. L. 94–455, title XIX, § 1906(b)(13) (A), (K), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 97–35, title XXIII, § 2331(c), Aug. 13, 1981, 95 Stat. 861; Pub. L. 98–369, div. B, title VI, § 2653(b)(1), (2), July 18, 1984, 98 Stat. 1154, 1155; Pub. L. 98–378, § 21(e), Aug. 16, 1984, 98 Stat. 1325; Pub. L. 100–647, title VI, § 6276, Nov. 10, 1988, 102 Stat. 3753; Pub. L. 101–508, title V, § 5129(c), Nov. 5, 1990, 104 Stat. 1388–288; Pub. L. 103–296, title I, § 108(h)(7), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104–134, title III, § 31001(u)(2), Apr. 26, 1996, 110 Stat. 1321–375; Pub. L. 104–193, title I, § 110(*l*)(7), Aug. 22, 1996, 110 Stat. 2173; Pub. L. 105–33, title V, § 5514(a)(1), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105–206, title III, §§ 3505(a), 3711(a), (c), July 22, 1998, 112 Stat. 771, 779, 781.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c), (d)(2), (3)(D), and (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 204, 464, and 471(a)(17) of the Act are classified to sections 404, 664, and 671(a)(17) of Title 42. Section 402 of the Act, which was classified to section 602 of Title 42, was re-

pealed and a new section 402 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112. As so enacted section 402 does not contain a subsec. (a)(26). For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3711(c)(1), substituted ''(c), (d), and (e)'' for ''(c) and (d)''.

Subsec. (d)(2). Pub. L. 105–206, § 3711(c)(2), substituted ''and before such overpayment is reduced pursuant to subsection (e) and before such overpayment'' for ''and before such overpayment''.

Subsec. (e). Pub. L. 105–206, § 3711(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–206, § 3711(a), (c)(3), redesignated subsec. (e) as (f) and substituted ''(c), (d), or (e)'' for ''(c) or (d)'' and ''Federal agency or State'' for ''Federal agency''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105–206, § 3711(a), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–206, § 3711(a), (c)(4), redesignated subsec. (g) as (h) and substituted ''subsection (c) or (e)'' for ''subsection (c)''. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 105–206, § 3711(a), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105–206, § 3711(a), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 105–206, § 3505(a), added subsec. (j).

Subsec. (k). Pub. L. 105–206, § 3711(a), redesignated subsec. (j) as (k).

1997—Subsecs. (a), (e) to (j). Pub. L. 105–33 repealed Pub. L. 104–193, § 110(*l*)(7). See 1996 Amendment notes below.

1996—Subsec. (a). Pub. L. 104–193, § 110(*l*)(7)(A), which directed substitution of ''(c), (d), and (e)'' for ''(c) and (d)'', was repealed by Pub. L. 105–33.

Subsec. (e). Pub. L. 104–193, § 110(*l*)(7)(C), which directed amendment by adding subsec. (e), reading as follows: ''COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).'', was repealed by Pub. L. 105–33.

Subsec. (f). Pub. L. 104–193, § 110(*l*)(7)(B), which directed amendment by redesignating subsec. (e) as (f), was repealed by Pub. L. 105–33.

Pub. L. 104–134 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).''

Subsecs. (g) to (j). Pub. L. 104–193, § 110(*l*)(7)(B), which directed amendment by redesignating subsecs. (f) to (i) as (g) to (j), respectively, was repealed by Pub. L. 105–33.

1994—Subsecs. (d)(3)(C), (e). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' wherever appearing.

1990—Subsec. (d)(1). Pub. L. 101–508, § 5129(c)(1)(A), struck out ''any OASDI overpayment and'' after ''(other than''.

Subsec. (d)(3). Pub. L. 101–508, § 5129(c)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.''

Subsec. (e). Pub. L. 101–508, § 5129(c)(2), inserted before period at end ''or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act''.

1988—Subsec. (i). Pub. L. 100–647 added subsec. (i).

1984—Subsec. (a). Pub. L. 98–369, § 2653(b)(2), substituted ''subsections (c) and (d)'' for ''subsection (c)''.

Subsec. (c). Pub. L. 98–378, § 21(e)(1), substituted ''collecting such support'' for ''to which such support has been assigned'' and inserted provision that a reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.

Subsecs. (d) to (f). Pub. L. 98–369, § 2653(b)(1), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 98–378, § 21(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 98–369, § 2653(b)(1), added subsec. (g).

Subsec. (h). Pub. L. 98–378, § 21(e)(2), redesignated former subsec. (g) as (h).

1981—Subsec. (a). Pub. L. 97–35, § 2331(c)(1), inserted reference to subsec. (c) of this section.

Subsec. (c). Pub. L. 97–35, § 2331(c)(2), added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3505(b), July 22, 1998, 112 Stat. 771, provided that: ''The amendment made by this section [amending this section] shall apply to disallowances after the 180th day after the date of the enactment of this Act [July 22, 1998].''

Amendment by section 3711 of Pub. L. 105–206 applicable to refunds payable under this section after Dec. 31, 1999, see section 3711(d) of Pub. L. 105–206, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105–33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5129(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section, section 3720A of Title 31, Money and Finance, and section 404 of Title 42, The Public Health and Welfare]—

''(1) shall take effect January 1, 1991, and

''(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) [enacting section 3720A of Title 31 and amending this section and sections 6103 and 7213 of this title] do not apply.''

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–378 applicable with respect to refunds payable under this section after Dec. 31, 1985, see section 21(g) of Pub. L. 98–378, set out as a note under section 6103 of this title.

Section 2653(c) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–203, title IX, § 9402(a), Dec. 22, 1987, 101 Stat. 1330–376; Pub. L. 100–485, title VII, § 701(a), Oct. 13, 1988, 102 Stat. 2425; Pub. L. 102–164, title IV, § 401(a), Nov. 15, 1991, 105 Stat. 1061, provided that: ''The amendments made by this section [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985.''

[Pub. L. 102–164, title IV, § 401(b), Nov. 15, 1991, 105 Stat. 1061, provided that: ''The amendment made by this section [amending section 2653(c) of Pub. L. 98–369, set out above] shall take effect on October 1, 1991.'']

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97–35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS

Pub. L. 104–191, title III, § 371, Aug. 21, 1996, 110 Stat. 2072, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

''(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

''(1) encourages organ and tissue donation;

''(2) includes a detachable organ and tissue donor card; and

''(3) urges recipients to—

''(A) sign the organ and tissue donor card;

''(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

''(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.''

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

Pub. L. 100–203, title IX, § 9402(b), Dec. 22, 1987, 101 Stat. 1330–376, provided that:

''(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

''(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

''(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.''

STUDY BY GENERAL ACCOUNTING OFFICE OF OPERATION AND EFFECTIVENESS OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

Pub. L. 100–203, title IX, § 9402(c), Dec. 22, 1987, 101 Stat. 1330–376, provided that: ''The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title]. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6331, 6403, 6512, 6513, 6861, 9502 of this title; title 42 section 664.

§ 6403. Overpayment of installment

In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402.

(Aug. 16, 1954, ch. 736, 68A Stat. 791.)

§ 6404. Abatements

(a) General rule

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) is excessive in amount, or

(2) is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) is erroneously or illegally assessed.

(b) No claim for abatement of income, estate, and gift taxes

No claim for abatement shall be filed by a taxpayer in respect of any assessment of any tax imposed under subtitle A or B.

(c) Small tax balances

The Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

(d) Assessments attributable to certain mathematical errors by Internal Revenue Service

In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(g)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of

notice and demand by the Secretary for payment of the deficiency.

(e) Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service

(1) In general

In the case of any assessment of interest on—

(A) any deficiency attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial or managerial act, or

(B) any payment of any tax described in section 6212(a) to the extent that any unreasonable error or delay in such payment is attributable to such an officer or employee being erroneous or dilatory in performing a ministerial or managerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

(2) Interest abated with respect to erroneous refund check

The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

(B) such erroneous refund exceeds $50,000.

(f) Abatement of any penalty or addition to tax attributable to erroneous written advice by the Internal Revenue Service

(1) In general

The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) Limitations

Paragraph (1) shall apply only if—

(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

(3) Initial regulations

Within 180 days after the date of the enactment of this subsection, the Secretary shall prescribe such initial regulations as may be necessary to carry out this subsection.

(g) Suspension of interest and certain penalties where Secretary fails to contact taxpayer

(1) Suspension

(A) In general

In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) beginning on the later of—

(i) the date on which the return is filed; or

(ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

(B) Separate application

This paragraph shall be applied separately with respect to each item or adjustment.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any penalty imposed by section 6651;

(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud;

(C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return; or

(D) any criminal penalty.

(3) Suspension period

For purposes of this subsection, the term ''suspension period'' means the period—

(A) beginning on the day after the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) under paragraph (1); and

(B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.

(h) Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas

(1) In general

If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

(2) Presidentially declared disaster area

For purposes of paragraph (1), the term ''Presidentially declared disaster area'' means,

with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(i) Review of denial of request for abatement of interest

(1) In general

The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(ii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary's final determination not to abate such interest.

(2) Special rules

(A) Date of mailing

Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

(B) Relief

Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

(C) Review

An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94–455, title XII, § 1212(a), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1712, 1834; Pub. L. 96–589, § 6(b)(2), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 99–514, title XV, § 1563(a), Oct. 22, 1986, 100 Stat. 2762; Pub. L. 100–647, title I, § 1015(n), title VI, § 6229(a), Nov. 10, 1988, 102 Stat. 3572, 3733; Pub. L. 104–168, title III, §§ 301(a), (b), 302(a), title VII, § 701(c)(3), July 30, 1996, 110 Stat. 1457, 1464; Pub. L. 105–206, title III, §§ 3305(a), 3309(a), July 22, 1998, 112 Stat. 743, 745; Pub. L. 105–277, div. J, title IV, § 4003(e)(2), Oct. 21, 1998, 112 Stat. 2681–909.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(3), is the date of enactment of Pub. L. 100–647, which was approved Nov. 10, 1988.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (h)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–206, § 3305(a), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–206, § 3309(a), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 105–206, § 3305(a), redesignated subsec. (g) as (h).

Subsec. (h)(2). Pub. L. 105–277 inserted ''Robert T. Stafford'' before ''Disaster''.

Subsec. (i). Pub. L. 105–206, § 3309(a), redesignated subsec. (h) as (i).

1996—Subsec. (e). Pub. L. 104–168, § 301(b), substituted ''Abatement of interest attributable to unreasonable errors'' for ''Assessments of interest attributable to errors'' in heading.

Subsec. (e)(1)(A), (B). Pub. L. 104–168, § 301(a), inserted ''unreasonable'' before ''error'' and substituted ''in performing a ministerial or managerial act'' for ''in performing a ministerial act''.

Subsec. (g). Pub. L. 104–168, § 302(a), added subsec. (g).

Subsec. (g)(1). Pub. L. 104–168, § 701(c)(3), substituted ''section 7430(c)(4)(A)(ii)'' for ''section 7430(c)(4)(A)(iii)''.

1988—Subsec. (e)(1)(B). Pub. L. 100–647, § 1015(n), inserted ''error or'' before ''delay'' and ''erroneous or'' before ''dilatory''.

Subsec. (f). Pub. L. 100–647, § 6229(a), added subsec. (f).

1986—Subsec. (e). Pub. L. 99–514 added subsec. (e).

1980—Subsec. (d). Pub. L. 96–589 substituted ''section 6213(g)(2)(A)'' for ''section 6213(f)(2)(A)''.

1976—Subsecs. (a), (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (d). Pub. L. 94–455, § 1212(a), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 4003(*l*) of Pub. L. 105–277, set out as a note under section 86 of this title.

Pub. L. 105–206, title III, § 3305(b), July 22, 1998, 112 Stat. 743, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, § 3309(b), (c), July 22, 1998, 112 Stat. 745, provided that:

''(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

''(c) EMERGENCY DESIGNATION.—

''(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act [2 U.S.C. 902(e)], Congress designates the provisions of this section as an emergency requirement.

''(2) The amendments made by subsections (a) and (b) of this section [amending this section] shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.''

[For message of the President dated July 22, 1998, designating the provisions of section 3309(a), (b) of Pub. L. 105–206 as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 on July 22, 1998, see Cong. Rec., vol. 144, p. H6160, Daily Issue.]

EFFECTIVE DATE OF 1996 AMENDMENT

Section 301(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act [July 30, 1996].''

Section 302(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply to requests for abatement after the date of the enactment of this Act [July 30, 1996].''

Section 701(d) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and sections 6656 and 7430 of this title] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(n) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the

provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Section 6229(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to advice requested on or after January 1, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1563(b) of Pub. L. 99–514 provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

''(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective on Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1212(b) of Pub. L. 94–455 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to returns filed for taxable years ending after the date of enactment of this Act [Oct. 4, 1976].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6213, 6230 of this title.

§ 6405. Reports of refunds and credits

(a) By Treasury to Joint Committee

No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44, in excess of $1,000,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation.

(b) Tentative adjustments

Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of $1,000,000, there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary shall determine the correct amount of the tax.

(c) Refunds attributable to certain disaster losses

If any refund or credit of income taxes is attributable to the taxpayer's election under section 165(i) to deduct a disaster loss for the taxable year immediately preceding the taxable year in which the disaster occurred, the Secretary is authorized in his discretion to make the refund or credit, to the extent attributable to such election, without regard to the provisions of subsection (a) of this section. If such refund or credit is made without regard to subsection (a), there shall thereafter be submitted to such Joint Committee a report containing the matter specified in subsection (a) as soon as the Secretary shall determine the correct amount of the tax for the taxable year for which the refund or credit is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 92–418, § 2(b), Aug. 29, 1972, 86 Stat. 657; Pub. L. 92–512, title II, § 203(a), Oct. 20, 1972, 86 Stat. 944; Pub. L. 94–455, title XII, § 1210(a), (b), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1711, 1834; Pub. L. 95–227, § 4(d)(3), Feb. 10, 1978, 92 Stat. 23; Pub. L. 98–369, div. A, title VII, § 711(c)(3), July 18, 1984, 98 Stat. 946; Pub. L. 99–514, title XVIII, § 1879(e), Oct. 22, 1986, 100 Stat. 2906; Pub. L. 101–508, title XI, §§ 11801(c)(21)(A), 11834(a), Nov. 5, 1990, 104 Stat. 1388–528, 1388–560.)

AMENDMENTS

1990—Subsecs. (a), (b). Pub. L. 101–508, § 11834(a) substituted ''$1,000,000'' for ''$200,000''.

Subsec. (d). Pub. L. 101–508, § 11801(c)(21)(A), struck out subsec. (d) which read as follows: ''For purposes of this section, a refund or credit made under subchapter E of chapter 64 (relating to Federal collection of qualified State individual income taxes) for a taxable year shall be treated as a portion of a refund or credit of the income tax for that taxable year.''

1986—Subsecs. (b) to (e). Pub. L. 99–514 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b) which read as follows: ''A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.''

1984—Subsec. (d). Pub. L. 98–369 substituted ''section 165(i)'' for ''section 165(h)''.

1978—Subsec. (a). Pub. L. 95–227 inserted provisions relating to applicability to public charities, operators' trust funds, or real estate investment trusts, and references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94–455, § 1210(a), inserted reference to any tax imposed with respect to private foundations and pensions under chapters 42 and 43, substituted $200,000 for $100,000 and struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §§ 1210(b), 1906(b)(13)(A), substituted ''$200,000'' for ''$100,000'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1972—Subsec. (d). Pub. L. 92–418 added subsec. (d).

Subsec. (e). Pub. L. 92–512 added subsec. (e).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11834(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990], except that such amendment shall not apply with respect to any refund or credit with respect to a report has been made before such date

of enactment under section 6405 of the Internal Revenue Code of 1986.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1210(d)(1) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of enactment of this Act [Oct. 4, 1976], except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of enactment of this Act [Oct. 4, 1976] under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 2(c) of Pub. L. 92–418 provided in part that: ''The amendment made by subsection (b) [amending this section] shall apply with respect to refunds or credits made after July 1, 1972.''

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(21)(A) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

CROSS REFERENCES

Applicability of revenue laws, see section 7851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7851, 8022 of this title.

§ 6406. Prohibition of administrative review of decisions

In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or nonallowance by the Secretary of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

The internal revenue laws, referred to in text, are classified generally to this title.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6611 of this title; title 31 section 713.

§ 6407. Date of allowance of refund or credit

The date on which the Secretary first authorizes the scheduling of an overassessment in respect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 793; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 6408. State escheat laws not to apply

No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law.

(Added Pub. L. 100–203, title X, § 10621(a), Dec. 22, 1987, 101 Stat. 1330–452.)

EFFECTIVE DATE

Section 10621(c) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987].''

Subchapter B—Rules of Special Application

Sec.
6411. Tentative carryback and refund adjustments.
6412. Floor stocks refunds.
6413. Special rules applicable to certain employment taxes.
6414. Income tax withheld.
6415. Credits or refunds to persons who collected certain taxes.
6416. Certain taxes on sales and services.

Sec.
[6417, 6418. Repealed.]
6419. Excise tax on wagering.
6420. Gasoline used on farms.
6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes.
6422. Cross references.
6423. Conditions to allowance in the case of alcohol and tobacco taxes.
[6424. Repealed.]
6425. Adjustment of overpayment of estimated income tax by corporation.
[6426. Repealed.]
6427. Fuels not used for taxable purposes.
[6428 to 6430. Repealed.]

AMENDMENTS

1990—Pub. L. 101–508, title XI, §11801(b)(15), (c)(22)(B)(ii), Nov. 5, 1990, 104 Stat. 1388–522, 1388–528, struck out item 6418 ''Sugar'' and item 6428 ''1981 rate reduction tax credit''.

1988—Pub. L. 100–418, title I, §1941(b)(3)(E), Aug. 23, 1988, 102 Stat. 1324, struck out items 6429 ''Credit and refund of chapter 45 taxes paid by royalty owners'' and 6430 ''Credit or refund of windfall profit taxes to certain trust beneficiaries''.

1986—Pub. L. 99–514, title XVII, §1703(c)(2)(E), Oct. 22, 1986, 100 Stat. 2777, substituted '', used by local transit systems, or sold for certain exempt purposes'' for ''or by local transit systems'' in item 6421.

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Pub. L. 97–448, title I, §106(a)(4)(D), Jan. 12, 1983, 96 Stat. 2390, added item 6430.

Pub. L. 97–424, title V, §515(b)(14), Jan. 6, 1983, 96 Stat. 2182, struck out item 6424 ''Lubricating oil used for certain nontaxable purposes''.

1982—Pub. L. 97–248, title II, §280(c)(2)(H), Sept. 3, 1982, 96 Stat. 565, struck out item 6426 ''Refund of aircraft use tax where plane transports for hire in foreign air commerce''.

Pub. L. 97–248, title III, §§307(a)(13), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, item 6413 is amended by substituting ''taxes under subtitle C'' for ''employment taxes''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97–34, title I, §101(b)(2)(A), Aug. 13, 1981, 95 Stat. 183, substituted ''1981 rate reduction tax credit'' for ''Refund of 1974 individual income taxes'' in item 6428.

1980—Pub. L. 96–499, title XI, §1131(a)(2), Dec. 5, 1980, 94 Stat. 2693, added item 6429.

1978—Pub. L. 95–618, title II, §233(b)(2)(B), Nov. 9, 1978, 92 Stat. 3191, substituted ''used for certain nontaxable purposes'' for ''not used in highway motor vehicles'' in item 6424.

Pub. L. 95–600, title V, §504(b)(1)(B), Nov. 6, 1978, 92 Stat. 2881, inserted ''and refund'' after ''carryback'' in item 6411.

1976—Pub. L. 94–455, title XIX, §1906(b)(7), Oct. 4, 1976, 90 Stat. 1834, struck out item 6417 ''Coconut and palm oil''.

1975—Pub. L. 94–12, title I, §101(c), Mar. 29, 1975, 89 Stat. 28, added item 6428.

1970—Pub. L. 91–258, title II, §§206(d)(4), 207(d)(12), May 21, 1970, 84 Stat. 246, 249, added items 6426 and 6427.

1968—Pub. L. 90–364, title I, §103(e)(9), June 28, 1968, 82 Stat. 264, added item 6425.

1958—Pub. L. 85–323, §2, Feb. 11, 1958, 72 Stat. 10, added item 6423.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(4), 70 Stat. 397, added item 6421 and renumbered former item 6421 as 6422.

Act Apr. 2, 1956, ch. 160, §4(c), 70 Stat. 91, added item 6420 and renumbered former item 6420 as 6421.

§ 6411. Tentative carryback and refund adjustments

(a) Application for adjustment

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused business credit;

(2) The amount of the tax previously determined for the prior taxable year affected by such carryback, the tax previously determined being ascertained in accordance with the method prescribed in section 1314(a);

(3) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) The unpaid amount of such tax, not including any amount required to be shown under paragraph (5);

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

(6) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

Except for purposes of applying section 6611(f)(3)(B),[1] an application under this subsection shall not constitute a claim for credit or refund.

(b) Allowance of adjustments

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which such carryback results, whichever is the later, the Secretary shall make, to the ex-

[1] See References in Text note below.

tent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused business credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused business credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(d) Tentative refund of tax under claim of right adjustment

(1) Application

A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

(A) be verified in the same manner as an application under subsection (a),

(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

(C) set forth in such detail and with such supporting data such regulations prescribe—

(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

(iii) the amount determined under section 1341(a)(5)(B),

(iv) the amount of the overpayment determined under section 1341(b)(1); and

(v) such other information as the Secretary may require.

(2) Allowance of adjustments

Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

(A) review the application,

(B) determine the amount of the overpayment, and

(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b).

(3) Consolidated returns

The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.

(Aug. 16, 1954, ch. 736, 68A Stat. 794; Pub. L. 89–721, § 2(a)–(e), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90–225, § 2(b), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91–172, title V, § 512(d), Dec. 30, 1969, 83 Stat. 639; Pub. L. 92–178, title VI, § 601(e)(1), Dec. 10, 1971, 85 Stat. 560; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2107(g)(1), Oct. 4, 1976, 90 Stat. 1834, 1904; Pub. L. 95–30, title II, § 202(d)(5)(A), May 23, 1977, 91 Stat. 150; Pub. L. 95–600, title V, § 504(a), (b)(1)(A), Nov. 6, 1978, 92 Stat. 2880, 2881; Pub. L. 96–222, title I, §§ 103(a)(6)(G)(xiii), 105(a)(2), Apr. 1, 1980, 94 Stat. 211, 218; Pub. L. 97–34, title II, § 221(b)(2)(B), title III, § 331(d)(2)(B), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 98–369, div. A, title IV, § 474(r)(37), title VII, § 714(n)(2)(B), July 18, 1984, 98 Stat. 846, 964; Pub. L. 99–514, title II, § 231(d)(3)(H), title XVIII, § 1847(b)(10), Oct. 22, 1986, 100 Stat. 2180, 2857; Pub. L. 100–647, title I, § 1002(h)(2), Nov. 10, 1988, 102 Stat. 3370.)

REFERENCES IN TEXT

Section 6611(f)(3)(B), referred to in subsec. (a), was redesignated section 6611(f)(4)(B) of this title by Pub. L. 105–34, title X, § 1055(b)(1), Aug. 5, 1997, 111 Stat. 944.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–647 struck out ''unused research credit,'' after ''net capital loss,''.

1986—Subsec. (a). Pub. L. 99–514, § 231(d)(3)(H), in introductory provisions, struck out ''by a research credit carryback provided in section 30(g)(2)'' after ''carryback provided in section 39,'', ''unused research credit,'' after ''net capital loss,'', ''a research credit carryback or'' after ''with respect to any portion of'', and ''(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)'' after ''such subsequent taxable year'', and in par. (1), struck out ''unused research credit,'' after ''net capital loss,''.

Pub. L. 99–514, § 1847(b)(10), substituted ''unused research credit, or unused business credit'' for ''or unused business credit''.

Subsec. (b). Pub. L. 99–514, § 231(d)(3)(H)(iv), struck out ''unused research credit,'' after ''net capital loss,'', in two places.

1984—Subsec. (a). Pub. L. 98–369, § 474(r)(37)(A), amended provisions preceding par. (1) generally. Prior to amendment, such provisions read as follows: ''A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), by a new employee credit carryback provided in section 53(b), by a research credit carryback provided in section 44F(g)(2)

by an employee stock ownership credit carryback provided by section 44G(b)(2), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit, from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback, a work incentive program carryback, a new employee credit carryback, a research credit carryback, or employee stock ownership credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback (or, in the case of a work incentive program carryback, to an investment credit carryback, or, in the case of a new employee credit carryback, to an investment credit carryback or a work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback) from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—''.

Pub. L. 98–369, §714(n)(2)(B), in provisions following par. (6), substituted ''Except for purposes of applying section 6611(f)(3)(B), an application'' for ''An application''.

Subsec. (a)(1). Pub. L. 98–369, §474(r)(37)(A), substituted ''unused research credit, or unused business credit'' for ''unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit''.

Subsecs. (b), (c). Pub. L. 98–369, §474(r)(37)(B), substituted ''unused research credit, or unused business credit'' for ''unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit'' wherever appearing.

1981—Subsec. (a). Pub. L. 97–34, §331(d)(2)(B), inserted in introductory provisions ''by an employee stock ownership credit carryback provided by section 44G(b)(2)'' after ''section 44F(g)(2),'' and substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit'', ''a research credit carryback, or employee stock ownership credit carryback'' for ''or a research credit carryback'', and ''new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback)'' for ''new employee credit carryback)'' and in par. (1) substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, §221(b)(2)(B), inserted in introductory provision ''by a research credit carryback provided in section 44F(g)(2),'' after ''section 53(b),'' and substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit'', ''a new employee credit carryback, or a research credit carryback'' for ''or a new employee credit carryback'', and ''work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or new employee credit carryback)'' for ''work incentive program carryback)'' and in par. (1) substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

Subsec. (b). Pub. L. 97–34, §331(d)(2)(B)(i), substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, §221(b)(2)(B)(i), substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

Subsec. (c). Pub. L. 97–34, §331(d)(2)(B)(i), substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, §221(b)(2)(B)(i), substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

1980—Subsec. (a). Pub. L. 96–222, §103(a)(6)(G)(xiii), substituted ''section 53(b)'' for ''section 53(c)''.

Subsec. (d)(2). Pub. L. 96–222, §105(a)(2), substituted ''the date of the overpayment (determined under section 1341(b)(1))'' for ''the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs''.

1978—Pub. L. 95–600, §504(b)(1)(A), inserted ''and refund'' after ''carryback'' in section catchline.

Subsec. (d). Pub. L. 95–600, §504(a), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–30, §202(d)(5)(A)(i) to (iv), inserted references to unused new employee credits and to new employee credit carrybacks in provisions preceding par. (1) and in par. (1).

Subsecs. (b), (c). Pub. L. 95–30, §202(d)(5)(A)(i), inserted references to unused new employee credits.

1976—Subsec. (a). Pub. L. 94–455, §§1906(b)(13)(A), 2107(g)(1), struck out ''or his delegate'' after ''Secretary'' and inserted ''(or, in the case of a work incentive program carryback, to an investment credit carryback)'' after ''capital loss carryback'' in second sentence.

Subsecs. (b), (c). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Pub. L. 92–178, §601(e)(1)(A), substituted ''unused investment credit, or unused work incentive program credit'' for ''or unused investment credit'' wherever appearing in subsecs. (a), (a)(1), (b), and (c).

Subsec. (a). Pub. L. 92–178, §601(e)(1)(B) and (C), inserted ''by a work incentive program carryback provided in section 50A(b),'' after ''section 46(b),'' in first sentence, and ''or a work incentive program carryback'' after ''investment credit carryback'' in second sentence, respectively.

1969—Subsec. (a). Pub. L. 91–172, §512(d)(1), (2), provided quick refund procedure, presently available in case of net operating loss carrybacks, to be made available in the case of the 3-year capital loss carryback, and substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit'' in par. (1).

Subsec. (b). Pub. L. 91–172, §512(d)(2), substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit'' wherever such term appears.

Subsec. (c). Pub. L. 91–172, §512(d)(2), substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit''.

1967—Subsec. (a). Pub. L. 90–225 inserted ''(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)'' after ''within a period of 12 months from the end of such taxable year''.

1966—Subsec. (a). Pub. L. 89–721, §2(a)–(c), provided in introductory text for a tentative carryback adjustment based on an investment credit carryback as provided for in section 46(b) of this title and and inserted ''or unused investment credit'' after ''the taxable year of the net operating loss'', inserted in par. (1) ''or unused investment'' after ''net operating loss'', and struck out in par. (5) ''of such loss'' and inserted in lieu thereof ''from which the carryback is made''.

Subsec. (b). Pub. L. 89–721, § 2(d), inserted ''or unused investment credit'' after ''net operating loss'' in two places.

Subsec. (c). Pub. L. 89–721, § 2(d), (e), inserted ''or unused investment credit'' after ''net operating loss'' and ''or credit'' after ''such loss''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 231(d)(3)(H) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99–514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(10) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(37) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 714(n)(2)(B) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

Notwithstanding section 715 of Pub. L. 98–369, amendment by section 714(n)(2)(B) of Pub. L. 98–369 applicable only to applications filed after July 18, 1984, see section 1875(d)(3) of Pub. L. 99–514, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(B) of Pub. L. 97–34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97–34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(B) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97–34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(c) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section and sections 6213 and 6501 of this title] shall apply to tentative refund claims filed on and after the date of the enactment of this Act [Nov. 6, 1978].''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(g) of Pub. L. 89–721, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and section 6501 of this title] shall apply with respect to taxable years ending after December 31, 1961, but only in the case of applications filed after the date of the enactment of this Act [Nov. 2, 1966]. The period of 12 months referred to in the second sentence of section 6411(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this section) for filing an application for a tentative carryback adjustment of tax attributable to the carryback of any unused investment credit shall not expire before the close of December 31, 1966.''

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

CROSS REFERENCES

Extension of time for payment of taxes by corporations expecting net operating loss carrybacks, see section 6164 of this title.

Limitations on credit or refund, see section 6511 of this title.

Restrictions applicable to deficiencies; petition to Tax Court, see section 6213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6040, 6164, 6213, 6405, 6501, 6511, 6515, 6611 of this title.

§ 6412. Floor stocks refunds

(a) In general

(1) Tires and taxable fuel

Where before October 1, 2005, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, 2005, if claim for such credit or refund is filed with the Secretary on or before March 31, 2006, based upon a request submitted to the manufacturer, producer, or importer before January 1, 2006, by

the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, 2006, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to taxable fuel in retail stocks held at the place where intended to be sold at retail, nor with respect to taxable fuel held for sale by a producer or importer of taxable fuel.

(2) Definitions

For purposes of this section—

(A) The term ''dealer'' includes a wholesaler, jobber, distributor, or retailer.

(B) An article shall be considered as ''held by a dealer'' if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(b) Limitation on eligibility for credit or refund

No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed under this section.

(c) Other laws applicable

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4071 and 4081 shall, insofar as applicable and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 795; Mar. 30, 1955, ch. 18, § 3(b)(4), 69 Stat. 15; Mar. 29, 1956, ch. 115, § 3(b)(4), 70 Stat. 67; May 29, 1956, ch. 342, § 19, 70 Stat. 221; June 29, 1956, ch. 462, title II, § 208(a), 70 Stat. 392; Pub. L. 85–12, § 3(b)(4), Mar. 29, 1957, 71 Stat. 10; Pub. L. 85–475, § 3(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, § 162(a), Sept. 2, 1958, 72 Stat. 1306; Pub. L. 86–75, § 3(b)(3), June 30, 1959, 73 Stat. 158; Pub. L. 86–342, title II, § 201(c)(4), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86–564, title II, § 202(b)(3), June 30, 1960, 74 Stat. 291; Pub. L. 86–592, § 2, July 6, 1960, 74 Stat. 330; Pub. L. 87–15, § 2(b), Mar. 31, 1961, 75 Stat. 40; Pub. L. 87–61, title II, § 206 (c), (d), June 29, 1961, 75 Stat. 127; Pub. L. 87–72, § 3(b)(3), June 30, 1961, 75 Stat. 193; Pub. L. 87–456, title III, § 302(d), May 24, 1962, 76 Stat. 77; Pub. L. 87–508, § 3(b)(3), June 28, 1962, 76 Stat. 114; Pub. L. 87–535, § 18(b), July 13, 1962, 76 Stat. 166; Pub. L. 88–52, § 3(b)(1)(C), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(b)(1)(C), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title II, § 209(a), (d), June 21, 1965, 79 Stat. 141, 144; Pub. L. 89–368, title II, § 201(b), Mar. 15, 1966, 80 Stat. 66; Pub. L. 90–285, § 1(a)(2), Apr. 12, 1968, 82 Stat. 92; Pub. L. 90–364, title I, § 105(a)(2), June 28, 1968, 82 Stat. 265; Pub. L. 91–172, title VII, § 702(a)(2), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91–605, title III, § 303(b), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 91–614, title II, § 201(a)(2), Dec. 31, 1970, 84 Stat. 1843; Pub. L. 92–178, title IV, § 401(g)(5), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94–280, title III, § 303(b), May 5, 1976, 90 Stat. 457; Pub. L. 94–455, title XIX, § 1906(a)(22), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1834; Pub. L. 95–599, title V, § 502(c), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95–618, title II, § 231(f)(1), Nov. 9, 1978, 92 Stat. 3189; Pub. L. 97–424, title V, § 516(a)(5), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 98–369, div. A, title VII, § 735(c)(12), July 18, 1984, 98 Stat. 983; Pub. L. 100–17, title V, § 502(d)(1), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101–508, title XI, § 11211(f)(1), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, § 8002(c)(1), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, § 13242(d)(16), Aug. 10, 1993, 107 Stat. 524; Pub. L. 105–178, title IX, § 9002(a)(2)(A), June 9, 1998, 112 Stat. 499.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–178 substituted ''2005'' for ''1999'' and ''2006'' for ''2000'' wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103–66 substituted ''taxable fuel'' for ''gasoline'' wherever appearing in heading and text.

1991—Subsec. (a)(1). Pub. L. 102–240 substituted ''1999'' for ''1995'' and ''2000'' for ''1996'' wherever appearing.

1990—Subsec. (a)(1). Pub. L. 101–508 substituted ''1995'' for ''1993'' and ''1996'' for ''1994'' wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100–17 substituted ''1993'' for ''1988'' and ''1994'' for ''1989'' wherever appearing.

1984—Subsec. (a)(1). Pub. L. 98–369, § 735(c)(12)(A), (B), substituted ''Tires and gasoline'' for ''Trucks, tires, tubes, tread rubber, and gasoline'' in heading, and in text substituted ''Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,'' for ''Where before October 1, 1988, any article subject to the tax imposed by section 4061(a)(1), 4071((a)(1), (3) or (4), or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use),'', and struck out provision that no credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).

Subsec. (a)(2)(A). Pub. L. 98–369, § 735(c)(12)(C), substituted ''The term 'dealer' includes a wholesaler, jobber, distributor, or retailer'' for ''The term 'dealer' includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use''.

Subsec. (c). Pub. L. 98–369, § 735(c)(12)(D), substituted ''4071'' for ''4061, 4071,''.

1983—Subsec. (a)(1). Pub. L. 97–424, § 516(a)(5), substituted ''1989'' for ''1985'' and ''1988'' for ''1984'' wherever appearing.

1978—Subsec. (a)(1). Pub. L. 95–618 struck out ''and buses'' after ''Trucks'' in heading.

Pub. L. 95–599 substituted ''1984'' for ''1979'' and ''1985'' for ''1980'' wherever appearing.

1976—Subsec. (a)(1). Pub. L. 94–455, § 1906(a)(22), (b)(13)(A), redesignated par. (2) as (1) and struck out ''or his delegate'' after ''Secretary''. Prior par. (1) had been repealed by Pub. L. 92–178, title IV, § 401(g)(5), Dec. 10, 1971, 85 Stat. 533.

Subsec. (a)(2). Pub. L. 94–455, § 1906(a)(22), redesignated par. (4) as (2). Former par. (2) redesignated (1).

Pub. L. 94–280 substituted ''1979'' for ''1977'' in two places and ''1980'' for ''1978'' in three places, respectively.

Subsec. (a)(4). Pub. L. 94–455, § 1906(a)(22), redesignated par. (4) as (2).

1971—Subsec. (a)(1). Pub. L. 92–178 struck out par. (1) which related to general rule for floor stocks refunds on passenger automobiles, etc.

1970—Subsec. (a)(1). Pub. L. 91–614 substituted ''January 1 of 1973, 1974, 1978, 1979, 1980, 1981, or 1982'' for ''January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974''.

Subsec. (a)(2). Pub. L. 91–605 substituted in two places ''1977'' for ''1972'' and ''March 31, 1978'' for ''February 10, 1973'', and substituted ''January 1, 1978'' for ''January 1, 1973''.

1969—Subsec. (a)(1). Pub. L. 91–172 struck out reference to Jan. 1, 1970, and inserted reference to Jan. 1, 1974.

1968—Subsec. (a)(1). Pub. L. 90–364 substituted ''January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973,'' for ''May 1, 1968, or January 1, 1969,''.

Pub. L. 90–285 substituted ''May 1, 1968'' for ''April 1, 1968''.

1966—Subsec. (a)(1). Pub. L. 89–368 substituted ''January 1, 1966, April 1, 1968, or January 1, 1969,'' for ''January 1, 1966, 1967, 1968, or 1969,''.

1965—Subsec. (a)(1). Pub. L. 89–44, § 209(a), made floor stock refunds available with respect to passenger cars in dealers' inventories on the various reduction dates for the passenger car tax and required claims for credit or refund to be filed on or before the 10th day of the 8th calendar month beginning after the date of the tax reduction.

Subsec. (e). Pub. L. 89–44, § 209(d), repealed subsec. (e) which related to cross reference.

1964—Subsec. (a)(1). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964'' in two places, ''October 1, 1965'' for ''October 1, 1964'', and ''November 10, 1965'' for ''November 10, 1964'' in two places.

1963—Subsec. (a)(1). Pub. L. 88–52 substituted ''July 1, 1964'' for ''July 1, 1963'', in two places, ''October 1, 1964'' for ''October 1, 1963'', and ''November 10, 1964'' for ''November 10, 1963'' in two places.

1962—Subsec. (a)(1). Pub. L. 87–508 substituted ''July 1, 1963'' for ''July 1, 1962'' in two places, ''October 1, 1963'' for ''October 1, 1962'', and ''November 10, 1963'' for ''November 10, 1962'' in two places.

Subsec. (d). Pub. L. 87–456 repealed subsec. (d) which related to floor stock refunds with respect to any sugar or articles composed in chief value of sugar.

Pub. L. 87–535 substituted ''June 30, 1967'' for ''December 31, 1962'' after ''paid and which, on'', and ''September 30, 1967'' for ''March 31, 1963'' after ''delegate on or before''.

1961—Subsec. (a)(1). Pub. L. 87–72 substituted ''July 1, 1962'' for ''July 1, 1961'' in two places, ''October 1, 1962'' for ''October 1, 1961'', and ''November 10, 1962'' for ''November 10, 1961'' in two places.

Subsec. (a)(2). Pub. L. 87–61, § 206(c), inserted tubes in heading, authorized credit or refund for articles subject to the tax imposed by section 4071(a)(3), prohibited credit or refund with respect to inner tubes for bicycle tires, and substituted ''October 1, 1972'' for ''July 1, 1972'' in two places, ''February 10, 1973'' for ''November 10, 1972'' in two places, and ''January 1, 1973'' for ''October 1, 1972''.

Subsec. (a)(3). Pub. L. 87–61, § 206(d), repealed par. (3) which related to 1961 floor stocks refund on gasoline.

Subsec. (d). Pub. L. 87–15 substituted ''December 31, 1962'' for ''September 30, 1961'' after ''paid and which, on'', and ''March 31, 1963'' for ''September 30, 1961'' after ''delegate on or before''.

1960—Subsec. (a)(1). Pub. L. 86–564 substituted ''July 1, 1961'' for ''July 1, 1960'' in two places, ''October 1, 1961'' for ''October 1, 1960'', and ''November 10, 1961'' for ''November 10, 1960'' in two places.

Subsec. (d). Pub. L. 86–592 substituted ''September 30, 1961'' for ''June 30, 1961'' after ''and which, on''.

1959—Subsec. (a)(1). Pub. L. 86–75 substituted ''July 1, 1960'' for ''July 1, 1959'' in two places, ''October 1, 1960'' for ''October 1, 1959'' and ''November 10, 1960'' for ''November 10, 1959'' in two places.

Subsec. (a)(3), (4). Pub. L. 86–342 added par. (3) and redesignated former par. (3) as (4).

1958—Subsec. (a)(1). Pub. L. 85–475 substituted ''July 1, 1959'' for ''July 1, 1958'' in two places, ''October 1, 1959'' for ''October 1, 1958'', and ''November 10, 1959'' for ''November 10, 1958'' in two places.

Subsec. (d). Pub. L. 85–859 required filing of claims for refund on or before Sept. 30, 1961.

1957—Subsec. (a)(1). Pub. L. 85–12, substituted ''July 1, 1958'' for ''April 1, 1957'' in two places, ''October 1, 1958'' for ''July 1, 1957'', and ''November 10, 1958'' for ''August 10, 1957'' in two places.

1956—Subsec. (a). Act June 29, 1956, in par. (1), substituted ''April 1, 1957'' for ''April 1, 1956'' in two places, ''section 4061(a)(2)'' for ''section 4061 (a) or (b)'', and inserted provisions requiring claims for refund to be made on or before August 10, 1957, inserted provisions relating to trucks and buses, tires, tread rubber, and gasoline as par. (2), defined ''dealer'' in the case of tread rubber subject to tax under section 4071(a)(4) of this title in par. (3), and struck out pars. (4) and (5). Former par. (4), which related to reimbursement of dealers, was covered generally by pars. (1) and (2). Former par. (5) was covered by subsec. (b).

Act Mar. 29, 1956, substituted ''April 1, 1957'' for ''April 1, 1956'' in two places, and ''July 1, 1957'' for ''July 1, 1956''.

Subsec. (b). Act June 29, 1956, redesignated par. (5) of subsec. (a) as subsec. (b) and substituted ''manufacturer, producer, or importer'' for ''person'', and struck out provisions that required claims for credit or refund to be filed before July 1, 1956. Former subsec. (b) was covered by par. (2) of subsec. (a).

Act Mar. 29, 1956, substituted ''April 1, 1957'' for ''April 1, 1956'' in three places, and ''July 1, 1957'' for ''July 1, 1956''.

Subsec. (c). Act June 29, 1956, included taxes imposed by section 4071 of this title.

Subsec. (d). Act May 29, 1956, substituted ''1961'' for ''1957''.

1955—Subsecs. (a), (b). Act Mar. 30, 1955, substituted ''April 1, 1956'' for ''April 1, 1955'' and ''July 1, 1956'' for ''July 1, 1955'' wherever appearing.

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–618 applicable with respect to articles sold after Nov. 9, 1978, see section 231(g) of Pub. L. 95–618, set out as a note under section 4222 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92–178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 105(c) of Pub. L. 90–364 provided that: ''The amendments made by this section [amending this section and sections 4061 and 4251 of this title] shall take effect as of April 30, 1968.''

Section 1(b) of Pub. L. 90–285 provided that: ''The amendments made by subsection (a) [amending this section and sections 4061 and 4251 of this title] shall take effect as of March 31, 1968.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective June 22, 1965, see section 701(a) of Pub. L. 89–44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–535 effective Jan. 1, 1962, see section 19(a) of Pub. L. 87–535.

Amendment by Pub. L. 87–456 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.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective June 29, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENTS

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

Amendment by act May 29, 1956, effective as of Jan. 1, 1956, see section 22 of act May 29, 1956.

FLOOR STOCK REFUNDS

Section 209(b) of Pub. L. 89–44 provided that where any article subject to taxes under section 4111, 4121, 4141, 4151, 4161, 4191 or 4451 of this title before June 21, 1965, or subject to taxes under section 4061(b), 4091(1), or 4131 of this title before Jan. 1, 1966, had been sold by the manufacturer, importer or producer and on such date held by the dealer and not used, there was to be credited or refunded to the manufacturer, importer or producer an amount equal to the difference between the tax paid by him on his sale of the article and the amount of tax made applicable to the article on such date where certain conditions were satisfactorily met.

EXTENSION OF TIME FOR FILING CLAIMS FOR FLOOR STOCKS REFUNDS

Pub. L. 91–642, §1, Dec. 31, 1970, 84 Stat. 1880, provided that if a claim for credit or refund was filed by a manufacturer, importer or producer on or before the 90th day after Dec. 31, 1970, such filing was deemed to have satisfied the requirements of section 209(b)(1)(A) of Pub. L. 89–44 for filing on or before Feb. 10, 1966, or Aug. 10, 1966.

REFUNDS RESPECTING CONSUMER PURCHASES

Section 209(c) of Pub. L. 89–44 provided that if after May 14, 1965, but before June 21, 1965, a new automotive item subject to the tax imposed by section 4061(a)(2) of this title, or a new self-contained air-conditioning unit subject to the tax imposed by section 4111 of this title, had been sold to an ultimate purchaser, there was to be credited or refunded to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the tax made applicable to the article on such date if certain conditions were met.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6511, 6612, 9503 of this title; title 16 section 460*l*–11; title 42 section 430.

§ 6413. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Overpayments of certain employment taxes

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(c) Special refunds

(1) In general

If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be en-

titled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a)), or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term ''wages'' as used in this paragraph shall, for purposes of this paragraph, include ''compensation'' as defined in section 3231(e).

(2) Applicability in case of Federal and State employees, employees of certain foreign affiliates, and governmental employees in Guam, American Samoa, and the District of Columbia

(A) Federal employees

In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer; and the term ''wages'' includes for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) State employees

For purposes of this subsection, in the case of remuneration received during any calendar year, the term ''wages'' includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term ''employer'' includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term ''tax'' or ''tax imposed by section 3101(a)'' includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) Employees of certain foreign affiliates

For purposes of paragraph (1) of this subsection, the term ''wages'' includes such remuneration for services covered by an agreement made pursuant to section 3121(*l*) as would be wages if such services constituted employment; the term ''employer'' includes any American employer which has entered into an agreement pursuant to section 3121(*l*); the term ''tax'' or ''tax imposed by section 3101(a),'' includes, in the case of services covered by an agreement entered into pursuant to section 3121(*l*), an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121(*l*) has been paid to the Secretary.

(D) Governmental employees in Guam

In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section 3125(b) shall, for purposes of this subsection, be deemed a separate employer.

(E) Governmental employees in American Samoa

In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section 3125(c) shall, for purposes of this subsection, be deemed a separate employer.

(F) Governmental employees in the District of Columbia

In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125(d) shall, for purposes of this subsection, be deemed a separate employer.

(G) Employees of States and political subdivisions

In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.

(d) Refund or credit of Federal unemployment tax

Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

(Aug. 16, 1954, ch. 736, 68A Stat. 797; Sept. 1, 1954, ch. 1206, title II, § 202(a)(1), (b)(1)–(3), 68 Stat. 1089, 1090; Pub. L. 85–840, title IV, § 402(d), Aug. 28, 1958, 72 Stat. 1043; Pub. L. 86–778, title I, § 103(r)(2)–(4), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89–97, title III, §§ 317(e), (f), 320(b)(5), (6), July 30, 1965, 79 Stat. 389, 390, 393, 394; Pub. L. 90–248, title I, § 108(b)(5), (6), title V, § 502(a), Jan. 2, 1968, 81 Stat. 835, 934; Pub. L. 92–5, title II, § 203(b)(5), (6), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, § 203(b)(5), (6), July 1, 1972, 86 Stat. 419, 420; Pub. L. 92–603, title I, § 144(c), Oct. 30, 1972, 86 Stat. 1370; Pub. L. 93–66, title II, § 203(b)(5), (6), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, § 5(b)(5), (6), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–445, title V, § 502, Oct. 16, 1974, 88 Stat. 1360; Pub. L. 94–455, title XIX, § 1906(a)(23)(A), (B)(i), (ii), (C), (D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1827, 1834; Pub. L. 97–248, title III, §§ 302(c), 307(a)(10)–(12), 308(a), Sept. 3, 1982, 96 Stat. 586, 589–591; Pub. L. 98–21, title III, § 321(e)(4), Apr. 20, 1983, 97 Stat. 120; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–272, title XIII, § 13205(a)(2)(E), Apr. 7, 1986, 100 Stat. 315; Pub. L. 101–508, title XI, § 11331(d)(1), Nov. 5, 1990, 104 Stat. 1388–468; Pub. L. 103–66, title XIII, § 13207(d)(1)–(3), Aug. 10, 1993, 107 Stat. 468.)

REFERENCES IN TEXT

Section 230 of the Social Security Act, referred to in subsec. (c)(1), (2)(A), is classified to section 430 of Title 42, The Public Health and Welfare.

Section 218 of the Social Security Act, referred to in subsec. (c)(2)(B), is classified to section 418 of Title 42.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, § 13207(d)(1), substituted "section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))" for "section 3101 or section 3201".

Subsec. (c)(2)(B), (C). Pub. L. 103–66, § 13207(d)(2), substituted "section 3101(a)" for "section 3101" wherever appearing.

Subsec. (c)(3). Pub. L. 103–66, § 13207(d)(3), struck out heading and text of par. (3). Text read as follows: "In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

1990—Subsec. (c)(3). Pub. L. 101–508 substituted heading for one which read: "Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act" and amended text generally. Prior to amendment, text read as follows: "In the case of any individual who, during any calendar year, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted."

1986—Subsec. (a)(5). Pub. L. 99–272, § 13205(a)(2)(E)(i), added par. (5).

Subsec. (c)(2)(D) to (F). Pub. L. 99–272, § 13205(a)(2)(E)(ii)(I), substituted "3125(b)", "3125(c)", and "3125(d)" for "3125(a)", "3125(b)", and "3125(c)", respectively, in subpars. (D), (E), and (F), respectively.

Subsec. (c)(2)(G). Pub. L. 99–272, § 13205(a)(2)(E)(ii)(II), added subpar. (G).

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (c)(2). Pub. L. 98–21, § 321(e)(4)(B), substituted "foreign affiliates" for "foreign corporations" in heading.

Subsec. (c)(2)(C). Pub. L. 98–21, § 321(e)(4)(A), substituted "foreign affiliates" for "foreign corporations" in heading and, in text, substituted "American employer" for "domestic corporation".

1982—Catchline and subsecs. (a)(1), (b), (c)(1). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the section catchline is amended by substituting "taxes under subtitle C" for "employment taxes"; subsec. (a)(1) is amended by substituting "3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts," for "or 3402 is paid with respect to any payment of remuneration,"; subsec. (b) is amended by striking out "of certain employment taxes" from heading, and by substituting "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount"; and subsec. (c)(1) is amended by substituting "section 31(c)" for "section 31(b)". Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (a)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (a)(4). Pub. L. 94–455, § 1906(a)(23)(A), substituted "Mayor of the District of Columbia and each agent designated by him" for "Commissioners of the District of Columbia and each agent designated by them".

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (c)(1). Pub. L. 94–455, § 1906(a)(23)(B)(i), struck out "or his delegate" after "Secretary" and substituted general provision for entitlement to credit or refund of employment taxes deducted from an employee receiving wages from more than one employer during a calendar year and in excess of employment taxes with respect to amount of wages received in the calendar year equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to such calendar year for prior specific provisions for such credit or refund of employment taxes deducted in excess of prescribed amount for base limits and applicable periods set forth below:

Amount	*After Calendar Year*	*Prior to Calendar Year*
$3,600	1950	1955
$4,200	1954	1959
$4,800	1958	1966
$6,600	1965	1968
$7,800	1967	1972
$9,000	1971	1973
$10,800	1972	1974
$13,200	1973	1975

and amount equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to calendar year after calendar year 1974, and thereafter.

Subsec. (c)(2)(A). Pub. L. 94–455, § 1906(a)(23)(B)(ii), substituted "the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year" for "the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, $4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, $6,600 for the calendar year 1966 or 1967, $7,800 for the calendar year 1968, 1969, 1970, or 1971, $9,000 for the cal-

endar year 1972, $10,800 for the calendar year 1973, $13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974'' before ''with respect to which such contribution and benefit base is effective''.

Subsec. (c)(2)(C). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(2)(F). Pub. L. 94–455, §1906(a)(23)(C), substituted ''Mayor of the District of Columbia and each agent designated by him'' for ''Commissioners of the District of Columbia and each agent designated by them''.

Subsec. (c)(3). Pub. L. 94–455, §1906(a)(23)(D), struck out ''after 1967'' after ''calendar year''.

1974—Subsec. (c)(1). Pub. L. 93–445 inserted ''or section 3201, or by both such sections'' after ''section 3101'' and inserted provision that for purposes of subsec. (c)(1) the term ''wages'' include compensation as defined in section 3231(e).

1973—Subsec. (c)(1). Pub. L. 93–233, §5(b)(5), substituted ''$13,200'' for ''$12,600'' whenever appearing.

Pub. L. 93–66, §203(b)(5), substituted ''$12,600'' for ''$12,000'' wherever appearing.

Subsec. (c)(2)(A). Pub. L. 93–233, §5(b)(6), substituted ''$13,200'' for ''$12,600''.

Pub. L. 93–66, §203(b)(6), substituted ''$12,600'' for ''$12,000''.

1972—Subsec. (c)(1). Pub. L. 92–336, §203(b)(5), inserted ''and prior to the calendar year 1973'' after ''after the calendar year 1971'', inserted provisions of cls. (F) to (H), and provisions relating to wages received after 1971 and before 1973, after 1972 and before 1974, after 1973 and before 1975, and the calendar year after 1974.

Subsec. (c)(2)(A). Pub. L. 92–336, §203(b)(6), as amended by Pub. L. 92–603, §144(c), eff. July 1, 1972, inserted provisions relating to amounts to be included within the term ''wages'' for the calendar years 1972, 1973, 1974, or any calendar year after 1974.

1971—Subsec. (c)(1). Pub. L. 92–5, §203(b)(5), inserted ''and prior to the calendar year 1972'' after ''after the calendar year 1967'', ''or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed $9,000,'' after ''exceed $7,800,'' and inserted before the period at end of subpar. (1) ''and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971''.

Subsec. (c)(2)(A). Pub. L. 92–5, §203(b)(6), substituted ''$7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for any calendar year after 1971'' for ''or $7,800 for any calendar year after 1967''.

1968—Subsec. (c)(1). Pub. L. 90–248, §108(b)(5), inserted ''and prior to the calendar year 1968'' after ''the calendar year 1965'', ''or (D) during any calendar year after the calendar year 1967, the wages received by him during such year exceed $7,800,'' after ''exceed $6,600,'', and ''and before 1968, or which exceeds the tax with respect to the first $7,800 of such wages received in such calendar year after 1967''.

Subsec. (c)(2)(A). Pub. L. 90–248, §108(b)(6), substituted ''$6,600 for the calendar year 1966 or 1967, or $7,800 for any calendar year after 1967'' for ''or $6,600 for any calendar year after 1965''.

Subsec. (c)(3). Pub. L. 90–248, §502(a), added par. (3).

1965—Subsec. (a)(4). Pub. L. 89–97, §317(e), added par. (4).

Subsec. (c)(1). Pub. L. 89–97, §320(b)(5), inserted ''and prior to the calendar year 1966'' after ''the calendar year 1958'', ''or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed $6,600'' after ''exceed $4,800,'', and ''and before 1966, or which exceeds the tax with respect to the first $6,600 of such wages received in such calendar year after 1965'' before the period at end of par.

Subsec. (c)(2)(A). Pub. L. 89–97, §320(b)(6), substituted ''$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or $6,600 for any calendar year after 1965'' for ''or $4,800 for any calendar year after 1958''.

Subsec. (c)(2)(F). Pub. L. 89–97, §317(f)(1), added subpar. (F) and inserted reference to the District of Columbia in heading.

1960—Subsec. (a)(3). Pub. L. 86–778, §103(r)(2), added par. (3).

Subsec. (c)(2). Pub. L. 86–778, §103(r) (3), (4), inserted governmental employees in Guam and American Samoa in heading, and added subpars. (D) and (E).

1958—Subsec. (c)(1). Pub. L. 85–840, §402(d)(1), conformed the special-refund provisions to the increase made by Pub. L. 85–840, in the limitation on wages from $4,200 to $4,800 for calendar years after 1958.

Subsec. (c)(2)(A). Pub. L. 85–840, §402(d)(2), substituted ''$4,200 for the calendar year 1955, 1956, 1957, or 1958, or $4,800 for any calendar year after 1958'' for ''$4,200 for any calendar year after 1954''.

1954—Subsec. (c)(1). Act Sept. 1, 1954, §202(a)(1), conformed the special-refund provisions to the increase made by said act Sept. 1, 1954, in the limitation on wages from $3,600 to $4,200 for calendar years after 1954.

Subsec. (c)(2). Act Sept. 1, 1954, §202(b)(1), inserted ''and employees of certain foreign corporations'' in heading.

Subsec. (c)(2)(A). Act Sept. 1, 1954, §202(b)(2), substituted ''$3,600 for the calendar year 1951, 1952, 1953, or 1954, or $4,200 for any calendar year after 1954'' for ''$3,600''.

Subsec. (c)(2)(C). Act Sept. 1, 1954, §202(b)(3), added subpar. (C).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to 1994 and later calendar years, see section 13207(e) of Pub. L. 103–66, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to 1991 and later calendar years, see section 11331(e) of Pub. L. 101–508, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99–272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to agreements entered into after Apr. 20, 1983, except that at election of any American employer such amendment shall also apply to any agreement entered into on or before Apr. 20, 1983, see section 321(f) of Pub. L. 98–21, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(23)(A), (C), (D), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. l. 94–455, set out as a note under section 6013 of this title.

Section 1906(a)(23)(B)(iii) of Pub. L. 94–455 provided that: ''The amendments made by clauses (i) and (ii) [amending this section] shall apply with respect to remuneration paid after December 31, 1976.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective Jan. 1, 1975, and applicable only with respect to compensation paid for services rendered on or after that date, see section 604 of Pub. L. 93–445, set out as a note under section 3221 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–336, as amended by Pub. L. 92–603, § 144(c), applicable only with respect to remuneration paid after Dec. 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable only with respect to remuneration paid after Dec. 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 108(b)(5), (6) of Pub. L. 90–248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 317(e), (f) of Pub. L. 89–97 applicable with respect to services performed after the quarter ending September 30, 1965, and after the quarter in which the Secretary of the Treasury receives a certification from the Commissioners [now Mayor] of the District of Columbia expressing their desire to have the insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees coming under the provisions of such amendments, see section 317(g) of Pub. L. 89–97, set out as a note under section 410 of Title 42.

Amendment by section 320(b)(5), (6) of Pub. L. 89–97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 202(d) of act Sept. 1, 1954, set out as a note under section 1401 of this title.

CROSS REFERENCES

Credit for special refunds of Social Security tax on tax withheld on wages, see section 31 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21, 24, 31, 3121, 6612 of this title; title 10 section 1451; title 42 sections 401, 1395i.

§ 6414. Income tax withheld

In the case of an overpayment of tax imposed by chapter 24, or by chapter 3, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 798.)

§ 6415. Credits or refunds to persons who collected certain taxes

(a) Allowance of credits or refunds

Credit or refund of any overpayment of tax imposed by section 4251, 4261, or 4271 may be allowed to the person who collected the tax and paid it to the Secretary if such person establishes, under such regulations as the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund.

(b) Credit on returns

Any person entitled to a refund of tax imposed by section 4251, 4261, or 4271 paid, or collected and paid, to the Secretary by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) Refund of overcollections

In case any person required under section 4251, 4261, or 4271 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) Refund of taxable payment

Any person making a refund of any payment on which tax imposed by section 4251, 4261, or 4271 has been collected may repay therewith the amount of tax collected on such payment.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 85–475, § 4(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, § 163(d)(1), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89–44, title VI, § 601(b), June 21, 1965, 79 Stat. 153; Pub. L. 91–258, title II, § 205(b)(2), May 21, 1970, 84 Stat. 241; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1970—Pub. L. 91–258 inserted reference to section 4271 in four places.

1965—Subsec. (a). Pub. L. 89–44, § 601(b)(1), (2), substituted ''section 4251 or 4261'' for ''sections 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286'' and struck out last sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of section 4231.

Subsecs. (b) to (d). Pub. L. 89–44, § 601(b)(1), substituted ''section 4251 or 4261'' for ''section 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286'' wherever appearing.

1958—Subsec. (a). Pub. L. 85–859 provided that in the case of any payment outside the United States in re-

spect of which tax is imposed under par. (1), (2), or (3) of section 4231 of this title, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

Subsecs. (a) to (d). Pub. L. 85–475 struck out references to section 4271.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–258 effective July 1, 1970, see section 211(a) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Section 1(c) of Pub. L. 85–859 provided in part that: ''Except as otherwise provided, the amendments and repeals made by title I of this Act [enacting sections 4057, 4143, 4221 to 4225, and 4294 of this title, amending chapter 34, this section, and sections 4001, 4003, 4031, 4041, 4053, 4111, 4121, 4141, 4142, 4192, 4216 to 4218, 4231 to 4233, 4263, 4291, 4501, 4601, 6011, 6412, 6416, 6420, 6421, 6501, and 6805 of this title, and repealing section 4112 of this title and former sections 4143, 4152, 4220 to 4225, and 4316 of this title] shall take effect on the first day of the first calendar quarter which begins more than 60 days after the date on which this Act is enacted [Sept. 2, 1958].''

Section 4(c) of Pub. L. 85–475, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) Except as provided in paragraph (2), the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only with respect to amounts paid on or after August 1, 1958.

''(2) In the case of transportation with respect to which the second sentence of section 4281 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies, the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only if the transportation begins on or after August 1, 1958.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9502 of this title.

§ 6416. Certain taxes on sales and services

(a) Condition to allowance

(1) General rule

No credit or refund of any overpayment of tax imposed by chapter 31 (relating to retail excise taxes), or chapter 32 (manufacturers taxes), shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b)(2) of this section—

(i) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or

(ii) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(2) Exceptions

This subsection shall not apply to—

(A) the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and

(B) an overpayment of tax under paragraph (1), (3)(A), (4), (5), or (6) of subsection (b) of this section.

(3) Special rule

For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term ''ultimate purchaser'' (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.

(4) Wholesale distributors to administer credits and refunds of gasoline tax

(A) In general

For purposes of this subsection, a wholesale distributor who purchases any gasoline on which tax imposed by section 4081 has been paid and who sells the gasoline to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

(B) Wholesale distributor

For purposes of subparagraph (A), the term ''wholesale distributor'' has the meaning given such term by section 4093(b)(2) (determined by substituting ''any gasoline taxable under section 4081'' for ''aviation fuel'' therein). Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.

(b) Special cases in which tax payments considered overpayments

Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) Price readjustments

(A) In general

Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

(B) Further manufacture

Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(C) Adjustment of tire price

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) Specified uses and resales

The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) exported;

(B) used or sold for use as supplies for vessels or aircraft;

(C) sold to a State or local government for the exclusive use of a State or local government;

(D) sold to a nonprofit educational organization for its exclusive use;

(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

(F) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4091 or 4121.

(3) Tax-paid articles used for further manufacture, etc.

If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

(A) in the case of any article other than any fuel taxable under section 4081 or 4091, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

(i) another article taxable under chapter 32, or

(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081 or 4091, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

(4) Tires

If—

(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

(i) an automobile bus chassis or an automobile bus body, or

(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft.

(5) Return of certain installment accounts

If—

(A) tax was paid under section 4216(d)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216(d)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

(6) Truck chassis, bodies, and semitrailers used for further manufacture

If—

(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Refund to exporter or shipper

Under regulations prescribed by the Secretary the amount of any tax imposed by chapter 31, or

chapter 32 erroneously or illegally collected in respect of any article exported to a foreign country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

(d) Credit on returns

Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return. The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e) or to the tax imposed by section 4091 in the case of refunds described in section 4091(d).

(e) Accounting procedures for like articles

Under regulations prescribed by the Secretary, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

(1) on a first-in-first-out basis,

(2) on a last-in-first-out basis, or

(3) in accordance with any other consistent method approved by the Secretary.

(f) Meaning of terms

For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Aug. 11, 1955, ch. 793, § 2, 69 Stat. 676; Aug. 11, 1955, ch. 805, §§ 1(h), (i), 2(b), 69 Stat. 690; Apr. 2, 1956, ch. 160, § 2(b)(1), 70 Stat. 90; June 29, 1956, ch. 462, title II, § 208(b), 70 Stat. 393; Pub. L. 85–475, § 4(b)(5), (6), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, § 163(a), (c), Sept. 2, 1958, 72 Stat. 1306, 1311; Pub. L. 86–342, title II, § 201(d)(1), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86–418, § 3, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86–781, § 2, Sept. 14, 1960, 74 Stat. 1018; Pub. L. 87–61, title II, § 205(c), (d), June 29, 1961, 75 Stat. 126; Pub. L. 87–508, § 5(c)(3), June 28, 1962, 76 Stat. 119; Pub. L. 89–44, title II, § 207(c), title VI, § 601(c), title VIII, § 801(d)(2), June 21, 1965, 79 Stat. 140, 153, 158; Pub. L. 91–258, title II, §§ 205(b)(3), (4), 207(d)(4)–(7), May 21, 1970, 84 Stat. 242, 248, 249; Pub. L. 91–614, title III, § 302(a), (b), Dec. 31, 1970, 84 Stat. 1845; Pub. L. 92–178, title IV, § 401(a)(3)(C), (g)(6), Dec. 10, 1971, 85 Stat. 531, 534; Pub. L. 94–455, title XIX, §§ 1904(b)(1), (2), 1906(a)(24)(A), (B)(i), (b)(13)(A), title XXI, § 2108(a), Oct. 4, 1976, 90 Stat. 1815, 1827, 1834, 1904; Pub. L. 95–227, § 2(b)(4), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95–618, title II, §§ 201(c)(3), 232(b), 233(c)(3), Nov. 9, 1978, 92 Stat. 3184, 3189, 3192; Pub. L. 96–222, title I, § 108(c)(2)(A), (B), (3), (4), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96–596, § 4(c)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96–598, § 1(a), (b), Dec. 24, 1980, 94 Stat. 3485, 3486; Pub. L. 97–424, title V, §§ 511(g)(2)(A), 512(b)(2)(C), (D), 515(b)(4), Jan. 6, 1983, 96 Stat. 2173, 2177, 2181; Pub. L. 98–369, div. A, title VII, §§ 734(b), (j), 735(c)(13), July 18, 1984, 98 Stat. 978, 980, 984; Pub. L. 99–499, title V, § 521(d)(5), Oct. 17, 1986, 100 Stat. 1780; Pub. L. 100–203, title IX, § 9201(b)(2), title X, § 10502(d)(6)–(8), Dec. 22, 1987, 101 Stat. 1330–330, 1330–444; Pub. L. 100–647, title II, § 2001(d)(1)(B), title VI, § 6102(a), Nov. 10, 1988, 102 Stat. 3594, 3710; Pub. L. 101–508, title XI, § 11212(d)(2), Nov. 5, 1990, 104 Stat. 1388–432; Pub. L. 103–66, title XIII, § 13242(d)(17)–(19), Aug. 10, 1993, 107 Stat. 524; Pub. L. 104–188, title I, § 1702(b)(3), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105–34, title IX, § 905(a), title X, § 1032(e)(6), title XIV, § 1436(b), Aug. 5, 1997, 111 Stat. 874, 935, 1053; Pub. L. 105–206, title VI, § 6023(23), July 22, 1998, 112 Stat. 826.)

AMENDMENTS

1998—Subsec. (b)(5). Pub. L. 105–206 substituted ''section 4216(d)(1)'' for ''section 4216(e)(1)'' in subpar. (A) and concluding provisions.

1997—Subsec. (a)(4)(B). Pub. L. 105–34, § 905(a), inserted at end ''Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.''

Subsec. (b)(2). Pub. L. 105–34, § 1032(e)(6), inserted ''or kerosene'' after ''diesel fuel'' in concluding provisions.

Subsec. (d). Pub. L. 105–34, § 1436(b), inserted before period at end ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

1996—Subsec. (b)(1)(A). Pub. L. 104–188 substituted ''chapter 31 or 32'' for ''chapter 32 or by section 4051''.

1993—Subsec. (a)(4)(A). Pub. L. 103–66, § 13242(d)(17)(A), substituted ''gasoline'' for ''product'' in two places.

Subsec. (a)(4)(B). Pub. L. 103–66, § 13242(d)(17)(B), substituted ''section 4093(b)(2)'' for ''section 4092(b)(2)'' and '' 'any gasoline taxable under section 4081' for 'aviation fuel' therein)'' for '' 'any product taxable under section 4081' for 'a taxable fuel' therein)''.

Subsec. (b)(2). Pub. L. 103–66, § 13242(d)(18), inserted ''any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and'' after ''This paragraph shall not apply in the case of'' in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 103–66, § 13242(d)(19)(A), substituted ''any fuel taxable under section 4081 or 4091'' for ''gasoline taxable under section 4081 and other than any fuel taxable under section 4091''.

Subsec. (b)(3)(B). Pub. L. 103–66, § 13242(d)(19)(B), substituted ''any fuel taxable under section 4081 or 4091, such fuel'' for ''gasoline taxable under section 4081 or any fuel taxable under section 4091, such gasoline or fuel''.

1990—Subsec. (d). Pub. L. 101–508 inserted at end ''The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).''

1988—Subsec. (a)(4). Pub. L. 100–647, § 6102(a), added par. (4).

Subsec. (b)(2). Pub. L. 100–647, § 2001(d)(1)(B), substituted ''(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)'' for ''(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)''.

1987—Subsec. (b)(2). Pub. L. 100–203, § 10502(d)(6), struck out ''(other than coal taxable under section 4121)'' after ''of any article'' in introductory provisions and inserted at end ''This paragraph shall not apply in the case of any tax paid under section 4091 or 4121.''

Pub. L. 100–203, § 9201(b)(2), inserted at end ''In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe.''

Subsec. (b)(3)(A). Pub. L. 100–203, § 10502(d)(7), inserted ''and other than any fuel taxable under section 4091'' after ''section 4081''.

Subsec. (b)(3)(B). Pub. L. 100–203, § 10502(d)(8), substituted ''or any fuel taxable under section 4091, such gasoline or fuel'' for '', such gasoline''.

1986—Subsec. (b)(2). Pub. L. 99–499 inserted ''or under paragraph (1)(A) or (2)(A) of section 4041(d)'' after ''section 4041(a)''.

1984—Subsec. (a)(1)(C). Pub. L. 98–369, § 734(b)(2)(B)(iii), struck out ‘‘, (b)(3)(C), or (D), or (b)(4)’’ before ‘‘of this section’’.

Subsec. (a)(2)(B). Pub. L. 98–369, §§ 734(b)(1)(B), (2)(B)(iv), 735(c)(13)(D), substituted ‘‘(4), (5), or (6) of subsection (b)’’ for ‘‘or (B), or (5) of subsection (b)’’.

Subsec. (a)(3). Pub. L. 98–369, § 734(b)(2)(B)(v), in amending par. (3) generally, struck out the subpar. (A) designation before ‘‘in any case’’, substituted a period for ‘‘; and’’ after ‘‘determination’’, and struck out subpar. (B) which provided that in applying paragraph (1) to any overpayment under paragraph (2)(F), (3)(C), or (4) of subsection (b), the term ‘‘ultimate vendor’’ means the ultimate vendor of the other article.

Subsec. (b)(1)(A). Pub. L. 98–369, § 734(j), inserted ‘‘or by section 4051’’ after ‘‘by chapter 32’’.

Subsec. (b)(1)(C). Pub. L. 98–369, § 735(c)(13)(A), substituted ‘‘subsection (a) or (b) of section 4071’’ for ‘‘section 4071(a)(1) or (2) or section 4071(b)’’.

Subsec. (b)(2). Pub. L. 98–369, § 735(c)(13)(B), inserted a period after ‘‘section 4064’’ at end of flush sentence following subpar. (F).

Subsec. (b)(2)(A). Pub. L. 98–369, § 735(c)(13)(F), struck out ‘‘(except in any case to which subsection (g) applies)’’ after ‘‘exported’’.

Subsec. (b)(2)(E). Pub. L. 98–369, § 735(c)(13)(B), added subpar. (E).

Pub. L. 98–369, § 734(b)(2)(B)(i), struck out former subpar. (E) which related to tires or inner tubes resold for use or tread rubber on recapped or retreaded tires resold for use.

Subsec. (b)(2)(F). Pub. L. 98–369, § 735(c)(13)(B), added subsec. (F) and struck out former subsec. (F) which related to any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a).

Subsec. (b)(2)(G) to (M). Pub. L. 98–369, § 735(c)(13)(B), struck out subpars. (G) through (M) which related to tread rubber, gasoline, articles used with automobile buses, boxes or containers, light-duty trucks, tires and inner tubes, recapped tires, and tires sold for use in connection with qualified buses.

Subsec. (b)(3). Pub. L. 98–369, § 735(c)(13)(C), struck out provision at end that for purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(3)(A). Pub. L. 98–369, § 735(c)(13)(C), substituted ‘‘gasoline taxable under section 4081,’’ for ‘‘an article to which subparagraphs (B), (C), (D), or (E) applies,’’.

Subsec. (b)(3)(B). Pub. L. 98–369, § 735(c)(13)(C), substituted ‘‘gasoline taxable under section 4081,’’ for ‘‘a part or accessory taxable under section 4061(b)’’, substituted ‘‘gasoline’’ for ‘‘article’’, inserted ‘‘for nonfuel purposes,’’, and substituted a period for a semicolon after ‘‘produced by him’’.

Subsec. (b)(3)(C). Pub. L. 98–369, § 734(b)(2)(B)(ii), struck out subpar. (C) which related to tires or inner tubes taxable under section 4071(a) of this title.

Subsec. (b)(3)(D) to (F). Pub. L. 98–369, § 735(c)(13)(C), struck out subpar. (D) which related to tread rubber in respect of which tax was paid under section 4071(a)(4) used in recapping or retreading of a tire, subpar. (E) which related to bicycle tires or inner tubes used for such a tire, and subpar. (F) which dealt with gasoline taxable under section 4081. See subpar. (B) for similar provisions.

Subsec. (b)(4)(A). Pub. L. 98–369, § 734(b)(2)(A), amended par. (4) generally. Prior to amendment par. (4) provided that if (A) a tire or inner tube taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and (B) such other article is (i) an automobile bus chassis or an automobile bus body, or (ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

Subsec. (b)(6). Pub. L. 98–369, § 734(b)(1)(A), added par. (6).

Subsec. (c). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsec. (e) as (c). Former subsec. (c), which related to credit for tax paid on tires or inner tubes, was struck out.

Subsecs. (d) to (f). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsecs. (f), (h), and (i), as subsecs. (d), (e), and (f), respectively. Former subsec. (d) had been previously repealed and former subsec. (e) was redesignated (c).

Subsec. (g). Pub. L. 98–369, § 735(c)(13)(E), struck out subsec. (g) which related to trucks, buses, tractors, etc.

Subsecs. (h), (i). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1983—Subsec. (a)(1). Pub. L. 97–424, § 512(b)(2)(D), substituted ‘‘chapter 31 (relating to retail excise taxes)’’ for ‘‘chapter 31 (special fuels)’’.

Subsec. (b)(2). Pub. L. 97–424, § 511(g)(2)(A), substituted ‘‘paragraph (1)(A) or (2)(A) of section 4041(a)’’ for ‘‘section 4041(a)(1) or (b)(1)’’ in provision before subpar. (A).

Pub. L. 97–424, § 512(b)(2)(C), inserted ‘‘or under section 4051’’ after ‘‘section 4041(a)’’.

Pub. L. 97–424, § 515(b)(4), struck out subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

1980—Subsec. (a)(1)(C). Pub. L. 96–598, § 1(b)(2)(B), substituted ‘‘(b)(3)(C) or (D)’’ for ‘‘(b)(3)(C)’’.

Subsec. (b)(1). Pub. L. 96–596 designated existing provision in part as subpar. (A), and in subpar. (A) as so designated, inserted heading ‘‘In general’’ and substituted ‘‘Except as provided in subparagraph (B) or (C), if the price’’ for ‘‘If the price’’, designated existing provision in part as subpar. (B), and in subpar. (B) as so designated, inserted heading ‘‘Further manufacture’’ and substituted ‘‘Subparagraph (A) shall not’’ for ‘‘The preceding sentence shall not’’, and added subpar. (C).

Subsec. (b)(2). Pub. L. 96–222, § 108(c)(3), added subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

Subsec. (b)(2)(E). Pub. L. 96–598, § 1(b)(2)(A), inserted ‘‘(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),’’ after ‘‘paragraph (3)’’.

Subsec. (b)(2)(G). Pub. L. 96–598, § 1(a), inserted provision making a credit or refund of the tread rubber tax available where the tread rubber is destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process, where the tread rubber is used in the recapping or retreading of a tire if the sales price of the tire is later adjusted because of a warranty or guarantee, in which case the overpayment is to be in proportion to the adjustment in the sales price of such tire, and where the tread rubber is used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use.

Subsec. (b)(3)(A). Pub. L. 96–598, § 1(b)(2)(C), inserted ‘‘(D),’’ after ‘‘(C),’’.

Pub. L. 96–222, § 108(c)(4), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(C). Pub. L. 96–222, § 108(c)(2)(A), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(D). Pub. L. 96–598, § 1(b)(1), added subpar. (D).

Subsec. (b)(4)(A). Pub. L. 96–598, §1(b)(2)(D), substituted ''section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,'' for ''section 4071''.

Subsec. (b)(4)(B). Pub. L. 96–222, §108(c)(2)(B), inserted reference to automobile bus chassis or an automobile bus body.

1978—Subsec. (b)(2). Pub. L. 95–618 substituted in subpar. (I) ''in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus'' for ''in the case of a bus chasis or body taxable under section 4061(a), sold to any person for use as described in section 4063(a)(6) or 4221(e)(5)'' and added subpars. (L) and (M) and provision following subpar. (M).

Pub. L. 95–227 inserted ''(other than coal taxable under section 4121)'' after ''of any article''.

Subsec. (b)(3). Pub. L. 95–227 inserted ''(other than coal taxable under section 4121)'' after ''of any article''.

1976—Subsec. (a)(1). Pub. L. 94–455, §§1904(b)(1)(A), 1906(b)(13)(A), substituted ''(special fuels)'' for ''(retailers taxes)'', and struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(3). Pub. L. 94–455, §1906(a)(24)(A), (b)(13)(A), redesignated subpars. (C) and (D) as (A) and (B), and as so redesignated, struck out ''or his delegate'' after ''Secretary'', in subpar. (A). Prior subpars. (A) and (B) had been repealed by Pub. L. 89–44, title VI, §601(c)(6), June 21, 1965, 79 Stat. 153.

Subsec. (b). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–455, §1904(b)(2), substituted ''section 4216(e)(2) and (3)'' for ''section 4216(f)(2) and (3)''.

Subsec. (b)(2)(E). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (F) as (E). A prior subpar. (E) had been repealed by Pub. L. 91–614, title III, §302(b), Dec. 31, 1970, 84 Stat. 1845.

Subsec. (b)(2)(F). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (K) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (L) as (G), and struck out former subpar. (G) respecting consideration as overpayments, tax payments in case of liquids sold for use as fuel in a diesel-powered highway vehicle or as fuel for propulsion of motor vehicles, motorboats, or airplanes and used in other specified ways or resold.

Subsec. (b)(2)(H). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (M) as (H), and struck out former subpar. (H) respecting consideration as overpayments, tax payments in case of liquids used in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation services along regular routes under prescribed conditions.

Subsec. (b)(2)(I). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (R) as (I), and struck out former subpar. (I) respecting consideration as overpayments, tax payments in case of liquids used or resold for use as fuel in diesel-powered highway vehicles, which were not registered in any State or foreign country or were United States owned but not used on the highway.

Subsec. (b)(2)(J). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (S) as (J), and struck out former subpar. (J) respecting consideration as overpayments, tax payments in case of liquids used or resold, otherwise than as a fuel for propulsion of highway vehicles, which were registered in any State or foreign country or were United States owned and used on the highway.

Subsec. (b)(2)(K). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (T), added by Pub. L. 94–455, §2108(a), as (K). Former subpar. (K) redesignated (F).

Subsec. (b)(2)(L), (M). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpars. (L) and (M) as (G) and (H), respectively.

Subsec. (b)(2)(R), (S). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpars. (R) and (S) as (I) and (J), respectively.

Subsec. (b)(2)(T). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpar. (T), added by Pub. L. 94–455, §2108(a), as (K).

Subsec. (c). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (e). Pub. L. 94–455, §1904(b)(1)(B), struck out ''subchapter E of'' before ''chapter 31''.

Subsecs. (g), (h). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (b)(2)(R). Pub. L. 92–178, §401(a)(3)(C)(i), inserted reference to section 4063(a)(6).

Subsec. (b)(2)(S). Pub. L. 92–178, §401(a)(3)(C)(ii), added subpar. (S).

Subsec. (g). Pub. L. 92–178, §401(g)(6), substituted ''Trucks, buses, tractors, etc.'' for ''Automobiles, etc.'' in heading.

1970—Subsec. (a)(2)(A). Pub. L. 91–258, §205(b)(3), substituted ''section 4041 (relating to tax on special fuels)'' for ''section 4041(a)(2) or (b)(2) (use of diesel and special motor fuels)''.

Subsec. (b)(2)(E). Pub. L. 91–614, §302(b), struck out subpar. (E) providing that the tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article is deemed an overpayment if such article was resold by any person to a manufacturer or producer for use by him as provided in subsec. (b)(3)(A), (B), (E) or (F).

Subsec. (b)(2)(G). Pub. L. 91–258, §207(d)(4), inserted ''before July 1, 1970'' after ''if''.

Subsec. (b)(2)(H). Pub. L. 91–258, §207(d)(5), inserted ''beginning before July 1, 1970,'' after ''during any calendar quarter''.

Subsec. (b)(2)(I), (J). Pub. L. 91–258, §207(d)(6), (7), inserted ''before July 1, 1970,'' after ''used or resold for use''.

Subsec. (b)(2)(M). Pub. L. 91–258, §205(b)(4), substituted ''use in the production of special fuels referred to in section 4041'' for ''use in production of special motor fuels referred to in section 4041(b)''.

Subsec. (b)(3). Pub. L. 91–614, §302(a)(1)(A), substituted ''and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if'' for ''to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if''.

Subsec. (b)(3)(A) to (C), (E), (F). Pub. L. 91–614, §302(a)(1)(B), substituted ''the subsequent manufacturer'' for ''the second manufacturer''.

Subsec. (c). Pub. L. 91–614, §302(a)(2), struck out provision providing that the credit for tax paid on tires or inner tubes is allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32 of this title.

1965—Subsec. (a)(1). Pub. L. 89–44, §601(c)(1), struck out ''section 4231(4), (5), or (6) (cabarets, etc.),'' from material preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 89–44, §601(c)(2), struck out ''admission, or service'' after ''article'' each place it appears.

Subsec. (a)(1)(B). Pub. L. 89–44, §601(c)(3), struck out (i), (ii), and (iii) which dealt specifically with taxes imposed by sections 4041(a)(1) or (b)(1), 4231(4), (5), or (6) (cabarets, etc.), and chapters 31 and 32, and amended the subpar. to simply require that the person has repaid the amount of the tax to the ultimate purchaser of the article.

Subsec. (a)(1)(C). Pub. L. 89–44, §601(c)(4), struck out ''or (D)'' after ''(b)(3)(C)''.

Subsec. (a)(1)(D). Pub. L. 89–44, §601(c)(5), struck out ''(1), (ii), or (iii), as the case may be,'' after ''subparagraph (B)''.

Subsec. (a)(3)(A), (B). Pub. L. 89–44, §601(c)(6), struck out subpars. (A) and (B).

Subsec. (a)(3)(C). Pub. L. 89–44, §601(c)(6), struck out ''(ii)'' after ''paragraph (1)(B)''.

Subsec. (a)(3)(D). Pub. L. 89–44, §601(c)(6), struck out ''or (D)'' after ''paragraph (2)(F), (3)(C)''.

Subsec. (b)(1). Pub. L. 89–44, §601(c)(7), struck out ''31 or'' after ''imposed by chapter'' and ''(in the case of a

tax imposed by chapter 32)'' after ''or allowance, including''.

Subsec. (b)(2)(F). Pub. L. 89–44, § 601(c)(8), struck out reference to receiving sets resold for use and struck out reference to subparagraph (D) of paragraph (3).

Subsec. (b)(2)(N) to (Q). Pub. L. 89–44, § 601(c)(9), struck out subpars. (N) to (Q).

Subsec. (b)(2)(R). Pub. L. 89–44, § 801(d)(2), added subpar. (R).

Subsec. (b)(3)(A). Pub. L. 89–44, § 601(c)(10), struck out ''(D),'' after ''subparagraph (B), (C),''.

Subsec. (b)(3)(B). Pub. L. 89–44, § 601(c)(10), struck out references to radio and television components taxable under section 4141 and camera lenses taxable under section 4171.

Subsec. (b)(3)(C). Pub. L. 89–44, § 601(c)(10), struck out reference to automobile radios or television receiving sets taxable under section 4141.

Subsec. (b)(3)(D). Pub. L. 89–44, § 601(c)(10), struck out subpar. (D) which related to radio receiving sets or automobile receiving sets.

Subsec. (b)(4). Pub. L. 89–44, § 601(c)(11), struck out all references to automobile radio or television receiving sets taxable under section 4141.

Subsec. (b)(5). Pub. L. 89–44, §§ 207(c), 601(c)(12), substituted ''allocable'' for ''proportionate'' and struck out ''4053(b)(1) or'' before ''4216(e)(1)'' wherever appearing.

Subsec. (c). Pub. L. 89–44, § 601(c)(13), struck out references to automobile radio or television receiving sets.

Subsec. (d). Pub. L. 89–44, § 601(c)(14), struck out subsec. (d) which related to mechanical pencils taxable as jewelry.

Subsec. (g). Pub. L. 89–44, § 601(c)(15), substituted ''section 4061(a)'' for ''sections 4061(a), 4111, 4121, 4141,''.

1962—Subsec. (b)(2)(H). Pub. L. 87–508 substituted ''commuter fare revenue'' for ''tax-exempt passenger fare revenue'' and struck out ''(not including the tax imposed by section 4261, relating to the tax on transportation of persons)'' after ''total passenger fare revenue''.

1961—Subsec. (b)(2)(E). Pub. L. 87–61, § 205(d), inserted reference to subpar. (F) of par. (3).

Subsec. (b)(3)(F). Pub. L. 87–61, § 205(c), added subpar. (F).

1960—Subsec. (b)(1). Pub. L. 86–781 inserted ''including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3),)'' after ''or allowance,''.

Subsec. (b)(2)(E). Pub. L. 86–418, § 3(a), substituted ''subparagraph (A), (B), or (E)'' for ''subparagraph (A) or (B)''.

Subsec. (b)(3)(A). Pub. L. 86–418, § 3(b)(1), substituted ''subparagraph (B), (C), (D), or (E)'' for ''subparagraph (B), (C), or (D)''.

Subsec. (b)(3)(E). Pub. L. 86–418, § 3(b)(2), added subpar. (E).

1959—Subsec. (b)(2)(H). Pub. L. 86–342, § 201(d)(1)(A), (B), substituted ''at the rate of 3 cents or 4 cents a gallon'' for ''at the rate of 3 cents a gallon'', and ''1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon'' for ''1 cent for each gallon''.

Subsec. (b)(2)(I), (J). Pub. L. 86–342, § 201(d)(1)(A), (C), substituted ''at the rate of 3 cents or 4 cents a gallon'' for ''at the rate of 3 cents a gallon'', and ''at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate'' for ''at the rate of 1 cent a gallon''.

1958—Subsec. (a) amended generally by Pub. L. 85–859, § 163(a), to make section applicable to taxes imposed by pars. (4) and (5) of section 4231, to permit credit or refund of the cabaret tax where the person has repaid the amount of the tax or has filed a written consent to the allowance of the credit or the making of the refund, and to establish special rules for taxes collected under section 4231(6) from a concessionaire, taxes under chapter 31 paid by a supplier, and defining ''ultimate purchaser'' and ''ultimate vendor''.

Subsec. (a). Pub. L. 85–475, § 4(b)(5), struck out reference to section 4281.

Subsec. (b)(1). Pub. L. 85–859, § 163(a), made price readjustment provisions inapplicable in the case of an article in respect of which tax was computed under section 4223(b)(2), but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

Subsec. (b)(2) amended generally by Pub. L. 85–859, § 163(a), to consider as overpayments taxes paid in respect of any articles which were, by any person, exported, resold to a manufacturer or producer for use by him as provided in subpar. (A) or (B) of par. (3), resold for use, in the case of a tire, inner tube, or receiving set, as provided in subpar. (C) or (D) of par. (3) and the other article referred to in such paragraph is by any person exported or sold as provided in such paragraph, and to eliminate provisions which excluded leaf springs, coils, timers, and tire chains in the case of articles taxable under section 4061(b).

Subsec. (b)(3) amended generally by Pub. L. 85–859, § 163(a), to consider as overpayments taxes paid in the case of tires or inner tubes taxable under section 4071 and automobile radio or television receiving sets taxable under section 4141 where the articles are resold in certain particular cases, and taxes paid in the case of radio receiving sets or automobile radio receiving sets which are used by the manufacturer or producer as component parts of any other article manufactured or produced by him, and are exported or sold in certain particular cases, and to provide that for purposes of subpars. (A) and (B) an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(4), (5). Pub. L. 85–859, § 163(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 85–859, § 163(a), authorized a credit with respect to tires, inner tubes, or automobile radio or television receiving sets which are sold on or in connection with, or with the sale of, another article taxable under chapter 32, and permitted the credit only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

Subsec. (f). Pub. L. 85–475, § 4(b)(6), struck out reference to section 4281.

Subsecs. (g) to (i). Pub. L. 85–859, § 163(c), added subsecs. (g) to (i).

1956—Subsec. (b)(2)(C). Act Apr. 2, 1956, included liquid used on a farm for farming purposes.

Subsec. (b)(2)(J) to (M). Act June 29, 1956, added subpars. (J) to (M).

1955—Subsec. (b)(2)(G). Act Aug. 11, 1955, ch. 805, § 2(b), repealed subpar. (G) relating to credit for communication, detection, and navigation receivers when sold to the United States Government.

Subsec. (b)(2)(I). Act Aug. 11, 1955, ch. 793, added subpar. (I).

Subsec. (b)(3)(A). Act Aug. 11, 1955, ch. 805, § 1(h), inserted ''and other than an automobile part or accessory taxable under section 4061(b), a refrigerator component taxable under section 4111, a radio or television component taxable under section 4141, or a camera lens taxable under section 4171'' after ''section 4141''.

Subsec. (b)(3)(B). Act Aug. 11, 1955, ch. 805, § 1(i), substituted provisions allowing a credit for automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under sections 4061(b), 4111, 4141, or 4171, respectively, of this title, for provisions allowing a credit for radio and television components purchased and used by a producer in the manufacture of communication, detection, or navigation receivers in commercial, military, or marine installations if such receivers were sold to the United States.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 905(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1032(e)(6) of Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

Amendment by section 1436(b) of Pub. L. 105–34 applicable to fuel acquired by producer after Sept. 30, 1997, see section 1436(c) of Pub. L. 105–34, set out as a note under section 4091 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective July 1, 1991, see section 11212(f)(1) of Pub. L. 101–508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2001(d)(1)(B) of 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.

Section 6102(b) of Pub. L. 100–647 provided that: ''The amendment made by this section [amending this section] shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9201(b)(2) of Pub. L. 100–203 effective Jan. 1, 1988, see section 9201(d) of Pub. L. 100–203, set out as an Effective Date note under section 4131 of this title.

Amendment by section 10502(d)(6)–(8) of Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(g)(2)(A) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

Amendment by section 512(b)(2)(C), (D) of Pub. L. 97–424 effective Apr. 1, 1983, see section 512(b)(3) of Pub. L. 97–424, set out as a note under section 4051 of this title.

Amendment by section 515(b)(4) of Pub. L. 97–424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97–424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96–598, set out as a note under section 4071 of this title.

Section 4(c)(2) of Pub. L. 96–596 provided that: ''The amendments made by this subsection [amending this section] shall apply to the adjustments of any tire after December 31, 1982.''

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95–618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96–222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(c)(3) of Pub. L. 95–618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95–618, set out as an Effective Date note under section 4064 of this title.

Amendment by section 232(b) of Pub. L. 95–618 applicable to sales on or after day of first calendar month beginning more than 10 days after Nov. 9, 1978, see section 232(c) of Pub. L. 95–618, set out as a note under section 4221 of this title.

Amendment by section 233(c)(3) of Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(1), (2) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(24)(A), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

Section 1906(a)(24)(B)(ii) of Pub. L. 94–455 provided that: ''The repeals made by clause (i) [amending this section] shall apply with respect to the use or resale for use of liquids after December 31, 1976.''

Section 2108(b) of Pub. L. 94–455 provided that: ''The amendment made by this section [amending this section] shall apply to parts and accessories sold after the date of the enactment of this Act [Oct. 4, 1976].''

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to articles sold on or after day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92–178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 302(c) of Pub. L. 91–614 provided that: ''The amendments made by subsections (a) and (b) of this section [amending this section] shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act [Dec. 31, 1970], but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law.''

Amendment by Pub. L. 91–258 effective on July 1, 1970, see section 211(a) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 207(c) of Pub. L. 89–44 effective June 22, 1965, see section 701(a) of Pub. L. 89–44, set out

as an Effective Date of 1965 Amendment note under section 4161 of this title.

Amendment by section 601(c) of Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

Amendment by section 801(d)(2) applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89–44, set out as a note under section 4216 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5(d) of Pub. L. 87–508 provided in part that: ''The amendments made by subsection (c)(3) [amending this section] shall apply only in respect to the use or sale of special fuels made on or after November 16, 1962.''

EFFECTIVE DATE OF 1961 AMENDMENT

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

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86–781 applicable with respect to articles sold on or after first day of first calendar quarter beginning more than twenty days after Sept. 14, 1960, see section 3 of Pub. L. 86–781, set out as a note under section 4216 of this title.

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

EFFECTIVE DATE OF 1958 AMENDMENTS

Section 163(b) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Section 6416(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, shall apply only with respect to articles exported, sold, or resold, as the case may be, on or after the effective date specified in section 1(c) of this Act [set out as a note under section 6415 of this title].''

For effective date of amendment by Pub. L. 85–475, see section 4(c) of Pub. L. 85–475, set out as a note under section 6415 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

Act Apr. 2, 1956, § 2(b)(2), provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to liquid sold after December 31, 1955.''

EFFECTIVE DATE OF 1955 AMENDMENTS

Section 3 of act Aug. 11, 1955, ch. 805, as amended by Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, provided that: ''The amendments made by the first section and section 2 of this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]. Notwithstanding the preceding sentence—

''(1) the repeal of section 6416(b)(2)(G) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Aug. 11, 1955], and

''(2) section 6416(b)(3)(B) of the Internal Revenue Code of 1986, as amended by subsection (i) of the first section of this Act [Aug. 11, 1955], shall apply with respect to articles used on or after such first day by the manufacturer or producer as material in the manufacture of, production of, or as a component part of, another article.''

Section 3 of act Aug. 11, 1955, ch. 793, provided that: ''The amendments made by this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first calendar quarter which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]''.

OVERPAYMENT OF TAX ON CERTAIN RADIO RECEIVING SETS AND RADIO AND TELEVISION COMPONENTS

Section 163(e) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If—

''(1) a radio receiving set, an automobile radio receiving set, or a radio or television component was (before any other use) used as a component part of any other article, and

''(2) such other article was (before any other use) by any person exported, or sold to a State or local government for the exclusive use of a State or local government,

then any tax imposed by chapter 32 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provisions of prior revenue law) in respect of such set or component which has been paid shall be deemed to have been an overpayment, by the manufacturer, producer, or importer of such other article, at the time paid. No credit or refund shall be allowed or made under this subsection unless the manufacturer, producer, or importer of such other article establishes to the satisfaction of the Secretary of the Treasury or his delegate that he did not include the amount of the tax in the price of such other article (and has not collected the amount of the tax from the purchaser of such other article), that the amount of the tax has been repaid to the ultimate purchaser of such other article, or that he has obtained the written consent of such ultimate purchaser to the allowance of the credit or the making of the refund. No interest shall be allowed or paid in respect of any such overpayment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4064, 4216, 6427, 6612, 7851, 9510 of this title.

[§ 6417. Repealed. Pub. L. 94–455, title XIX, § 1906(a)(25), Oct. 4, 1976, 90 Stat. 1827]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 801, related to a tax credit or refund to any person who has sold to a State, or a political subdivision thereof, any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under former section 4511, and to a refund to the exporter of the tax paid under former subchapter B of chapter 37.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

[§ 6418. Repealed. Pub. L. 101–508, title XI, § 11801(c)(22)(B)(i), Nov. 5, 1990, 104 Stat. 1388–528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 801; May 29, 1956, ch. 342, § 21(b), 70 Stat. 221; May 24, 1962, Pub. L. 87–456, title III, § 302(c), 76 Stat. 77; Nov. 8, 1965, Pub. L. 89–331, § 9(b), 79 Stat. 1278; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, authorized refund of taxes paid on sugar used as livestock feed, for distillation or production of alcohol, or in certain cases where sugar was exported.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain

transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

§ 6419. Excise tax on wagering

(a) Credit or refund generally

No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or unless he files with the Secretary written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary, that the provisions of the preceding sentence have been complied with both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) Credit or refund on wagers laid-off by taxpayer

Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary, and no interest shall be allowed with respect to any amount so credited or refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 801; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6612 of this title.

§ 6420. Gasoline used on farms

(a) Gasoline

Except as provided in subsection (g), if gasoline is used on a farm for farming purposes, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) the number of gallons so used, by

(2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) Time for filing claims; period covered

Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(c) Meaning of terms

For purposes of this section—

(1) Use on a farm for farming purposes

Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) Farm

The term ''farm'' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) Farming purposes

Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—

(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) Certain farming use other than by owner, etc.

In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

(B) if—

(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.

(5) Gasoline

The term ''gasoline'' has the meaning given to such term by section 4083(a).

(d) Exempt sales; other payments or refunds available

No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) Fractional parts of a dollar

Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may by made under this section.

(g) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsection (a), only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

[(h) Repealed. Pub. L. 103–66, title XIII, § 13241(f)(5), Aug. 10, 1993, 107 Stat. 512]

(i) Cross references

(1) For exemption from tax in case of special fuels used on a farm for farming purposes, see section 4041(f).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(4) For treatment of an Indian tribal government as a State and[1] a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; amended Pub. L. 85–859, title I, §163(d)(2), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89–44, title VIII, §809(a), June 21, 1965, 79 Stat. 165; Pub. L. 91–258, title II, §§205(c)(7), 207(b), May 21, 1970, 84 Stat. 242, 248; Pub. L. 94–455, title XIX, §§1906(a)(26), (b)(6)(A), (13)(A), Oct. 4, 1976, 90 Stat. 1827, 1833, 1834; Pub. L. 95–458, §3(a), (c), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 97–424, title V, §§511(f), 516(b)(4), Jan. 6, 1983, 96 Stat. 2172, 2183; Pub. L. 97–473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99–499, title V, §521(c)(1), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100–17, title V, §502(b)(6), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101–239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101–508, title XI, §11211(d)(5), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, §8002(b)(5), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§13241(f)(5), 13242(d)(20), Aug. 10, 1993, 107 Stat. 512, 524.)

PRIOR PROVISIONS

A prior section 6420 was renumbered section 6422 of this title.

AMENDMENTS

1993—Subsec. (c)(5). Pub. L. 103–66, §13242(d)(20), substituted ''section 4083(a)'' for ''section 4082(b)''.

Subsec. (h). Pub. L. 103–66, §13241(f)(5), struck out heading and text of subsec. (h). Text read as follows: ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.''

1991—Subsec. (h). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (h). Pub. L. 101–508 substituted ''1995'' for ''1993''.

1989—Subsec. (e)(2). Pub. L. 101–239 substituted ''section 7602(a)'' for ''section 7602''.

1987—Subsec. (h). Pub. L. 100–17 substituted ''1993'' for ''1988''.

1986—Subsec. (h). Pub. L. 99–499 substituted ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section'' for ''This section''.

1984—Subsec. (g)(2). Pub. L. 98–369 substituted ''section 34'' for ''section 39''.

[1] So in original. Probably should be ''(and''.

1983—Subsec. (c)(4)(B). Pub. L. 97–424, §511(f), substituted provision that, if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes, for provision that, if the person so using the gasoline were an aerial applicator who was the ultimate purchaser of the gasoline and the person described in subparagraph (A) waived (at such time and in such form and manner as the Secretary was to prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph would not apply and the aerial applicator would be treated as having used such gasoline on a farm for farming purposes.

Subsec. (h). Pub. L. 97–424, §516(b)(4), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 97–473 purported to add par. (4). See Amendment note below for subsec. (i)(4).

Subsec. (i). Pub. L. 97–424, §516(b)(4), redesignated former subsec. (h) as (i).

Subsec. (i)(4). Pub. L. 97–473 added par. (4). Notwithstanding the directory language that par. (4) be added to subsec. (h), it was added to subsec. (i) to reflect the probable intent of Congress and the intervening redesignation of subsec. (h) as (i) by Pub. L. 97–424.

1978—Subsec. (c)(3)(A). Pub. L. 95–458, §3(c), struck out provision that if the use of gasoline is by any person other than the owner, tenant, or operator of a farm, then in applying subsec. (a) of this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used would be treated as the user or ultimate purchaser of the gasoline or liquid.

Subsec. (c)(4), (5). Pub. L. 95–458, §3(a), added par. (4) and redesignated former par. (4) as (5).

1976—Subsec. (a). Pub. L. 94–455, §1906(a)(26) (C)(ii), (b)(13)(A), substituted ''subsection (g)'' for ''subsection (h)'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455, §1906(a)(26)(A), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (c)(3)(A). Pub. L. 94–455, §1906(b)(6)(A), among other changes, struck out ''and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041),'' after ''in applying subsection (a) to this subparagraph,'' and provision that if the use of gasoline is by any person other than the owner, tenant, or operator of the farm, then, for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used.

Subsec. (d). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(1). Pub. L. 94–455, §1906(a)(26)(B), substituted ''apply in respect'' for ''apply in in respect''.

Subsecs. (e)(2), (f). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (g). Pub. L. 94–455, §1906(a)(26)(C)(i), (D), redesignated subsec. (h) as (g), struck out in par. (1) ''with respect to gasoline used after June 30, 1965,'' after ''subsection (a)'', and in par. (2) ''for gasoline used after June 30, 1965'' after ''subtitle A''. Former subsec. (g), which provided that this section applies only with respect to gasoline purchased after Dec. 31, 1955, was struck out.

Subsecs. (h), (i). Pub. L. 94–455, §1906(a)(26)(C)(i), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

1970—Subsec. (b)(2)(B). Pub. L. 91–258, §207(b), substituted ''a claim for credit or refund of overpayment of income tax'' for ''an income tax return'' after ''time prescribed by law for filing''.

Subsec. (i)(1). Pub. L. 91–258, §205(c)(7)(A), (B), substituted ''special fuels'' for ''diesel fuel and special motor fuels'' and ''section 4041(f)'' for ''section 4041(d)'', respectively.

1965—Subsec. (a). Pub. L. 89–44, §809(a)(1)(A), substituted ''Except as provided in subsection (h), if'' for ''If''.

Subsec. (b). Pub. L. 89–44, §809(a)(2), designated existing provisions as par. (1) and made it applicable to gasoline used before July 1, 1965, and added par. (2).

Subsec. (d). Pub. L. 89–44, §809(a)(3), substituted ''payable'' for ''paid'' in first sentence.

Subsecs. (h), (i). Pub. L. 89–44, §809(a)(1)(B), added subsec. (h) and redesignated former subsec. (h) as (i).

1958—Subsec. (c)(3)(A). Pub. L. 85–859 substituted ''section 6416(b)(2)(G)(ii)'' for ''section 6416(b)(2)(C)(ii)'' in two places in cl. (A).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(5) of Pub. L. 103–66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(f) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 3(d) of Pub. L. 95–458 provided that: ''The amendments made by this section [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(26), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

Section 1906(b)(6)(B) of Pub. L. 94–455 provided that: ''The amendments made by subparagraph (A) [amending this section] shall apply with respect to the use of liquids after December 31, 1970.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–258 effective July 1, 1970, and applicable with respect to taxable years ending after June 30, 1970, respectively, see section 211(a), (b) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 809(f) of Pub. L. 89–44 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 6421 of this title] shall apply with respect to gasoline used on or after July 1, 1965.

The amendments made by subsections (c) and (d) [renumbering section 39 as 40, enacting section 39 and amending sections 72, 874, 1314, 1481, 6201, 6211, 6213, and 6401 of this title] shall apply to taxable years beginning on or after July 1, 1965.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859, set out as a note under section 6415 of this title.

CROSS REFERENCES

Time and place for examination pursuant to subsection (e)(2) of this section, see section 7605 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 147, 451, 1274, 4041, 4084, 6206, 6416, 6421, 6427, 6504, 6511, 6612, 6675, 7210, 7603, 7604, 7605, 7609, 7610, 9502, 9503, 9508 of this title.

§ 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes

(a) Nonhighway uses

Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

(b) Intercity, local, or school buses

(1) Allowance

Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

(2) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Exempt purposes

If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4) or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081. The preceding sentence shall apply notwithstanding paragraphs (2) and (3) of subsection (f). Subsection (a) shall not apply to gasoline to which this subsection applies.

(d) Time for filing claims; period covered

(1) In general

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exception

For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).

(3) Application to sales under subsection (c)

For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose.

(e) Definitions

For purposes of this section—

(1) Gasoline

The term ''gasoline'' has the meaning given to such term by section 4083(a).

(2) Off-highway business use

(A) In general

The term ''off-highway business use'' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Uses in boats

(i) In general

Except as otherwise provided in this subparagraph, the term ''off-highway business use'' does not include any use in a motorboat.

(ii) Fisheries and whaling

The term ''off-highway business use'' shall include any use in a vessel employed in the fisheries or in the whaling business.

(f) Exempt sales; other payments or refunds available

(1) Gasoline used on farms

This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(2) Gasoline used in aviation

This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in noncommercial aviation (as defined in section 4041(c)(2)), or

(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.

(3) Gasoline used in trains

In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

(iii) 4.3 cents per gallon after October 31, 1998.

(g) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(h) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(i) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsections (a) and (b) only to—

(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under subsection (d)(2).

(3) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(j) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State and[1] a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended July 25, 1956, ch. 725, § 2, 70 Stat. 644; Pub. L. 85–859, title I, §§ 163(d)(3), 164(a), Sept. 2, 1958, 72 Stat. 1312; Pub. L. 86–342, title II, § 201(d)(2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 87–61, title II, § 201(e), June 29, 1961, 75 Stat. 124; Pub. L. 87–508, § 5(c)(2), June 28, 1962,76 Stat. 118; Pub. L. 89–44, title VIII, § 809(b), June 21, 1965, 79 Stat. 166; Pub. L. 91–258, title II, §§ 205(b)(1), (c)(8), 207(b), May 21, 1970, 84 Stat. 241, 242, 248; Pub. L. 91–605, title III, § 303(a)(11), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94–280, title III, § 303(a)(11), May 5, 1976, 90 Stat. 456; Pub. L. 94–455, title XIX, § 1906(a)(27)(A)(i), (B)–(D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1827, 1828, 1834; Pub. L. 95–599, title V, § 502(a)(10), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95–618, title II, §§ 222(a)(1), 233(a)(1), (3)(A), Nov. 9, 1978, 92 Stat. 3186, 3190; Pub. L. 96–222, title I, § 108(c)(1), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97–424, title V, §§ 511(c)(1), (3), 515(b)(7), 516(a)(6), Jan. 6, 1983, 96 Stat. 2170, 2171, 2182, 2183; Pub. L. 97–473, title II, § 202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, § 474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99–499, title V, § 521(c)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 99–514, title XVII, § 1703(c)(1), (2)(A), (B), (D), Oct. 22, 1986, 100 Stat. 2776, 2777; Pub. L. 100–17, title V, § 502(b)(7), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100–203, title X, § 10502(d)(9), (10), Dec. 22, 1987, 101 Stat. 1330–444; Pub. L. 100–647, title I, § 1017(c)(6)–(8), (15), title II, § 2001(d)(3)(E), (F), Nov. 10, 1988, 102 Stat. 3576, 3577, 3595; Pub. L. 101–239, title VII, § 7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101–508, title XI, § 11211(d)(6), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, § 8002(b)(6), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§ 13163(b), 13241(f)(6), (7), 13242(d)(20), (22)–(24), Aug. 10, 1993, 107 Stat. 454, 512, 524; Pub. L. 104–188, title I, § 1609(g)(4)(C), Aug. 20, 1996, 110 Stat. 1843; Pub. L. 105–34, title IX, § 902(a), Aug. 5, 1997, 111 Stat. 873; Pub. L. 105–178, title IX, §§ 9006(b)(1), 9009(b)(3), June 9, 1998, 112 Stat. 506, 507; Pub. L. 105–206, title VI, §§ 6010(g)(3), 6023(24)(A), (C), July 22, 1998, 112 Stat. 814, 826.)

[1] So in original. Probably should be ''(and''.

PRIOR PROVISIONS

A prior section 6421 was renumbered section 6422 of this title.

AMENDMENTS

1998—Subsecs. (a), (b)(1). Pub. L. 105–206, § 6023(24)(C), substituted ''subsection (i)'' for ''subsection (j)''.

Subsec. (c). Pub. L. 105–206, § 6010(g)(3), substituted ''(2) and (3)'' for ''(2)(A) and (3)'' and inserted at end ''Subsection (a) shall not apply to gasoline to which this subsection applies.''

Subsec. (d)(2). Pub. L. 105–178, § 9009(b)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.''

Subsec. (f)(3)(B)(ii). Pub. L. 105–178, § 9006(b)(1)(A), substituted ''November 1, 1998'' for ''October 1, 1999''.

Subsec. (f)(3)(B)(iii). Pub. L. 105–178, § 9006(b)(1)(B), substituted ''October 31, 1998'' for ''September 30, 1999''.

Subsecs. (i) to (k). Pub. L. 105–206, § 6023(24)(A), redesignated subsecs. (j) and (k) as (i) and (j), respectively.

1997—Subsec. (e)(2)(B)(iii), (iv). Pub. L. 105–34 struck out cls. (iii) and (iv) which read as follows:

''(iii) EXCEPTION FOR DIESEL FUEL.—The term 'off-highway business use' shall include the use of diesel fuel in a boat in the active conduct of—

''(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

''(II) except as provided in clause (iv), any other trade or business.

''(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

''(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

''(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999.''

1996—Subsec. (f)(2)(A). Pub. L. 104–188 substituted ''4041(c)(2)'' for ''4041(c)(4)''.

1993—Subsec. (c). Pub. L. 103–66, § 13242(d)(22), inserted at end ''The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f).''

Subsec. (e)(1). Pub. L. 103–66, § 13242(d)(20), substituted ''section 4083(a)'' for ''section 4082(b)''.

Subsec. (e)(2)(B). Pub. L. 103–66, § 13163(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''The term 'off-highway business use' does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.''

Subsec. (f)(2)(B). Pub. L. 103–66, § 13242(d)(23), inserted before period at end ''and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon''.

Subsec. (f)(3). Pub. L. 103–66, § 13242(d)(24), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate on gasoline used as a fuel in a train.''

Pub. L. 103–66, § 13241(f)(6), inserted ''and deficit reduction tax'' after ''tax'' in heading and ''and at the deficit reduction rate'' after ''financing rate'' in text.

Subsec. (i). Pub. L. 103–66, § 13241(f)(7), struck out heading and text of subsec. (i). Text read as follows: ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.''

1991—Subsec. (i). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (i). Pub. L. 101–508 substituted ''1995'' for ''1993''.

1989—Subsec. (g)(2). Pub. L. 101–239 substituted ''section 7602(a)'' for ''section 7602''.

1988—Subsec. (a). Pub. L. 100–647, § 2001(d)(3)(F), substituted ''paragraph (2) of subsection (f)'' for ''paragraph (3) of subsection (e)''.

Pub. L. 100–647, § 1017(c)(7), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (b)(1). Pub. L. 100–647, § 1017(c)(7), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (d)(3). Pub. L. 100–647, § 1017(c)(15), added par. (3).

Subsec. (f)(2). Pub. L. 100–647, § 2001(d)(3)(E), added par. (2) and struck out former par. (2) which read as follows: ''This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)(4)).''

Subsec. (f)(3). Pub. L. 100–647, § 2001(d)(3)(E), added par. (3).

Subsec. (f)(4). Pub. L. 100–647, § 2001(d)(3)(E), struck out par. (4) which read as follows: ''This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business.''

Subsec. (i). Pub. L. 100–647, § 1017(c)(6), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j).

Subsec. (j). Pub. L. 100–647, § 1017(c)(6), (8), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j), and substituted ''subsection (d)(2)'' for ''subsection (c)(2)'' in par. (2). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 100–647, § 1017(c)(6), redesignated former subsec. (j) as (k).

1987—Subsec. (e)(2)(C). Pub. L. 100–203, § 10502(d)(9), struck out subpar. (C) which specified section 4221(a)(3) and (d)(3), section 6416(b)(2)(B), and section 4041(g)(1) as provisions exempting from tax, gasoline and special motor fuels used for commercial fishing vessels.

Subsec. (i). Pub. L. 100–17 substituted ''1993'' for ''1988'' in the subsec. (h) which was redesignated (i) by section 1703(c) of Pub. L. 99–514.

Subsec. (j). Pub. L. 100–203, § 10502(d)(10), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.''

1986—Pub. L. 99–514, § 1703(c)(2)(D), substituted '', used by local transit systems, or sold for certain exempt purposes'' for ''or by local transmit systems'' in section catchline.

Subsec. (c). Pub. L. 99–514, § 1703(c)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99–514, § 1703(c)(1)(A), (2)(A), redesignated subsec. (c) as (d) and, in par. (1), substituted ''not more than claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)'' for ''and not more than one claim may be filed under subsection (b)''. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–514, § 1703(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(4). Pub. L. 99–499, § 521(c)(2)(B), added par. (4).

Subsec. (f). Pub. L. 99–514, § 1703(c)(1)(A), (2)(B), redesignated subsec. (e) as (f), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) ''Exempt sales'' which read as follows: ''No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount

which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.'' Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99–514, § 1703(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99–514, § 1703(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 99–499, § 521(c)(2)(A), substituted ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section'' for ''This section''.

Subsec. (i). Pub. L. 99–514, § 1703(c)(1)(A), redesignated subsec. (h), relating to effective date, as (i).

1984—Subsec. (i)(3). Pub. L. 98–369 substituted ''section 34'' for ''section 39''.

1983—Subsec. (a). Pub. L. 97–424, § 511(c)(1), substituted provision that, except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081, for provision that, except as provided in subsection (i), if gasoline were used in a qualified business use, the Secretary would pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax had been paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax had been paid at the rate of 4 cents a gallon.

Subsec. (d)(2). Pub. L. 97–424, § 511(c)(3), substituted ''Off-Highway'' for ''Qualified'' in heading, and ''off-highway business use'' for ''qualified business use'' wherever appearing in text.

Subsec. (d)(2)(C). Pub. L. 97–424, § 515(b)(7), substituted ''and special motor fuels'' for '', special motor fuels, and lubricating oil'' after ''gasoline''.

Subsec. (h). Pub. L. 97–424, § 516(a)(6), substituted ''1988'' for ''1984''.

Subsec. (j)(4). Pub. L. 97–473 added par. (4).

1980—Subsec. (d)(2)(B). Pub. L. 96–222 inserted provisions requiring that the preceding sentence not apply to use in a vessel employed in the fisheries or in the whaling business.

1978—Subsec. (a). Pub. L. 95–618, § 222(a)(1)(A), substituted ''Except as provided in subsection (i), if gasoline is used in a qualified business use'' for ''Except as provided in subsection (i), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a vehicle owned by the United States, is used on the highway''.

Subsec. (b). Pub. L. 95–618, § 233(a)(1), among other changes, provided for the refund or credit of the taxes paid on gasoline but only to the extent such gasoline is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Subsec. (d)(2). Pub. L. 95–618, § 233(a)(3)(A), redesignated par. (3) as (2), and struck out former par. (2) which defined ''commuter fare revenue''.

Subsec. (d)(3). Pub. L. 95–618, §§ 222(a)(1)(B), 233(a)(3)(A), added par. (3) and redesignated former par. (3) as (2).

Subsec. (h). Pub. L. 95–599 substituted ''1984'' for ''1979''.

1976—Subsec. (a). Pub. L. 94–455, § 1906(a)(27)(A)(i), (b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing, and substituted ''in the case of gasoline used as a fuel'' for ''in the case of gasoline used after June 30, 1970, as a fuel''.

Subsec. (b)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, § 1906(a)(27)(B), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (e)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(3). Pub. L. 94–455, § 1906(a)(27)(A)(i), struck out ''after June 30, 1970,'' after ''used''.

Subsecs. (f), (g). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (h). Pub. L. 94–455, § 1906(a)(27)(C), struck out ''after June 30, 1956, and'' after ''purchased''.

Pub. L. 94–280 substituted ''1979'' for ''1977''.

Subsec. (i)(1). Pub. L. 94–455, § 1906(a)(27)(D)(i), struck out ''with respect to gasoline used after June 30, 1965,'' after ''subsections (a) and (b)''.

Subsec. (i)(2). Pub. L. 94–455, § 1906(a)(27)(D)(ii), substituted ''subsection (c)(2)'' for ''subsection (c)(3)(B)''.

Subsec. (i)(3). Pub. L. 94–455, § 1906(a)(27)(D)(iii), struck out ''for gasoline used after June 30, 1965'' after ''subtitle A''.

1970—Subsec. (a). Pub. L. 91–258, § 205(b)(1)(A), inserted requirement that, except as provided in par. (3) of subsec. (e) of this section, where gasoline is used after June 30, 1970, as a fuel in an aircraft, the Secretary or his delegate pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

Subsec. (c)(3)(A)(ii). Pub. L. 91–258, § 207(b), substituted ''a claim for credit or refund of overpayment of income tax'' for ''an income tax return'' after ''time prescribed by law for filing''.

Subsec. (e)(3). Pub. L. 91–258, § 205(b)(1)(B), added par. (3).

Subsec. (h). Pub. L. 91–605 substituted ''1977'' for ''1972''.

Subsec. (j)(1). Pub. L. 91–258, § 205(c)(8), substituted ''For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041'' for ''For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041''.

Subsec. (j)(2). Pub. L. 91–258, § 205(c)(8), redesignated par. (4) as (2). Former par. (2), which provided ''For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J)'', was struck out.

Subsec. (j)(3). Pub. L. 91–258, § 205(c)(8), redesignated par. (5) as (3). Former par. (3), which provided ''For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H)'', was struck out.

Subsec. (j)(4), (5). Pub. L. 91–258, § 205(c)(8), redesignated pars. (4) and (5) as (2) and (3), respectively.

1965—Subsec. (a). Pub. L. 89–44, § 809(b)(1)(A), substituted ''Except as provided in subsection (i), if'' for ''If''.

Subsec. (b). Pub. L. 89–44, § 809(b)(1)(A), substituted ''Except as provided in subsection (i), if'' for ''If''.

Subsec. (c)(1). Pub. L. 89–44, § 809(b)(2)(A), struck out ''General rule'' in heading and inserted in lieu thereof ''Gasoline used before July 1, 1965'', and substituted ''paragraphs (2) and (3)'' for ''Paragraph (2)'' after ''Except as provided in''.

Subsec. (c)(2). Pub. L. 89–44, § 809(b)(2)(B), substituted ''Except as provided in paragraph (3), if'' for ''If''.

Subsec. (c)(3). Pub. L. 89–44, § 809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89–44, § 809(b)(3), substituted ''payable'' for ''paid'' in first sentence.

Subsecs. (i), (j). Pub. L. 89–44, § 809(b)(1)(B), added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (b)(1)(B), (2). Pub. L. 87–508, § 5(c)(2)(A), substituted ''commuter fare revenue'' for ''tax-exempt passenger fare revenue'' in two places and struck out ''(not including the tax imposed by section 4261, relating to the tax on transportation of persons)'' after ''total passenger fare revenue'' in two places.

Subsec. (d)(2). Pub. L. 87–508, § 5(c)(2)(B), substituted definition of ''commuter fare revenue'' for definition of ''tax-exempt passenger fare revenue''.

1961—Subsec. (h). Pub. L. 87–61, substituted ''October 1, 1972'' for ''July 1, 1972''.

1959—Subsec. (a). Pub. L. 86–342 substituted ''1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon'' for ''1 cent for each gallon of gasoline so used''.

Subsec. (b)(1)(A). Pub. L. 86–342 substituted ''1 cent at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon'' for ''1 cent for each gallon of gasoline so used''.

1958—Subsec. (c). Pub. L. 85–859, § 164(a), permitted, in cases where $1,000 or more is payable to any person with respect to gasoline used during a calendar quarter, the filing of a claim on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

Subsec. (i)(2), (3). Pub. L. 85–859, § 163(d)(3), substituted ''section 6416(b)(2)(I) and (J)'' for ''section 6416(b)(2) (J) and (K)'' in cl. (2), and ''section 6416(b)(2)(H)'' for ''section 6416(b)(2)(L)'' in cl. (3).

1956—Subsec. (d)(2). Act July 25, 1956, substituted ''4263(a)'' for ''4262(b)''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 6023(24)(A), (C) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(3) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

Pub. L. 105–178, title IX, § 9009(c), June 9, 1998, 112 Stat. 507, provided that: ''The amendments made by this section [amending this section and section 6427 of this title] shall take effect on October 1, 1998.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective Jan. 1, 1998, see section 902(c) of Pub. L. 105–34, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104–188, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13163(b) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13163(d) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13241(f)(6), (7) of Pub. L. 103–66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20), (22)–(24) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(6)–(8), (15) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Amendment by section 2001(d)(3)(E), (F) of 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 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99–514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99–514, set out as a note under section 4081 of this title.

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(c)(1), (3) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97–424, set out as a note under section 4041 of this title.

Amendment by section 515(b)(7) of Pub. L. 97–424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97–424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95–618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96–222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 222(a)(1) of Pub. L. 95–618 applicable with respect to uses after Dec. 31, 1978, see section 222(b) of Pub. L. 95–618, set out as a note under section 4041 of this title.

Amendment by section 233(a)(1), (3)(A) of Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1906(a)(27)(A)(ii) of Pub. L. 94–455 provided that: ''The amendments made by clause (i) [amending this section] shall only apply with respect to gasoline used as a fuel after June 30, 1970.''

Amendment by section 1906(a)(27)(B)–(D), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 205(b)(1), (c)(8) of Pub. L. 91–258 effective July 1, 1970, and amendment by section 207(b) of Pub. L. 91–258 applicable with respect to taxable years ending after June 30, 1970, see section 211(a), (b) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable with respect to gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5(d) of Pub. L. 87–508 provided in part that: ''The amendments made by subsection (c)(2) [amending this section] shall apply only in respect of claims filed with respect to gasoline used on or after November 16, 1962.''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 163(d)(3) of Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859, set out as a note under section 6415 of this title.

Section 164(b) of Pub. L. 85–859 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to claims the last day for the filing of which occurs after the effective date specified in section 1(c) of this Act.''

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 25, 1956, applicable to amounts paid on or after first day of first month which begins more than sixty days after July 25, 1956, for transportation commencing on or after such first day, see section 6 of act July 25, 1956, set out as a note under section 4261 of this title.

CROSS REFERENCES

Time and place for examination pursuant to subsection (g)(2) of this section, see section 7605 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 4041, 4084, 4483, 6206, 6427, 6504, 6511, 6612, 6675, 7210, 7603, 7604, 7605, 7609, 7610, 9502, 9503, 9508 of this title; title 16 section 460*l*–11.

§ 6422. Cross references

(1) For limitations on credits and refunds, see subchapter B of chapter 66.

(2) For overpayment in case of adjustments to accrued foreign taxes, see section 905(c).

(3) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.

(4) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.

(5) For refund or redemption of stamps, see chapter 69.

(6) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.

(7) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).

(8) For restrictions on transfers and assignments of claims against the United States, see section 3727 of title 31, United States Code.

(9) For set-off of claims against amounts due the United States, see section 3728 of title 31, United States Code.

(10) For special provisions relating to alcohol and tobacco taxes, see subtitle E.

(11) for[1] credit or refund in case of deficiency dividends paid by a regulated investment company or real estate investment trust, see section 860.

(12) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.

[1] So in original. Probably should be capitalized.

(Aug. 16, 1954, ch. 736, 68A Stat. 802, § 6420; renumbered § 6421, Apr. 2, 1956, ch. 160, § 1, 70 Stat. 87; renumbered § 6422, June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended Pub. L. 85–859, title II, § 204(4), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 88–36, title II, § 201(c), June 4, 1963, 77 Stat. 54; Pub. L. 94–455, title XVI, § 1601(f)(1), title XIX, §§ 1901(b)(36)(B), 1906(a)(28), Oct. 4, 1976, 90 Stat. 1746, 1802, 1828; Pub. L. 95–600, title III, § 362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97–248, title IV, § 402(c)(4), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97–258, § 3(f)(8), (9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101–508, title XI, § 11801(c)(17)(A), Nov. 5, 1990, 104 Stat. 1388–527; Pub. L. 105–34, title XI, § 1131(c)(3), Aug. 5, 1997, 111 Stat. 980.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in par. (7), was repealed by Pub. L. 94–412, title V, § 501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1997—Pars. (5) to (13). Pub. L. 105–34 struck out par. (5) and redesignated pars. (6) to (13) as (5) to (12), respectively. Prior to amendment, par. (5) read as follows: ''For abatement or refund of tax on transfers to avoid income tax, see section 1494(b).''

1990—Pub. L. 101–508 struck out par. (6) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (7) to (12), (14), and (15)) by redesignating such pars. as (6) to (13), respectively. Prior to amendment, par. (6) provided a cross reference to section 1481 of this title for overpayment in certain renegotiations of war contracts.

1982—Par. (10). Pub. L. 97–258, § 3(f)(8), substituted ''section 3727 of title 31, United States Code'' for ''R.S. 3477 (31 U.S.C. 203)''.

Par. (11). Pub. L. 97–258, § 3(f)(9), substituted ''section 3728 of title 31, United States Code'' for ''the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)''.

Par. (15). Pub. L. 97–248 added par. (15).

1978—Par. (14). Pub. L. 95–600 inserted ''regulated investment company or'' before ''real estate investment trust'' and substituted ''section 860'' for ''section 859''.

1976—Par. (2). Pub. L. 94–455, § 1901(b)(36)(B), redesignated par. (3) as (2). Former par. (2), which set forth a cross reference to section 1321 of this title for overpayment arising out of adjustments incident to involuntary liquidation of inventory, was struck out.

Pars. (3) to (8). Pub. L. 94–455, § 1901(b)(36)(B), redesignated pars. (4) to (9) as (3) to (8), respectively.

Par. (9). Pub. L. 94–455, §§ 1901(b)(36)(B), 1906(a)(28)(A), redesignated par. (10) as (9) and substituted ''(50 U.S.C. App. 1742)'' for ''(60 Stat. 48; 50 U.S.C. App. 1742)''. Former par. (9) redesignated (8).

Par. (10). Pub. L. 94–455, § 1901(b)(36)(B), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Par. (11). Pub. L. 94–455, §§ 1901(b)(36)(B), 1906(a)(28)(B), redesignated par. (12) as (11) and substituted ''(31 U.S.C. 227)'' for ''(47 Stat. 1516; 31 U.S.C. 227)''. Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 94–455, § 1901(b)(36)(B), redesignated pars. (12) and (13) as (11) and (12), respectively.

Par. (14). Pub. L. 94–455, § 1601(f)(1), added par. (14).

1963—Pars. (7) to (14). Pub. L. 88–36 redesignated pars. (8) to (14) as (7) to (13), respectively. Former par. (7), which was cross reference provision for abatement or refund in case of tax on silver bullion to section 4894, was struck out.

1958—Pub. L. 85–859 substituted ''subtitle E'' for ''sections 5011, 5044, 5057, 5063, 5705, and 5707'' in par. (14).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with

provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(f)(1) of Pub. L. 94–455, see section 1608(a) of Pub. L. 94–455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(B) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(28) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88–36.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85–859, set out as an Effective Date note under section 5001 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

§ 6423. Conditions to allowance in the case of alcohol and tobacco taxes

(a) Conditions

No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary)—

(1) that he bore the ultimate burden of the amount claimed; or

(2) that he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) that (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) Filing of claims

No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.

(c) Application of section

This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) any claim for drawback, and

(2) any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed.

(d) Meaning of terms

For purposes of this section—

(1) Alcohol or tobacco tax

The term ''alcohol or tobacco tax'' means—

(A) any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) in the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) Tax

The term ''tax'' includes a tax and an exaction denominated a ''tax'', and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) Ultimate burden

The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a)(1), and the owner referred to in subsection (a)(3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) he has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) no understanding or agreement exists for any such relief or shifting, and

(C) if he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary may require to insure faithful compliance with his agreement.

(Added Pub. L. 85–323, § 1, Feb. 11, 1958, 72 Stat. 9; amended Pub. L. 94–455, title XIX, § 1906(a)(29), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455, § 1906(a)(29)(A), among other changes, struck out provisions allowing any claimant who has on or before Apr. 30, 1958, filed a claim for any amount to which subsec. (a) applies, may

file a superseding claim after Apr. 30, 1958, conforming to the requirements of this section and covering the amount claimed in such prior claim.

Subsec. (c). Pub. L. 94–455, § 1906(a)(29)(B), (C), redesignated subsec. (d) as (c) and struck out par. (3) relating to any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957. Former subsec. (c), relating to disallowance of any suit or proceeding which was barred on Apr. 30, 1958, was struck out.

Subsecs. (d), (e). Pub. L. 94–455, § 1906(a)(29)(B), (b)(13)(A), redesignated subsec. (e) as (d) and struck out ''or his delegate'' after ''Secretary''. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Section 3 of Pub. L. 85–323 provided that this section shall not apply to any credit or refund allowed or made before May 1, 1958.

[§ 6424. Repealed. Pub. L. 97–424, title V, § 515(b)(5), Jan. 6, 1983, 96 Stat. 2181]

Section, added Pub. L. 89–44, title II, § 202(b), June 21, 1965, 79 Stat. 137; amended Pub. L. 91–258, title II, § 207(b), May 21, 1970, 84 Stat. 248; Pub. L. 94–455, title XIX, § 1906(a)(30), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834; Pub. L. 95–618, title II, §§ 222(a)(3), 233(b)(1), (2)(A), Nov. 9, 1978, 92 Stat. 3187, 3191; Pub. L. 97–473, title II, § 202(b)(13), Jan. 14, 1983, 96 Stat. 2610, had provided for payments by the Secretary of an amount equal to 6 cents for each gallon of lubricating oil used in a qualified business use or in a qualified bus to certain ultimate purchasers of the lubricating oil.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97–424, set out as an Effective Date of 1983 Amendment note under section 34 of this title.

§ 6425. Adjustment of overpayment of estimated income tax by corporation

(a) Application of adjustment

(1) Time for filing

A corporation may, after the close of the taxable year and on or before the 15th day of the third month thereafter, and before the day on which it files a return for such taxable year, file an application for an adjustment of an overpayment by it of estimated income tax for such taxable year. An application under this subsection shall not constitute a claim for credit or refund.

(2) Form of application, etc.

An application under this subsection shall be verified in the manner prescribed by section 6065 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Secretary. The application shall set forth—

(A) the estimated income tax paid by the corporation during the taxable year,

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year,

(C) the amount of the adjustment, and

(D) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) Allowance of adjustment

(1) Limited examination of application

Within a period of 45 days from the date on which an application for an adjustment is filed under subsection (a), the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Secretary may disallow, without further action, any application which he finds contains material omissions or errors which he deems cannot be corrected within such 45 days.

(2) Adjustment credited or refunded

The Secretary, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation and shall refund the remainder to the corporation.

(3) Limitation

No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation on its application as its income tax liability for the taxable year, and (B) $500.

(4) Effect of adjustment

For purposes of this title (other than section 6655), any adjustment under this section shall be treated as a reduction, in the estimated income tax paid, made on the day the credit is allowed or the refund is paid.

(c) Definitions

For purposes of this section and section 6655(h) (relating to excessive adjustment)—

(1) The term ''income tax liability'' means the excess of—

(A) The sum of—

(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable,

(ii) the tax imposed by section 55, plus

(iii) the tax imposed by section 59A, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

(2) The amount of an adjustment under this section is equal to the excess of—

(A) the estimated income tax paid by the corporation during the taxable year, over

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year.

(d) Consolidated returns

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and subject to such conditions, limitations, and excep-

tions as the Secretary may by regulations prescribe.

(Added Pub. L. 90–364, title I, § 103(d)(1), June 28, 1968, 82 Stat. 262; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–499, title V, § 516(b)(4)(C), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99–514, title VII, § 701(d)(2), Oct. 22, 1986, 100 Stat. 2342; Pub. L. 100–203, title X, § 10301(b)(4), Dec. 22, 1987, 101 Stat. 1330–429.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–203 substituted ''section 6655(h)'' for ''section 6655(g)''.

1986—Subsec. (c)(1)(A). Pub. L. 99–514 amended subpar. (A) generally, restating existing provisions as cl. (i) and adding cl. (ii).

Pub. L. 99–499 amended subsec. (c)(1)(A), as amended by the Tax Reform Act of 1986 (Pub. L. 99–514), by striking out ''plus'' at end of cl. (i), substituting ''plus'' for ''over'' at end of cl. (ii), and adding cl. (iii).

1976—Subsecs. (a), (b), (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99–499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99–499, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, set out as notes under sections 6154 and 51 of this title, see section 103(f) of Pub. L. 90–364, set out as an Effective Date of 1968 Amendment note under section 6154 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by Pub. L. 99–514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100–647, set out as a note under section 861 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6655 of this title.

[§ 6426. Repealed. Pub. L. 97–248, title II, § 280(c)(2)(G), Sept. 3, 1982, 96 Stat. 564]

Section, added Pub. L. 91–258, title II, § 206(c), May 21, 1970, 84 Stat. 245; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a refund of aircraft use tax where plane transports for hire in foreign air commerce.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to transportation beginning after Aug. 31, 1982, see section 280(d) of Pub. L. 97–248, set out as an Effective Date of 1982 Amendment note under section 4261 of this title.

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

(i) which is available to the general public, and

(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term ''qualified local bus'' means any local bus—

(i) which has a seating capacity of at least 20 adults (not including the driver), and

(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that ''liquid taxable under section 4041'' shall be substituted for ''gasoline'' each place it appears in such paragraph (4)).

(d) Use by certain aircraft museums or in certain other aircraft uses

Except as provided in subsection (k), if—

(1) any gasoline on which tax was imposed by section 4081, or

(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(*l*), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

[(e) Repealed. Pub. L. 101–508, title XI, § 11801(a)(46), Nov. 5, 1990, 104 Stat. 1388–522]

(f) Gasoline, diesel fuel, kerosene, and aviation fuel used to produce certain alcohol fuels

(1) In general

Except as provided in subsection (k), if any gasoline, diesel fuel, kerosene, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c) or 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) Definitions

For purposes of paragraph (1)—

(A) Regular tax rate

The term ''regular tax rate'' means—

(i) in the case of gasoline, diesel fuel, or kerosene, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

(B) Incentive tax rate

The term ''incentive tax rate'' means—

(i) in the case of gasoline, diesel fuel, or kerosene, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(2) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

(3) Coordination with other repayment provisions

No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, kerosene, or aviation fuel with respect to which an amount is payable under subsection (d) or (*l*) of this section or under section 6420 or 6421.

(4) Termination

This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.

[(g) Repealed. Pub. L. 104–188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]

(h) Gasoline blend stocks or additives not used for producing gasoline

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

(i) Time for filing claims; period covered

(1) General rule

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (*l*), or (*o*) by any person with respect to fuel used during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exceptions

(A) In general

If, at the close of any quarter of the taxable year of any person, at least $750 is payable in the aggregate under subsections (a), (b), (d), (h), (*l*), and (*o*) of this section and section 6421 to such person with respect to fuel used during—

(i) such quarter, or

(ii) any prior quarter (for which no other claim has been filed) during such taxable year,

a claim may be filed under this section with respect to such fuel.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

(3) Special rule for alcohol mixture credit

(A) In general

A claim may be filed under subsection (f) by any person with respect to gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3)) for any period—

(i) for which $200 or more is payable under such subsection (f), and

(ii) which is not less than 1 week.

(B) Payment of claim

Notwithstanding subsection (f)(1), if the Secretary has not paid pursuant to a claim filed under this section within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

(C) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(4) Special rule for vendor refunds

(A) In general

A claim may be filed under subsection (*l*)(5) by any person with respect to fuel sold by such person for any period—

(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (*l*)(5), and

(ii) which is not less than 1 week.

Notwithstanding subsection (*l*)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(j) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041, 4081, and 4091 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(k) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under this section only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

(3) Allowance of credit against income tax

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

(*l*) Nontaxable uses of diesel fuel, kerosene, and aviation fuel

(1) In general

Except as otherwise provided in this subsection and in subsection (k), if—

(A) any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081, or

(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.

(2) Nontaxable use

For purposes of this subsection, the term ''nontaxable use'' means—

(A) in the case of diesel fuel or kerosene, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.

(3) Refund of certain taxes on fuel used in diesel-powered trains

For purposes of this subsection, the term ''nontaxable use'' includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

(iii) 4.3 cents per gallon after October 31, 1998.

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

(4) No refund of certain taxes on fuel used in commercial aviation

In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.

(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments

(A) In general

Paragraph (1) shall not apply to diesel fuel or kerosene used—

(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

(ii) by a State or local government.

(B) Sales of kerosene not for use in motor fuel

Paragraph (1)(A) shall not apply to kerosene sold by a vendor—

(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

(C) Payment to ultimate, registered vendor

The amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

(i) is registered under section 4101, and

(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(m) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(n) Payments for taxes imposed by section 4041(d)

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

(*o*) Gasohol used in noncommercial aviation

Except as provided in subsection (k), if—

(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4 cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used.

(p) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Pub. L. 91–258, title II, § 207(a), May 21, 1970, 84 Stat. 246; amended Pub. L. 94–455, title XIX, § 1906(a)(31)(A), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 94–530, § 1(b), (c)(2)–(5), Oct. 17, 1976, 90 Stat. 2487, 2488; Pub. L. 95–458, § 3(b), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 95–599, title V, § 505(a), (b), (c)(2)–(4), Nov. 6, 1978, 92 Stat. 2758–2760; Pub. L. 95–600, title VII, § 703(*l*)(3), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 95–618, title II, § 233(a)(2), Nov. 9, 1978, 92 Stat. 3190; Pub. L. 96–223, title II, § 232(d)(1), (2), (4)(B)–(D), Apr. 2, 1980, 94 Stat. 277, 278; Pub. L. 96–541, § 4, Dec. 17, 1980, 94 Stat. 3205; Pub. L. 97–248, title II, § 279(b)(2), Sept. 3, 1982, 96 Stat. 563; Pub. L. 97–424, title V, §§ 511(d)(4), (e)(1)–(3), (g)(2)(B)–(D), 516(b)(5), Jan. 6, 1983, 96 Stat. 2171, 2172, 2173, 2183; Pub. L. 97–473, title II, § 202(b)(13), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, § 474(r)(38), title VII, §§ 732(a)(3), 734(c)(2), title IX, §§ 911(b), (d)(2)(B)–(F), 912(d), 914, 915(a), July 18, 1984, 98 Stat. 846, 977, 979, 1005–1008; Pub. L. 99–499, title V, § 521(c)(3)(A), (B)(i), (C), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99–514, title IV, § 422(b), title XVII, § 1703(d), (e)(1), (2)(A)–(E), title XVIII, §§ 1877(b), 1899A(55), (56), Oct. 22, 1986, 100 Stat. 2230, 2777, 2778, 2902, 2961, as amended by Pub. L. 99–499, title V, § 521(c)(3)(B)(ii), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 100–17, title V, § 502(b)(8), (9), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100–203, title X, § 10502(c), Dec. 22, 1987, 101 Stat. 1330–442; Pub. L. 100–223, title IV, § 405(b)(1), (2), Dec. 30, 1987, 101 Stat. 1534, 1535; Pub. L. 100–647, title I, § 1017(c)(3), (10), title II, §§ 2001(d)(7)(B)–(D), 2004(s)(2), (3), title III, § 3002(a)–(c), Nov. 10, 1988, 102 Stat. 3576, 3596, 3609, 3615, 3616; Pub. L. 101–239, title VII, §§ 7501(b)(3), 7812(a), 7822(b)(1)–(4), 7841(d)(20), Dec. 19, 1989, 103 Stat. 2361, 2412, 2424, 2425, 2429; Pub. L. 101–508, title XI, §§ 11211(b)(4)(B), (5), (6)(E)(ii), (d)(7), (8), 11213(b)(3), 11801(a)(46), (c)(23), Nov. 5, 1990, 104 Stat. 1388–425 to 1388–427, 1388–433, 1388–522, 1388–528; Pub. L. 102–240, title VIII, § 8002(b)(7), (8), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§ 13241(f)(8)–(10), 13242(c), (d)(21), (25)–(31), Aug. 10, 1993, 107 Stat. 512, 521, 524, 525; Pub. L. 104–188, title I, §§ 1606(a), (b)(2), 1702(b)(2)(B), 1703(k), Aug. 20, 1996, 110 Stat. 1839, 1868, 1877; Pub. L. 105–34, title X, § 1032(c)(3), (e)(7)–(10), Aug. 5, 1997, 111 Stat. 934, 935; Pub. L. 105–178, title IX, §§ 9003(a)(2), 9006(b)(2), 9009(a)–(b)(2), June 9, 1998, 112 Stat. 502, 506, 507;

Pub. L. 105–206, title VI, §§6016(b), 6017(a), 6023(16), (25), (26), July 22, 1998, 112 Stat. 822, 825, 826.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–206, §6016(b), in heading, substituted ''other aircraft uses'' for ''helicopters'' and, in concluding provisions, inserted ''or a fixed-wing aircraft'' after ''helicopter''.

Subsec. (f)(3). Pub. L. 105–206, §6023(25), struck out '', (e),'' after ''subsection (d)''.

Subsec. (f)(4). Pub. L. 105–178, §9003(a)(2), substituted ''2007'' for ''1999''.

Subsec. (i)(1). Pub. L. 105–206, §6023(26)(B), substituted ''(*o*)'' for ''(q)''.

Subsec. (i)(2)(A). Pub. L. 105–206, §6023(26)(B), substituted ''(*o*)'' for ''(q)''.

Pub. L. 105–178, §9009(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''If $1,000 or more is payable under subsections (a), (b), (d), (h), and (q) to any person with respect to fuel used during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.''

Subsec. (i)(2)(B). Pub. L. 105–206, §6017(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: ''No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.''

Subsec. (i)(4), (5). Pub. L. 105–178, §9009(b)(1), redesignated par. (5) as (4) and struck out par. (4) which read as follows:

''(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (*l*).—

''(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least $750 is payable under subsection (*l*) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (*l*) with respect to such fuel.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.''

Subsec. (k)(2). Pub. L. 105–178, §9009(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).''

Subsec. (*l*)(3)(B)(ii). Pub. L. 105–178, §9006(b)(2)(A), substituted ''November 1, 1998'' for ''October 1, 1999''.

Subsec. (*l*)(3)(B)(iii). Pub. L. 105–178, §9006(b)(2)(B), substituted ''October 31, 1998'' for ''September 30, 1999''.

Subsecs. (m) to (p). Pub. L. 105–206, §6023(26)(A), redesignated subsecs. (n), (p), (q), and (r) as (m), (n), (*o*), and (p), respectively.

Subsec. (q). Pub. L. 105–206, §6023(26)(A), redesignated subsec. (q) as (*o*).

Subsec. (q)(2). Pub. L. 105–206, §6023(16), substituted ''section 4041(c)(2)'' for ''section 4041(c)(4)''.

Subsec. (r). Pub. L. 105–206, §6023(26)(A), redesignated subsec. (r) as (p).

1997—Subsec. (f). Pub. L. 105–34, §1032(e)(7), inserted ''kerosene,'' after ''diesel fuel,'' in subsec. heading and in text of par. (1).

Subsec. (f)(2)(A)(i), (B)(i). Pub. L. 105–34, §1032(e)(8), substituted '', diesel fuel, or kerosene'' for ''or diesel fuel''.

Subsec. (f)(3). Pub. L. 105–34, §1032(e)(7), inserted ''kerosene,'' after ''diesel fuel,''.

Subsec. (i)(3)(A). Pub. L. 105–34, §1032(e)(9), substituted '', diesel fuel, or kerosene'' for ''or diesel fuel'' in introductory provisions.

Subsec. (i)(4). Pub. L. 105–34, §1032(e)(10), amended heading generally. Prior to amendment, heading read as follows: ''Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4081 or 4091''.

Subsec. (i)(5)(A)(i). Pub. L. 105–34, §1032(c)(3)(E), inserted ''($100 or more in the case of kerosene)'' after ''$200 or more''.

Subsec. (*l*). Pub. L. 105–34, §1032(c)(3)(D), inserted '', kerosene,'' after ''diesel fuel'' in heading.

Subsec. (*l*)(1)(A), (2)(A). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel''.

Subsec. (*l*)(5). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel'' in heading.

Subsec. (*l*)(5)(A). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel'' in introductory provisions.

Subsec. (*l*)(5)(B). Pub. L. 105–34, §1032(c)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (*l*)(5)(C). Pub. L. 105–34, §1032(c)(3)(B), (C), redesignated subpar. (B) as (C) and substituted ''subparagraph (A) or (B)'' for ''subparagraph (A)'' in introductory provisions.

1996—Subsec. (f)(4). Pub. L. 104–188, §1703(k), substituted ''1999'' for ''1995''.

Subsec. (g). Pub. L. 104–188, §1606(a), struck out subsec. (g) which related to advance repayment of increased diesel fuel tax to original purchasers of diesel-powered automobiles and light trucks.

Subsec. (i)(1), (2)(A). Pub. L. 104–188, §1606(b)(2), struck out ''(g),'' after ''(d),'' and ''(or a qualified diesel powered highway vehicle purchased)'' after ''with respect to fuel used'' wherever appearing.

Subsec. (*l*)(4). Pub. L. 104–188, §1702(b)(2)(B), amended par. (4), as in effect before the amendments made by the Revenue Reconciliation Act of 1993 [ch. I, §§13001–13444, of title XIII of Pub. L. 103–66], by inserting before the period ''unless such fuel was used by a State or any political subdivision thereof''. See 1993 Amendment note below for subsec. (*l*).

1993—Subsec. (a). Pub. L. 103–66, §13242(d)(21), substituted ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' for ''section 4041(a) or (c)'' in introductory provisions.

Subsec. (b)(1). Pub. L. 103–66, §13242(d)(25), substituted ''if any fuel other than gasoline (as defined in section 4083(a))'' for ''if any fuel'' in introductory provisions and ''4081'' for ''4091'' in introductory and concluding provisions.

Subsec. (b)(2). Pub. L. 103–66, §13241(f)(8)(B), substituted ''Reduction'' for ''3-cent reduction'' in heading.

Subsec. (b)(2)(A). Pub. L. 103–66, §13242(d)(25)(B), substituted ''4081'' for ''4091''.

Pub. L. 103–66, §13241(f)(8)(A), substituted ''7.4 cents'' for ''3.1 cents''.

Subsec. (c). Pub. L. 103–66, §13242(d)(21), substituted ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' for ''section 4041(a) or (c)''.

Subsec. (f)(1). Pub. L. 103–66, §13242(d)(26)(A), substituted ''or 4091(c)(1)(A)'' for '', 4091(c)(1)(A), or 4091(d)(1)(A)''.

Subsec. (f)(2). Pub. L. 103–66, §13242(d)(26)(B), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

''(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

''(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

''(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

''(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

''(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

''(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.''

Subsec. (h). Pub. L. 103–66, §13242(d)(27), substituted ''section 4083(a)(2)'' for ''section 4082(b)''.

Subsec. (i)(1). Pub. L. 103–66, §13242(c)(2)(B), substituted ''otherwise provided in this subsection'' for ''provided in paragraphs (2), (3), and (4)''.

Subsec. (i)(3). Pub. L. 103–66, §13242(d)(28)(A), substituted ''alcohol mixture'' for ''gasohol'' in heading.

Subsec. (i)(3)(A). Pub. L. 103–66, §13242(d)(28)(B), substituted ''gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' for ''gasoline used to produce gasohol (as defined in section 4081(c)(1))''.

Subsec. (i)(3)(C). Pub. L. 103–66, §13242(c)(2)(D), added subpar. (C).

Subsec. (i)(4). Pub. L. 103–66, §13242(d)(30), inserted ''4081 or'' before ''4091'' in heading.

Subsec. (i)(5). Pub. L. 103–66, §13242(c)(2)(A), added par. (5).

Subsec. (j)(1). Pub. L. 103–66, §13242(d)(29), substituted ''sections 4041, 4081, and 4091'' for ''section 4041''.

Subsec. (k)(2). Pub. L. 103–66, §13242(c)(2)(C), substituted ''(4), or (5)'' for ''or (4)''.

Subsec. (*l*). Pub. L. 103–66, §13242(d)(31), amended subsec. heading and headings and text of pars. (1) to (4) generally. Prior to amendment, pars. (1) to (4) read as follows:

''(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

''(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt under section 4041 from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

''(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

''(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.''

Pub. L. 103–66, §13241(f)(9), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

''(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

''(A) fuel used in a diesel-powered train, and

''(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

''(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section.'' See 1996 Amendment note for subsec. (*l*)(4) above.

Subsec. (*l*)(5). Pub. L. 103–66, §13242(c)(1), added par. (5).

Subsec. (m). Pub. L. 103–66, §13241(f)(10), struck out heading and text of subsec. (m). Text read as follows: ''For purposes of subsection (a), in the case of gasoline—

''(1) on which tax was imposed under section 4041(c)(2),

''(2) on which tax was not imposed under section 4081, and

''(3) which was not used as an off-highway business use (within the meaning of section 6421(e)(2)),

the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.''

Subsec. (*o*). Pub. L. 103–66, §13241(f)(10), struck out heading and text of subsec. (*o*). Text read as follows: ''Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (*l*) shall only apply with respect to fuels purchased before October 1, 1999.''

1991—Subsecs. (g)(5), (*o*). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (b)(2)(A). Pub. L. 101–508, §11211(b)(5), substituted ''shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be'' for ''shall not exceed 12 cents''.

Subsec. (e). Pub. L. 101–508, §11801(a)(46), struck out subsec. (e) which required payment of refunds of gasoline or fuel tax to ultimate purchasers where such gasoline or fuel was used in a qualified taxicab engaged exclusively in furnishing qualified taxicab services.

Subsec. (f). Pub. L. 101–508, §11213(b)(3), amended subsec. (f) generally, restructuring and restating pars. (1) to (3) as (1) to (4) and extending the termination date from Sept. 30, 1993, to Sept. 30, 1995.

Subsec. (g)(5). Pub. L. 101–508, §11211(d)(7), substituted ''1995'' for ''1993''.

Subsec. (i)(1). Pub. L. 101–508, §11801(c)(23)(A), struck out ''(e),'' before ''(g),''.

Subsec. (i)(2)(A). Pub. L. 101–508, §11801(c)(23)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''If—

''(i) $1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (q), or

''(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.''

Subsec. (i)(2)(B), (C). Pub. L. 101–508, §11801(c)(23)(C), redesignated subpar. (C) as (B) and struck out former subpar. (B) ''Special rule'' which read as follows: ''If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).''

Subsec. (*l*)(1). Pub. L. 101–508, §11211(b)(4)(B)(ii), inserted reference to par. (4).

Subsec. (*l*)(4). Pub. L. 101–508, §11211(b)(4)(B)(i), added par. (4).

Subsec. (*o*). Pub. L. 101–508, §11211(d)(8), substituted ''1995'' for ''1993''.

Subsec. (q). Pub. L. 101–508, §11211(b)(6)(E)(ii), substituted heading for one which read: ''Gasoline used in noncommercial aviation during period rate reduction in effect'' and amended text generally. Prior to amendment, text read as follows: ''Except as provided in subsection (k), if—

''(1) any tax is imposed by section 4081 on any gasoline,

''(2) such gasoline is used during 1991 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

''(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1991 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.''

1989—Subsec. (f)(1)(B). Pub. L. 101–239, § 7812(a), made technical correction to directory language of Pub. L. 100–647, § 2001(d)(7)(C), see 1988 Amendment note below.

Subsec. (i)(1). Pub. L. 101–239, § 7822(b)(1), substituted ''subsection (a), (b), (c), (d), (e), (g), (h), (*l*), or (q) by any person'' for ''subsection (a), (b), (c), (d), (e),, (g), (h), or (*l*) by any person''.

Subsec. (i)(2)(A)(i). Pub. L. 101–239, § 7822(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and or''.

Subsec. (i)(2)(B). Pub. L. 101–239, § 7822(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''If the requirements of clause (ii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause of subparagraph (A) the requirements of which are met by such person for such quarter.''

Subsec. (j)(2). Pub. L. 101–239, § 7841(d)(20), substituted ''section 7602(a)'' for ''section 7602''.

Subsec. (p). Pub. L. 101–239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

Subsec. (q). Pub. L. 101–239, § 7501(b)(3), substituted ''1991'' for ''1990'' in pars. (2) and (3).

Pub. L. 101–239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

1988—Subsec. (f)(1)(A). Pub. L. 100–647, § 2001(d)(7)(B), substituted ''regular tax rate'' for ''regular Highway Trust Fund financing rate'' in two places and ''incentive tax rate'' for ''incentive Highway Trust Fund Financing rate'', notwithstanding directory language that ''incentive tax rate'' was to be substituted for ''Highway Trust Fund financing rate''.

Subsec. (f)(1)(B). Pub. L. 100–647, § 2001(d)(7)(C), as amended by Pub. L. 101–239, § 7812(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) defined ''regular Highway Trust Fund financing rate'' and ''incentive Highway Trust Fund Financing rate''.

Subsec. (i)(1). Pub. L. 100–647, § 3002(c)(1), substituted ''paragraphs (2), (3), and (4)'' for ''paragraph (2)''.

Subsec. (i)(2)(A)(i). Pub. L. 100–647, § 3002(c)(2), struck out ''(*l*),'' after ''and''.

Subsec. (i)(4). Pub. L. 100–647, § 3002(a), added par. (4).

Subsec. (k)(2). Pub. L. 100–647, § 3002(b), substituted ''paragraph (2), (3), or (4)'' for ''paragraph (2) or (3)''.

Pub. L. 100–647, § 1017(c)(10), substituted ''paragraph (2) or (3) of subsection (i).'' for ''subsection'' and all that followed, thereby effecting the purpose of the amendment contained in section 1703(e)(2)(E) of Pub. L. 99–514. See 1986 Amendment note below.

Subsec. (*l*)(2). Pub. L. 100–647, § 2001(d)(7)(D), inserted ''under section 4041'' after ''exempt''.

Subsec. (*l*)(3)(B). Pub. L. 100–647, § 2004(s)(2), inserted ''(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))'' after ''aircraft''.

Subsec. (m)(3). Pub. L. 100–647, § 1017(c)(3), substituted ''6421(e)(2)'' for '6421(d)(2)''.

Subsecs. (p), (q). Pub. L. 100–647, § 2004(s)(3), redesignated subsec. (p), relating to gasoline used in noncommercial aviation during period rate reduction in effect, as (q). Former subsec. (q), relating to cross references, redesignated (r).

Subsec. (r). Pub. L. 100–647, § 2004(s)(3), redesignated subsec. (q), relating to cross references, as (r).

1987—Subsec. (b)(1). Pub. L. 100–203, § 10502(c)(2), substituted ''section 4041(a) or 4091'' for first reference to ''subsection (a) of section 4041'', ''section 4041(a) or 4091, as the case may be'' for second reference to ''subsection (a) of section 4041''.

Subsec. (e)(1)(B). Pub. L. 100–203, § 10502(c)(3), inserted ''or 4091'' after ''section 4041''.

Subsec. (f). Pub. L. 100–203, § 10502(c)(4), amended subsec. (f) generally, substituting new heading for ''Gasoline used to produce certain alcohol fuels'', and revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (g)(5). Pub. L. 100–17, § 502(b)(8), substituted ''1993'' for ''1988''.

Subsec. (i)(1). Pub. L. 100–223, § 405(b)(2)(A), which directed substitution of ''(h), or (p)'' for ''or (h)'', could not be executed because of prior amendment by Pub. L. 100–203. See below.

Pub. L. 100–203, § 10502(c)(5)(A), substituted ''(h), or (*l*)'' for ''or (h)''.

Subsec. (i)(2)(A)(i). Pub. L. 100–223, § 405(b)(2)(B), which directed substitution of ''(h), and (p)'' for ''and (h)'', could not be executed because of prior amendment by Pub. L. 100–203. See below.

Pub. L. 100–203, § 10502(c)(5)(B), substituted ''(h), and (*l*)'' for ''and (h)''.

Subsecs. (*l*) to (n). Pub. L. 100–203, § 10502(c)(1), added subsec. (*l*) and redesignated former subsecs. (*l*) to (n) as (m) to (*o*), respectively.

Subsec. (*o*). Pub. L. 100–203, § 10502(c)(1), (6), redesignated subsec. (n) as (*o*) and amended it generally, substituting new heading for ''Termination of subsections (a), (b), (c), (d), (g), and (h)'' and amending text generally. Prior to amendment, text read as follows: ''Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), and (h) shall only apply with respect to fuels purchased before October 1, 1993.'' Former subsec. (*o*) redesignated (p).

Pub. L. 100–17, § 502(b)(9), substituted ''1993'' for ''1988'' in subsec. (m), which was successively redesignated to subsec. (*o*) by Pub. L. 99–514 and Pub. L. 100–203.

Subsec. (p). Pub. L. 100–223, § 405(b)(1), added subsec. (p). Former subsec. (p) redesignated (q).

Pub. L. 100–203, § 10502(c)(1), redesignated subsec. (*o*) as (p). Former subsec. (p) redesignated (q).

Subsec. (q). Pub. L. 100–223, § 405(b)(1), redesignated subsec. (p), relating to payments for taxes imposed by section 4041(d), as (q).

Pub. L. 100–203, § 10502(c)(1), redesignated subsec. (p), relating to cross references, as (q).

1986—Subsec. (a). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (b)(1). Pub. L. 99–514, § 1899A(55), substituted ''otherwise provided in this subsection'' for ''provided in paragraph (2)''.

Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (b)(2)(A). Pub. L. 99–514, § 1877(b)(2), substituted ''subparagraphs (B) and (C)'' for ''subparagraph (B)''.

Subsec. (b)(2)(B). Pub. L. 99–514, § 1877(b)(1), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 99–514, § 1877(b)(1), (3), redesignated subpar. (B) as (C) and substituted ''Exception for certain intracity transportation'' for ''Exception'' in heading. Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 99–514, § 1877(b)(1), redesignated former subpar. (C) as (D).

Subsecs. (c), (d), (e)(1). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (e)(3). Pub. L. 99–514, § 422(b), substituted ''September 30, 1988'' for ''September 30, 1985''.

Subsec. (f)(1). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Pub. L. 99–499, § 521(c)(3)(C), which directed the substitution of ''at the Highway Trust Fund financing rate'' for ''at the rate'', was executed by making the substitution for the first such reference as the probable intent of Congress.

Subsec. (g)(1). Pub. L. 99–514, §1899A(56), substituted ''amount'' for ''anount''.

Pub. L. 99–514, §1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (h). Pub. L. 99–514, §1703(e)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 99–514, §1703(d)(1)(B)(i), (e)(2)(B), struck out ''(f)'' after ''subsection (a), (b), (c), (d), (e),'' and substituted ''(g), or (h)'' for ''or (g)''.

Subsec. (i)(2)(A). Pub. L. 99–514, §1703(d)(1)(B)(ii), inserted ''or'' at end of cl. (i), struck out ''or'' at end of cl. (ii), and struck out cl. (iii) which read as follows: ''$200 or more is payable under subsection (f),''.

Subsec. (i)(2)(A)(i). Pub. L. 99–514, §1703(e)(2)(C), substituted ''(g), and (h)'' for ''and (g)''.

Subsec. (i)(2)(B). Pub. L. 99–514, §1703(d)(1)(B)(ii)(III), struck out ''(or clauses)'' after ''referred to in the clause''. Notwithstanding directory language that the amendment be made to subpar. (A) of this par., the amendment was executed to subpar. (B), the only place in the section where ''(or clauses)'' appeared, to reflect the probable intent of Congress.

Pub. L. 99–514, §1703(d)(1)(B)(iii), struck out ''or clause (iii)'' after ''If the requirements of clause (ii)''. Notwithstanding directory language that the amendment be made to subsec. (f)(2)(B) of this section, the amendment was executed to subsec. (i)(2)(B), the only place in the section where ''or clause (iii)'' appeared, to reflect the probable intent of Congress.

Subsec. (i)(3). Pub. L. 99–514, §1703(d)(1), added par. (3).

Subsec. (j). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(2). Pub. L. 99–514, §1703(e)(2)(E), which directed the substitution of ''(i)(2)'' for ''subsection (h)(2)'' in subsec. (i)(2) (as so redesignated), was executed to subsec. (k)(2), the only place in the section where ''subsection (h)(2)'' appeared, to reflect the probable intent of Congress. See 1988 Amendment note above.

Pub. L. 99–514, §1703(d)(1)(B)(iv), substituted ''subsection (h)(2) or (h)(3)'' for ''subsection (h)(2)''.

Subsec. (*l*). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Pub. L. 99–499, §521(c)(3)(A), substituted ''Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections'' for ''Subsection''.

Subsec. (n). Pub. L. 99–514, §1703(e)(1)(A), (2)(C), (D), redesignated subsec. (m) as (n) and substituted ''(g), and (h)'' for ''and (g)'' in heading and text. Former subsec. (n) redesignated (*o*).

Pub. L. 99–499, §521(c)(3)(B)(i), added subsec. (n). Former subsec. (n) redesignated (*o*).

Subsec. (*o*). Pub. L. 99–514, §1703(e)(1)(A), as amended by Pub. L. 99–499, §521(c)(3)(B)(ii), redesignated subsec. (n), as added by Pub. L. 99–499, §521(c)(3)(B)(i), as (*o*). Former subsec. (*o*) redesignated (p).

Pub. L. 99–499, §521(c)(3)(B)(i), redesignated subsec. (n) as (*o*).

Subsec. (p). Pub. L. 99–514, §1703(e)(1)(A), as amended by Pub. L. 99–499, §521(c)(3)(B)(ii), redesignated subsec. (*o*) as (p).

1984—Subsecs. (a), (b)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (b)(2), (3). Pub. L. 98–369, §915(a), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d), (e)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (e)(3). Pub. L. 98–369, §914, substituted ''September 30, 1985'' for ''September 30, 1984''.

Subsec. (f)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Pub. L. 98–369, §912(d), substituted ''5⅔ cents'' for ''4⅝ cents''.

Pub. L. 98–369, §732(a)(3), substituted ''4⅝ cents'' for ''5 cents''.

Subsec. (g). Pub. L. 98–369, §911(b), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 98–369, §911(b), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 98–369, §911(d)(2)(C), substituted ''(f), or (g)'' for ''or (f)'', and inserted ''(or a qualified diesel powered highway vehicle purchased)'' after ''fuel used'' in two places.

Subsec. (h)(2)(A). Pub. L. 98–369, §911(d)(2)(D), substituted ''(e), and (g)'' for ''and (e)'', and inserted ''(or a qualified diesel powered highway vehicle purchased)'' after ''fuel used'' in two places.

Subsec. (i). Pub. L. 98–369, §911(b), redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(3). Pub. L. 98–369, §474(r)(38), substituted ''section 34'' for ''section 39''.

Subsec. (j). Pub. L. 98–369, §911(b), redesignated former subsec. (i), relating to income tax credit in lieu of payment, as (j). Former subsec. (j), relating to special rules with respect to noncommercial aviation, redesignated (k).

Pub. L. 98–369, §734(c)(2), added subsec. (j) relating to special rules with respect to noncommercial aviation. Former subsec. (j), relating to regulations, redesignated (k).

Subsec. (j)(2). Pub. L. 98–369, §911(d)(2)(E), which directed the amendment of subsec. (k)(2) by substituting ''(h)(2)'' for '(g)(2)'' was executed to subsec. (j)(2) to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 98–369, §911(b), redesignated former subsec. (j), relating to special rules with respect to noncommercial aviation, as (k). Former subsec. (k), relating to regulations, redesignated (*l*).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (j), relating to regulations, as (k). Former subsec. (k), relating to termination of subsections, redesignated (*l*).

Subsec. (*l*). Pub. L. 98–369, §911(b), redesignated former subsec. (k), relating to regulations, as (*l*). Former subsec. (*l*), relating to termination of subsections, redesignated (m).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (k), relating to termination of subsections, as (*l*). Former subsec. (*l*), relating to cross references, redesignated (m).

Subsec. (m). Pub. L. 98–369, §911(b), (d)(2)(F), redesignated former subsec. (*l*), relating to termination of subsections, as (m) and substituted ''(d), and (g)'' for ''and (d)'' in heading and text. Former subsec. (m), relating to cross references, redesignated (n).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (*l*), relating to cross references, as (m).

Subsec. (n). Pub. L. 98–369, §911(b), redesignated former subsec. (m), relating to cross references, as (n).

1983—Subsec. (a). Pub. L. 97–424, §511(g)(2)(B), substituted ''section 4041(a) or (c)'' for ''section 4041(a), (b), or (c)''.

Subsec. (b)(1). Pub. L. 97–424, §511(g)(2)(C), substituted ''subsection (a) of section 4041'' for ''subsection (a) or (b) of section 4041'' wherever appearing.

Subsec. (c). Pub. L. 97–424, §511(g)(2)(D), substituted ''section 4041(a) or (c)'' for ''section 4041(a), (b), or (c)''.

Subsec. (e)(1). Pub. L. 97–424, §511(e)(1), substituted ''an amount determined at the rate of 4 cents a gallon'' for ''an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel''.

Subsec. (e)(2)(A)(ii). Pub. L. 97–424, §511(e)(3), struck out ''is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and'' after ''(ii)''.

Subsec. (e)(3). Pub. L. 97–424, §511(e)(2), substituted ''September 30, 1984'' for ''December 31, 1982''.

Subsec. (f)(1). Pub. L. 97–424, §511(d)(4), substituted ''on which a tax'' for ''on which tax'', inserted ''at the rate of 9 cents a gallon'' after ''is imposed by section

4081'', and substituted ''the amount determined at the rate of 5 cents a gallon'' for ''the aggregate amount of the tax imposed on such gasoline''.

Subsec. (f)(2). Pub. L. 97–424, § 511(d)(4), substituted provision that no amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421, for provision that no amount would be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount was payable under paragraph (1).

Subsec. (k). Pub. L. 97–424, § 516(b)(5), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(3). Pub. L. 97–473 purported to add par. (3). See par. below for subsec. (*l*)(3).

Subsec. (*l*). Pub. L. 97–424, § 516(b)(5), redesignated former subsec. (k) as (*l*).

Subsec. (*l*)(3). Pub. L. 97–473 added par. (3). Notwithstanding the directory language that par. (3) be added to subsec. (k), it was added to subsec. (*l*) to reflect the probable intent of Congress and the intervening redesignation of subsec. (k) as (*l*) by Pub. L. 97–424.

1982—Subsec. (d). Pub. L. 97–248 inserted ''or in certain helicopters'' after ''museums'' in heading and ''or is used in a helicopter for a purpose described in section 4041(*l*),'' after ''section 4041(h)(2)(C),'' in text.

1980—Subsecs. (a), (b)(1), (c), (d), (e)(1). Pub. L. 96–223, § 232(d)(4)(B), substituted ''subsection (i)'' for ''subsection (h)''.

Subsec. (e)(3). Pub. L. 96–541 extended subsec. (e) termination date to Dec. 31, 1982, from Dec. 31, 1980.

Subsecs. (f), (g). Pub. L. 96–223, § 232(d)(1)(A), (2), (4)(C), added subsec. (f), redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, inserted reference to subsec. (f) in par. (1), added par. (2)(A)(iii), and, in par. (2)(B), substituted ''If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter'' for ''If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e)''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96–223, § 232(d)(1)(A), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96–223, § 232(d)(1)(A), (4)(D), redesignated former subsec. (h) as (i), and in par. (2) of subsec. (i) as so redesignated, substituted ''subsection (g)(2)'' for ''subsection (f)(2)''. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Pub. L. 96–223, § 232(d)(1)(A), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1978—Subsec. (a). Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Subsec. (b). Pub. L. 95–618, among other changes, provided for the refund or credit of the taxes paid on fuel pursuant to section 4041(a) or (b) but only to the extent such fuel is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''. See Effective Date of 1978 Amendment note below.

Subsec. (c). Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Pub. L. 95–458 substituted provision requiring that the rules of section 6420(c)(4) be applied in determining the user and purchaser of fuel if the fuel was used on a farm by any person other than the owner, tenant, or operator for provision which deemed the owner, tenant, or operator of the farm as the user and purchaser if fuel was used on the farm by any other person.

Subsec. (d). Pub. L. 95–600 struck out ''or his delegate'' after ''Secretary''.

Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Subsec. (e). Pub. L. 95–599, § 505(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95–599, § 505(a)(1), (b), (c)(3), redesignated former subsec. (e) as (f) and, in par. (1), substituted ''(d), or (e)'' for ''or (d)'' and amended par. (2) generally, designating existing provisions as subpars. (A)(i) and (c) and adding subpars. (A)(ii) and (B). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95–599, § 505(a)(1), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–599, § 505(a)(1), (c)(4), redesignated former subsec. (g) as (h) and substituted ''(f)(2)'' for ''(e)(2)''. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 95–599, § 505(a)(1), redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1976—Subsec. (a). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' after ''sale of any fuel and'' and ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' before ''used by the purchaser'' and ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' before ''used on a farm'' and ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–530, § 1(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e)(1). Pub. L. 94–530, § 1(b), (c)(3), redesignated former subsec. (d)(1) as (e)(1) and substituted ''(a), (b), (c), or (d)'' for ''(a), (b), or (c)''. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 94–530, § 1(b), (c)(4), redesignated former subsec. (d)(2) as (e)(2) and substituted ''(a), (b), and (d)'' for ''(a) and (b)''.

Subsec. (f). Pub. L. 94–530, § 1(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g) and amended.

Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (g). Pub. L. 94–530, § 1(b), (c)(5), redesignated former subsec. (f) as (g) and substituted ''subsection (e)(2)'' for ''subsection (d)(2)'' in par. (2).

Subsecs. (h), (i). Pub. L. 94–530, § 1(b), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (h). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–206, title VI, § 6017(b), July 22, 1998, 112 Stat. 822, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178].''

Amendment by section 6023(16), (25), and (26) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6016(b) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

Amendment by section 9009(a)–(b)(2) of Pub. L. 105–178 effective Oct. 1, 1998, see section 9009(c) of Pub. L. 105–178, set out as a note under section 6421 of this title.