

EFFECTIVE DATE OF 1987 AMENDMENT

Section 505(d) of Pub. L. 100-17 provided that: "The amendments made by this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Apr. 2, 1987]."

Section 506(b) of Pub. L. 100-17 provided that: "The amendment made by this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer on or after the 1st day of the 1st calendar quarter which begins more than 90 days after the date of the enactment of this Act [Apr. 2, 1987]."

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4002 of this title.

§ 4053. Exemptions

No tax shall be imposed by section 4051 on any of the following articles:

(1) Camper coaches bodies for self-propelled mobile homes

Any article designed—

(A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and

(B) to be used primarily as living quarters or camping accommodations.

(2) Feed, seed, and fertilizer equipment

Any body primarily designed—

(A) to process or prepare seed, feed, or fertilizer for use on farms,

(B) to haul feed, seed, or fertilizer to and on farms,

(C) to spread feed, seed, or fertilizer on farms,

(D) to load or unload feed, seed, or fertilizer on farms, or

(E) for any combination of the foregoing.

(3) House trailers

Any house trailer.

(4) Ambulances, hearses, etc.

Any ambulance, hearse, or combination ambulance-hearse.

(5) Concrete mixers

Any article designed—

(A) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis, and

(B) to be used to process or prepare concrete.

(6) Trash containers, etc.

Any box, container, receptacle, bin or other similar article—

(A) which is designed to be used as a trash container and is not designed for the transportation of freight other than trash, and

(B) which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body.

(7) Rail trailers and rail vans

Any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car. For purposes of the preceding sentence, piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car.

(Added Pub. L. 97-424, title V, §512(b)(1), Jan. 6, 1983, 96 Stat. 2176; amended Pub. L. 98-369, div. A, title VII, §735(b)(1), July 18, 1984, 98 Stat. 981.)

PRIOR PROVISIONS

A prior section 4053, acts Aug. 16, 1954, ch. 736, 68A Stat. 479; Sept. 2, 1958, Pub. L. 85-859, title I, §104, 72 Stat. 1276, made provision for the imposition of the retailers tax on installment sales, prior to repeal by Pub. L. 94-455, title XIX, §1904(a)(1)(D), Oct. 4, 1976, 90 Stat. 1811.

For provisions of prior sections 4054 to 4058 of this title, see Prior Provisions note set out preceding section 4041 of this title.

AMENDMENTS

1984—Pub. L. 98-369 amended section generally, substituting provisions listing articles on which no tax under section 4051 shall be imposed for former provisions which stated that no tax be imposed under section 4051 on any article specified in subsection (a) of section 4063 and that the exemptions provided by section 4221(a) extended to the tax imposed by section 4051.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4221, 4222 of this title.

CHAPTER 32—MANUFACTURERS EXCISE TAXES

Subchapter	Sec. ¹
A. Automotive and related items	4061
B. Coal	4121
C. Certain vaccines	4131
D. Recreational equipment	4161
[E. Repealed.]	
F. Special provisions applicable to manufacturers tax	4216
G. Exemptions, registration, etc	4221

AMENDMENTS

1987—Pub. L. 100-203, title IX, §9201(c), Dec. 22, 1987, 101 Stat. 1330-330, added item for subchapter C.

1978—Pub. L. 95-227, §2(c), Feb. 10, 1978, 92 Stat. 12, added item for subchapter B.

1965—Pub. L. 89-44, title II, §§203, 204, 206, June 21, 1965, 79 Stat. 139, 140, struck out items for subchapters B, C and E.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4293, 6103, 6302, 6416, 7871 of this title.

Subchapter A—Automotive and Related Items

Part	
I.	Gas guzzlers.
II.	Tires.

¹ Section numbers editorially supplied.

Part
III. Petroleum products.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title VII, §735(a)(3), (c)(5)(B), July 18, 1984, 98 Stat. 980, 982, substituted “Gas guzzlers” for “Motor vehicles” in item for part I, and struck out “and tubes” in item for part II.

PART I—GAS GUZZLERS

Sec.
[4061 to 4063. Repealed.]
4064. Gas guzzler tax.

AMENDMENTS

1986—Pub. L. 99-514, title XVIII, §1875(f), Oct. 22, 1986, 100 Stat. 2897, substituted “guzzler” for “guzzlers” in item 4064.

1984—Pub. L. 98-369, div. A, title VII, §735(a)(2), July 18, 1984, 98 Stat. 980, substituted “GAS GUZZLERS” for “MOTOR VEHICLES” in part I heading, struck out items 4061 “Imposition of tax”, 4062 “Articles classified as parts”, and 4063 “Exemptions”, and substituted “guzzlers” for “guzzler” in item 4064.

1978—Pub. L. 95-618, title II, §201(f), Nov. 9, 1978, 92 Stat. 3184, added item 4064.

1971—Pub. L. 92-178, title IV, §401(g)(2)(D), Dec. 10, 1971, 85 Stat. 533, substituted “Articles classified as parts” for “Definitions” in item 4062.

[[§ 4061 to 4063. Repealed. Pub. L. 98-369, div. A, title VII, §735(a)(1), July 18, 1984, 98 Stat. 980]

Section 4061, acts Aug. 16, 1954, ch. 736, 68A Stat. 481; Mar. 30, 1955, ch. 18, §3(a)(2), 69 Stat. 14; Aug. 12, 1955, ch. 865, §1, 69 Stat. 709; Mar. 29, 1956, ch. 115, §3(a)(2), 70 Stat. 66; June 29, 1956, ch. 462, title II, §203, 70 Stat. 388; Mar. 29, 1957, Pub. L. 85-12, §3(a)(1), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, §3(a)(1), 72 Stat. 259; June 30, 1959, Pub. L. 86-75, §3(a)(1), 73 Stat. 157; June 30, 1960, Pub. L. 86-564, title II §202(a)(1), 74 Stat. 290; June 29, 1961, Pub. L. 87-61, title II, §204, 75 Stat. 126; June 30, 1961, Pub. L. 87-72, §3(a)(1), 75 Stat. 193; June 28, 1962, Pub. L. 87-508, §3(a)(1), 76 Stat. 114; June 29, 1963, Pub. L. 88-52, §3(a)(1), 77 Stat. 72; June 30, 1964, Pub. L. 88-348, §2(a)(1), 78 Stat. 237; June 21, 1965, Pub. L. 89-44, title II, §201, 79 Stat. 136; Mar. 15, 1966, Pub. L. 89-368, title II, §201(a), 80 Stat. 65; Apr. 12, 1968, Pub. L. 90-285, §1(a)(1), 82 Stat. 92; June 28, 1968, Pub. L. 90-364, title I, §105(a)(1), 82 Stat. 265; Dec. 30, 1969, Pub. L. 91-172, title VII, §702(a)(1), 83 Stat. 660; Dec. 31, 1970, Pub. L. 91-605, title III, §303(a)(3), (4), 84 Stat. 1743; Dec. 31, 1970, Pub. L. 91-614, title II, §201(a)(1), 84 Stat. 1843; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(a)(1), (g) (1), 85 Stat. 530, 533; May 5, 1976, Pub. L. 94-280, title III, §303(a)(3), (4), 90 Stat. 456; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834; Nov. 6, 1978, Pub. L. 95-599, title V, §502(a)(2), (3), 92 Stat. 2756; Jan. 6, 1983, Pub. L. 97-424, title V, §512(a)(1), (2), 96 Stat. 2173, 2174, related to imposition of tax on trucks, buses, tractors, etc.

Section 4062, acts Aug. 16, 1954, ch. 736, 68A Stat. 482; Oct. 13, 1964, Pub. L. 88-653, §5(b), 78 Stat. 1086; Nov. 13, 1966, Pub. L. 89-809, title II, §212(a), 80 Stat. 1585; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(g)(2)(A)-(C), 85 Stat. 533, related to articles classified as parts.

Section 4063, acts Aug. 16, 1954, ch. 736, 68A Stat. 482; Aug. 11, 1955, ch. 805, §1(g), 69 Stat. 690; Oct. 13, 1964, Pub. L. 88-653, §5(a), 78 Stat. 1086; June 21, 1965, Pub. L. 89-44, title VIII, §801(a), 79 Stat. 157; Dec. 30, 1969, Pub. L. 91-172, title IX, §931(a), 83 Stat. 724; Dec. 31, 1970, Pub. L. 91-614, title III, §303(a), 84 Stat. 1845; Dec. 10, 1971, Pub. L. 92-178, title IV, §401(a)(2), (g)(3), 85 Stat. 530, 533; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2109(a), 90 Stat. 1834, 1904; Nov. 6, 1978, Pub. L. 95-600, title VII, §701(ff)(1), 92 Stat. 2924; Nov. 9, 1978, Pub. L. 95-618, title II, §231(a), 92 Stat. 3187; Jan. 6, 1983, Pub. L. 97-424, title V, §512(a)(3), 96 Stat. 2174, related to exemptions from tax.

EFFECTIVE DATE OF REPEAL

Repeal effective as if included in the provisions of the Highway Revenue Act of 1982, Pub. L. 97-424, see section 736 of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 4051 of this title.

§ 4064. Gas guzzler tax

(a) Imposition of tax

There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	\$0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700.

(b) Definitions

For purposes of this section—

(1) Automobile

(A) In general

The term “automobile” means any 4-wheeled vehicle propelled by fuel—

(i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

(ii) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii).

(B) Exception for certain vehicles

The term “automobile” does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 32901 of title 49, United States Code, and which were in effect on the date of the enactment of this section.

(C) Exception for emergency vehicles

The term “automobile” does not include any vehicle sold for use and used—

(i) as an ambulance or combination ambulance-hearse,

(ii) by the United States or by a State or local government for police or other law enforcement purposes, or

(iii) for other emergency uses prescribed by the Secretary by regulations.

(2) Fuel economy

The term “fuel economy” means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

(3) Model type

The term “model type” means a particular class of automobile as determined by regulation by the EPA Administrator.

(4) Model year

The term “model year”, with reference to any specific calendar year, means a manufacturer’s annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term “model year” means the calendar year.

(5) Manufacturer**(A) In general**

The term “manufacturer” includes a producer or importer.

(B) Lengthening treated as manufacture

For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person.

(6) EPA Administrator

The term “EPA Administrator” means the Administrator of the Environmental Protection Agency.

(7) Fuel

The term “fuel” means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

(c) Determination of fuel economy

For purposes of this section—

(1) In general

Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

(2) Special rule for fuels other than gasoline

The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

(3) Time by which regulations must be issued

Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not

less than 12 months before the model year to which such procedures apply.

(Added Pub. L. 95-618, title II, §201(a), Nov. 9, 1978, 92 Stat. 3180; amended Pub. L. 99-514, title XVIII, §1812(e)(1)(B)(i), (ii), Oct. 22, 1986, 100 Stat. 2836; Pub. L. 101-508, title XI, §11216(a)-(d), Nov. 5, 1990, 104 Stat. 1388-437; Pub. L. 103-272, §5(g)(1), July 5, 1994, 108 Stat. 1374.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1)(B), is Nov. 9, 1978.

Section 206 of the Clean Air Act, referred to in subsec. (c)(1), is section 206 of act July 14, 1955, ch. 360, title II, as added Dec. 31, 1970, Pub. L. 91-604, §8(a), 84 Stat. 1694, which is classified to section 7525 of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103-272 substituted “section 32901 of title 49, United States Code,” for “section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001)”.

1990—Subsec. (a). Pub. L. 101-508, §11216(a), amended subsec. (a) generally, substituting present provisions for provisions which set forth gas guzzler tax tables in the case of automobiles built in each of the model years 1980 through 1986 and later.

Subsec. (b)(1)(A). Pub. L. 101-508, §11216(b), inserted at end “In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii).”

Subsec. (b)(5)(B). Pub. L. 101-508, §11216(c), substituted heading for one which read: “Exception for certain small manufacturers” and amended text generally. Prior to amendment, text read as follows: “A person shall not be treated as the manufacturer of any automobile if—

“(i) such person would (but for this subparagraph) be so treated solely by reason of lengthening an existing automobile, and

“(ii) such person is a small manufacturer (as defined in subsection (d)(4)) for the model year in which such lengthening occurs.”

Subsec. (d). Pub. L. 101-508, §11216(d), struck out subsec. (d) which prescribed special rules for small manufacturers.

1986—Subsec. (b)(1)(A)(ii). Pub. L. 99-514, §1812(e)(1)(B)(i), substituted “unloaded gross vehicle weight” for “gross vehicle weight”.

Subsec. (b)(5). Pub. L. 99-514, §1812(e)(1)(B)(ii), amended par. (5) generally, designating existing provisions as subpar. (A), adding subpar. (A) heading, and adding subpar. (B).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11216(e) of Pub. L. 101-508 provided that:

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to sales after December 31, 1990.

“(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section] shall take effect on January 1, 1991.

“(3) SUBSECTION (d).—The amendment made by subsection (d) [amending this section] shall take effect on the date of the enactment of this section [Nov. 5, 1990].”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1812(e)(1)(B)(iii) of Pub. L. 99-514 provided that: “The amendments made by clauses (i) and (ii) [amending this section] shall take effect as if included in the amendments made by section 201 of Public Law 95-618 [see Effective Date note below]; except that the amendment made by clause (i) shall not apply to any station wagon if—

“(I) such station wagon is originally equipped with more than 6 seat belts,

“(II) such station wagon was manufactured before November 1, 1985, and
“(III) such station wagon is of the 1985 or 1986 model year.”

EFFECTIVE DATE

Section 201(g) of Pub. L. 95-618, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section and amending sections 1016, 4217, 4221, 4222, 4293, and 6416 of this title] shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]).”

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1016, 4217, 4221, 4222, 4293, 6416 of this title; title 49 section 32908.

PART II—TIRES

Sec.	
4071.	Imposition of tax.
4072.	Definitions.
4073.	Exemption for tires with internal wire fastening.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title VII, § 735(c)(5)(A), (C), July 18, 1984, 98 Stat. 982, struck out “AND TUBES” from heading of part II and substituted “Exemption for tires with internal wire fastening” for “Exemptions” in item 4073.

1956—Act June 29, 1956, ch. 462, title II, § 204(d), 70 Stat. 389, substituted “Definitions” for “Definition of rubber” in item 4072.

§ 4071. Imposition of tax

(a) Imposition and rate of tax

There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

If the tire weighs:	The rate of tax is:
Not more than 40 lbs	No tax.
More than 40 lbs. but not more than 70 lbs.	15 cents per lb. in excess of 40 lbs.
More than 70 lbs. but not more than 90 lbs.	\$4.50 plus 30 cents per lb. in excess of 70 lbs.
More than 90 lbs	\$10.50 plus 50 cents per lb. in excess of 90 lbs.

(b) Special rule for manufacturers who sell at retail

Under regulations prescribed by the Secretary, if the manufacturer, producer, or importer of any tire delivers such tire to a retail store or retail outlet of such manufacturer, producer, or importer, he shall be liable for tax under subsection (a) in respect of such tire in the same manner as if it had been sold at the time it was delivered to such retail store or outlet. This subsection shall not apply to an article in respect to which tax has been imposed by subsection (a).

Subsection (a) shall not apply to an article in respect of which tax has been imposed by this subsection.

(c) Determination of weight

For purposes of this section, weight shall be based on total weight exclusive of metal rims or rim bases. Total weight of the articles shall be determined under regulations prescribed by the Secretary.

(d) Termination

On and after October 1, 2005, the taxes imposed by subsection (a) shall not apply.

(e) Tires on imported articles

For the purposes of subsection (a), if an article imported into the United States is equipped with tires—

- (1) the importer of the article shall be treated as the importer of the tires with which such article is equipped, and
- (2) the sale of the article by the importer thereof shall be treated as the sale of the tires with which such article is equipped.

This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, § 204(a), 70 Stat. 388; Pub. L. 86-440, § 1(a), Apr. 22, 1960, 74 Stat. 80; Pub. L. 87-61, title II, § 202, June 29, 1961, 75 Stat. 124; Pub. L. 89-523, § 1(a), Aug. 1, 1966, 80 Stat. 331; Pub. L. 91-605, title III, § 303(a)(5), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 92-178, title IV, § 401(f), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94-280, title III, § 303(a)(5), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-599, title V, § 502(a)(4), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 96-222, title I, § 108(c)(2)(C), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96-596, § 4(a)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96-598, § 1(d), Dec. 24, 1980, 94 Stat. 3486; Pub. L. 97-424, title V, §§ 514(a), 516(a)(2), Jan. 6, 1983, 96 Stat. 2181, 2182; Pub. L. 98-369, div. A, title VII, § 735(c)(2), July 18, 1984, 98 Stat. 982; Pub. L. 100-17, title V, § 502(a)(3), Apr. 2, 1987, 101 Stat. 256; Pub. L. 101-508, title XI, § 11211(c)(2), Nov. 5, 1990, 104 Stat. 1388-426; Pub. L. 102-240, title VIII, § 8002(a)(2), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 105-178, title IX, § 9002(a)(1)(E), June 9, 1998, 112 Stat. 499.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-178 substituted “2005” for “1999”.

1991—Subsec. (d). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (d). Pub. L. 101-508 substituted “1995” for “1993”.

1987—Subsec. (d). Pub. L. 100-17 substituted “1993” for “1988”.

1984—Subsec. (b). Pub. L. 98-369, § 735(c)(2)(A), struck out “or inner tube” after “any tire”, and struck out “or tube” after “such tire” in two places in first sentence.

Subsec. (c). Pub. L. 98-369, § 735(c)(2)(B), substituted “on total weight exclusive” for “on total weight, except that in the case of tires such total weight shall be exclusive”.

Subsec. (e). Pub. L. 98-369, § 735(c)(2)(C), struck out “or inner tubes (other than bicycle tires and inner tubes)” after “equipped with tires” in provisions pre-

ceding par. (1), struck out “and inner tubes” before “with which such article is equipped” in pars. (1) and (2), and substituted “sale of an automobile bus chassis or an automobile bus body” for “sale of an article if a tax on such sale is imposed under section 4061 or if such article is an automobile bus chassis or an automobile bus body” in provisions following par. (2).

Subsec. (f). Pub. L. 98-369, §735(c)(2)(D), struck out subsec. (f) which related to imported recapped or retreaded United States tires.

1983—Subsec. (a). Pub. L. 97-424, §514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There is hereby imposed upon the following articles, if wholly or in part of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

“(1) Tires of the type used on highway vehicles, 9.75 cents a pound.

“(2) Other tires (other than laminated tires to which paragraph (5) applies), 4.875 cents a pound.

“(3) Inner tubes, for tires, 10 cents a pound.

“(4) Tread rubber, 5 cents a pound.

“(5) Laminated tires (not of the type used on highway vehicles) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent, 1 cent a pound.”

Subsec. (d). Pub. L. 97-424, §516(a)(2), substituted provision that, on and after Oct. 1, 1988, the taxes imposed by subsec. (a) shall not apply, for provision that, on and after Oct. 1, 1984, the tax imposed by subsec. (a)(1) would be 4.875 cents a pound, that by subsec. (a)(3) would be 9 cents a pound, and that subsec. (a)(4) would not apply.

1980—Subsec. (a)(1). Pub. L. 96-596, §4(a)(1)(A), substituted “9.75 cents” for “10 cents”.

Subsec. (a)(2). Pub. L. 96-596, §4(a)(1)(B), substituted “4.875 cents” for “5 cents”.

Subsec. (d)(1). Pub. L. 96-596, §4(a)(1)(C), substituted “4.875 cents” for “5 cents”.

Subsec. (e). Pub. L. 96-222 inserted references to an automobile bus chassis or body.

Subsec. (f). Pub. L. 96-598 added subsec. (f).

1978—Subsec. (d). Pub. L. 95-599 substituted “1984” for “1979”.

1976—Subsecs. (b), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-280 substituted “1979” for “1977”.

1971—Subsec. (e). Pub. L. 92-178 added subsec. (e).

1970—Subsec. (d). Pub. L. 91-605 substituted “1977” for “1972”.

1966—Subsecs. (b) to (d). Pub. L. 89-523 added subsec. (b) and redesignated former subsec. (b) and (c) as (c) and (d), respectively.

1961—Subsec. (a)(1). Pub. L. 87-61, §202(a), increased tax from 8 to 10 cents a pound.

Subsec. (a)(3). Pub. L. 87-61, §202(c), increased tax from 9 to 10 cents a pound.

Subsec. (a)(4). Pub. L. 87-61, §202(c), increased tax from 3 to 5 cents a pound.

Subsec. (c). Pub. L. 87-61, §202(d), substituted “October 1, 1972” for “July 1, 1972”, added par. (2), and redesignated former par. (2) as (3).

1960—Subsec. (a)(2). Pub. L. 86-440, §1(a)(1), inserted “(other than laminated tires to which paragraph (5) applies)” after “other tires”.

Subsec. (a)(5). Pub. L. 86-440, §1(a)(2), added par. (5).

1956—Act June 29, 1956, increased tax on tires of type used on highway vehicles from 5 cents a pound to 8 cents a pound, provided for a tax of 3 cents a pound on tread rubber, and required on and after July 1, 1972, a reduction in tax on tires of type used on highway vehicles from 8 cents a pound to 5 cents a pound, and elimination of tax on tread rubber.

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

Section 514(b) of Pub. L. 97-424 provided that: “The amendment made by this section [amending this section] shall apply to articles sold on or after January 1, 1984”.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 1(e) of Pub. L. 96-598 provided that: “The amendments made by this section [amending this section and sections 6416 and 6511 of this title] shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act [Dec. 24, 1980].”

Section 4(a)(2) of Pub. L. 96-596 provided that: “The amendments made by this subsection [amending this section] shall apply on and after January 1, 1981.”

Amendment by Pub. L. 96-222 effective as if included in the provision of the Energy Tax Act of 1978, Pub. L. 95-618, Nov. 9, 1978, 92 Stat. 3174, 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 1971 AMENDMENT

Section 401(h) of Pub. L. 92-178 provided that:

“(1) Except as otherwise provided in this section, the amendments made by subsections (a), (f), and (g) [amending this section and sections 4061, 4062, 4063, 4216, 4221, 4222, 6412, and 6416 of this title] of this section shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [Dec. 10, 1971].

“(2) For purposes of paragraph (1), an article shall not be considered sold before the day after the date of the enactment of this Act [Dec. 10, 1971] unless possession or right to possession passes to the purchaser before such day.

“(3) In the case of—

“(A) a lease,

“(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

“(C) a conditional sale, or

“(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act [Dec. 10, 1971], payments made after such date, with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold before the day after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1966 AMENDMENT

Section 1(b) of Pub. L. 89-523 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the first calendar quarter which begins more than 20 days after the date on which this Act is enacted [Aug. 1, 1966].”

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 1960 AMENDMENT

Section 1(b) of Pub. L. 86-440 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply with respect to articles sold 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 [April 22, 1960].”

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

ALLOWANCE OF CREDIT OR REFUND OF OVERPAYMENT OF TAX IMPOSED

Section 4(b) of Pub. L. 96-596 provided that:

“(b) DETERMINATION OF OVERPAYMENT.—

“(1) IN GENERAL.—The determination of the extent to which any overpayment of tax imposed by section 4071(a)(1) or (2) or section 4071(b) has arisen by reason of an adjustment of a tire after the original sale pursuant to a warranty or guarantee, and the allowance of a credit or refund of any such overpayment, shall be determined in accordance with the principles set forth in regulations and rulings relating thereto to the extent in effect on March 31, 1978.

“(2) EFFECTIVE DATE.—This subsection shall apply to the adjustment of any tire after March 31, 1978, and prior to January 1, 1983.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4051, 4073, 4218, 4221, 6412, 6416, 9503 of this title.

§ 4072. Definitions

(a) Rubber

For purposes of this chapter, the term “rubber” includes synthetic and substitute rubber.

(b) Tires of the type used on highway vehicles

For purposes of this part, the term “tires of the type used on highway vehicles” means tires of the type used on—

- (1) motor vehicles which are highway vehicles, or
- (2) vehicles of the type used in connection with motor vehicles which are highway vehicles.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, §204(b), 70 Stat. 389; Pub. L. 98-369, div. A, title VII, §735(c)(3), July 18, 1984, 98 Stat. 982.)

AMENDMENTS

1984—Subsecs. (b), (c). Pub. L. 98-369 redesignated subsec. (c) as (b) and struck out former subsec. (b) which defined “tread rubber”.

1956—Act June 29, 1956, substituted “Definitions” for “Definition of rubber” in section catchline.

Act June 29, 1956, designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

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 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 4073. Exemption for tires with internal wire fastening

The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 482; June 29, 1956, ch. 462, title II, §204(c), 70 Stat. 389; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VII, §735(c)(4), July 18, 1984, 98 Stat. 982.)

AMENDMENTS

1984—Pub. L. 98-369 substituted “Exemption for tires with internal wire fastening” for “Exemptions” in section catchline, and in text struck out subsec. (a) relating to exemption from tax on tires not more than 20 inches in diameter and not more than 1¾ inches in cross section, struck out subsec. (c) relating to exemption from tax on tread rubber in certain cases, and struck out letter designation “(b)” and subsection heading for subsec. (b) thereby designating text of former subsec. (b) as entire text of section.

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

1956—Subsec. (c). Act June 29, 1956, added subsec. (c).

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 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

PART III—PETROLEUM PRODUCTS

Subpart

- A. Gasoline and diesel fuel.
- B. Aviation fuel.
- C. Special provisions applicable to petroleum products.

AMENDMENTS

1993—Pub. L. 103-66, title XIII, §13242(d)(43), Aug. 10, 1993, 107 Stat. 528, substituted “Gasoline and diesel fuel” for “Gasoline” in item for subpart A and “Aviation fuel” for “Diesel fuel and aviation fuel” in item for subpart B.

1987—Pub. L. 100-203, title X, §10502(d)(18), Dec. 22, 1987, 101 Stat. 1330-445, added item relating to subpart B.

1983—Pub. L. 97-424, title V, §515(b)(13), Jan. 6, 1983, 96 Stat. 2182, struck out the item for subpart B “Lubricating oil”.

SUBPART A—GASOLINE AND DIESEL FUEL

Sec.

- 4081. Imposition of tax.
- 4082. Exemptions for diesel fuel and kerosene.
- 4083. Definitions; special rule; administrative authority.
- 4084. Cross references.

AMENDMENTS

1997—Pub. L. 105-34, title X, §1032(e)(3)(B), Aug. 5, 1997, 111 Stat. 935, inserted “and kerosene” after “diesel fuel” in item 4082.

1993—Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 514, substituted “Gasoline and Diesel Fuel” for “Gasoline” in subpart heading and amended section analysis generally, substituting “Exemptions for diesel fuel” for “Definitions” in item 4082 and “Definitions; special rule; administrative authority” for “Cross references” in item 4083 and adding item 4084.

1986—Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2774, struck out item 4083 “Exemption of sales to producer” and redesignated former item 4084 as 4083.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(2), 70 Stat. 397, substituted “Cross references” for “Relief of farmers from tax in case of gasoline used on the farm” in item 4084.

Act Apr. 2, 1956, ch. 160, §4(a)(2), 70 Stat. 90, added item 4084.

§ 4081. Imposition of tax

(a) Tax imposed

(1) Tax on removal, entry, or sale

(A) In general

There is hereby imposed a tax at the rate specified in paragraph (2) on—

- (i) the removal of a taxable fuel from any refinery,
- (ii) the removal of a taxable fuel from any terminal,
- (iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and
- (iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

(B) Exemption for bulk transfers to registered terminals or refineries

The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel and the operator of such terminal or refinery are registered under section 4101.

(2) Rates of tax

(A) In general

The rate of the tax imposed by this section is—

- (i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,
- (ii) in the case of aviation gasoline, 19.3 cents per gallon, and
- (iii) in the case of diesel fuel or kerosene, 24.3 cents per gallon.

(B) Leaking Underground Storage Tank Trust Fund tax

The rates of tax specified in subparagraph (A) shall each be increased by 0.1 cent per gallon. The increase in tax under this subparagraph shall in this title be referred to as the Leaking Underground Storage Tank Trust Fund financing rate.

(b) Treatment of removal or subsequent sale by blender

(1) In general

There is hereby imposed a tax at the rate determined under subsection (a) on taxable fuel removed or sold by the blender thereof.

(2) Credit for tax previously paid

If—

- (A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and
- (B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

(c) Taxable fuels mixed with alcohol

Under regulations prescribed by the Secretary—

(1) In general

The rate of tax under subsection (a) shall be the alcohol mixture rate in the case of the removal or entry of any qualified alcohol mixture.

(2) Tax prior to mixing

(A) In general

In the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture, the rate of tax under subsection (a) shall be the applicable fraction of the alcohol mixture rate. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing a qualified alcohol mixture after the time of such removal or entry.

(B) Applicable fraction

For purposes of subparagraph (A), the applicable fraction is—

- (i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—
 - (I) 9 in the case of 10 percent gasohol,
 - (II) 9.23 in the case of 7.7 percent gasohol, and
 - (III) 9.43 in the case of 5.7 percent gasohol, and
- (ii) in the case of a qualified alcohol mixture which does not contain gasoline, 10%.

(3) Alcohol; qualified alcohol mixture

For purposes of this subsection—

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

(B) Qualified alcohol mixture

The term “qualified alcohol mixture” means—

- (i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and
- (ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

(4) Alcohol mixture rates for gasoline mixtures

For purposes of this subsection—

(A) General rules

(i) Mixtures containing ethanol

Except as provided in clause (ii), in the case of a qualified alcohol mixture which

contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(C)) per gallon,

(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

(ii) Mixtures not containing ethanol

In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

(I) in the case of 10 percent gasohol, 6 cents per gallon,

(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.

(B) 10 percent gasohol

The term “10 percent gasohol” means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

(C) 7.7 percent gasohol

The term “7.7 percent gasohol” means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

(D) 5.7 percent gasohol

The term “5.7 percent gasohol” means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

(5) Alcohol mixture rate for diesel fuel mixtures

The alcohol mixture rate for a qualified alcohol mixture which does not contain gasoline is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over the applicable blender rate (as defined in section 4041(b)(2)(C)) per gallon (6 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

(6) Limitation

In no event shall any alcohol mixture rate determined under this subsection be less than 4.3 cents per gallon.

(7) Later separation of fuel from qualified alcohol mixture

If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at a rate determined under paragraph (1) or (2) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of

such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

(8) Termination

Paragraphs (1) and (2) shall not apply to any removal, entry, or sale after September 30, 2007.

(d) Termination

(1) In general

The rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) shall be 4.3 cents per gallon after September 30, 2005.

(2) Aviation gasoline

The rate of tax specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon—

(A) after December 31, 1996, and before the date which is 7 days after the date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, and

(B) after September 30, 2007.

(3) Leaking Underground Storage Tank Trust Fund financing rate

The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall apply after September 30, 1997, and before April 1, 2005.

(e) Refunds in certain cases

Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Mar. 30, 1955, ch. 18, §3(a)(3), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(3), 70 Stat. 66; June 29, 1956, ch. 462, title II, §205, 70 Stat. 389; Pub. L. 86-342, title II, §201(a), Sept. 21, 1959, 73 Stat. 613; Pub. L. 87-61, title II, §201(b)-(d), June 29, 1961, 75 Stat. 123, 124; Pub. L. 91-605, title III, §303(a)(6), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, §303(a)(6), May 5, 1976, 90 Stat. 456; Pub. L. 95-599, title V, §502(a)(5), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95-618, title II, §221(a)(1), Nov. 9, 1978, 92 Stat. 3185; Pub. L. 96-223, title II, §232(a)(1), (b)(3)(A), (d)(3), Apr. 2, 1980, 94 Stat. 273, 276, 277; Pub. L. 97-424, title V, §§511(a)(1), (d)(1), 516(a)(3), Jan. 6, 1983, 96 Stat. 2169, 2171, 2182; Pub. L. 98-369, div. A, title VII, §732(a)(1), (2), title IX, §912(b), (f), July 18, 1984, 98 Stat. 976, 977, 1007; Pub. L. 99-499, title V, §521(a)(1), Oct. 17, 1986, 100 Stat. 1774; Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2774; Pub. L. 100-17, title V, §502(a)(4), (c)(2), Apr. 2, 1987, 101 Stat. 256, 257; Pub. L. 100-203, title X, §10502(d)(2), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 100-647, title I, §1017(c)(1), (14), title II, §2001(d)(5), title VI, §6104(a), Nov. 10, 1988, 102 Stat. 3575, 3577, 3595, 3711; Pub. L. 101-508, title XI, §§11211(a)(1)-(3), (5)(A)-(C), (c)(3), (e)(3), 11212(a), (d)(1), (e)(2), 11215(a), Nov. 5, 1990, 104 Stat. 1388-423, 1388-424, 1388-426,

1388-427, 1388-430, 1388-432, 1388-436; Pub. L. 102-240, title VIII, §8002(a)(3), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 102-486, title XIX, §1920(a), (b), Oct. 24, 1992, 106 Stat. 3026; Pub. L. 103-66, title XIII, §§13241(a), 13242(a), Aug. 10, 1993, 107 Stat. 510, 514; Pub. L. 104-188, title I, §1609(a)(2), (g)(1), (2), (4)(B), Aug. 20, 1996, 110 Stat. 1841-1843; Pub. L. 105-2, §2(a)(2), Feb. 28, 1997, 111 Stat. 4; Pub. L. 105-34, title X, §§1031(a)(2), 1032(b), 1033, Aug. 5, 1997, 111 Stat. 929, 933, 937; Pub. L. 105-178, title IX, §§9002(a)(1)(F), 9003(a)(1)(C), (b)(2)(B), (C), June 9, 1998, 112 Stat. 499, 502, 503.)

REFERENCES IN TEXT

The date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, referred to in subsec. (d)(2)(A), is the date of enactment of Pub. L. 105-2, which was approved Feb. 28, 1997.

AMENDMENTS

1998—Subsec. (c)(4)(A). Pub. L. 105-178, §9003(b)(2)(B), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “The alcohol mixture rate for a qualified alcohol mixture which contains gasoline is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(i) 5.4 cents per gallon for 10 percent gasohol,

“(ii) 4.158 cents per gallon for 7.7 percent gasohol, and

“(iii) 3.078 cents per gallon for 5.7 percent gasohol. In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting ‘6 cents’ for ‘5.4 cents’, ‘4.62 cents’ for ‘4.158 cents’, and ‘3.42 cents’ for ‘3.078 cents.’”

Subsec. (c)(5). Pub. L. 105-178, §9003(b)(2)(C), substituted “the applicable blender rate (as defined in section 4041(b)(2)(C))” for “5.4 cents”.

Subsec. (c)(8). Pub. L. 105-178, §9003(a)(1)(C), substituted “2007” for “2000”.

Subsec. (d)(1). Pub. L. 105-178, §9002(a)(1)(F), substituted “2005” for “1999”.

1997—Subsec. (a)(2)(A)(iii). Pub. L. 105-34, §1032(b), inserted “or kerosene” after “diesel fuel”.

Subsec. (d)(1), (2). Pub. L. 105-2 added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) IN GENERAL.—On and after October 1, 1999, the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) (other than the tax on aviation gasoline) shall be 4.3 cents per gallon.

“(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon.”

Subsec. (d)(2)(B). Pub. L. 105-34, §1031(a)(2), substituted “September 30, 2007” for “September 30, 1997”.

Subsec. (d)(3). Pub. L. 105-34, §1033, substituted “shall apply after September 30, 1997, and before April 1, 2005” for “shall not apply after December 31, 1995”.

Pub. L. 105-2 struck out heading and text of par. (3) relating to aviation gasoline. Text read as follows: “After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.”

1996—Subsec. (a)(2)(A). Pub. L. 104-188, §1609(g)(1), added cls. (i) and (ii), redesignated former cl. (ii) as (iii), and struck out former cl. (i) which read as follows: “in the case of gasoline, 18.3 cents per gallon, and”.

Subsec. (d)(1). Pub. L. 104-188, §1609(a)(2)(B), (g)(4)(B), substituted “the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) (other than the tax on aviation gasoline)” for “each rate of tax specified in subsection (a)(2)(A)”.

Subsec. (d)(2), (3). Pub. L. 104-188, §1609(a)(2)(A), (g)(2), added par. (3) relating to aviation gasoline, redesignated former par. (2), relating to leaking underground storage tank trust fund financing rate, as another par. (3), and added new par. (2) relating to aviation gasoline.

1993—Pub. L. 103-66, §13242(a), amended section generally, substituting, in subsec. (a), provisions imposing tax on taxable fuels for provisions imposing tax on gasoline, in subsec. (b), provisions relating to treatment of removal or subsequent sale of taxable fuels by blender for provisions relating to treatment of removal or subsequent sale of gasoline by blender or compounder, in subsec. (c), provisions relating to taxable fuels mixed with alcohol for provisions relating to gasoline mixed with alcohol at refinery etc., in subsec. (d), provisions decreasing tax rate imposed on taxable fuels to 4.3 cents per gallon beginning on and after Oct. 1, 1999, for provisions terminating the Highway Trust Fund financing and deficit reduction rates on and after Oct. 1, 1999, and Oct. 1, 1995, respectively, and, in subsec. (e), “taxable fuel” for “gasoline” in two places.

Subsec. (a)(2)(B)(iii). Pub. L. 103-66, §13241(a), amended cl. (iii) generally, substituting “6.8 cents per gallon” for “2.5 cents a gallon”.

1992—Subsec. (c)(1). Pub. L. 102-486, §1920(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are 10/9th of the otherwise applicable rates in the case of the removal or sale of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or sale. For purposes of this paragraph, the term ‘gasohol’ means any mixture of gasoline if at least 10 percent of such mixture is alcohol. For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 6.1 cents a gallon.”

Subsec. (c)(2). Pub. L. 102-486, §1920(b)(1), substituted “an otherwise applicable rate” for “6.1 cents a gallon”.

Subsec. (c)(4). Pub. L. 102-486, §1920(b)(2), substituted heading for one which read: “Lower rate on gasohol made other than from ethanol”, added text, and struck out former text which read as follows: “In the case of gasohol none of the alcohol in which consists of ethanol, paragraphs (1) and (2) shall be applied by substituting ‘5.5 cents’ for ‘6.1 cents.’”

1991—Subsec. (d)(1). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (a)(1). Pub. L. 101-508, §11212(a), substituted heading for one which read: “In general” and amended text generally. Prior to amendment, text read as follows: “There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

“(A) the removal, or

“(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.”

Subsec. (a)(2)(A)(iii). Pub. L. 101-508, §11211(a)(1), added cl. (iii).

Subsec. (a)(2)(B)(i). Pub. L. 101-508, §11211(a)(2)(A), substituted “11.5 cents” for “9 cents”.

Subsec. (a)(2)(B)(iii). Pub. L. 101-508, §11211(a)(2)(B), (C), added cl. (iii).

Subsec. (a)(3). Pub. L. 101-508, §11212(e)(2), struck out par. (3) which read as follows: “For purposes of paragraph (1), the bulk transfer of gasoline to a terminal operator by a refiner or importer shall not be considered a removal or sale of gasoline by such refiner or importer.”

Subsec. (c)(1). Pub. L. 101-508, §11211(a)(5)(A), substituted “applied by substituting rates which are 10/9th of the otherwise applicable rates” for “applied by substituting ‘3½ cents’ for ‘9 cents’ and by substituting ‘½ cent’ for ‘0.1 cent’” and inserted “For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 6.1 cents a gallon.”

Subsec. (c)(2). Pub. L. 101-508, §11211(a)(5)(B), which directed the substitution of “at a Highway Trust Fund financing rate equivalent to 6.1 cents” for “at a rate equivalent to 3 cents”, was executed by making the

substitution for “at a Highway Trust Fund financing rate equivalent to 3 cents” to reflect the probable intent of Congress. See 1986 Amendment note below.

Subsec. (c)(4). Pub. L. 101-508, §11211(a)(5)(C), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 101-508, §11211(e)(3), substituted “2000” for “1993”.

Pub. L. 101-508, §11211(a)(5)(C), redesignated par. (4) as (5).

Subsec. (d)(1). Pub. L. 101-508, §11211(c)(3), substituted “1995” for “1993”.

Subsec. (d)(2). Pub. L. 101-508, §11215(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) IN GENERAL.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after the earlier of—

“(i) December 31, 1991, or

“(ii) the last day of the termination month.

“(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues are at least \$500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091.

“(C) NET REVENUES.—For purposes of subparagraph (B), the term ‘net revenues’ means the excess of gross revenues over amounts payable by reason of section 9508(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits).”

Subsec. (d)(3). Pub. L. 101-508, §11211(a)(3), added par. (3).

Subsec. (e). Pub. L. 101-508, §11212(d)(1), added subsec. (e).

1988—Subsec. (a). Pub. L. 100-647, §1017(c)(1)(A), added pars. (1) and (2), struck out former par. (1) which imposed a tax at the rate specified in subsec. (d) on the earlier of the removal, or the sale of gasoline by the refiner or importer thereof or the terminal operator, and redesignated former par. (2) as (3).

Subsec. (b)(1). Pub. L. 100-647, §1017(c)(1)(B), substituted “subsection (a)” for “subsection (d)”.

Subsec. (c)(1). Pub. L. 100-647, §6104(a), inserted after first sentence “Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or sale.”

Pub. L. 100-647, §2001(d)(5)(A), inserted “and by substituting ‘ $\frac{1}{2}$ cent’ for ‘0.1 cent’” before “in the case of the removal”.

Pub. L. 100-647, §1017(c)(14), substituted “ $3\frac{1}{2}$ cents” for “3 cents”.

Pub. L. 100-647, §1017(c)(1)(B), substituted “subsection (a)” for “subsection (d)”.

Subsec. (c)(2). Pub. L. 100-647, §2001(d)(5)(B), substituted “reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel” for “ $5\frac{1}{2}$ cents a gallon”.

Subsec. (d). Pub. L. 100-647, §1017(c)(1)(D), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to the rate of tax.

Subsec. (d)(1). Pub. L. 100-647, §1017(c)(1)(C)(i), substituted “subsection (a)(2)” for “subsection (d)(2)(A)”.

Subsec. (d)(2)(A). Pub. L. 100-647, §1017(c)(1)(C)(ii), substituted “subsection (a)(2)” for “subsection (d)(2)(B)”.

Subsec. (e). Pub. L. 100-647, §1017(c)(1)(D), redesignated subsec. (e) as (d).

1987—Subsec. (c)(4). Pub. L. 100-17, §502(c)(2), substituted “September 30, 1993” for “December 31, 1992”.

Subsec. (e)(1). Pub. L. 100-17, §502(a)(4), substituted “1993” for “1988”.

Subsec. (e)(2)(B). Pub. L. 100-203 substituted “net revenues are at least \$500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate im-

posed under this section and sections 4042 and 4091.” for “net revenues from the taxes imposed by this section (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under subsection (d)(2)(B)), section 4041(d), and section 4042 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b)) are at least \$500,000,000.”

1986—Pub. L. 99-514 amended section generally, substituting provisions imposing a tax on the removal or sale of gasoline by the refiner, importer, blender, or compounder thereof or the terminal operator for provisions imposing a tax on gasoline sold by the producer or importer thereof, or by any producer of gasoline.

Subsec. (a). Pub. L. 99-499, §521(a)(1)(B)(i), substituted “at the rate specified in subsection (d)” for “of 9 cents a gallon” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, §521(a)(1)(A)(i), amended subsec. (a), as in effect the day before Oct. 22, 1986, generally, substituting “at the rate specified in subsection (b)” for “of 9 cents a gallon”.

Subsec. (b). Pub. L. 99-499, §521(a)(1)(B)(i), substituted “at the rate specified in subsection (d)” for “of 9 cents a gallon” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, §521(a)(1)(A)(i), amended subsec. (b), as in effect the day before Oct. 22, 1986, generally. Prior to amendment, subsec. (b), termination, read as follows: “On and after October 1, 1988, the taxes imposed by this section shall not apply.”

Subsec. (c)(1). Pub. L. 99-499, §521(a)(1)(B)(iii)(I), substituted “subsection (d)” for “subsection (a)” in par. (1) as amended by Pub. L. 99-514.

Pub. L. 99-499, §521(a)(1)(A)(iii), substituted “subsection (b)” for “subsection (a)” in introductory provisions as in effect the day before Oct. 22, 1986.

Subsec. (c)(2). Pub. L. 99-499, §521(a)(1)(B)(iii)(II), substituted “a Highway Trust Fund financing rate” for “a rate” in par. (2) as amended by Pub. L. 99-514.

Pub. L. 99-499, §521(a)(1)(A)(iii)(II), substituted “a Highway Trust Fund financing rate” for “a rate” in par. (2) as in effect the day before Oct. 22, 1986.

Subsec. (d). Pub. L. 99-499, §521(a)(1)(B)(ii), added subsec. (d) to this section as amended by Pub. L. 99-514, and struck out former subsec. (d), termination, which read as follows: “On and after October 1, 1988, the taxes imposed by this section shall not apply.”

Pub. L. 99-499, §521(a)(1)(A)(i), in amending this section as in effect the day before Oct. 22, 1986, added subsec. (d).

Subsec. (e). Pub. L. 99-499, §521(a)(1)(B)(ii), added subsec. (e) to this section as amended by Pub. L. 99-514.

1984—Subsec. (c)(1). Pub. L. 98-369, §912(b)(A), (B), substituted “3 cents” for “4 cents” in subpar. (A), and “ $3\frac{1}{2}$ cents” for “4 cents” in subpar. (B).

Pub. L. 98-369, §732(a)(1), struck out “by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline” after “shall be applied” in text preceding subpar. (A), substituted “by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasohol (the gasoline in which was not taxed under subparagraph (B)), and” for “in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or” in subpar. (A), substituted “by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline for use in producing gasohol” for “for use in producing a mixture at least 10 percent of which is alcohol” in subpar. (B) and inserted definition of “gasohol” after subpar. (B).

Subsec. (c)(2). Pub. L. 98-369, §912(b)(A), (C), substituted “3 cents” for “4 cents” and “ $5\frac{1}{2}$ cents” for “4 cents”.

Pub. L. 98-369, §732(a)(2), substituted “at a rate equivalent to 4 cents a gallon” for “at a rate of 4 cents a gallon”, and “4 cents a gallon” for “5 cents a gallon”.

Subsec. (c)(3). Pub. L. 98-369, §912(f), substituted “coal (including peat)” for “coal”.

1983—Subsec. (a). Pub. L. 97-424, §511(a)(1), increased tax from 4 to 9 cents a gallon.

Subsec. (b). Pub. L. 97-424, §516(a)(3), substituted provision that, on and after Oct. 1, 1988, the taxes imposed by this section shall not apply, for provision that, on

and after Oct. 1, 1984, the tax imposed by this section would be 1½ cents a gallon.

Subsec. (c)(1). Pub. L. 97-424, § 511(d)(1)(A), substituted “subsection (a) shall be applied by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline” for “no tax shall be imposed by this section on the sale of any gasoline” after “Secretary.”

Subsec. (c)(2). Pub. L. 97-424, § 511(d)(1)(B), substituted “tax was imposed under subsection (a) at the rate of 4 cents a gallon by reason of this subsection” for “tax was not imposed by reason of this subsection” after “alcohol on which”, and inserted provision that the amount of tax imposed on any sale of such gasoline by such person shall be 5 cents a gallon.

1980—Subsec. (c)(2). Pub. L. 96-223, § 232(d)(3), inserted “(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))” after “this subsection”.

Subsec. (c)(3). Pub. L. 96-223, § 232(b)(3)(A), inserted provision that “alcohol” does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Subsec. (c)(4). Pub. L. 96-223, § 232(a)(1), added par. (4).
1978—Subsec. (b). Pub. L. 95-599 substituted “1984” for “1979”.

Subsec. (c). Pub. L. 95-618 added subsec. (c).
1976—Subsec. (b). Pub. L. 94-280 substituted “1979” for “1977”.

1970—Subsec. (b). Pub. L. 91-605 substituted “1977” for “1972”.

1961—Subsec. (a). Pub. L. 87-61, § 201(b), increased tax from 3 to 4 cents a gallon.

Subsec. (b). Pub. L. 87-61, § 201(c), substituted “October 1, 1972” for “July 1, 1972.”

Subsec. (c). Pub. L. 87-61, § 201(d), repealed subsec. (c) which authorized a temporary increase in tax for the period October 1, 1959, to July 1, 1961.

1959—Subsec. (c). Pub. L. 86-342 added subsec. (c).
1956—Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956”.

Subsec. (a). Act June 29, 1956, redesignated first sentence as subsec. (a) and increased tax from 2 to 3 cents a gallon.

Subsec. (b). Act June 29, 1956, redesignated second sentence as subsec. (b) and substituted “July 1, 1972” for “April 1, 1956”.

1955—Act Mar. 30, 1955, substituted “April 1, 1956” for “April 1, 1955”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 9003(b)(2)(B), (C), of Pub. L. 105-178 effective Jan. 1, 2001, see section 9003(b)(3) of Pub. L. 105-178, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 1031(a)(2) of Pub. L. 105-34 effective Oct. 1, 1997, see section 1031(e)(1) of Pub. L. 105-34, set out as a note under section 401 of this title.

Amendment by section 1032(b) 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 401 of this title.

Amendment by Pub. L. 105-2 applicable to periods beginning on or after the 7th day after Feb. 28, 1997, see section 2(e)(1) of Pub. L. 105-2, 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 13241(a) 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(a) 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 1992 AMENDMENT

Section 1920(c) of Pub. L. 102-486 provided that: “The amendments made by this section [amending this section] shall apply to gasoline removed (as defined in [former] section 4082 of the Internal Revenue Code of 1986) or entered after December 31, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(a)(1)–(3), (5)(A)–(C) of Pub. L. 101-508 applicable, except as otherwise provided, to gasoline removed (as defined in [former] section 4082 of this title) after Nov. 30, 1990, see section 11211(a)(6) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Section 11212(f) of Pub. L. 101-508 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 4103 of this title and amending this section and sections 4093, 4101, 4222, 6103, 6416, and 6724 of this title] shall take effect on July 1, 1991.

“(2) REGISTRATION, ETC.—The amendments made by subsections (b), (c), and (e) (other than paragraph (2) thereof) [enacting section 4103 of this title and amending sections 4093, 4101, 4222, 6103, and 6724 of this title] shall take effect on December 1, 1990.”

Section 11215(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on December 1, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(1), (14) 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)(5) 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 6104(b) of Pub. L. 100-647 provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1989.”

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

Section 1703(h) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section and sections 34, 4082, 4083, 4101, 4221, 6421, 6427, 7210, 7603 to 7605, 7609, and 7610 of this title and omitting section 4084 of this title] shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986, as amended by this section) after December 31, 1987.”

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 section 732(a)(1), (2) 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.

Amendment by section 912(b), (f) of Pub. L. 98-369 effective Jan. 1, 1985, see section 912(g) of Pub. L. 98-369, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(a)(1), (d)(1) 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 1980 AMENDMENT

Amendment by section 232(b)(3)(A) of Pub. L. 96-223 applicable to sales or uses after Sept. 30, 1980, in taxable years ending after such date, see section 232(h)(1) of Pub. L. 96-223, set out as an Effective Date note under section 40 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 221(a)(2) of Pub. L. 95-618, as amended by Pub. L. 96-223, title II, §232(a)(3), Apr. 2, 1980, 94 Stat. 273, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to sales after December 31, 1978."

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 1956 AMENDMENT

Amendment by act June 29, 1956, effective July 1, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

DELAYED DEPOSITS OF HIGHWAY MOTOR FUEL TAX REVENUES

Due date for deposit of taxes imposed by this section which would be required to be made after July 31, 1998, and before Oct. 1, 1998, to be Oct. 5, 1998, see section 901(e) of Pub. L. 105-34, set out as a note under section 6302 of this title.

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Due date for deposit of taxes imposed by subsec. (a)(2)(A)(ii) of this section which would be required to be made after July 31, 1998, and before Oct. 1, 1998, to be Oct. 5, 1998, see section 1031(g) of Pub. L. 105-34, set out as a note under section 6302 of this title.

FLOOR STOCKS TAXES

Section 1032(g) of Pub. L. 105-34 provided that:

"(1) IMPOSITION OF TAX.—In the case of kerosene which is held on July 1, 1998, by any person, there is hereby imposed a floor stocks tax of 24.4 cents per gallon.

"(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

"(A) LIABILITY FOR TAX.—A person holding kerosene on July 1, 1998, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

"(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

"(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 31, 1998.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) HELD BY A PERSON.—Kerosene shall be considered as 'held by a person' if title thereto has passed to such person (whether or not delivery to the person has been made).

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate.

"(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to kerosene held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

"(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on kerosene held in the tank of a motor vehicle or motorboat.

"(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

"(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on kerosene held on July 1, 1998, by any person if the aggregate amount of kerosene held by such person on such date does not exceed 2,000 gallons. The

preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

"(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

"(C) CONTROLLED GROUPS.—For purposes of this paragraph—

"(i) CORPORATIONS.—

"(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

"(II) CONTROLLED GROUP.—The term 'controlled group' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in such subsection.

"(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

"(7) COORDINATION WITH SECTION 4081.—No tax shall be imposed by paragraph (1) on kerosene to the extent that tax has been (or will be) imposed on such kerosene under section 4081 or 4091 of such Code.

"(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081."

Section 2(d) of Pub. L. 105-2 provided that:

"(1) IMPOSITION OF TAX.—In the case of any aviation liquid on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before the tax effective date and which is held on such date by any person, there is hereby imposed a floor stocks tax of—

"(A) 15 cents per gallon in the case of aviation gasoline, and

"(B) 17.5 cents per gallon in the case of aviation fuel.

"(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

"(A) LIABILITY FOR TAX.—A person holding, on the tax effective date, any aviation liquid to which the tax imposed by paragraph (1) applies shall be liable for such tax.

"(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

"(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the first day of the 5th month beginning after the tax effective date.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TAX EFFECTIVE DATE.—The term 'tax effective date' means the date which is 7 days after the date of the enactment of this Act [Feb. 28, 1997].

"(B) AVIATION LIQUID.—The term 'aviation liquid' means aviation gasoline and aviation fuel.

"(C) AVIATION GASOLINE.—The term 'aviation gasoline' has the meaning given such term in section 4081 of such Code.

"(D) AVIATION FUEL.—The term 'aviation fuel' has the meaning given such term by section 4093 of such Code.

"(E) HELD BY A PERSON.—Aviation liquid shall be considered as 'held by a person' if title thereto has passed to such person (whether or not delivery to the person has been made).

"(F) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or the Secretary's delegate.

"(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to—

“(A) aviation liquid held by any person on the tax effective date exclusively for any use for which a credit or refund of the entire tax imposed by section 4081 or 4091 of such Code (as the case may be) is allowable for such liquid purchased on or after such tax effective date for such use, or

“(B) aviation fuel held by any person on the tax effective date exclusively for any use described in section 4092(b) of such Code.

“(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation liquid held on the tax effective date by any person if the aggregate amount of such liquid (determined separately for aviation gasoline and aviation fuel) held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—Any liquid to which the tax imposed by paragraph (1) does not apply by reason of paragraph (4) shall not be taken into account under subparagraph (A).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given such term by subsection (a) of section 1563 of such Code; except that for such purposes, the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 or 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091, as the case may be.”

Section 13241(h) of Pub. L. 103-66 provided that:

“(1) IMPOSITION OF TAX.—In the case of gasoline, diesel fuel, and aviation fuel on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before October 1, 1993, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon on such gasoline, diesel fuel, and aviation fuel.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or aviation fuel on October 1, 1993, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before November 30, 1993.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) HELD BY A PERSON.—Gasoline, diesel fuel, and aviation fuel shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(B) GASOLINE.—The term ‘gasoline’ has the meaning given such term by section 4082 [see section 4083] of such Code.

“(C) DIESEL FUEL.—The term ‘diesel fuel’ has the meaning given such term by section 4092 [see section 4083] of such Code.

“(D) AVIATION FUEL.—The term ‘aviation fuel’ has the meaning given such term by section 4092 [see section 4093] of such Code.

“(E) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

“(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

“(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

“(i) on gasoline held on October 1, 1993, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

“(ii) on diesel fuel or aviation fuel held on October 1, 1993, by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(7) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel and aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.”

Section 13243 of Pub. L. 103-66 provided that:

“(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on January 1, 1994, if—

“(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on December 31, 1993, and

“(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to such fuel for periods before January 1, 1994.

“(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

“(c) LIABILITY AND PAYMENT OF TAX.—

“(1) LIABILITY FOR TAX.—A person holding the diesel fuel on January 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

“(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

“(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before July 31, 1994.

“(d) DEFINITIONS.—For purposes of this section—

“(1) DIESEL FUEL.—The term ‘diesel fuel’ has the meaning given such term by section 4083(a) of such Code.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(e) EXCEPTIONS.—

“(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

“(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

“(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.”

Section 1121(j) of Pub. L. 101-508 imposed a floor stocks tax on (A) gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of this title before Dec. 1, 1990, and which was held on such date by any person, or (B) diesel fuel on which no tax was imposed under section 4091 of this title at the Highway Trust Fund financing rate before Dec. 1, 1990, and which was held on such date by any person for use as fuel in a train.

Section 1703(f) of Pub. L. 99-514, as amended by Pub. L. 100-647, title I, §1017(c)(13), title II, §2001(d)(4), Nov. 10, 1988, 102 Stat. 3577, 3595, imposed a floor stocks tax at the rate of 9.1 cents per gallon on gasoline subject to tax under section 4081 of this title which, on Jan. 1, 1988, was held by a dealer for sale, and with respect to which no tax had been imposed under such section.

STUDY OF EVASION OF GASOLINE TAX

Section 1703(g) of Pub. L. 99-514 directed Secretary of the Treasury or his delegate to conduct a study of incidence of evasion of gasoline tax, with report of the study to be submitted, not later than Dec. 31, 1986, to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate.

EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES

Section 518 of Pub. L. 97-424, as amended by Pub. L. 98-369, div. A, title VII, §734(i), July 18, 1984, 98 Stat. 980; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) 14-DAY EXTENSION.—The Secretary shall prescribe regulations which permit any qualified person whose liability for tax under section 4081 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] is payable with respect to semi-monthly periods to pay such tax on or before the day which is 14 days after the close of such semi-monthly period if such payment is made by wire transfer to, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, any Federal Reserve Bank.

“(b) QUALIFIED PERSON DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified person’ means—

“(A) any person other than any person whose average daily production of crude oil for the preceding calendar quarter exceeds 1,000 barrels, and

“(B) any independent refiner (within the meaning of section 4995(b)(4) of such Code).

“(2) AGGREGATION RULES.—For purposes of paragraph (1), in determining whether any person’s production exceeds 1,000 barrels per day, rules similar to the rules of section 4992(e) of the Internal Revenue Code of 1986 shall apply.

“(c) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under subsection (a) would fall on a Saturday, Sunday, or a holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.”

STUDY BY SECRETARY OF THE TREASURY; REPORT TO CONGRESS

Study respecting portion of taxes imposed by this section is attributable to fuel used in recreational motorboats and report to Congress no later than 2 years after Oct. 14, 1980, see Pub. L. 96-451, title II, §204, Oct. 14, 1980, 94 Stat. 1988, set out as a note under section 4041 of this title.

EXPEDITATION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS

Section 221(d) of Pub. L. 95-618 directed Secretary of the Treasury to expedite applications submitted by persons with respect to the production of ethanol for use in producing gasoline and that the Secretary develop expeditious procedures for processing such applications, prior to repeal by Pub. L. 96-223, §232(e)(2)(E), Apr. 2, 1980, 94 Stat. 280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40, 4041, 4042, 4082, 4091, 4093, 4101, 4103, 4221, 6206, 6412, 6416, 6420, 6421, 6427, 9502, 9503, 9508 of this title; title 10 section 2398.

§ 4082. Exemptions for diesel fuel and kerosene

(a) In general

The tax imposed by section 4081 shall not apply to diesel fuel and kerosene—

- (1) which the Secretary determines is destined for a nontaxable use,
- (2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and
- (3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

(b) Nontaxable use

For purposes of this section, the term “nontaxable use” means—

- (1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,
- (2) any use in a train, and
- (3) any use described in section 6427(b)(1) (after the application of section 6427(b)(3)).

(c) Exception to dyeing requirements

Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel and kerosene—

- (1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environ-

mental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

(2) the use of which is certified pursuant to regulations issued by the Secretary.

(d) Additional exceptions to dyeing requirements for kerosene

(1) Aviation-grade kerosene

Subsection (a)(2) shall not apply to aviation-grade kerosene (as determined under regulations prescribed by the Secretary) which the Secretary determines is destined for use as a fuel in an aircraft.

(2) Use for non-fuel feedstock purposes

Subsection (a)(2) shall not apply to kerosene—

(A) received by pipeline or vessel for use by the person receiving the kerosene in the manufacture or production of any substance (other than gasoline, diesel fuel, or special fuels referred to in section 4041), or

(B) to the extent provided in regulations, removed or entered—

(i) for such a use by the person removing or entering the kerosene, or

(ii) for resale by such person for such a use by the purchaser,

but only if the person receiving, removing, or entering the kerosene and such purchaser (if any) are registered under section 4101 with respect to the tax imposed by section 4081.

(3) Wholesale distributors

To the extent provided in regulations, subsection (a)(2) shall not apply to kerosene received by a wholesale distributor of kerosene if such distributor—

(A) is registered under section 4101 with respect to the tax imposed by section 4081 on kerosene, and

(B) sells kerosene exclusively to ultimate vendors described in section 6427(l)(5)(B) with respect to kerosene.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel and kerosene pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

(f) Cross reference

For tax on train and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Pub. L. 86-342, title II, §201(e)(1), (2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 89-44, title VIII, §802(a)(1), (b)(1), June 21, 1965, 79 Stat. 159; Pub. L. 91-258, title II, §205(c)(6), May 21, 1970, 84 Stat. 242; Pub. L. 98-369, div. A, title VII, §§733(a), 734(c)(1), July 18, 1984, 98 Stat. 977, 979; Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2775; Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 517; Pub. L. 104-188, title I, §1801(a), Aug. 20, 1996, 110 Stat. 1891; Pub. L. 105-34, title X, §1032(c)(1), (2), (e)(3)(A), Aug. 5, 1997, 111 Stat. 933, 935; Pub. L. 105-206, title VI, §6010(h)(3), (4), July 22, 1998, 112 Stat. 815.)

REFERENCES IN TEXT

Subsection (i) of section 211 of the Clean Air Act, referred to in subsec. (c)(1), is classified to section 7545(i) of Title 42, The Public Health and Welfare.

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 104-188, which was approved Aug. 20, 1996.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105-206, §6010(h)(3), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “Subsection (a)(2) shall not apply to a removal, entry, or sale of aviation-grade kerosene (as determined under regulations prescribed by the Secretary) if the person receiving the kerosene is registered under section 4101 with respect to the tax imposed by section 4091.”

Subsec. (d)(3). Pub. L. 105-206, §6010(h)(4), substituted “kerosene received by” for “a removal, entry, or sale of kerosene to” in introductory provisions.

1997—Pub. L. 105-34, §1032(e)(3)(A), inserted “and kerosene” after “diesel fuel” in section catchline.

Subsecs. (a), (c). Pub. L. 105-34, §1032(c)(1), substituted “diesel fuel and kerosene” for “diesel fuel” in introductory provisions.

Subsec. (d). Pub. L. 105-34, §1032(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 105-34, §1032(c)(1), substituted “diesel fuel and kerosene” for “diesel fuel”.

Subsecs. (e), (f). Pub. L. 105-34, §1032(c)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsecs. (c) to (e). Pub. L. 104-188 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1993—Pub. L. 103-66 amended heading and text generally. Prior to amendment, text read as follows:

“(a) GASOLINE.—For purposes of this subpart, the term ‘gasoline’ includes, to the extent prescribed in regulations—

“(1) gasoline blend stocks, and

“(2) products commonly used as additives in gasoline.

For purposes of paragraph (1), the term ‘gasoline blend stocks’ means any petroleum product component of gasoline.

“(b) CERTAIN USES DEFINED AS REMOVAL.—If a refiner, importer, terminal operator, blender, or compounder uses (other than in the production of gasoline or special fuels referred to in section 4041) gasoline refined, imported, blended, or compounded by him, such use shall for the purposes of this chapter be considered a removal.”

1986—Subsec. (a). Pub. L. 99-514 amended subsec. (a) generally, substituting definitions of “gasoline” and “gasoline blended stocks” for definition of “producer”.

Subsec. (b). Pub. L. 99-514 amended subsec. (b) generally, substituting provisions that certain use of gasoline be considered removal for provisions defining “gasoline”.

Subsecs. (c) to (e). Pub. L. 99-514, in amending section generally, struck out subsecs. (c) to (e) which defined “sales”, “wholesale distributor”, and “producer”, respectively.

1984—Subsec. (d). Pub. L. 98-369, §733(a), in amending subsec. (d) generally, redesignated existing provisions of par. (1) as subpar. (A) and added subpar. (B), and in par. (2) inserted “but only if such person” before “elects”.

Subsec. (e). Pub. L. 98-369, §734(c)(1), added subpar. (e).

1970—Subsec. (c). Pub. L. 91-258 substituted “special fuels referred to in section 4041” for “special motor fuels referred to in section 4041(b)”.

1965—Subsec. (b). Pub. L. 89-44, §802(a)(1), substituted “gasoline which are suitable for use as a motor fuel” for “gasoline (including casinghead and natural gasoline)”.

Subsec. (d)(2). Pub. L. 89-44, §802(b)(1), struck out “and give a bond” after “elects to register”.

1959—Subsec. (a). Pub. L. 86-342, §201(e)(1), inserted reference to wholesale distributor.

Subsec. (d). Pub. L. 86-342, §201(e)(2), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1801(b) of Pub. L. 104-188 provided that: “The amendments made by this section [amending this section] shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act [Aug. 20, 1996].”

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 1986 AMENDMENT

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.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 733(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act [July 18, 1984].”

Section 734(c)(3) of Pub. L. 98-369 provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act [July 18, 1984].”

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

Section 802(d)(1) of Pub. L. 89-44 provided that: “The amendments made by subsections (a)(1), (b), and (c) [amending this section and sections 4101, 4222, 7103, and 7232 of this title] shall apply with respect to articles sold on or after July 1, 1965.”

EFFECTIVE DATE OF 1959 AMENDMENT

Section 201(e)(3) of Pub. L. 86-342 provided that: “The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on January 1, 1960.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6715, 7851 of this title.

§ 4083. Definitions; special rule; administrative authority

(a) Taxable fuel

For purposes of this subpart—

(1) In general

The term “taxable fuel” means—

- (A) gasoline,
- (B) diesel fuel, and
- (C) kerosene.

(2) Gasoline

The term “gasoline” includes, to the extent prescribed in regulations—

- (A) gasoline blend stocks, and
- (B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term “gasoline blend stock” means any petroleum product component of gasoline.

(3) Diesel fuel

The term “diesel fuel” means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

(b) Certain uses defined as removal

If any person uses taxable fuel (other than in the production of taxable fuels or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

(c) Administrative authority

(1) In general

In addition to the authority otherwise granted by this title, the Secretary may in administering compliance with this subpart, section 4041, and penalties and other administrative provisions related thereto—

(A) enter any place at which taxable fuel is produced or is stored (or may be stored) for purposes of—

- (i) examining the equipment used to determine the amount or composition of such fuel and the equipment used to store such fuel, and
- (ii) taking and removing samples of such fuel, and

(B) detain, for the purposes referred in subparagraph (A), any container which contains or may contain any taxable fuel.

(2) Inspection sites

The Secretary may establish inspection sites for purposes of carrying out the Secretary’s authority under paragraph (1)(B).

(3) Penalty for refusal of entry

The penalty provided by section 7342 shall apply to any refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), except that section 7342 shall be applied by substituting “\$1,000” for “\$500” for each such refusal.

(Aug. 16, 1954, ch. 736, 68A Stat. 483; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XVII, §1703(a), Oct. 22, 1986, 100 Stat. 2776; Pub. L. 103-66, title XIII, §13242(a), Aug. 10, 1993, 107 Stat. 517; Pub. L. 105-34, title IX, §902(b)(3), title X, §1032(a), (e)(4), Aug. 5, 1997, 111 Stat. 873, 933, 935; Pub. L. 105-206, title VI, §6010(h)(1), July 22, 1998, 112 Stat. 815.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-206 made technical amendment to directory language of Pub. L. 105-34, §1032(a). See 1997 Amendment note below.

1997—Subsec. (a)(1)(C). Pub. L. 105-34, § 1032(a), as amended by Pub. L. 105-206, § 6010(h)(1), added subpar. (C).

Subsec. (a)(3). Pub. L. 105-34, § 902(b)(3), substituted “or a diesel-powered train” for “, a diesel-powered train, or a diesel-powered boat”.

Subsec. (b). Pub. L. 105-34, § 1032(e)(4), substituted “taxable fuels” for “gasoline, diesel fuel.”

1993—Pub. L. 103-66 amended heading and text generally. Prior to amendment, text read as follows:

“(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

“(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

“(3) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline not used for taxable purposes, see section 6427.”

1986—Pub. L. 99-514 amended section generally. Prior to amendment, section 4083 “Exemption of sales to producer”, read as follows: “Under regulations prescribed by the Secretary the tax imposed by section 4081 shall not apply in the case of sales of gasoline to a producer of gasoline.”

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 902(b)(3) of 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.

Amendment by section 1032(a), (e)(4) 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.

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 1986 AMENDMENT

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4041, 4102, 6420, 6421, 6427, 7232 of this title.

§ 4084. Cross references

(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

(Added Pub. L. 103-66, title XIII, § 13242(a), Aug. 10, 1993, 107 Stat. 518.)

PRIOR PROVISIONS

A prior section 4084, added Apr. 2, 1956, ch. 160, § 4(a)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title

II, § 208(e)(1), 70 Stat. 396, contained cross references, prior to the general amendment of this subpart by Pub. L. 99-514, § 1703(a).

EFFECTIVE DATE

Section effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 4041 of this title.

SUBPART B—AVIATION FUEL

Sec.	
4091.	Imposition of tax.
4092.	Exemptions.
4093.	Definitions.

AMENDMENTS

1993—Pub. L. 103-66, title XIII, § 13242(a), Aug. 10, 1993, 107 Stat. 518, substituted “Aviation Fuel” for “Diesel Fuel and Aviation Fuel” in subpart heading, “Exemptions” for “Definitions” in item 4092, and “Definitions” for “Exemptions; special rule” in item 4093.

§ 4091. Imposition of tax

(a) Tax on sale

(1) In general

There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

(2) Use treated as sale

For purposes of paragraph (1), if any producer uses aviation fuel (other than for a non-taxable use as defined in section 6427(l)(2)(B)) on which no tax has been imposed under such paragraph or on which tax has been credited or refunded, then such use shall be considered a sale.

(b) Rate of tax

(1) In general

The rate of the tax imposed by subsection (a) shall be 21.8 cents per gallon.

(2) Leaking Underground Storage Tank Trust Fund tax

The rate of tax specified in paragraph (1) shall be increased by 0.1 cent per gallon. The increase in tax under this paragraph shall in this title be referred to as the Leaking Underground Storage Tank Trust Fund financing rate.

(3) Termination

(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

- (i) after December 31, 1996, and before the date which is 7 days after the date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, and
- (ii) after September 30, 2007.

(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

(c) Reduced rate of tax for aviation fuel in alcohol mixture, etc.

Under regulations prescribed by the Secretary—

(1) In general

The rate of tax under subsection (a) shall be reduced by the applicable blender amount per

gallon in the case of the sale of any mixture of aviation fuel if—

(A) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

(B) the aviation fuel in such mixture was not taxed under paragraph (2).

In the case of such a mixture none of the alcohol in which is ethanol, the preceding sentence shall be applied by substituting “14 cents” for “the applicable blender amount”. For purposes of this paragraph, the term “applicable blender amount” means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.

(2) Tax prior to mixing

In the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in paragraph (1), the rate of tax under subsection (a) shall be 1% of the rate which would (but for this paragraph) have been applicable to such mixture had such mixture been created prior to such sale.

(3) Later separation

If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at a rate determined under paragraph (1) or (2) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

(4) Limitation

In no event shall any rate determined under paragraph (1) be less than 4.3 cents per gallon.

(5) Termination

Paragraphs (1) and (2) shall not apply to any sale after September 30, 2007.

(d) Refund of tax-paid aviation fuel to registered producer of fuel

If—

(1) a producer of aviation fuel is registered under section 4101, and

(2) such producer establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) on aviation fuel held by such producer,

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

(Added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-438; amended Pub. L. 100-203, title X, §10502(g), Dec. 22, 1987, 101 Stat. 1330-446; Pub. L. 100-647, title II, §2001(d)(6)(A)-(C), Nov. 10, 1988, 102 Stat. 3596; Pub. L. 101-508, title XI, §§11211(b)(1), (2), (6)(A), (B), (c)(4), (e)(4), 11213(b)(1), (2)(C), (D), (d)(2)(A), 11704(a)(38), Nov.

5, 1990, 104 Stat. 1388-424 to 1388-427, 1388-432, 1388-433, 1388-435, 1388-520; Pub. L. Pub. L. 102-240, title VIII, §8002(a)(4), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(b)(1), (2)(B)(i), (ii), 13242(a), Aug. 10, 1993, 107 Stat. 510, 518; Pub. L. 104-188, title I, §1609(a)(1), Aug. 20, 1996, 110 Stat. 1841; Pub. L. 105-2, §2(a)(1), Feb. 28, 1997, 111 Stat. 4; Pub. L. 105-34, title X, §1031(a)(1), title XIV, §1436(a), Aug. 5, 1997, 111 Stat. 929, 1053; Pub. L. 105-178, title IX, §9003(a)(1)(D), (b)(2)(D), June 9, 1998, 112 Stat. 502, 503; Pub. L. 105-206, title VI, §6014(d), July 22, 1998, 112 Stat. 820.)

REFERENCES IN TEXT

The date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, referred to in subsec. (b)(3)(A)(i), is the date of enactment of Pub. L. 105-2, which was approved Feb. 28, 1997.

PRIOR PROVISIONS

A prior section 4091, acts Aug. 16, 1954, ch. 736, 68A Stat. 483; Aug. 11, 1955, ch. 793, §1(a), 69 Stat. 676; June 21, 1965, Pub. L. 89-44, title II, §202(a), 79 Stat. 137, imposed a tax of 6 cents a gallon on lubricating oil (other than cutting oils) sold in the United States by the manufacturer or producer to be paid by the manufacturer or producer, prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-206 inserted “or on which tax has been credited or refunded” after “such paragraph”.

Subsec. (c)(1). Pub. L. 105-178, §9003(b)(2)(D), substituted “the applicable blender amount” for “13.4 cents” in two places and inserted at end “For purposes of this paragraph, the term ‘applicable blender amount’ means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.”

Subsec. (c)(5). Pub. L. 105-178, §9003(a)(1)(D), substituted “2007” for “2000”.

1997—Subsec. (b)(3)(A). Pub. L. 105-2 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

“(i) after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

“(ii) after December 31, 1996.”

Subsec. (b)(3)(A)(ii). Pub. L. 105-34, §1031(a)(1), substituted “September 30, 2007” for “September 30, 1997”.

Subsec. (d). Pub. L. 105-34, §1436(a), added subsec. (d). 1996—Subsec. (b)(3)(A). Pub. L. 104-188 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “On and after January 1, 1996, the rate of tax specified in paragraph (1) shall be 4.3 cents per gallon.”

1993—Pub. L. 103-66, §13242(a), amended section generally, substituting subsecs. (a) to (c) relating to tax on aviation fuel for former subsecs. (a) to (e) relating to tax on taxable fuels including aviation and diesel fuel.

Subsec. (b)(1)(A)(ii). Pub. L. 103-66, §13241(b)(2)(B)(i), inserted “and the aviation fuel deficit reduction rate” after “financing rate”.

Subsec. (b)(4). Pub. L. 103-66, §13241(b)(1), substituted “6.8 cents” for “2.5 cents”.

Subsec. (b)(6), (7). Pub. L. 103-66, §13241(b)(2)(B)(ii), redesignated par. (6) as (7) and added a new par. (6), reading as follows: “AVIATION FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the aviation fuel deficit reduction rate is 4.3 cents per gallon.”

1991—Subsec. (b)(6)(A). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (b)(1)(A)(i). Pub. L. 101-508, § 11211(b)(1)(A), inserted “and the diesel fuel deficit reduction rate” after “financing rate”.

Subsec. (b)(2). Pub. L. 101-508, § 11211(b)(2), substituted “17.5 cents” for “15 cents”.

Subsec. (b)(3). Pub. L. 101-508, § 11213(b)(1), substituted “17.5 cents” for “14 cents” and inserted “except as provided in subsection (d),” after “paragraph (1).”

Subsec. (b)(4) to (6). Pub. L. 101-508, § 11211(b)(1)(B), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b)(6)(A). Pub. L. 101-508, § 11211(c)(4), substituted “1995” for “1993”.

Subsec. (b)(6)(B). Pub. L. 101-508, § 11213(d)(2)(A), substituted “January 1, 1996” for “January 1, 1991”.

Subsec. (b)(6)(D). Pub. L. 101-508, § 11211(b)(1)(C), added subpar. (D).

Subsec. (c)(1). Pub. L. 101-508, § 11211(b)(6)(A), substituted “12.1 cents” for “9 cents” in subpar. (A), “13.44 cents” for “10 cents” in subpar. (B), and “and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates” for “shall be 1/9 cent per gallon” in last sentence.

Subsec. (c)(2). Pub. L. 101-508, § 11704(a)(38), amended Pub. L. 100-647, § 2001(d)(6)(C). See 1988 Amendment note below.

Pub. L. 101-508, § 11211(b)(6)(B), substituted “12.1 cents” for “9 cents”.

Subsec. (c)(3). Pub. L. 101-508, § 11211(e)(4), substituted “2000” for “1993”.

Subsec. (d). Pub. L. 101-508, § 11213(b)(2)(C)(ii), substituted “Reduced rate of” for “Exemption from” in heading.

Subsec. (d)(1). Pub. L. 101-508, § 11213(b)(2)(C)(i), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Airport and Airway Trust Fund financing rate shall not apply to the sale of—

“(A) any mixture of aviation fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), or

“(B) any aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).”

Subsec. (d)(2). Pub. L. 101-508, § 11213(b)(2)(C)(i), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which the Airport and Airway Trust Fund financing rate did not apply by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(2)), such person shall be treated as the producer of such aviation fuel.”

Subsec. (d)(3). Pub. L. 101-508, § 11211(e)(4), substituted “2000” for “1993”.

Subsec. (e). Pub. L. 101-508, § 11213(b)(2)(D), added subsec. (e).

1988—Subsec. (b)(4). Pub. L. 100-647, § 2001(d)(6)(B), inserted “except as provided in subsection (c),” after “paragraph (1).”

Subsec. (c)(1). Pub. L. 100-647, § 2001(d)(6)(A), inserted sentence at end providing that Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon in the case of a sale described in subparagraph (B).

Subsec. (c)(2). Pub. L. 100-647, § 2001(d)(6)(C), as amended by Pub. L. 101-508, § 11704(a)(38), substituted “reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel” for “5 cents per gallon”.

1987—Subsec. (b)(5)(B). Pub. L. 100-203, § 10502(g), substituted “1991” for “1988”.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by 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 9003(b)(2)(D) of Pub. L. 105-178 effective Jan. 1, 2001, see section 9003(b)(3) of Pub. L. 105-178, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 1031(a)(1) of Pub. L. 105-34 effective Oct. 1, 1997, see section 1031(e)(1) of Pub. L. 105-34, set out as a note under section 4041 of this title.

Section 1436(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section and section 6416 of this title] shall apply to fuel acquired by the producer after September 30, 1997.”

Amendment by Pub. L. 105-2 applicable to periods beginning on or after the 7th day after Feb. 28, 1997, see section 2(e)(1) of Pub. L. 105-2, 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 13241(b)(1), (2)(B)(i), (ii) 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(a) 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 1990 AMENDMENT

Amendment by section 11211(b)(1), (2), (6)(A), (B) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11213(b)(1), (2)(C), (D) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11213(b)(4) of Pub. L. 101-508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2001(d)(6)(D) of Pub. L. 100-647 provided that: “The amendments made by this paragraph [amending this section] shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987 [Pub. L. 100-203].”

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10502(g) of Pub. L. 100-203 provided that: “If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted [enacted as Pub. L. 100-223], effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code [this title] (as added by this section) are each amended by striking out ‘January 1, 1988’ and inserting in lieu thereof ‘January 1, 1991.’”

EFFECTIVE DATE

Subpart applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as an Effective Date of 1987 Amendment note under section 40 of this title.

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Due date for deposits of taxes imposed by this section which would be required to be made after July 31, 1998, and before Oct. 1, 1998, to be Oct. 5, 1998, see section 1031(g) of Pub. L. 105-34, set out as a note under section 6302 of this title.

FLOOR STOCKS TAX

Section 1609(h) of Pub. L. 104-188, as amended by Pub. L. 105-34, title XVI, § 1601(f)(4)(E), (F), Aug. 5, 1997, 111 Stat. 1091; Pub. L. 105-206, title VI, § 6018(e), July 22, 1998, 112 Stat. 823, provided that:

“(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the In-

ternal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) TAX INCREASE DATE.—The term ‘tax-increase date’ means the date which is 7 calendar days after the date of the enactment of this Act [Aug. 20, 1996].

“(B) AVIATION FUEL.—The term ‘aviation fuel’ has the meaning given such term by section 4093 of such Code.

“(C) HELD BY A PERSON.—Aviation fuel shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use or exclusively for the use described in section 4092(b) of such Code.

“(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

“(C) CONTROLLED GROUPS.—For purposes of this paragraph—

“(i) CORPORATIONS.—

“(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(II) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.”

Section 13245 of Pub. L. 103-66 provided that:

“(a) IMPOSITION OF TAX.—In the case of commercial aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before October

1, 1995, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon.

“(b) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(1) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1995, to which the tax imposed by subsection (a) applies shall be liable for such tax.

“(2) METHOD OF PAYMENT.—The tax imposed by subsection (a) shall be paid in such manner as the Secretary shall prescribe.

“(3) TIME FOR PAYMENT.—The tax imposed by subsection (a) shall be paid on or before April 30, 1996.

“(c) DEFINITIONS.—For purposes of this subsection—

“(1) HELD BY A PERSON.—Aviation fuel shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(2) COMMERCIAL AVIATION FUEL.—The term ‘commercial aviation fuel’ means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1995, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(d) EXCEPTION FOR EXEMPT USES.—The tax imposed by subsection (a) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased after September 30, 1995, for such use.

“(e) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

“(1) IN GENERAL.—No tax shall be imposed by subsection (a) on aviation fuel held on October 1, 1995, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d).

“(3) CONTROLLED GROUPS.—For purposes of this subsection—

“(A) CORPORATIONS.—

“(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

“(ii) CONTROLLED GROUP.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(B) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

“(f) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by subsection (a) to the same extent as if such taxes were imposed by such section 4091.”

Imposition of floor stocks taxes on gasoline, diesel fuel, and aviation fuel, see notes set out under section 4081 of this title.

Section 10502(f) of Pub. L. 100-203 imposed a floor stocks tax on any taxable fuel which on Apr. 1, 1988, was held by a taxable person, at the rate of tax which would have been imposed if such fuel had been sold on such date in a sale subject to tax under section 4091 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40, 4041, 4092, 4093, 4101, 4103, 4221, 6206, 6416, 6427, 9502, 9508 of this title.

§ 4092. Exemptions**(a) Nontaxable uses**

No tax shall be imposed by section 4091 on aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

(b) No exemption from certain taxes on fuel used in commercial aviation

In the case of fuel sold for use in commercial aviation (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

(1) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(2) in the case of fuel sold after September 30, 1995, 4.3 cents per gallon of the rate specified in section 4091(b)(1).

For purposes of the preceding sentence, the term “commercial aviation” means any use of an aircraft other than in noncommercial aviation (as defined in section 4041(c)(2)).

(c) Sales to producer

Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

(Added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-440; amended Pub. L. 100-647, title III, §3003(a), Nov. 10, 1988, 102 Stat. 3616; Pub. L. 103-66, title XIII, §§13163(a)(1), (3), 13242(a), Aug. 10, 1993, 107 Stat. 453, 519; Pub. L. 105-34, title XVI, §1601(f)(4)(C), Aug. 5, 1997, 111 Stat. 1091; Pub. L. 105-206, title VI, §6023(16), July 22, 1998, 112 Stat. 825.)

PRIOR PROVISIONS

A prior section 4092, acts Aug. 16, 1954, ch. 736, 68A Stat. 484; Aug. 11, 1955, ch. 793, §1(b), 69 Stat. 676; Nov. 9, 1978, Pub. L. 95-618, title IV, §404(b), 92 Stat. 3205, provided for certain vendees to be considered as manufacturers and defined “cutting oils”, prior to repeal by Pub. L. 97-424, title V, §515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-206 directed an amendment identical to that made by Pub. L. 105-34. See 1997 Amendment note below.

1997—Subsec. (b). Pub. L. 105-34 substituted “section 4041(c)(2)” for “section 4041(c)(4)” in concluding provisions.

1993—Pub. L. 103-66, §13242(a) amended heading and text generally. Prior to amendment, text defined “taxable fuel”, “diesel fuel”, “aviation fuel”, “producer”, and “wholesale distributor”.

Subsec. (a)(2). Pub. L. 103-66, §13163(a)(1), substituted “, a diesel-powered train, or a diesel-powered boat” for “or a diesel-powered train”.

Subsec. (b)(1)(B). Pub. L. 103-66, §13163(a)(3), substituted “vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))” for “commercial and noncommercial vessels” in cl. (iii) and in last sentence.

1988—Subsec. (b)(1)(B). Pub. L. 100-647 added cl. (iii) and sentence at end providing that a retailer shall not be treated as not described in cl. (iii) by reason of selling de minimis amounts of diesel fuel other than as supplies for commercial and noncommercial vessels.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13163(a)(1), (3) 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 13242(a) 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

Section 3003(b) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section] shall apply to sales after December 31, 1988.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6427 of this title.

§ 4093. Definitions**(a) Aviation fuel**

For purposes of this subpart, the term “aviation fuel” means kerosene and any other liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

(b) Producer

For purposes of this subpart—

(1) Certain persons treated as producers**(A) In general**

The term “producer” includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

(B) Persons described

A person is described in this subparagraph if such person is—

(i) a refiner, blender, or wholesale distributor of aviation fuel, or

(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

(C) Reduced rate purchasers treated as producers

Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

(2) Wholesale distributor

For purposes of paragraph (1), the term “wholesale distributor” includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and accept delivery into bulk storage tanks. Such term does not include any person who (excluding the term “wholesale distributor” from paragraph (1)) is a producer or importer.

(Added Pub. L. 100-203, title X, §10502(a), Dec. 22, 1987, 101 Stat. 1330-440; amended Pub. L. 100-647, title II, §2004(s)(1), title III, §3001(a), Nov. 10,

1988, 102 Stat. 3609, 3613; Pub. L. 101-508, title XI, §§ 11211(b)(4)(A), 11212(b)(4), 11704(a)(20), Nov. 5, 1990, 104 Stat. 1388-425, 1388-431, 1388-519; Pub. L. 103-66, title XIII, §§ 13241(f)(3), (4), 13242(a), Aug. 10, 1993, 107 Stat. 511, 512, 520; Pub. L. 104-188, title I, § 1702(b)(2)(A), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title X, § 1032(e)(5), Aug. 5, 1997, 111 Stat. 935.)

PRIOR PROVISIONS

A prior section 4093, acts Aug. 16, 1954, ch. 736, 68A Stat. 484; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834; Nov. 9, 1978, Pub. L. 95-618, title IV, § 404(a), 92 Stat. 3204, exempted from tax imposed by former section 4091 of this title lubricating oils sold to a manufacturer or producer of lubricating oils for resale, or for certain uses of lubricating oil in producing re refined oil, prior to repeal by Pub. L. 97-424, title V, § 515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

A prior section 4094, added Pub. L. 89-44, title II, § 202(c)(1)(A), June 21, 1965, 79 Stat. 139, provided cross reference to sections 39 and 6424 of this title for provisions to relieve purchasers of lubricating oil from excise tax in the case of lubricating oil used otherwise than in a highway motor vehicle, prior to repeal by Pub. L. 97-424, title V, § 515(a), (c), Jan. 6, 1983, 96 Stat. 2181, applicable with respect to articles sold after Jan. 6, 1983.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34 substituted “kerosene and any other liquid” for “any liquid”.

1996—Subsec. (c)(2)(B). Pub. L. 104-188 amended subpar. (B), 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 is sold for exclusive use by a State or any political subdivision thereof”. Prior to amendment by Pub. L. 103-66, subpar. (B) read as follows:

“(B) DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use 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 1993 Amendment note below.

1993—Pub. L. 103-66, § 13242(a), amended heading and text generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (f) relating to exemptions from tax imposed under section 4091, information reporting, administrative rules, and cross references.

Subsec. (c)(2)(A), (B). Pub. L. 103-66, § 13241(f)(3), amended subpars. (A) and (B) generally to read as follows:

“(A) NO EXEMPTION FROM CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel sold for use 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 under 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.

“(B) NO EXEMPTION FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel sold for use in commercial aviation (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) also 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. For purposes of the preceding sentence, the term ‘commercial aviation’ means any use of an aircraft other than in noncommercial aviation (as defined in section 4041(c)(4)).”

Subsec. (d). Pub. L. 103-66, § 13241(f)(4), inserted “and the aviation fuel deficit reduction rate” after “rate”.

1990—Subsec. (c)(2)(B), (C). Pub. L. 101-508, § 11211(b)(4)(A), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(4)(D). Pub. L. 101-508, § 11704(a)(20), substituted “reduced-tax sale” for “reduced tax sale”.

Subsecs. (e), (f). Pub. L. 101-508, § 11212(b)(4), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: “The Secretary may require—

“(1) information reporting by each remitter of the tax imposed by section 4091, and

“(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subpart.”

1988—Subsec. (c). Pub. L. 100-647, § 3001(a), substituted present heading for “Authority to exempt certain other uses” and amended text generally. Prior to amendment, text read as follows: “Subject to such terms and conditions as the Secretary may provide (including the application of section 4101), the Secretary may by regulation provide that—

“(1) the Highway Trust Fund financing rate under section 4091 shall not apply to diesel fuel sold for use by any purchaser as a fuel in a diesel-powered train,

“(2) the Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use by any purchaser as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4)),

“(3) the tax imposed by section 4091 shall not apply to taxable fuel sold for use by any purchaser other than as a motor fuel, and

“(4) the tax imposed by section 4091 shall not apply to taxable fuel sold for the exclusive use of any State, any political subdivision of a State, or the District of Columbia.”

Subsecs. (d) to (f). Pub. L. 100-647, § 2004(s)(1), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by 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.

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 section 13241(f)(3), (4) 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(a) 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 1990 AMENDMENT

Amendment by section 11211(b)(4)(A) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11212(b)(4) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2004(s)(1) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Section 3001(c) of Pub. L. 100-647 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6724 and 7232 of this title] shall take effect on January 1, 1989.

“(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

“(A) IN GENERAL.—In the case of fuel—

“(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on December 31, 1988,

“(ii) which is used (before the claim under this subparagraph is filed) by any person in a non-taxable use (as defined in section 6427(l)(2) of the 1986 Code), and

“(iii) with respect to which a claim is not permitted to be filed for any quarter under section 6427(i) of the 1986 Code,

the Secretary of the Treasury or the Secretary’s delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than June 30, 1989. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

“(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

“(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED.—Not later than the 30th day after the date of the enactment of this Act [Nov. 10, 1988], the Secretary of the Treasury or the Secretary’s delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6416, 6724 of this title.

SUBPART C—SPECIAL PROVISIONS APPLICABLE TO PETROLEUM PRODUCTS

Sec.	
4101.	Registration and bond.
4102.	Inspection of records by local officers.
4103.	Certain additional persons liable for tax where willful failure to pay.

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11212(e)(3), Nov. 5, 1990, 104 Stat. 1388-432, added item 4103.

1986—Pub. L. 99-514, title XVII, §1703(b)(2), Oct. 22, 1986, 100 Stat. 2776, substituted “Registration and bond” for “Registration” in item 4101.

1976—Pub. L. 94-455, title XII, §1202(c)(2), Oct. 4, 1976, 90 Stat. 1686, substituted “Inspection of records by local officers” for “Inspection of records, returns, etc., by local officers” in item 4102.

1965—Pub. L. 89-44, title VIII, §802(b)(5), June 21, 1965, 79 Stat. 159, struck out “and bond” after “Registration” in item 4101.

§ 4101. Registration and bond

(a) Registration

Every person required by the Secretary to register under this section with respect to the tax imposed by section 4041(a)(1), 4081, or 4091 shall register with the Secretary at such time, in such form and manner, and subject to such terms and

conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

(b) Bonds and liens

(1) In general

Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

(A) give a bond in such sum as the Secretary determines appropriate, and

(B) agree to the imposition of a lien—

(i) on such property (or rights to property) of such person used in the trade or business for which the registration is sought, or

(ii) with the consent of such person, on any other property (or rights to property) of such person as the Secretary determines appropriate.

Rules similar to the rules of section 6323 shall apply to the lien imposed pursuant to this paragraph.

(2) Release or discharge of lien

If a lien is imposed pursuant to paragraph (1), the Secretary shall issue a certificate of discharge or a release of such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by him) a bond in such sum as the Secretary determines appropriate or the transferor agrees to the imposition of a substitute lien under paragraph (1)(B) in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to discharge or release a lien imposed pursuant to paragraph (1) in connection with a transfer of property not later than 90 days after the date the request for such a discharge or release is made.

(c) Denial, revocation, or suspension of registration

Rules similar to the rules of section 4222(c) shall apply to registration under this section.

(d) Information reporting

The Secretary may require—

(1) information reporting by any person registered under this section, and

(2) information reporting by such other persons as the Secretary deems necessary to carry out this part.

(Aug. 16, 1954, ch. 736, 68A Stat. 484; Pub. L. 89-44, title VIII, §802(b)(2), June 21, 1965, 79 Stat. 159; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-424, title V, §515(b)(8), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 99-514, title XVII, §1703(b)(1), Oct. 22, 1986, 100 Stat. 2776; Pub. L. 100-203, title X, §10502(d)(3), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 101-508, title XI, §11212(b)(1), Nov. 5, 1990, 104 Stat. 1388-430; Pub. L. 103-66, title XIII, §13242(d)(1), Aug. 10, 1993, 107 Stat. 522; Pub. L. 105-34, title X, §1032(d), Aug. 5, 1997, 111 Stat. 934; Pub. L. 105-206, title VI, §6010(h)(5), July 22, 1998, 112 Stat. 815; Pub. L. 107-147, title VI, §615(a), Mar. 9, 2002, 116 Stat. 62.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-147 struck out heading and text of subsec. (e). Text read as follows:

“(1) IN GENERAL.—A terminal for kerosene or diesel fuel may not be an approved facility for storage of non-tax-paid diesel fuel or kerosene under this section unless the operator of such terminal offers such fuel in a dyed form for removal for nontaxable use in accordance with section 4082(a).

“(2) EXCEPTION.—Paragraph (1) shall not apply to any terminal exclusively providing aviation-grade kerosene by pipeline to an airport.”

1998—Subsec. (e)(1). Pub. L. 105-206 substituted “such fuel in a dyed form” for “dyed diesel fuel and kerosene”.

1997—Subsec. (e). Pub. L. 105-34 added subsec. (e).

1993—Subsec. (a). Pub. L. 103-66 substituted “4041(a)(1), 4081,” for “4081”.

1990—Pub. L. 101-508 amended section generally. Prior to amendment, section read as follows:

“(a) REGISTRATION.—Every person subject to tax under section 4081 or 4091 shall, before incurring any liability for tax under such section, register with the Secretary.

“(b) BOND.—Under regulations prescribed by the Secretary, every person who registers under subsection (a) may be required to give a bond in such sum as the Secretary determines.”

1987—Subsec. (a). Pub. L. 100-203 inserted “or 4091” after “section 4081”.

1986—Pub. L. 99-514 amended section generally, substituting “Registration and bond” for “Registration” in section catchline, designating existing provisions as subsec. (a), inserting subsec. (a) heading, and adding subsec. (b).

1983—Pub. L. 97-424 struck out “or section 4091” after “4081”.

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

1965—Pub. L. 89-44 struck out all references to a bond to be given and its terms and requirements.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title VI, § 615(b), Mar. 9, 2002, 116 Stat. 62, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2002.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective Jan. 1, 2002, see section 1032(f)(2) of Pub. L. 105-34, as amended, set out as a note under section 4041 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 Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 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 AMENDMENT

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.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable 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 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4081, 4082, 4091, 4093, 4222, 6427, 6724, 7012, 7232, 7272 of this title.

§ 4102. Inspection of records by local officers

Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on any taxable fuel (as defined in section 4083).

(Aug. 16, 1954, ch. 736, 68A Stat. 484; Pub. L. 94-455, title XII, § 1202(c)(1), Oct. 4, 1976, 90 Stat. 1686; Pub. L. 97-424, title V, § 515(b)(9), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 103-66, title XIII, § 13242(d)(2), Aug. 10, 1993, 107 Stat. 522.)

PRIOR PROVISIONS

Prior sections 4111 to 4113, 4121, and 4131 of this title constituted a former subchapter B of this chapter, see Prior Provisions note set out preceding section 4121 of this title.

AMENDMENTS

1993—Pub. L. 103-66 substituted “any taxable fuel (as defined in section 4083)” for “gasoline”.

1983—Pub. L. 97-424 struck out “or lubricating oils” after “gasoline”.

1976—Pub. L. 94-455 struck out “returns, etc.” after “Inspection of records”, “or his delegate” after “Secretary”, “and returns, reports, and statements with respect to such taxes filed with the Secretary or his delegate” after “under this part”, substituted “or a political subdivision of any such State” for “or, Territory or political subdivision thereof or the District of Columbia” after “of any State”, and struck out provision relating to availability and fee for certified copies of statements, returns, or reports filed in Secretary’s office.

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 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable 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 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6116 of this title.

§ 4103. Certain additional persons liable for tax where willful failure to pay

In any case in which there is a willful failure to pay the tax imposed by section 4041(a)(1), 4081, or 4091, each person—

(1) who is an officer, employee, or agent of the taxpayer who is under a duty to assure the payment of such tax and who willfully fails to perform such duty, or

(2) who willfully causes the taxpayer to fail to pay such tax,

shall be jointly and severally liable with the taxpayer for the tax to which such failure relates.

(Added Pub. L. 101-508, title XI, §11212(c), Nov. 5, 1990, 104 Stat. 1388-431; amended Pub. L. 103-66, title XIII, §13242(d)(1), Aug. 10, 1993, 107 Stat. 522.)

AMENDMENTS

1993—Pub. L. 103-66 substituted “4041(a)(1), 4081,” for “4081”.

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

Section effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 4081 of this title.

Subchapter B—Coal

Sec.
4121. Imposition of tax.

PRIOR PROVISIONS

A prior subchapter B consisted of sections 4111 to 4113, 4121, and 4131 of this title.

Section 4111, acts Aug. 16, 1954, ch. 736, 68A Stat. 485; Sept. 2, 1958, Pub. L. 85-859, title I, §111(a), 72 Stat. 1277, imposed a manufacturers excise tax of 5 percent on household type refrigerators, quick freeze or frozen storage units, or combinations, and a tax of 10 percent on self-contained air-conditioning units, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after June 22, 1956.

Section 4112, acts Aug. 16, 1954, ch. 736, 68A Stat. 485; Aug. 11, 1955, ch. 805, §1(e), 69 Stat. 689, defined refrigerator components, prior to repeal by Pub. L. 85-859, title I, §111(b)(1), Sept. 2, 1958, 72 Stat. 1277, effective the first day of the first calendar quarter beginning more than 60 days after Sept. 2, 1958.

Section 4113, act Aug. 16, 1954, ch. 736, 68A Stat. 485, related to exemptions for manufacturers of refrigerator components, prior to repeal by act Aug. 11, 1955, ch. 805, §1(d), 69 Stat. 689, effective on the first day of the first month beginning more than 10 days after Aug. 11, 1955.

Section 4121, acts Aug. 16, 1954, ch. 736, 68A Stat. 486; Sept. 2, 1958, Pub. L. 85-859, title I, §112, 72 Stat. 1277, imposed a 5 percent tax on electric, gas, and oil household appliances and their accessories, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after June 22, 1965.

Section 4131, act Aug. 16, 1954, ch. 736, 68A Stat. 486, imposed a 10 percent tax on electric light bulbs and tubes, prior to repeal by Pub. L. 89-44, title II, §203, June 21, 1965, 79 Stat. 139, applicable with respect to articles sold on or after Jan. 1, 1965.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 9501 of this title.

§ 4121. Imposition of tax

(a) Tax imposed

(1) In general

There is hereby imposed on coal from mines located in the United States sold by the pro-

ducer, a tax equal to the rate per ton determined under subsection (b).

(2) Limitation on tax

The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

(b) Determination of rates and limitation on tax

For purposes of subsection (a)—

(1) the rate of tax on coal from underground mines shall be \$1.10,

(2) the rate of tax on coal from surface mines shall be \$.55, and

(3) the applicable percentage shall be 4.4 percent.

(c) Tax not to apply to lignite

The tax imposed by subsection (a) shall not apply in the case of lignite.

(d) Definitions

For purposes of this subchapter—

(1) Coal from surface mines

Coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth. Coal extracted by auger shall be treated as coal from a surface mine.

(2) Coal from underground mines

Coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

(3) United States

The term “United States” has the meaning given to it by paragraph (1) of section 638.

(4) Ton

The term “ton” means 2,000 pounds.

(e) Reduction in amount of tax

(1) In general

Effective with respect to sales after the temporary increase termination date, subsection (b) shall be applied—

(A) by substituting “\$.50” for “\$1.10”,

(B) by substituting “\$.25” for “\$.55”, and

(C) by substituting “2 percent” for “4.4 percent”.

(2) Temporary increase termination date

For purposes of paragraph (1), the temporary increase termination date is the earlier of—

(A) January 1, 2014, or

(B) the first January 1 after 1981 as of which there is—

(i) no balance of repayable advances made to the Black Lung Disability Trust Fund, and

(ii) no unpaid interest on such advances.

(Added Pub. L. 95-227, §2(a), Feb. 10, 1978, 92 Stat. 11; amended Pub. L. 97-119, title I, §102(a), Dec. 29, 1981, 95 Stat. 1635; Pub. L. 99-272, title XIII, §13203(a), (c), Apr. 7, 1986, 100 Stat. 312, 313; Pub. L. 99-514, title XVIII, §1897(a), Oct. 22, 1986, 100 Stat. 2941; Pub. L. 100-203, title X, §10503, Dec. 22, 1987, 101 Stat. 1330-446.)

PRIOR PROVISIONS

For prior section 4121, see Prior Provisions note set out preceding this section.

AMENDMENTS

1987—Subsec. (e)(2)(A). Pub. L. 100-203 substituted “2014” for “1996”.

1986—Subsec. (a). Pub. L. 99-272, §13203(a), amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: “There is hereby imposed on coal sold by the producer a tax at the rates of—

“(1) 50 cents per ton in the case of coal from underground mines located in the United States, and

“(2) 25 cents per ton in the case of coal from surface mines located in the United States.”

Subsec. (b). Pub. L. 99-514 struck out “, in the case of sales during any calendar year beginning after December 31, 1985” after “subsection (a)”.

Pub. L. 99-272, §13203(a), amended subsec. (b) generally. Prior to amendment subsec. (b), limitation on tax, read as follows: “The amount of the tax imposed by subsection (a) with respect to a ton of coal shall not exceed 2 percent of the price at which such ton of coal is sold by the producer.”

Subsec. (e). Pub. L. 99-272, §13203(c), substituted “Reduction in amount of tax” for “Temporary increase in amount of tax” in heading and amended par. (1) generally. Prior to amendment par. (1) read as follows: “Effective with respect to sales after December 31, 1981, and before the temporary increase termination date—

“(A) subsection (a) shall be applied—

“(i) by substituting ‘\$1’ for ‘50 cents’, and

“(ii) by substituting ‘50 cents’ for ‘25 cents’, and

“(B) subsection (b) shall be applied by substituting ‘4 percent’ for ‘2 percent’.”

1981—Subsec. (e). Pub. L. 97-119 added subsec. (e).

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 1897(b) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendment made by section 13203 of the Consolidated Omnibus Budget Reconciliation Act of 1985 [section 13203 of Pub. L. 99-272, see note below].”

Section 13203(d) of Pub. L. 99-272 provided that: “The amendments made by this section [amending this section] shall apply to sales after March 31, 1986.”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 102(b) of Pub. L. 97-119 provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales after December 31, 1981.”

EFFECTIVE DATE

Section 2(d) of Pub. L. 95-227 provided that: “The amendments made by this section [enacting this section and amending sections 4218, 4221, 4293, and 6416 of this title] shall apply with respect to sales after March 31, 1978.”

Section 5 of Pub. L. 95-227 provided that: “Notwithstanding any other provision of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] to the contrary, no provision of this Act (including any amendment made by any such provision) shall take effect or apply unless an Act, enacted after the date of enactment of this Act [Feb. 10, 1978], contains a provision, explicitly in satisfaction of the requirements of this section, which states that it is the intent of the Congress that the provisions of this Act shall take effect.”

[Pub. L. 95-239, §20(c), Mar. 1, 1978, 92 Stat. 106, provided that: “In accordance with the requirements of section 5 of the Black Lung Benefits Revenue Act of 1977 [Pub. L. 95-227, set out above], it is hereby provided that such Act shall take effect in accordance with the provisions of such Act. The provisions of this subsection are hereby deemed to be in explicit satisfaction of the requirements of section 5 of such Act.”]

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95-227, Feb. 10, 1978, 92 Stat. 11, as the “Black Lung Benefits Revenue Act of 1977”,

see Short Title of 1978 Amendments note set out under section 1 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4218, 4221, 4293, 6416, 9501 of this title; title 30 section 1232.

Subchapter C—Certain Vaccines

Sec. 4131.	Imposition of tax.
4132.	Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter C consisted of sections 4141 to 4143, 4151, and 4152 of this title.

Section 4141, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Aug. 11, 1955, ch. 805, §2(a), 69 Stat. 690; Sept. 2, 1958, Pub. L. 85-859, title I, §113(a), 72 Stat. 1278, imposed a tax equivalent to 10 percent of selling price on radio and television receiving sets, phonographs, radio, television, and phonograph combinations, components, and phonograph records, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4142, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Sept. 2, 1958, Pub. L. 85-859, title I, §113(a), 72 Stat. 1278; Oct. 13, 1964, Pub. L. 88-653, §6(a), 78 Stat. 1086, defined “radio and television components” and provided formula to determine selling price of rebuilt television picture tubes, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4143, Pub. L. 85-859, title I, §113(a), Sept. 2, 1958, 72 Stat. 1278, granted an exemption for certain types of communication, detection, and navigation equipment and components, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4151, act Aug. 16, 1954, ch. 736, 68A Stat. 488, imposed a tax equivalent to 10 percent of selling price upon the sale of musical instruments, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4152, act Aug. 16, 1954, ch. 736, 68A Stat. 488, related to exemption of musical instruments sold for religious or educational use, prior to repeal by Pub. L. 85-859, title I, §119(b)(2), Sept. 2, 1958, 72 Stat. 1286, effective on the first day of the first calendar quarter which began more than 60 days after Sept. 2, 1958.

§ 4131. Imposition of tax

(a) General rule

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

(b) Amount of tax

(1) In general

The amount of the tax imposed by subsection (a) shall be 75 cents per dose of any taxable vaccine.

(2) Combinations of vaccines

If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the

amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.

(c) Application of section

The tax imposed by this section shall apply—
 (1) after December 31, 1987, and before January 1, 1993, and

(2) during periods after the date of the enactment of the Revenue Reconciliation Act of 1993.

(Added Pub. L. 100-203, title IX, §9201(a), Dec. 22, 1987, 101 Stat. 1330-327; amended Pub. L. 103-66, title XIII, §13421(a), Aug. 10, 1993, 107 Stat. 565; Pub. L. 105-34, title IX, §904(a), Aug. 5, 1997, 111 Stat. 873.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1993, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 103-66, which was approved Aug. 10, 1993.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

“If the taxable vaccine is:	The tax per dose is:
DPT vaccine	\$4.56
DT vaccine	0.06
MMR vaccine	4.44
Polio vaccine	0.29.

“(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.”

1993—Subsec. (c). Pub. L. 103-66 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to termination of tax if amounts collected exceeded projected fund liability.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 904(d) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section and section 4132 of this title] shall take effect on the day after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE

Section 9201(d) of Pub. L. 100-203 provided that: “The amendments made by this section [enacting this section and section 4132 of this title and amending sections 4221 and 6416 of this title] shall take effect on January 1, 1988.”

FLOOR STOCKS TAX

Section 13421(c) of Pub. L. 103-66 provided that:

“(1) IMPOSITION OF TAX.—On any taxable vaccine—

“(A) which was sold by the manufacturer, producer, or importer on or before the date of the enactment of this Act [Aug. 10, 1993],

“(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

“(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

“(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

“(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4132, 4221, 6416, 9510 of this title; title 42 section 1396s.

§ 4132. Definitions and special rules

(a) Definitions relating to taxable vaccines

For purposes of this subchapter—

(1) Taxable vaccine

The term “taxable vaccine” means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

- (A) Any vaccine containing diphtheria toxoid.
- (B) Any vaccine containing tetanus toxoid.
- (C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.
- (D) Any vaccine against measles.
- (E) Any vaccine against mumps.
- (F) Any vaccine against rubella.
- (G) Any vaccine containing polio virus.
- (H) Any HIB vaccine.
- (I) Any vaccine against hepatitis B.
- (J) Any vaccine against chicken pox.
- (K) Any vaccine against rotavirus gastroenteritis.

(L) Any conjugate vaccine against streptococcus pneumoniae.

(2) Vaccine

The term “vaccine” means any substance designed to be administered to a human being for the prevention of 1 or more diseases.

(3) United States

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

(4) Importer

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

(b) Credit or refund where vaccine returned to manufacturer, etc., or destroyed

(1) In general

Under regulations prescribed by the Secretary, whenever any vaccine on which tax was imposed by section 4131 is—

- (A) returned (other than for resale) to the person who paid such tax, or
- (B) destroyed,

the Secretary shall abate such tax or allow a credit, or pay a refund (without interest), to such person equal to the tax paid under section 4131 with respect to such vaccine.

(2) Claim must be filed within 6 months

Paragraph (1) shall apply to any returned or destroyed vaccine only with respect to claims filed within 6 months after the date the vaccine is returned or destroyed.

(3) Condition of allowance of credit or refund

No credit or refund shall be allowed or made under paragraph (1) with respect to any vaccine unless the person who paid the tax establishes that he—

- (A) has repaid or agreed to repay the amount of the tax to the ultimate purchaser of the vaccine, or
- (B) has obtained the written consent of such purchaser to the allowance of the credit or the making of the refund.

(4) Tax imposed only once

No tax shall be imposed by section 4131 on the sale of any vaccine if tax was imposed by section 4131 on any prior sale of such vaccine and such tax is not abated, credited, or refunded.

(c) Other special rules

(1) Certain uses treated as sales

Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

(2) Treatment of vaccines shipped to United States possessions

Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States.

(3) Fractional part of a dose

In the case of a fraction of a dose, the tax imposed by section 4131 shall be the same fraction of the amount of such tax imposed by a whole dose.

(4) Disposition of revenues from Puerto Rico and the Virgin Islands

The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4131.

(Added Pub. L. 100-203, title IX, §9201(a), Dec. 22, 1987, 101 Stat. 1330-329; amended Pub. L. 100-647, title II, §2006(a), Nov. 10, 1988, 102 Stat. 3612; Pub. L. 105-34, title IX, §904(b), (c), Aug. 5, 1997, 111 Stat. 873, 874; Pub. L. 105-277, div. C, title XV, §1503(a), div. J, title III, §3002(a), Oct. 21, 1998, 112 Stat. 2681-741, 2681-905; Pub. L. 106-170, title V, §523(a)(1), (b)(1), Dec. 17, 1999, 113 Stat. 1927.)

AMENDMENTS

1999—Subsec. (a)(1)(K). Pub. L. 106-170, §523(b)(1), repealed Pub. L. 105-277, §1503(a). See 1998 Amendment note below.

Subsec. (a)(1)(L). Pub. L. 106-170, §523(a)(1), added subpar. (L).

1998—Subsec. (a)(1)(K). Pub. L. 105-277, §3002(a), added a subpar. (K) identical to that added by Pub. L. 105-277, §1503(a). See below.

Pub. L. 105-277, §1503(a), which directed amendment of section 4132(1) by adding a new subpar. (K) at the end, was repealed by Pub. L. 106-170, §523(b)(1).

1997—Subsec. (a)(1). Pub. L. 105-34, §904(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘taxable vaccine’ means any vaccine—

“(A) which is listed in the table contained in section 4131(b)(1), and

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

Subsec. (a)(2) to (8). Pub. L. 105-34, §904(c), redesignated pars. (6) to (8) as (2) to (4), respectively, and struck out former pars. (2) to (5) which read as follows:

“(2) DPT VACCINE.—The term ‘DPT vaccine’ means any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

“(3) DT VACCINE.—The term ‘DT vaccine’ means any vaccine (other than a DPT vaccine) containing diphtheria toxoid or tetanus toxoid.

“(4) MMR VACCINE.—The term ‘MMR vaccine’ means any vaccine against measles, mumps, or rubella. Not more than 1 tax shall be imposed by section 4131 on any MMR vaccine by reason of being a vaccine against more than 1 of measles, mumps, or rubella.

“(5) POLIO VACCINE.—The term ‘polio vaccine’ means any vaccine containing polio virus.”

1988—Subsec. (c). Pub. L. 100-647 added pars. (1) and (2) and redesignated former pars. (1) and (2) as (3) and (4), respectively.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §523(a)(2), Dec. 17, 1999, 113 Stat. 1927, provided that:

“(A) SALES.—The amendment made by this subsection [amending this section] shall apply to vaccine sales after the date of the enactment of this Act [Dec. 17, 1999], but shall not take effect if subsection (b) [see note below] does not take effect.

“(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.”

Pub. L. 106-170, title V, §523(b)(3), Dec. 17, 1999, 113 Stat. 1928, provided that: “The amendments made by this subsection [amending this section and section 9510 of this title and repealing provisions set out as notes under this section and section 9510 of this title] shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 [Pub. L. 105-277] to which they relate.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title XV, §1503(b), div. I, title III, §3002(b), Oct. 21, 1998, 112 Stat. 2681-741, 2681-905, which provided that amendment of this section by Pub. L. 105-277 was applicable to sales after Oct. 21, 1998, and that delivery date would be considered sale date in the case of sales on or before Oct. 21, 1998, was repealed by Pub. L. 106-170, title V, §523(b)(1), Dec. 17, 1999, 113 Stat. 1927.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the day after Aug. 5, 1997, see section 904(d) of Pub. L. 105-34, set out as a note under section 4131 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2006(c) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section and section 9510 of this title] shall take effect as

if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203].”

LIMITATION ON CERTAIN CREDITS OR REFUNDS

Section 904(e) of Pub. L. 105-34 provided that: “For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed before January 1, 1999, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on the day after the date of the enactment of this Act [Aug. 5, 1997].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4131, 9510 of this title.

Subchapter D—Recreational Equipment

Part	
I.	Sporting goods.
[II.	Repealed.]
III.	Firearms.

AMENDMENTS

1965—Pub. L. 89-44, title II, §205(b), June 21, 1965, 79 Stat. 140, struck out item relating to part II.

PART I—SPORTING GOODS

Sec.	
4161.	Imposition of tax.
4162.	Definitions; treatment of certain resales.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title X, §1015(d), July 18, 1984, 98 Stat. 1019, added item 4162.

§ 4161. Imposition of tax

(a) Sport fishing equipment

(1) Imposition of tax

There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

(2) 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish

(A) In general

In the case of an electric outboard motor or a sonar device suitable for finding fish, paragraph (1) shall be applied by substituting “3 percent” for “10 percent”.

(B) \$30 limitation on tax imposed on sonar devices suitable for finding fish

The tax imposed by paragraph (1) on any sonar device suitable for finding fish shall not exceed \$30.

(3) Parts or accessories sold in connection with taxable sale

In the case of any sale by the manufacturer, producer, or importer of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof.

(b) Bows and arrows, etc.

(1) Bows

(A) In general

There is hereby imposed on the sale by the manufacturer, producer, or importer of any

bow which has a draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

(B) Parts and accessories

There is hereby imposed upon the sale by the manufacturer, producer, or importer—

(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

(ii) of any quiver suitable for use with arrows described in paragraph (2),

a tax equivalent to 11 percent of the price for which so sold.

(2) Arrows

There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point, nock, or vane of a type used in the manufacture of any arrow which after its assembly—

(A) measures 18 inches overall or more in length, or

(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 12.4 percent of the price for which so sold.

(3) Coordination with subsection (a)

No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 489; Pub. L. 89-44, title II, §205(a), June 21, 1965, 79 Stat. 140; Pub. L. 92-558, title II, §201(a), Oct. 25, 1972, 86 Stat. 1173; Pub. L. 98-369, div. A, title X, §§1015(a), 1017(a), (b), July 18, 1984, 98 Stat. 1017, 1021; Pub. L. 99-514, title XVIII, §1899A(48), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 105-34, title XIV, §1433(a), Aug. 5, 1997, 111 Stat. 1051.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34 amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) to (3) imposing taxes on bows and arrows and parts and accessories and providing for coordination of taxes under subsecs. (a) and (b).

1986—Subsec. (b)(1)(B)(ii). Pub. L. 99-514 substituted a comma for the period at end.

1984—Subsec. (a). Pub. L. 98-369, §1015(a), in amending subsec. (a) generally, designated existing provisions as par. (1), substituted “any article of sport fishing equipment by the manufacturer, producer, or importer” for “fishing rods, creels, reels, and artificial lures, baits, and flies (including parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer”, and added pars. (2) and (3).

Subsec. (b)(1)(B). Pub. L. 98-369, §1017(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(A). Pub. L. 98-369, §1017(b)(2), struck out “(other than a fishing reel)” after “part or accessory”.

Subsec. (b)(3). Pub. L. 98-369, §1017(b)(1), added par. (3).

1972—Subsec. (a). Pub. L. 92-558, §201(a)(1), designated existing provisions as subsec. (a) and inserted catchline.

Subsec. (b). Pub. L. 92-558, §201(a)(2), added subsec. (b).

1965—Pub. L. 89-44 removed 10 percent tax on equipment for billiards, pool, bowling, trap shooting, cricket, croquet, badminton, curling, deck tennis, golf, la-

crosse, polo, skiing, squash, table tennis, and tennis, and retained tax only for fishing equipment.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1433(b) of Pub. L. 105-34 provided that: "The amendment made by subsection (a) [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1997."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 1015(a) of Pub. L. 98-369 applicable with respect to articles sold by the manufacturer, producer, or importer after Sept. 30, 1984, see section 1015(e) of Pub. L. 98-369, set out as an Effective Date note under section 4162 of this title.

Section 1017(c) of Pub. L. 98-369 provided that: "The amendments made by this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 201(b) of Pub. L. 92-558, as amended by Pub. L. 93-313, June 8, 1974, 88 Stat. 238, provided that: "The amendments made by subsection (a) of this section [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer thereof on or after January 1, 1975."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 701(a) of Pub. L. 89-44 provided that:
 "(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by titles I and II of this Act [enacting sections 4094 and 6424 of this title, amending this section and sections 4055, 4057, 4061, 4091, 4216, 4218, 4221, 4222, 4227, 6011, 6206, 6412, 6416, 6675, 7210, 7603, 7604, and 7605 of this title, repealing sections 4001 to 4003, 4011 to 4013, 4021, 4022, 4031, 4051 to 4053, 4111, 4121, 4131, 4141 to 4143, 4151, 4171 to 4173, 4191, 4192, 4201, 4211, and 4224 of this title, and amending provisions set out as a note under section 120 of Title 23, Highways] shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [June 21, 1965].

"(2) SPECIAL RULES.—The amendments made by sections 201(b)(2) [amending section 4061 of this title] (relating to automobile parts and accessories) and 202(a) [amending section 4091 of this title] (relating to lubricating oil) shall apply with respect to articles sold on or after January 1, 1966. The amendments made by section 202(b) [enacting section 6424 of this title] and (c) [enacting section 4094 and amending sections 6206, 6675, 7210, 7603, 7604, and 7605 of this title] (relating to payments with respect to lubricating oil) shall take effect January 1, 1966. The amendments made by section 203 [repealing sections 4111, 4121, and 4131 of this title], insofar as they relate to the tax imposed by section 4131 (relating to electric light bulbs) of the Code, and the amendments made by section 208 [amending sections 4216, 4218, 4221, 4222, and 4227], insofar as they relate to the tax imposed by section 4061(b) (relating to automotive parts and accessories), section 4091 (relating to lubricating oil), or section 4131 (relating to electric light bulbs) of the Code, shall apply with respect to articles sold on or after January 1, 1966. The amendments made by section 207 [amending sections 4216 and 6416 of this title] (relating to partial payments; sales of installment accounts) and 209(a) [amending section 6412 of this title] (relating to floor stocks refunds on passenger automobiles, etc.) shall take effect on the day after the date of the enactment of this Act [June 21, 1965]. The amendments made by section 210 [amending provisions set out as a note under section 120 of Title 23, Highways] (relating to Highway Trust Fund) shall take effect January 1, 1966.

"(3) INSTALLMENT SALES, ETC.—For purposes of paragraphs (1) and (2), an article shall not be considered sold before the day after the date of the enactment of this Act [June 21, 1965] or before January 1, 1966, as the

case may be, unless possession or right to possession passes to the purchaser before such day or such date. In the case of—

"(A) a lease,

"(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

"(C) a conditional sale, or

"(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments, entered into before such day or such date, payments made on or after such day or such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold on or after such day or such date, if the lessor or vendor establishes that the amount of payments payable on or after such day or such date with respect to such article has been reduced by an amount equal to the tax reduction applicable with respect to the lease or sale of such article.

"(4) ELECTRIC LIGHT BULBS USED IN MANUFACTURE OF ARTICLES UPON WHICH TAX IS REPEALED.—For purposes of applying section 4218(a) of the Code with respect to the use of an electric light bulb or tube by the manufacturer, producer, or importer thereof, and for purposes of applying section 4221(d)(6)(A) of the Code with respect to the sale of an electric light bulb or tube for use in further manufacture, an article which was taxable under chapter 32 of the Code on the date of the enactment of this Act [June 21, 1965] shall, during the period beginning with the day after the date of the enactment of this Act through December 31, 1965, be treated as an article taxable under such chapter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4162, 6302, 9504 of this title; title 16 section 669b.

§ 4162. Definitions; treatment of certain resales

(a) Sport fishing equipment defined

For purposes of this part, the term "sport fishing equipment" means—

- (1) fishing rods and poles (and component parts therefor),
- (2) fishing reels,
- (3) fly fishing lines, and other fishing lines not over 130 pounds test,
- (4) fishing spears, spear guns, and spear tips,
- (5) items of terminal tackle, including—
 - (A) leaders,
 - (B) artificial lures,
 - (C) artificial baits,
 - (D) artificial flies,
 - (E) fishing hooks,
 - (F) bobbers,
 - (G) sinkers,
 - (H) snaps,
 - (I) drayles, and
 - (J) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in paragraph (3), and

- (6) the following items of fishing supplies and accessories—
 - (A) fish stringers,
 - (B) creels,
 - (C) tackle boxes,
 - (D) bags, baskets, and other containers designed to hold fish,
 - (E) portable bait containers,

- (F) fishing vests,
- (G) landing nets,
- (H) gaff hooks,
- (I) fishing hook disgorgers, and
- (J) dressing for fishing lines and artificial flies,
- (7) fishing tip-ups and tilts,
- (8) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers,
- (9) electric outboard boat motors, and
- (10) sonar devices suitable for finding fish.

(b) Sonar device suitable for finding fish

For purposes of this part, the term “sonar device suitable for finding fish” shall not include any sonar device which is—

- (1) a graph recorder,
- (2) a digital type,
- (3) a meter readout, or
- (4) a combination graph recorder or combination meter readout.

(c) Treatment of certain resales

(1) In general

If—

(A) the manufacturer, producer, or importer sells any article taxable under section 4161(a) to any person,

(B) the constructive sale price rules of section 4216(b) do not apply to such sale, and

(C) such person (or any other person) sells such article to a related person with respect to the manufacturer, producer, or importer,

then such related person shall be liable for tax under section 4161 in the same manner as if such related person were the manufacturer of the article.

(2) Credit for tax previously paid

If—

(A) tax is imposed on the sale of any article by reason of paragraph (1), and

(B) the related person establishes the amount of the tax which was paid on the sale described in paragraph (1)(A),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

(3) Related person

For purposes of this subsection, the term “related person” has the meaning given such term by section 465(b)(3)(C).

(4) Regulations

Except to the extent provided in regulations, rules similar to the rules of this subsection shall also apply in cases (not described in paragraph (1)) in which intermediaries or other devices are used for purposes of reducing the amount of the tax imposed by section 4161(a).

(Added Pub. L. 98-369, div. A, title X, §1015(b), July 18, 1984, 98 Stat. 1017; amended Pub. L. 99-514, title II, §201(d)(7)(C), (12), title XVIII, §1878(b), Oct. 22, 1986, 100 Stat. 2141, 2142, 2903.)

AMENDMENTS

1986—Subsec. (a)(6)(I). Pub. L. 99-514, §1878(b), amended subpar. (I) generally, substituting “hook” for “hood”.

Subsec. (c)(3). Pub. L. 99-514, §201(d)(7)(C), (12), made identical amendments, substituting “section 465(b)(3)(C)” for “section 168(e)(4)(D)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(7)(C), (12) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(7)(C), (12) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

Amendment by section 1878(b) 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

Section 1015(e) of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 4161 and 6302 of this title] shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

“(2) TREATMENT OF CERTAIN RESEALS.—Subsection (c) of section 4162 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to treatment of certain resales), as added by this section, shall apply to sales by related persons (as defined in such subsection) after the date of the enactment of this Act [July 18, 1984].”

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1826a.

[PART II—REPEALED]

§§ 4171 to 4173. Repealed. Pub. L. 89-44, title II, § 205(b), June 21, 1965, 79 Stat. 140]

Section 4171, act Aug. 16, 1954, ch. 736, 68A Stat. 489, imposed a 10 percent tax on cameras, camera lenses, and unexposed photographic film on rolls and a 5 percent tax on electric motion or still picture projectors of the household type.

Section 4172, act Aug. 16, 1954, ch. 736, 68A Stat. 490, defined certain vendees of unexposed films as manufacturers for purposes of payment of the tax imposed by section 4171.

Section 4173, act Aug. 16, 1954, ch. 736, 68A Stat. 490, granted exemptions for specified types of cameras, lenses of specified focal lengths, and certain types of film.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after June 22, 1965, see section 701(a) of Pub. L. 84-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

PART III—FIREARMS

- Sec. 4181. Imposition of tax.
- 4182. Exemptions.

§ 4181. Imposition of tax

There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—

- Pistols.
- Revolvers.

Articles taxable at 11 percent—

- Firearms (other than pistols and revolvers).
- Shells, and cartridges.

(Aug. 16, 1954, ch. 736, 68A Stat. 490.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4182, 6091 of this title; title 6 section 531; title 15 section 2052; title 16 section 669b.

§ 4182. Exemptions

(a) Machine guns and short barrelled firearms

The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid.

(b) Sales to defense department

No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for the military department shall be subject to any tax imposed on the sale or transfer of such articles.

(c) Records

Notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal license under chapter 44 of title 18, United States Code, shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts for the aforesaid types of ammunition.

(Aug. 16, 1954, ch. 736, 68A Stat. 490; Pub. L. 91-128, § 5, Nov. 26, 1969, 83 Stat. 269.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-128 added subsec. (c).

SHORT TITLE OF 1969 AMENDMENT

Section 1(a) of Pub. L. 91-128 provided that: "This Act [amending this section and sections 4911, 4912, 4914, 4915, 4919, 4920, 6011, and 6680 of this title and enacting provisions set out as notes under section 6680 of this title] may be cited as the 'Interest Equalization Tax Extension Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4222 of this title; title 6 section 531; title 15 section 2052; title 16 section 669b.

[Subchapter E—Repealed]

[[§ 4191, 4192. Repealed. Pub. L. 89-44, title II, § 206, June 21, 1965, 79 Stat. 140]

Section 4191, act Aug. 16, 1954, ch. 736, 68A Stat. 491, imposed a tax equivalent to 10 percent of the selling

price upon over fifty specified office and business machines including adding machines, bookkeeping machines, cash registers, punch card and computing machines, typewriters, and tabulating machines.

Section 4192, acts Aug. 16, 1954, ch. 736, 68A Stat. 491; Sept. 2, 1958, Pub. L. 85-859, title I, §114(a), 72 Stat. 1278, granted an exemption for cash registers used in registering over-the-counter retail sales and for stencil cutting machines.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after 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.

[[§ 4201. Repealed. Pub. L. 89-44, title II, § 206, June 21, 1965, 79 Stat. 140]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 492; Sept. 14, 1960, Pub. L. 86-779, §9(a), 74 Stat. 1003, imposed a tax equivalent to 10 percent of the selling price on mechanical pencils, fountain pens, and ball point pens and 10 cents on mechanical cigarette lighters.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after 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.

[[§ 4211. Repealed. Pub. L. 89-44, title II, § 206, June 21, 1965, 79 Stat. 140]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 492, imposed a tax of 2 cents per 1,000 for matches, except fancy wooden matches, and a tax of 5½ cents per 1,000 on fancy wooden matches.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after 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.

Subchapter F—Special Provisions Applicable to Manufacturers Tax

- Sec. 4216. Definition of price.
- 4217. Leases.
- 4218. Use by manufacturer or importer considered sale.
- 4219. Application of tax in case of sales by other than manufacturer or importer.
- [4220 to 4225. Repealed.]

AMENDMENTS

1958—Pub. L. 85-859, title I, §§117(d), 119(b)(3), Sept. 2, 1958, 72 Stat. 1281, 1286, substituted "Leases" for "Lease considered sale" in item 4217, and struck out items 4220 to 4225.

1956—Act June 29, 1956, ch. 462, title II, § 207(b), 70 Stat. 392, added item 4226 and redesignated former item 4226 as 4227.

§ 4216. Definition of price

(a) Containers, packing and transportation charges.

In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate

charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Secretary in accordance with the regulations.

(b) Constructive sale price

(1) In general

If an article is—

(A) sold at retail,

(B) sold on consignment, or

(C) sold (otherwise than through an arm's length transaction) at less than the fair market price,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. In the case of an article sold at retail, the computation under the preceding sentence shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. This paragraph shall not apply if paragraph (2) applies.

(2) Special rule

If an article is sold at retail or to a retailer, and if—

(A) the manufacturer, producer, or importer of such article regularly sells such articles at retail or to retailers, as the case may be,

(B) the manufacturer, producer, or importer of such article regularly sells such articles to one or more wholesale distributors in arm's length transactions and he establishes that his prices in such cases are determined without regard to any tax benefit under this paragraph, and

(C) the transaction is an arm's length transaction,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold by such manufacturer, producer, or importer to wholesale distributors (other than special dealers).

(3) Constructive sale price in case of certain articles

Except as provided in paragraph (4), for purposes of paragraph (1), if—

(A) the manufacturer, producer, or importer of an article regularly sells such article to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer, and

(B) such distributor regularly sells such article to one or more independent retailers, but does not regularly sell to wholesale distributors,

the constructive sale price of such article shall be 90 percent of the lowest price for

which such distributor regularly sells such article in arm's-length transactions to such independent retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustments under subsections (a) and (e) and under section 6416(b)(1). If both this paragraph and paragraph (4) apply with respect to an article, the constructive sale price for such article shall be the lower of the constructive sale price determined under this paragraph or paragraph (4).

(4) Constructive sale price in case of certain other articles

For purposes of paragraph (1), if—

(A) the manufacturer, producer, or importer of an article regularly sells (except for tax-free sales) only to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer,

(B) the distributor regularly sells (except for tax-free sales) such article only to retailers, and

(C) the normal method of sales for such articles within the industry by manufacturers, producers, or importers is to sell such articles in arm's-length transactions to distributors,

the constructive sale price for such article shall be the price at which such article is sold to retailers by the distributor, reduced by a percentage of such price equal to the percentage which (i) the difference between the price for which comparable articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, and the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers, is of (ii) the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustment under subsections (a) and (e) and under section 6416(b)(1).

(5) Definition of lowest price

For purposes of paragraphs (1) and (3), the lowest price shall be determined—

(A) without requiring that any given percentage of sales be made at that price, and

(B) without including any fixed amount to which the purchaser has a right as a result of contractual arrangements existing at the time of the sale.

(c) Partial payments

In the case of—

(1) a lease (other than a lease to which section 4217(b) applies),

(2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(3) a conditional sale, or

(4) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

there shall be paid upon each payment with respect to the article a percentage of such payment equal to the rate of tax in effect on the date such payment is due.

(d) Sales of installment accounts

If installment accounts, with respect to payments on which tax is being computed as provided in subsection (c), are sold or otherwise disposed of, then subsection (c) shall not apply with respect to any subsequent payments on such accounts (other than subsequent payments on returned accounts with respect to which credit or refund is allowable by reason of section 6416(b)(5)), but instead—

(1) there shall be paid an amount equal to the difference between (A) the tax previously paid on the payments on such installment accounts, and (B) the total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in subsection (c)); except that

(2) if any such sale is pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding, the amount computed under paragraph (1) shall not exceed the sum of the amounts computed by multiplying (A) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment by (B) the rate of tax under this chapter in effect on the date such unpaid installment payment is or was due.

The sum of the amounts payable under this subsection and subsection (c) in respect of the sale of any article shall not exceed the total tax.

(e) Exclusion of local advertising charge from sale price

(1) Exclusion

In determining, for purposes of this chapter, the price for which an article is sold, there shall be excluded a charge for local advertising (as defined in paragraph (4)) to the extent that such charge—

(A) does not exceed 5 percent of the price for which the article is sold (as determined under this section by excluding any charge for local advertising),

(B) is a separate charge made when the article is sold, and

(C) is intended to be refunded to the purchaser or any subsequent vendee in reimbursement of costs incurred for local advertising.

In the case of any such charge (or portion thereof) which is not so refunded before the first day of the fifth calendar month following the calendar year during which the article was sold, the exclusion provided by the preceding sentence shall cease to apply as of such first day.

(2) Aggregate amount which may be excluded

In the case of articles upon the sale of which tax was imposed under the same section of this chapter—

(A) The sum of (i) the aggregate of the charges for local advertising excluded under paragraph (1), plus (ii) the aggregate of the

readjustments for local advertising under section 6416(b)(1) (relating to credits or refunds for price readjustments), shall not exceed

(B) 5 percent of the aggregate of the prices (determined under this section by excluding all charges for local advertising) at which such articles were sold in sales on which tax was imposed by such section of this chapter.

The preceding sentence shall be applied to each manufacturer, producer, and importer as of the close of each calendar quarter, taking into account the items specified in subparagraphs (A) and (B) for such calendar quarter and preceding calendar quarters in the same calendar year.

(3) No adjustment for other advertising charges

Except to the extent provided by paragraphs (1) and (2), no charge or expenditure for advertising shall serve, for purposes of this section or section 6416(b)(1), as the basis for an exclusion from, or as a readjustment of, the price of any article.

(4) Local advertising defined

For purposes of this section and section 6416(b)(1), the term “local advertising” means only advertising which—

(A) is initiated or obtained by the purchaser or any subsequent vendee,

(B) names the article for which the price is determinable under this section and states the location at which such article may be purchased at retail, and

(C) is broadcast over a radio station or television station, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

(Aug. 16, 1954, ch. 736, 68A Stat. 493; Aug. 9, 1955, ch. 677, §§1, 2, 69 Stat. 613; Pub. L. 85-859, title I, §§115, 116, 117(b), Sept. 2, 1958, 72 Stat. 1279-1281; Pub. L. 86-781, §1, Sept. 14, 1960, 74 Stat. 1017; Pub. L. 87-770, §2(a), Oct. 9, 1962, 76 Stat. 768; Pub. L. 87-858, §1(a), Oct. 23, 1962, 76 Stat. 1134; Pub. L. 89-44, title II, §§207(a), (b), 208(a), (b), title VIII, §801(b), June 21, 1965, 79 Stat. 140, 141, 158; Pub. L. 91-172, title IX, §932(a), Dec. 30, 1969, 83 Stat. 725; Pub. L. 91-614, title III, §301(a), (b), Dec. 31, 1970, 84 Stat. 1844; Pub. L. 92-178, title IV, §401(g)(4), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94-455, title XIX, §§1904(a)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1811, 1834; Pub. L. 95-458, §1(a), (b), Oct. 14, 1978, 92 Stat. 1255; Pub. L. 98-369, div. A, title VII, §735(c)(6), July 18, 1984, 98 Stat. 982.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369, §735(c)(6)(A), in provisions following subpar. (C) struck out “(other than an article the sale of which is taxable under section 4061(a))” in second sentence, before “the computation under the preceding sentence”, and struck out provision that in the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer’s or producer’s cost).

Subsec. (b)(2)(B) to (D). Pub. L. 98-369, §735(c)(6)(B), inserted “and” at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which related to articles upon which tax is imposed under section 4061(a) of this title.

Subsec. (b)(3). Pub. L. 98-369, §735(c)(6)(D), substituted “paragraph (4)” for “paragraphs (4) and (5)”.

Subsec. (b)(5), (6). Pub. L. 98-369, §735(c)(6)(C), (E), redesignated par. (6) as par. (5), substituted “(1) and (3)” for “(1), (3) and (5)”, and struck out former par. (5) which related to constructive sale price in the case of automobiles, trucks, etc.

Subsec. (f). Pub. L. 98-369, §735(c)(6)(F), struck out subsec. (f) which related to certain trucks incorporating used components.

1978—Subsec. (b)(1). Pub. L. 95-458 substituted “article sold at retail (other than an article the sale of which is taxable under section 4061(a)), the computation” for “article sold at retail, the computation” and inserted provision requiring the computation of tax on articles taxable under section 4061(a) which are sold at retail to be a percentage, but not greater than 100% of the actual selling price based on the highest price for which the articles are sold by manufacturers and producers in the ordinary course of trade, determined without regard to individual manufacturer’s or producer’s cost.

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

Subsec. (b). Pub. L. 94-455, §§1904(a)(2)(B), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” in two places in par. (1), and substituted “subsections (a) and (e)” for “subsections (a) and (f)” in pars. (3), (4), and (5), after “or readjustments under”.

Subsecs. (d) to (g). Pub. L. 94-455, §1904(a)(2)(A), redesignated subsecs. (e) to (g) as (d) to (f), respectively.

1971—Subsec. (b)(2)(C), (5). Pub. L. 92-178, §401(g)(4)(A), substituted “(relating to trucks, buses, tractor, etc.)” for “(relating to automobiles, trucks, etc.)”.

Subsec. (g). Pub. L. 92-178, §401(g)(4)(B), inserted reference to “tractors,” after “buses.”

1970—Subsec. (b)(3). Pub. L. 91-614, §301(b), substituted “Constructive sale price” for “Fair market price” in heading, “constructive sale price” for “fair market price” three places in text, substituted “paragraphs (4) and (5)” for “paragraph (4)” and “paragraph (1)” for “paragraph (1)(C)”.

Subsec. (b)(4). Pub. L. 91-614, §301(b)(2), substituted “Constructive sale price” for “Fair market price” in heading, “constructive sale price” for “fair market price” in text, and “paragraph (1)” for “paragraph (1)(C)”.

Subsec. (b)(5), (6). Pub. L. 91-614, §301(a), added pars. (5) and (6).

1969—Subsec. (b)(3), (4). Pub. L. 91-172 added pars. (3) and (4).

1965—Subsec. (b)(2). Pub. L. 89-44, §208(a), struck out reference to special dealers and to articles upon which tax is imposed under section 4191 or 4211 of this title.

Subsec. (b)(3). Pub. L. 89-44, §208(b), struck out par. (3) which related to special dealers.

Subsec. (c). Pub. L. 89-44, §207(a), struck out “that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment” in text following par. (4) and inserted in lieu thereof “a percentage of such payment equal to the rate of tax in effect on the date such payment is due”.

Subsec. (e)(1). Pub. L. 89-44, §207(b)(1), substituted “total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in subsection (c)) for “total tax”.

Subsec. (e)(2). Pub. L. 89-44, §207(b)(2), substituted, as factor (A) in the formula for computing the maximum amount, the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment for the amount for which such accounts are sold, and, as factor (B) in the formula, the rate of tax on the date that such unpaid in-

stallment payment is or was due for the rate of tax which applied on the day on which the transaction giving rise to such installment accounts took place.

Subsec. (g). Pub. L. 89-44, §801(b), added subsec. (g).

1962—Subsec. (b)(2)(C). Pub. L. 87-858 inserted “in the case of articles upon which tax is imposed under section 4061(a) (relating to automobiles, trucks, etc.), 4191 (relating to business machines), or 4211 (relating to matches),” before “the normal method”.

Subsec. (f)(4)(C). Pub. L. 87-770 substituted “, appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster” for “or appears in a newspaper”.

1960—Subsec. (f). Pub. L. 86-781 added subsec. (f).

1958—Subsec. (b). Pub. L. 85-859, §115, inserted provisions in par. (1) requiring, in the case of an article sold at retail, the computation to be on either the price for which the article is sold, or the highest price for which the articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, whichever is lower, and added pars. (2) and (3).

Subsec. (c). Pub. L. 85-859, §117(b), substituted “section 4217(b)” for “subsection (d)”.

Subsec. (d). Pub. L. 85-859, §117(b), repealed subsec. (d) which related to tax on leases of certain trailers.

Subsec. (e). Pub. L. 85-859, §116, added subsec. (e).

1955—Subsec. (c)(1). Act Aug. 9, 1955, §1, inserted “(other than a lease to which subsection (d) applies)”.

Subsec. (d). Act Aug. 9, 1955, §2, added subsec. (d).

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

Section 1(c) of Pub. L. 95-458 provided that: “The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer or producer on or after the first day of the first calendar quarter beginning 30 days or more after the date of enactment of this Act [Oct. 14, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(a)(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.

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 4061 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 301(c) of Pub. L. 91-614, 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] shall apply with respect to articles sold after December 31, 1970; except that section 4216(b)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) shall also apply to (1) the application of paragraph (1) of such section 4216(b) to articles sold after June 30, 1962, and before January 1, 1971, and (2) the application of paragraph (3) of such section 4216(b) to articles sold after December 31, 1969, and before January 1, 1971.”

EFFECTIVE DATE OF 1969 AMENDMENT

Section 932(b) of Pub. L. 91-172 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold after December 31, 1969.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 207(a), (b) of Pub. L. 89-44 effective June 22, 1965, and amendment by section 208 of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, or 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Section 801(e) of Pub. L. 89-44 provided that: “The amendments made by subsections (a), (b), and (d) [amending this section and sections 4063, 4221, and 6416 of this title] shall apply with respect to articles sold on or after the day after the date of the enactment of this Act [June 21, 1965]. The amendment made by subsection (c) [amending section 4221 of this title] shall apply with respect to articles sold on or after January 1, 1965.”

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 1(b) of Pub. L. 87-858 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer on or after October 1, 1962.”

Section 2(b) of Pub. L. 87-770 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold on or after the first day of the first calendar quarter beginning more than 20 days after the date of the enactment of this Act [Oct. 9, 1962].”

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3 of Pub. L. 86-781 provided that: “The amendments made by this Act [amending this section and section 6416 of this title] shall apply with respect to articles sold on or after the first day of the first calendar quarter beginning more than twenty days after the date of the enactment of this Act [Sept. 14, 1960].”

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 1955 AMENDMENT

Section 4 of act Aug. 9, 1955, as amended by act Oct. 22, 1986, Pub. L. 99-514, § 2, 100 Stat. 2095, provided that: “The amendments made by subsection (a) [probably should refer to amendments made by sections 1 to 3 of act Aug. 9, 1955, amending this section and section 4217 of this title] shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this act [Aug. 9, 1955]. In the application of section 4216(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this Act) to any article which has been leased before the effective date specified in the preceding sentence, under regulations prescribed by the Secretary of the Treasury or his delegate—

“(1) the fair market value of such article shall be the fair market value determined as of such effective date;

“(2) only payments under a lease received on or after such effective date shall be considered in determining when the total tax (as defined in such section 4216(d)) has been paid;

“(3) any lease existing on such effective date, or if there is none, the first lease entered into after such effective date, shall be considered an initial lease (except that fair market value shall be determined as provided in paragraph (1) of this sentence); and

“(4) any lease existing on such effective date shall be considered as having been entered into on such date.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4003, 4052, 4162, 4217, 4223, 5702, 6416 of this title.

§ 4217. Leases

(a) Lease considered as sale

For purposes of this chapter, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by the manufacturer, producer, or importer shall be considered a sale of such article.

(b) Limitation on tax

In the case of any lease described in subsection (a) of an article taxable under this chapter, if the tax under this chapter is based on the price for which such articles are sold, there shall be paid on each lease payment with respect to such article a percentage of such payment equal to the rate of tax in effect on the date of such payment, until the total of the tax payments under such lease and any prior lease to which this subsection applies equals the total tax.

(c) Definition of total tax

For purposes of this section, the term “total tax” means—

(1) except as provided in paragraph (2), the tax computed on the constructive sale price for such article which would be determined under section 4216(b) if such article were sold at retail on the date of the first lease to which subsection (b) applies; or

(2) if the first lease to which subsection (b) applies is not the first lease of the article, the tax computed on the fair market value of such article on the date of the first lease to which subsection (b) applies.

Any such computation of tax shall be made at the applicable rate specified in this chapter in effect on the date of the first lease to which subsection (b) applies.

(d) Special rules**(1) Lessor must also be engaged in selling**

Subsection (b) shall not apply to any lease of an article unless at the time of making the lease, or any prior lease of such article to which subsection (b) applies, the person making the lease or prior lease was also engaged in the business of selling in arm's length transactions the same type and model of article.

(2) Sale before total tax becomes payable

If the taxpayer sells an article before the total tax has become payable, then the tax payable on such sale shall be whichever of the following is the smaller:

(A) the difference between (i) the tax imposed on lease payments under leases of such article to which subsection (b) applies, and (ii) the total tax, or

(B) a tax computed, at the rate in effect on the date of the sale, on the price for which the article is sold.

For purposes of subparagraph (B), if the sale is at arm's length, section 4216(b) shall not apply.

(3) Sale after total tax has become payable

If the taxpayer sells an article after the total tax has become payable, no tax shall be imposed under this chapter on such sale.

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

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

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

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

(2) Payment of tax

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

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

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

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

(3) Definitions

For purposes of this subsection—

(A) Manufacturer

The term “manufacturer” includes a producer or importer.

(B) Total gas guzzler tax

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

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

AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

EFFECTIVE DATE OF 1955 AMENDMENT

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

APPLICATION OF LEASES OF UTILITY TRAILERS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4002, 4003, 4052, 4216 of this title.

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

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

(b) Tires

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

(c) Computation of tax

Except as provided in section 4223(b), in any case in which a person is made liable for tax by

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

1958—Pub. L. 85-859 amended section generally, striking out provisions which related to refrigerator components and to sales free of tax by virtue of section 4220 or 4224 of this title, and substituting provisions making manufacturers, producers and importers of parts or accessories taxable under section 4061(b), radio or television components taxable under section 4141, or camera lenses taxable under section 4171 liable for the tax if they use the parts or accessories otherwise than as material in the manufacture or production of, or as component parts of, any other article to be manufactured or produced by them, for provisions which made section inapplicable with respect to such parts if they were used by them as material in the manufacture or production of, or as a component part of, any article.

1955—Subsec. (a)(1). Act Aug. 11, 1955, §1(a), inserted as tax exempt articles under this chapter, automobile

parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under section 4061(b), 4111, or 4171, respectively, of this title.

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1961 AMENDMENT

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

EFFECTIVE DATE OF 1960 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

EFFECTIVE DATE OF 1955 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4223 of this title.

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

In case any person acquires from the manufacturer, producer, or importer of an article, by operation of law or as a result of any transaction not taxable under this chapter, the right to sell such article, the sale of such article by such person shall be taxable under this chapter as if made by the manufacturer, producer, or importer, and such person shall be liable for the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 494.)

[§§ 4220 to 4225. Repealed. Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1282]

Section 4220, acts Aug. 16, 1954, ch. 736, 68A Stat. 494; Aug. 11, 1955, ch. 805, §1(c), 69 Stat. 689, related to exemption for sales or resales to manufacturers. See section 4221 et seq. of this title.

For sections 4221 to 4225, see Prior Provisions notes set out under sections 4221 to 4225 of this title.

EFFECTIVE DATE OF REPEAL

Repeal 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.

Subchapter G—Exemptions, Registration, Etc.

Sec.	
4221.	Certain tax-free sales.
4222.	Registration.
4223.	Special rules relating to further manufacture.
[4224.	Repealed.]
4225.	Exemption of articles manufactured or produced by Indians.
[4226.	Repealed.]
4227.	Cross reference.

AMENDMENTS

1986—Pub. L. 99-514, title XVIII, §1899A(74), Oct. 22, 1986, 100 Stat. 2963, substituted “reference” for “references” in item 4227.

1983—Pub. L. 97-473, title II, §202(b)(9), Jan. 14, 1983, 96 Stat. 2610, purported to substitute “Cross references” for “Cross reference” in item 4227. No change in text was required because item 4227 as originally enacted by section 119(a) of Pub. L. 85-859 already read “Cross references”.

1976—Pub. L. 94-455, title XIX, §1904(b)(3), Oct. 4, 1976, 90 Stat. 1815, struck out item 4226 “Floor stocks taxes”.

1965—Pub. L. 89-44, title I, §101(b)(5), June 21, 1965, 79 Stat. 136, struck out item 4224 “Exemption for articles taxable as jewelry.”

1958—Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1282, added subchapter heading and section analysis.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4064 of this title.

§ 4221. Certain tax-free sales

(a) General rule

Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121, 4081, or 4091) on the sale by the manufacturer (or under subchapter A or C of chapter 31 on the first retail sale) of an article—

(1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture,

(2) for export, or for resale by the purchaser to a second purchaser for export,

(3) for use by the purchaser as supplies for vessels or aircraft,

(4) to a State or local government for the exclusive use of a State or local government, or

(5) to a nonprofit educational organization for its exclusive use,

but only if such exportation or use is to occur before any other use. Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064. In the case of taxes imposed by section 4051,¹ or

4071, paragraphs (4) and (5) shall not apply on and after October 1, 2005. In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.

(b) Proof of resale for further manufacture; proof of export

Where an article has been sold free of tax under subsection (a)—

(1) for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture, or

(2) for export, or for resale by the purchaser to a second purchaser for export,

subsection (a) shall cease to apply in respect of such sale of such article unless, within the 6-month period which begins on the date of the sale by the manufacturer (or, if earlier, on the date of shipment by the manufacturer), the manufacturer receives proof that the article has been exported or resold for use in further manufacture.

(c) Manufacturer relieved from liability in certain cases

In the case of any article sold free of tax under this section (other than a sale to which subsection (b) applies), and in the case of any article sold free of tax under section 4001(c), 4001(d), or 4053(6), if the manufacturer in good faith accepts a certification by the purchaser that the article will be used in accordance with the applicable provisions of law, no tax shall thereafter be imposed under this chapter in respect of such sale by such manufacturer.

(d) Definitions

For purposes of this section—

(1) Manufacturer

The term “manufacturer” includes a producer or importer of an article, and, in the case of taxes imposed by subchapter A or C of chapter 31, includes the retailer with respect to the first retail sale.

(2) Export

The term “export” includes shipment to a possession of the United States; and the term “exported” includes shipped to a possession of the United States.

(3) Supplies for vessels or aircraft

The term “supplies for vessels or aircraft” means fuel supplies, ships’ stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. For purposes of the preceding sentence, the term “vessels” includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term “vessels of war of the United States or of any foreign nation” includes aircraft

¹ So in original. The comma probably should not appear.

owned by the United States or by any foreign nation and constituting a part of the armed forces thereof.

(4) State or local government

The term “State or local government” means any State, any political subdivision thereof, or the District of Columbia.

(5) Nonprofit educational organization

The term “nonprofit educational organization” means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(6) Use in further manufacture

An article shall be treated as sold for use in further manufacture if—

(A) such article is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him; or

(B) in the case of gasoline taxable under section 4081, such gasoline is sold for use by the purchaser, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him.

(7) Qualified bus

(A) In general

The term “qualified bus” means—

- (i) an intercity or local bus, and
- (ii) a school bus.

(B) Intercity or local bus

The term “intercity or local bus” means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

- (i) such transportation is scheduled and along regular routes, or
- (ii) the seating capacity of such bus is at least 20 adults (not including the driver).

(C) School bus

The term “school bus” means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term “school” means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on.

(e) Special rules

(1) Reciprocity required in case of civil aircraft

In the case of articles sold for use as supplies for aircraft, the privileges granted under sub-

section (a)(3) in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under subsection (a)(3) shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions.

(2) Tires

(A) Tax-free sales

Under regulations prescribed by the Secretary, no tax shall be imposed under section 4071 on the sale by the manufacturer of a tire if—

(i) such tire is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by such purchaser; and

(ii) such other article is to be sold by such purchaser in a sale which either will satisfy the requirements of paragraph (2), (3), (4), or (5) of subsection (a) for a tax-free sale, or would satisfy such requirements but for the fact that such other article is not subject to tax under this chapter.

(B) Proof

Where a tire has been sold free of tax under this paragraph, this paragraph shall cease to apply unless, within the 6-month period which begins on the date of the sale by him (or, if earlier on the date of the shipment by him), the manufacturer of such tire receives proof that the other article referred to in clause (ii) of subparagraph (A) has been sold in a manner which satisfies the requirements of such clause (ii) (including in the case of a sale for export, proof of export of such other article).

(C) Subsection (a)(1) does not apply

Paragraph (1) of subsection (a) shall not apply with respect to the tax imposed under section 4071 on the sale of a tire.

(3) Tires used on intercity, local, and school buses

Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus.

(Added Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1282; amended Pub. L. 86-70, §22(a), June 25, 1959, 73 Stat. 146; Pub. L. 86-344, §2(b), Sept. 21, 1959, 73 Stat. 617; Pub. L. 86-418, §1, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86-624, §18(e), July 12, 1960, 74 Stat. 416; Pub. L. 87-61, title II, §205(a), June 29, 1961, 75 Stat. 126; Pub. L. 89-44, title II,

§ 208(d), title VIII, § 801(c), (d)(1), June 21, 1965, 79 Stat. 141, 158; Pub. L. 91-172, title I, § 101(j)(26), Dec. 30, 1969, 83 Stat. 529; Pub. L. 92-178, title IV, § 401(a)(3)(A), Dec. 10, 1971, 85 Stat. 531; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, § 2(b)(2), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95-600, title VII, § 701(ff)(2)(A), Nov. 6, 1978, 92 Stat. 2924; Pub. L. 95-618, title II, §§ 201(c)(1), 232(a), 233(c)(1), (2), Nov. 9, 1978, 92 Stat. 3183, 3189, 3191, 3192; Pub. L. 96-222, title I, § 108(c)(5), Apr. 1, 1980, 94 Stat. 227; Pub. L. 97-424, title V, §§ 515(b)(1), 516(b)(2), Jan. 6, 1983, 96 Stat. 2181, 2183; Pub. L. 98-369, div. A, title VII, § 735(c)(8), July 18, 1984, 98 Stat. 983; Pub. L. 99-499, title V, § 521(d)(4), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99-514, title XVII, § 1703(c)(2)(C), Oct. 22, 1986, 100 Stat. 2776; Pub. L. 100-17, title V, § 502(b)(4), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title IX, § 9201(b)(1), title X, § 10502(d)(4), Dec. 22, 1987, 101 Stat. 1330-330, 1330-444; Pub. L. 101-239, title VII, § 7841(d)(17), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §§ 11211(d)(3), 11221(b), (d)(1), (2), Nov. 5, 1990, 104 Stat. 1388-427, 1388-444; Pub. L. 102-240, title VIII, § 8002(b)(3), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, § 13161(b)(1), Aug. 10, 1993, 107 Stat. 452; Pub. L. 105-178, title IX, § 9002(b)(1), June 9, 1998, 112 Stat. 500; Pub. L. 105-206, title VI, § 6023(17), July 22, 1998, 112 Stat. 825.)

PRIOR PROVISIONS

A prior section 4221, act Aug. 16, 1954, ch. 736, 68A Stat. 495, related to exemption for articles taxable as jewelry, prior to repeal by Pub. L. 85-859, § 119(a).

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178 substituted “2005” for “1999” in concluding provisions.

Subsec. (c). Pub. L. 105-206 substituted “4053(6)” for “4053(a)(6)”.

1993—Subsec. (c). Pub. L. 103-66 substituted “4001(d)” for “4002(b), 4003(c), 4004(a)”.

1991—Subsec. (a). Pub. L. 102-240 substituted “1999” for “1995” in concluding provisions.

1990—Subsec. (a). Pub. L. 101-508, § 11221(b), substituted “subchapter A or C of chapter 31” for “section 4051” in introductory provisions and inserted at end “In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.”

Pub. L. 101-508, § 11211(d)(3), substituted “1995” for “1993” in concluding provisions.

Subsec. (c). Pub. L. 101-508, § 11221(d)(1), substituted “section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)” for “section 4053(a)(6)”.

Subsec. (d)(1). Pub. L. 101-508, § 11221(d)(2), substituted “taxes imposed by subchapter A or C of chapter 31” for “the tax imposed by section 4051”.

1989—Subsec. (c). Pub. L. 101-239 struck out “or 4083” after “4053(a)(6)”.

1987—Subsec. (a). Pub. L. 100-203, § 10502(d)(4), substituted “(other than under section 4121, 4081, or 4091) on the sale by the manufacturer” for “(other than under section 4121 or section 4081 (at the Highway Trust Fund financing rate)) on the sale by the manufacturer” in introductory text.

Pub. L. 100-203, § 9201(b)(1), inserted at end “In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe.”

Pub. L. 100-17 substituted “1993” for “1988”.

1986—Subsec. (a). Pub. L. 99-514, as amended by Pub. L. 99-499, § 521(d)(4)(B), in introductory text, inserted “or section 4081 (at the Highway Trust Fund financing rate)” after “section 4121” as the probable intent of

Congress, notwithstanding directory language that the insertion be made before “section 4121”, and substituted “or 4071” for “4071, or 4081 (at the Highway Trust Fund financing rate)” in last sentence.

Pub. L. 99-499, § 521(d)(4)(A), inserted “(at the Highway Trust Fund financing rate)” after “4081” in last sentence.

1984—Subsec. (a). Pub. L. 98-369, § 735(c)(8)(A), inserted “(or under section 4051 on the first retail sale)”.

Subsec. (c). Pub. L. 98-369, § 735(c)(8)(B), substituted “section 4053(a)(6)” for “section 4063(a)(6) or (7), 4063(b), 4063(e).”.

Subsec. (d)(1). Pub. L. 98-369, § 735(c)(8)(C), inserted “, and, in the case of the tax imposed by section 4051, includes the retailer with respect to the first retail sale”.

Subsec. (d)(6). Pub. L. 98-369, § 735(c)(8)(D)(i), struck out provision at end that for purposes of subparagraph (B), the rebuilding of a part or accessory which is exempt from tax under section 4063(c) shall not constitute the manufacture or production of such part or accessory.

Subsec. (d)(6)(A). Pub. L. 98-369, § 735(c)(8)(D)(ii), (iv), struck out “(other than an article referred to in subparagraph (B))” after “such article”, and inserted “or” at end.

Subsec. (d)(6)(B), (C). Pub. L. 98-369, § 735(c)(8)(D)(i), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to parts or accessories taxable under former section 4061(b) of this title.

Subsec. (e)(2). Pub. L. 98-369, § 735(c)(8)(E), (F), struck out “and tubes” from heading, and in text struck out “or inner tube” and “or tube”, as the case may be, after “tire” wherever appearing.

Subsec. (e)(3) to (6). Pub. L. 98-369, § 735(c)(8)(G), added par. (3), struck out par. (4) which related to bicycle tires or tubes sold to bicycle manufacturers in general, the definition of a bicycle tire, and proof, struck out par. (5) which related to tires, tubes and tread rubber used on intercity, local, and school buses, and struck out par. (6) which related to bus parts and accessories.

1983—Subsec. (a). Pub. L. 97-424, § 516(b)(2), inserted provision that, in the case of taxes imposed by section 4051, 4071, or 4081, pars. (4) and (5) shall not apply on and after Oct. 1, 1988.

Subsec. (c). Pub. L. 97-424, § 515(b)(1), substituted “or 4083” for “4083, or 4093” after “4063(e).”.

1980—Subsec. (e)(6). Pub. L. 96-222 inserted provisions respecting selling by a purchaser or a second purchaser.

1978—Subsec. (a). Pub. L. 95-618, § 201(c)(1), inserted provision that paragraphs (4) and (5) not apply to the tax imposed by section 4064.

Pub. L. 95-227 inserted “(other than under section 4121)” after “this chapter”.

Subsec. (c). Pub. L. 95-600 substituted “4063(b), 4063(e),” for “4063(b).”.

Subsec. (d)(7). Pub. L. 95-618, § 233(c)(2), added par. (7).

Subsec. (e)(5). Pub. L. 95-618, § 233(c)(1), substituted provisions relating to the applicability of the taxes imposed by section 4071(a)(1) and (3) in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus and the tax imposed by section 4071(a)(4) in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus for provisions relating to the applicability of the tax imposed by section 4061(a) to a bus sold to any person for use exclusively in transporting students and employees of schools operated by State or local governments or by nonprofit educational organizations.

Subsec. (e)(6). Pub. L. 95-618, § 232(a), added par. (6).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (c). Pub. L. 92-178 inserted reference to section 4063(a)(6) or (7).

1969—Subsec. (d)(5). Pub. L. 91-172 substituted “section 170(b)(1)(A)(ii)” for “section 503(b)(2)”.

1965—Subsec. (d)(6)(B). Pub. L. 89-44, § 208(d)(1), struck out “a radio or television component taxable under section 4141, or a camera lens taxable under section 4171,”.

Subsec. (d)(6). Pub. L. 89-44, §801(c), inserted sentence providing that for purpose of subpar. (B), the rebuilding of a part or accessory which is exempt from tax under section 4063(c) shall not constitute the manufacture or production of such part or accessory.

Subsec. (e)(2). Pub. L. 89-44, §208(d)(2)-(5), struck out reference to automobile receiving sets from catchline and wherever appearing in subpars. (A) to (C), and reference to tax imposed under section 4141 of this title from subpars. (A) and (C).

Subsec. (e)(3). Pub. L. 89-44, §208(d)(6), struck out par. (3) which related to musical instruments sold for religious use.

Subsec. (e)(5). Pub. L. 89-44, §801(d)(1), added par. (5).

Subsec. (f). Pub. L. 89-44, §208(d)(7), struck out subsec. (f) which related to sales of mechanical pencils and pens for export.

1961—Subsec. (d)(6)(C). Pub. L. 87-61 added subpar. (C).

1960—Subsec. (d)(4). Pub. L. 86-624 substituted “any State, any political subdivision thereof, or the District of Columbia” for “any State, Hawaii, the District of Columbia, or any political subdivision of any of the foregoing”.

Subsec. (e)(4). Pub. L. 86-418 added par. (4).

1959—Subsec. (d)(4). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

Subsec. (d)(5). Pub. L. 86-344 included in definition of “nonprofit educational organization” a school operated as an activity of certain organizations exempt from the income tax and having a regular situs, faculty, curriculum and student body.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1993, see section 13161(c) of Pub. L. 103-66, set out as a note under section 4001 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11221(b), (d)(1), (2) of Pub. L. 101-508 effective Jan. 1, 1991, with exception for contracts binding on Sept. 30, 1990, and at all times thereafter, see section 11221(f) of Pub. L. 101-508, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENTS

Pub. L. 100-647, title I, §1017(c)(5), Nov. 10, 1988, 102 Stat. 3576, provided that: “The amendment made by section 10502(d)(4) of the Revenue Act of 1987 [Pub. L. 100-203, amending this section] shall be treated as if included in the amendments made by section 1703 of the Reform Act [Pub. L. 99-514] except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.”

Amendment by section 9201(b)(1) 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)(4) 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 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 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 515(b)(1) of Pub. L. 97-424 applicable 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 provision 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)(1) 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.

Section 232(c) of Pub. L. 95-618 provided that: “The amendments made by this section [amending this section and section 6416 of this title] shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act [Nov. 9, 1978].”

Amendment by section 233(c)(1), (2) 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.

Section 701(ff)(3) of Pub. L. 95-600 provided that: “The amendments made by this subsection [amending this section and sections 4061 and 4222 of this title] shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act [Nov. 6, 1978].”

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 section 4121 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 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective on 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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 208(d) of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Amendment by section 801(c), (d)(1) of Pub. L. 89-44 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 4261 of this title.

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. 86-624 effective on Aug. 21, 1959, see section 18(k) of Pub. L. 86-624, set out as a note under section 3121 of this title.

Section 4 of Pub. L. 86-418 provided that: “The amendments made by this Act [amending this section and sections 4218, 4223, and 6416 of this title] shall apply only with respect to bicycle tires and tubes sold by the

manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Apr. 8, 1960].”

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86-344 effective Jan. 1, 1959, see section 2(e) of Pub. L. 86-344.

Amendment by Pub. L. 86-70 effective Jan. 3, 1959, see section 22(i) of Pub. L. 86-70, set out as a note under section 3121 of this title.

EFFECTIVE DATE

Section 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4041, 4092, 4132, 4222, 4223, 4662, 6416, 6421, 6427 of this title; title 15 section 2052.

§ 4222. Registration

(a) General rule

Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under this section. Registration under this section shall be made at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

(b) Exceptions

(1) Purchases by State and local governments

Subsection (a) shall not apply to any State or local government in connection with the purchase by it of any article if such State or local government complies with such regulations relating to the use of exemption certificates in lieu of registration as the Secretary shall prescribe to carry out the purpose of this paragraph.

(2) Under regulations

Subject to such regulations as the Secretary may prescribe for the purpose of this paragraph, the Secretary may relieve the purchaser or the second purchaser, or both, from the requirement of registering under this section.

(3) Certain purchases and sales by the United States

Subsection (a) shall apply to purchases and sales by the United States only to the extent provided by regulations prescribed by the Secretary.

[(4) Repealed. Pub. L. 89-44, title II, § 208(e), June 21, 1965, 79 Stat. 141]

(5) Supplies for vessels or aircraft

Subsection (a) shall not apply to a sale of an article for use by the purchaser as supplies for any vessel or aircraft if such purchaser complies with such regulations relating to the use of exemption certificates in lieu of registration as the Secretary shall prescribe to carry out the purpose of this paragraph.

(c) Denial, revocation, or suspension of registration

Under regulations prescribed by the Secretary, the registration of any person under this section may be denied, revoked, or suspended if the Secretary determines—

(1) that such person has used such registration to avoid the payment of any tax imposed by this chapter, or to postpone or in any manner to interfere with the collection of any such tax, or

(2) that such denial, revocation, or suspension is necessary to protect the revenue.

The denial, revocation, or suspension under this subsection shall be in addition to any penalty provided by law for any act or failure to act.

(d) Registration in the case of certain other exemptions

The provisions of this section may be extended to, and made applicable with respect to, the exemptions provided by sections 4001(c), 4001(d), 4053(6), 4064(b)(1)(C), 4101, and 4182(b), and the exemptions authorized under section 4293 in respect of the taxes imposed by this chapter, to the extent provided by regulations prescribed by the Secretary.

(e) Definitions

Terms used in this section which are defined in section 4221(d) shall have the meaning given to them by section 4221(d).

(Added Pub. L. 85-859, title I, § 119(a), Sept. 2, 1958, 72 Stat. 1284; amended Pub. L. 89-44, title II, § 208(e), title VIII, § 802(c), June 21, 1965, 79 Stat. 141, 159; Pub. L. 92-178, title IV, § 401(a)(3)(B), Dec. 10, 1971, 85 Stat. 531; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title VII, § 701(ff)(2)(B), Nov. 6, 1978, 92 Stat. 2925; Pub. L. 95-618, title II, § 201(e), 231(f)(2), Nov. 9, 1978, 92 Stat. 3184, 3189; Pub. L. 97-424, title V, § 515(b)(2), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 98-369, div. A, title VII, § 735(c)(9), July 18, 1984, 98 Stat. 983; Pub. L. 100-647, title I, § 1017(c)(16), Nov. 10, 1988, 102 Stat. 3577; Pub. L. 101-508, title XI, §§ 11212(b)(2), 11221(d)(3), Nov. 5, 1990, 104 Stat. 1388-431, 1388-444; Pub. L. 103-66, title XIII, § 13161(b)(2), Aug. 10, 1993, 107 Stat. 452; Pub. L. 105-34, title XIV, § 1431(a), Aug. 5, 1997, 111 Stat. 1050; Pub. L. 105-206, title VI, § 6023(17), July 22, 1998, 112 Stat. 825.)

PRIOR PROVISIONS

A prior section 4222, act Aug. 16, 1954, ch. 736, 68 Stat. 495, related to exemption from tax of certain supplies for vessels and airplanes, prior to repeal by Pub. L. 85-859, § 119(a). See section 4221 of this title.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-206 substituted “4053(6)” for “4053(a)(6)”.

1997—Subsec. (b)(2). Pub. L. 105-34 substituted “Under regulations” for “Export” in heading and struck out “in the case of any sale or resale for export,” after “this paragraph,” in text.

1993—Subsec. (d). Pub. L. 103-66 substituted “4001(d)” for “4002(b), 4003(c), 4004(a)”.

1990—Subsec. (c). Pub. L. 101-508, § 11212(b)(2), substituted “Denial, revocation, or suspension” for “Revocation or suspension” in heading, “denied, revoked, or suspended” for “revoked or suspended” in introductory

provisions, and “denial, revocation, or suspension” for “revocation or suspension” in par. (2) and concluding provisions.

Subsec. (d). Pub. L. 101-508, §11221(d)(3), substituted “sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)” for “sections 4053(a)(6)”.

1988—Subsec. (d). Pub. L. 100-647 substituted “4101” for “4083”.

1984—Subsec. (d). Pub. L. 98-369 substituted “4053(a)(6)” for “4063(a)(7), 4063(b), 4063(e)”.

1983—Subsec. (d). Pub. L. 97-424 struck out “4093,” after “4083.”

1978—Subsec. (d). Pub. L. 95-618 substituted “4063(a)(7), 4063(b), 4064(b)(1)(C),” for “4063(a)(6) and (7), 4063(b).”

Pub. L. 95-600 substituted “4063(b), 4063(e),” for “4063(b).”

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (d). Pub. L. 92-178 inserted reference to section 4063(a)(6) and (7).

1965—Subsec. (b)(4). Pub. L. 89-44, §208(e), struck out par. (4) which related to mechanical pencils, fountain pens, and ball point pens.

Subsec. (b)(5). Pub. L. 89-44, §802(c), added par. (5).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1431(b) of Pub. L. 105-34 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1993, see section 13161(c) of Pub. L. 103-66, set out as a note under section 4001 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11212(b)(2) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

Amendment by section 11221(d)(3) of Pub. L. 101-508 effective Jan. 1, 1991, with exception for contract binding on Sept. 30, 1990, and at all times thereafter, see section 11221(f) of Pub. L. 101-508, set out as an Effective Date note under section 4001 of this title.

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 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 Pub. L. 97-424 applicable 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 1978 AMENDMENTS

Amendment by section 201(e) 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.

Section 231(g) of Pub. L. 95-618 provided that:

“(1) The amendments made by subsections (a) and (f) [amending this section and sections 4063 and 6412 of this title] shall apply with respect to articles sold after the date of the enactment of this Act [Nov. 9, 1978].

“(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enact-

ment of this Act [Nov. 9, 1978] unless possession or right to possession passes to the purchaser on or before such date.

“(3) In the case of—

“(A) a lease,

“(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

“(C) a conditional sale, or

“(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments, entered into on or before the date of the enactment of this Act [Nov. 9, 1978], payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.”

Amendment by Pub. L. 95-600 effective on first day of first calendar month beginning more than 20 days after Nov. 6, 1978, see section 701(ff)(3) of Pub. L. 95-600, set out as a note under section 4221 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 1965 AMENDMENT

Amendment by section 208(e) of Pub. L. 89-44 applicable with respect to articles sold on or after June 22, 1965, except insofar as such amendments related to the taxes imposed by sections 4061(b), 4091, and 4131 and, as to such taxes, applicable with respect to articles sold on or after January 1, 1966, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

Amendment by section 802(c) of Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4052, 4101 of this title.

§ 4223. Special rules relating to further manufacture

(a) Purchasing manufacturer to be treated as the manufacturer

For purposes of this chapter, a manufacturer or producer to whom an article is sold or resold free of tax under section 4221(a)(1) for use by him in further manufacture shall be treated as the manufacturer or producer of such article.

(b) Computation of tax

If the manufacturer or producer referred to in subsection (a) incurs liability for tax under this chapter on his sale or use of an article referred to in subsection (a) and the tax is based on the price for which the article is sold, the article shall be treated as having been sold by him—

(1) at the price for which the article was sold by him (or, where the tax is on his use of the article, at the price referred to in section 4218(c)); or

(2) if he so elects and establishes such price to the satisfaction of the Secretary—

(A) at the price for which the article was sold to him; or

(B) at the price for which the article was sold by the person who (without regard to subsection (a)) is the manufacturer, producer, or importer of such article.

For purposes of this subsection, the price for which the article was sold shall be determined as provided in section 4216. For purposes of paragraph (2) no adjustment or readjustment shall be made in such price by reason of any discount, rebate, allowance, return or repossession of a container or covering, or otherwise. An election under paragraph (2) shall be made in the return reporting the tax applicable to the sale or use of the article, and may not be revoked.

(Added Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1285; amended Pub. L. 86-418, §2(b), Apr. 8, 1960, 74 Stat. 38; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VII, §735(c)(10), July 18, 1984, 98 Stat. 983.)

PRIOR PROVISIONS

A prior section 4223, act Aug. 16, 1954, ch. 736, 68A Stat. 495, related to exemption of articles manufactured or produced by Indians, prior to repeal by Pub. L. 85-859, §119(a). See section 4225 of this title.

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “4218(c)” for “section 4218(e)”.

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

1960—Subsec. (b)(1). Pub. L. 86-418 substituted “section 4218(e)” for “section 4218(d)”.

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 1960 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4218, 6416 of this title.

[§ 4224. Repealed. Pub. L. 89-44, title I, § 101(b)(5), June 21, 1965, 79 Stat. 136]

Section, Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1286, exempted, with specified exemptions, articles taxable under section 4001 from the imposition of the manufacturers excise tax.

A prior section 4224, act Aug. 16, 1954, ch. 736, 68A Stat. 495, exempted articles for the exclusive use of any State, Territory, or political subdivision of either, or the District of Columbia, prior to repeal by Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1282.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold on or after 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.

§ 4225. Exemption of articles manufactured or produced by Indians

No tax shall be imposed under this chapter on any article of native Indian handicraft manufactured or produced by Indians on Indian reservations, or in Indian schools, or by Indians under the jurisdiction of the United States Government in Alaska.

(Added Pub. L. 85-859, title I, §119(a), Sept. 2, 1958, 72 Stat. 1286.)

PRIOR PROVISIONS

A prior section 4225, act Aug. 16, 1954, ch. 736, 68A Stat. 496, related to exemption for exports, prior to repeal by Pub. L. 85-859, §119(a). See section 4221 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

[§ 4226. Repealed. Pub. L. 94-455, title XIX, § 1904(a)(4), Oct. 4, 1976, 90 Stat. 1811]

Section, added June 29, 1956, ch. 462, title II, §207(a), 70 Stat. 391; amended Sept. 21, 1959, Pub. L. 86-342, title II, §201(c)(1)-(3), 73 Stat. 614; June 29, 1961, Pub. L. 87-61, title II, §206(a), (b), 75 Stat. 127; Aug. 1, 1966, Pub. L. 89-523, §2, 80 Stat. 331, related to floor stocks taxes for 1956 on tires of the type used on highway vehicles, on tread rubber, on gasoline, for 1959 on gasoline, for 1961 on certain tires and inner tubes and tread rubber, provisions relating to overpayment of floor stocks taxes, due date for taxes, taxes on certain tires and tubes, and definitions of “dealer” and “held by a dealer”.

A prior section 4226 of this title was renumbered section 4227.

§ 4227. Cross reference

For exception for a sale to an Indian tribal government (or its subdivision) for the exclusive use of an Indian tribal government (or its subdivision), see section 7871.

(Aug. 16, 1954, ch. 736, 68A Stat. 496, §4226; renumbered §4227, June 29, 1956, ch. 462, title II, §207(a), 70 Stat. 391; amended Pub. L. 89-44, title II, §208(f), June 21, 1965, 79 Stat. 141; Pub. L. 94-455, title XIX, §1904(a)(5), Oct. 4, 1976, 90 Stat. 1811; Pub. L. 97-473, title II, §202(b)(8), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title VII, §735(c)(11), July 18, 1984, 98 Stat. 983; Pub. L. 99-514, title XVIII, §1899A(49), Oct. 22, 1986, 100 Stat. 2961.)

AMENDMENTS

1986—Pub. L. 99-514 amended section generally, substituting “reference” for “references” in section catchline, struck out par. (1) designation, substituted “exception” for “exemption”, and struck out par. (2) relating to cross reference to credit for taxes on tires.

1984—Par. (2). Pub. L. 98-369 struck out “and tubes” after “on tires”.

1983—Pub. L. 97-473 designated existing provisions as par. (2) and added par. (1).

1976—Pub. L. 94-455 struck out pars. (1) and (3) relating to cross references to exemption from tax in case of certain sales to the United States and to administrative provisions of general applicability, respectively.

1965—Par. (2). Pub. L. 89-44 struck out “and automobile radio and television receiving sets,” after “tires and inner tubes,”.

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

For effective date of amendment by Pub. L. 97-473, see section 204(5) of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

CHAPTER 33—FACILITIES AND SERVICES

Subchapter Sec.1
[A. Repealed.]
B. Communications 4251
C. Transportation by air 4261
[D. Repealed.]
E. Special provisions applicable to services and facilities taxes 4291

REPEAL OF SUBCHAPTER B

Table of subchapters for chapter 33 amended by striking out the item relating to subchapter B dealing with Communications, effective Jan. 1, 1982, see Pub. L. 90-364, title I, §105(b)(3), June 28, 1968, 82 Stat. 266, as amended by Pub. L. 91-172, title VII, §702(b)(3), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91-614, title II, §201(b)(3), Dec. 31, 1970, 84 Stat. 1843. Repeal of item B was not executed in view of the amendments to section 4251 of this title by Pub. L. 96-499, Pub. L. 97-34, Pub. L. 97-248, Pub. L. 98-369, Pub. L. 99-514, and Pub. L. 101-508, extending the date in (and finally eliminating) provisions which had reduced the tax to zero after a specified date.

AMENDMENTS

1970—Pub. L. 91-258, title II, §205(c)(5), May 21, 1970, 84 Stat. 242, substituted "Transportation by air" for "Transportation of persons by air" in item for subchapter C.

1965—Pub. L. 89-44, title III, §§301, 304, June 21, 1965, 79 Stat. 145, 148, struck out items for subchapters A and D.

1962—Pub. L. 87-508, §5(c)(1), June 28, 1962, 76 Stat. 118, substituted "Transportation of persons by air" for "Transportation of persons" in item for subchapter C.

1958—Pub. L. 85-475, §4(b)(1), June 30, 1958, 72 Stat. 260, substituted "Transportation of persons" for "Transportation" in item for subchapter C.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: "The amendment made by subsection (c)(1) [amending item for subchapter C in the

analysis] shall apply only with respect to transportation beginning after November 15, 1962."

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6302, 6416, 7512 of this title.

[Subchapter A—Repealed]

[[§ 4231 to 4234. Repealed. Pub. L. 89-44, title III, § 301, June 21, 1965, 79 Stat. 145]

Section 4231, acts Aug. 16, 1954, ch. 736, 68A Stat. 497; Aug. 6, 1956, ch. 1019, §1, 70 Stat. 1074; Sept. 2, 1958, Pub. L. 85-859, title I, §131(a)-(c), 72 Stat. 1286, 1287; Apr. 8, 1960, Pub. L. 86-422, §1, 74 Stat. 41, imposed a tax on admissions, permanent use or lease of boxes or seats, sales outside of box office in excess of established price, sales by proprietors in excess of established price, and cabarets.

Section 4232, acts Aug. 16, 1954, ch. 736, 68A Stat. 498; Sept. 2, 1958, Pub. L. 85-859, title I, §131(d), 72 Stat. 1287, defined admission, roof garden, cabaret, or other similar place, and performance for profit as used in section 4231.

Section 4233, acts Aug. 16, 1954, ch. 736, 68A Stat. 498; Aug. 11, 1955, ch. 792, §1, 69 Stat. 675; Apr. 16, 1958, Pub. L. 85-380, §§1-3, 72 Stat. 88; Sept. 2, 1958, Pub. L. 85-859, title I, §131(e), (f), 72 Stat. 1287; June 25, 1959, Pub. L. 86-70, §22(a), 73 Stat. 146; Sept. 21, 1959, Pub. L. 86-319, §1, 73 Stat. 590; Sept. 21, 1959, Pub. L. 86-344, §2(c), 73 Stat. 617; July 12, 1960, Pub. L. 86-624, §18(d), 74 Stat. 416, granted certain exemptions to certain charitable, educational, or religious entertainments, agricultural fairs, certain musical or dramatic performances, swimming pools, etc., home and garden tours, historic sites, certain amateur theatricals, certain amateur baseball games, rodeos, pageants, and certain benefit performances.

Section 4234, act Aug. 16, 1954, ch. 736, 68A Stat. 501, required that price of tickets be printed on face or back of such tickets and provided a penalty for selling tickets not so stamped.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to admissions, services, or uses after noon, December 31, 1965, see section 701(b)(1) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4291 of this title.

[[§ 4241 to 4243. Repealed. Pub. L. 89-44, title III, § 301, June 21, 1965, 79 Stat. 145]

Section 4241, acts Aug. 16, 1954, ch. 736, 68A Stat. 501; Sept. 2, 1958, Pub. L. 85-859, title I, §132(a), 72 Stat. 1288; Sept. 21, 1959, Pub. L. 86-344, §3(b), 73 Stat. 618, imposed a tax on dues or membership fees, initiation, fees, and life memberships in social, athletic, or sporting clubs or organizations.

Section 4242, act Aug. 16, 1954, ch. 736, 68A Stat. 501, defined dues and initiation fees as used in section 4241.

Section 4243, acts Aug. 16, 1954, ch. 736, 68A Stat. 502; Sept. 2, 1958, Pub. L. 85-859, title I, §132(b), 72 Stat. 1288; Sept. 21, 1959, Pub. L. 86-344, §3(a), 73 Stat. 618, granted exemptions to fraternal organizations, payments for capital improvements, and nonprofit swimming or skating facilities.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to dues and membership fees attributable to periods beginning on or after January 1, 1966, initiation fees and amounts paid for life memberships attributable to memberships beginning on or after January 1, 1966, initiation fees paid on or after July 1, 1965, to a new club or organization first making its facilities available to members on or after such a date, and, in the case of amounts described in section 4243(b) of this title, 3-year periods beginning on or after January 1, 1966, see section 701(b)(1) of Pub. L.

1 Section numbers editorially supplied.