

4231(2), 4231(3), 4241, 4245, 4261, or 4286'' and struck out last sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of section 4231.

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

1958—Subsec. (a). Pub. L. 85-859 provided that in the case of any payment outside the United States in respect of which tax is imposed under par. (1), (2), or (3) of section 4231 of this title, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENTS

Pub. L. 85-859, §1(c), Sept. 2, 1958, 72 Stat. 1275, provided in part that: "Except as otherwise provided, the amendments and repeals made by title I of this Act [enacting sections 4057, 4143, 4221 to 4225, and 4294 of this title, amending chapter 34, this section, and sections 4001, 4003, 4031, 4041, 4053, 4111, 4121, 4141, 4142, 4192, 4216 to 4218, 4231 to 4233, 4263, 4291, 4501, 4601, 6011, 6412, 6416, 6420, 6421, 6501, and 6805 of this title, and repealing section 4112 of this title and former sections 4143, 4152, 4220 to 4225, and 4316 of this title] shall take effect on the first day of the first calendar quarter which begins more than 60 days after the date on which this Act is enacted [Sept. 2, 1958]."

Pub. L. 85-475, §4(c), June 30, 1958, 72 Stat. 261, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

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

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

§ 6416. Certain taxes on sales and services

(a) Condition to allowance

(1) General rule

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

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

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

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

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

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

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

(2) Exceptions

This subsection shall not apply to—

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

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

(3) Special rule

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

(4) Registered ultimate vendor or credit card issuer to administer credits and refunds of gasoline tax

(A) In general

For purposes of this subsection, except as provided in subparagraph (B), if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101.

(B) Credit card issuer

For purposes of this subsection, if the purchase of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

(i) is registered under section 4101,

(ii) has established, under regulations prescribed by the Secretary, that such person—

(I) has not collected the amount of the tax from the person who purchased such article, or

(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

(iii) has so established that such person—

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

(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

(III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.

If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or payment.

(C) Timing of claims

The procedure and timing of any claim under subparagraph (A) or (B) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor or credit card issuer has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor or credit card issuer are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).

(b) Special cases in which tax payments considered overpayments

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

(1) Price readjustments

(A) In general

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

(B) Further manufacture

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

(C) Adjustment of tire price

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be

allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) Specified uses and resales

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

(A) exported;

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

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

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

(E) sold to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood;

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

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

Subparagraphs (C), (D), and (E) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), (D), and (E) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4121. Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met. In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.

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

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

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

(i) another article taxable under chapter 32, or

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

manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture

or production of any other article manufactured or produced by him.

(4) Tires

If—

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

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

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

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

(iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.

(5) Return of certain installment accounts

If—

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

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

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

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

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

If—

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

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

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

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

(c) Refund to exporter or shipper

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

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

(d) Credit on returns

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

(e) Accounting procedures for like articles

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

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

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

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

(f) Meaning of terms

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

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

Stat. 3594, 3710; Pub. L. 101-508, title XI, § 11212(d)(2), Nov. 5, 1990, 104 Stat. 1388-432; Pub. L. 103-66, title XIII, § 13242(d)(17)-(19), Aug. 10, 1993, 107 Stat. 524; Pub. L. 104-188, title I, § 1702(b)(3), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title IX, § 905(a), title X, § 1032(e)(6), title XIV, § 1436(b), Aug. 5, 1997, 111 Stat. 874, 935, 1053; Pub. L. 105-206, title VI, § 6023(23), July 22, 1998, 112 Stat. 826; Pub. L. 108-357, title VIII, §§ 853(d)(2)(G)-(I), 865(a), Oct. 22, 2004, 118 Stat. 1613, 1621; ; Pub. L. 109-59, title XI, § 11163(b), Aug. 10, 2005, 119 Stat. 1973; Pub. L. 109-280, title XII, § 1207(e), Aug. 17, 2006, 120 Stat. 1071; Pub. L. 110-172, § 11(d)(1), Dec. 29, 2007, 121 Stat. 2489; Pub. L. 111-152, title I, § 1405(b)(2), Mar. 30, 2010, 124 Stat. 1065; Pub. L. 116-94, div. N, title I, § 501(b)(2), Dec. 20, 2019, 133 Stat. 3118.)

Editorial Notes

CODIFICATION

Section 1207(e) of Pub. L. 109-280, which directed the amendment of section 6416 without specifying the act to be amended, was executed to this section, which is section 6416 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2019—Subsec. (b)(2). Pub. L. 116-94 struck out end of concluding provisions “In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.”

2010—Subsec. (b)(2). Pub. L. 111-152 inserted at end of concluding provisions “In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.”

2007—Subsec. (a)(4)(C). Pub. L. 110-172 substituted “ultimate vendor or credit card issuer has certified” for “ultimate vendor” and all that follows through “has certified” and substituted “all ultimate purchasers of the vendor or credit card issuer are certified” for “all ultimate purchasers of the vendor” and all that follows through “are certified”. See 2005 Amendment note below.

2006—Subsec. (b)(2). Pub. L. 109-280, § 1207(e)(1)(B), (C), in concluding provisions, substituted “Subparagraphs (C), (D), and (E)” for “Subparagraphs (C) and (D)” and “(B), (C), (D), and (E)” for “(B), (C), and (D)” and inserted at end “In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.” See Codification note above.

Subsec. (b)(2)(E) to (G). Pub. L. 109-280, § 1207(e)(1)(A), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively. See Codification note above.

Subsec. (b)(4)(B)(iii). Pub. L. 109-280, § 1207(e)(2), added cl. (iii). See Codification note above.

2005—Subsec. (a)(4). Pub. L. 109-59, § 11163(b)(1)(E), inserted “or credit card issuer” after “vendor” in heading.

Subsec. (a)(4)(A). Pub. L. 109-59, § 11163(b)(1)(A), inserted “except as provided in subparagraph (B),” after “For purposes of this subsection,”.

Subsec. (a)(4)(B). Pub. L. 109-59, § 11163(b)(1)(B), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(4)(C). Pub. L. 109-59, § 11163(b)(1)(D), which directed the insertion of “or credit card issuer” after “vendor”, was executed by inserting “or credit card issuer” after “vendor” both places it appeared, to reflect the probable intent of Congress.

Pub. L. 109-59, § 11163(b)(1)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)”.

Subsec. (b)(2). Pub. L. 109-59, § 11163(b)(2), inserted at end “Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.”

2004—Subsec. (a)(4). Pub. L. 108-357, § 865(a), amended heading and text of par. (4) generally, substituting provisions relating to administration of credits and refunds of gasoline tax by a registered ultimate vendor for provisions relating to administration of credits and refunds of gasoline tax by wholesale distributors.

Subsec. (b)(2). Pub. L. 108-357, § 853(d)(2)(G), struck out “4091 or” before “4121” in concluding provisions.

Subsec. (b)(3). Pub. L. 108-357, § 853(d)(2)(H), struck out “or 4091” after “4081” in subpars. (A) and (B).

Subsec. (d). Pub. L. 108-357, § 853(d)(2)(I), struck out “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)” before period at end.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(1)(A). Pub. L. 98-369, §734(j), inserted “or by section 4051” after “by chapter 32”.

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(4)(A). Pub. L. 98-369, §734(b)(2)(A), amended par. (4) generally. Prior to amendment par. (4) provided that if (A) a tire or inner tube taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and (B) such other article is (i) an automobile bus chassis or an automobile bus body, or (ii) by any person exported,

sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

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

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

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

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

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

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

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

Pub. L. 97-424, §512(b)(2)(C), inserted “or under section 4051” after “section 4041(a)”.

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

1980—Subsec. (a)(1)(C). Pub. L. 96-598, §1(b)(2)(B), substituted “(b)(3)(C) or (D)” for “(b)(3)(C)”.

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

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

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

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

Subsec. (b)(3)(A). Pub. L. 96-598, §1(b)(2)(C), inserted “(D),” after “(C),”.

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

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

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

Subsec. (b)(4)(A). Pub. L. 96-598, §1(b)(2)(D), substituted “section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid

on the tread rubber used in the recapping or retreading,” for “section 4071”.

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

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

Pub. L. 95-227 inserted “(other than coal taxable under section 4121)” after “of any article”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(1). Pub. L. 89-44, §601(c)(7), struck out “31 or” after “imposed by chapter” and “(in the case of a tax imposed by chapter 32)” after “or allowance, including”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(2) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in respect of any articles which were, by any person, exported, resold to a manufacturer or producer for use by him as provided in subpar. (A) or (B) of par. (3), resold for use, in the case of a tire, inner tube, or receiving set, as provided in subpar. (C) or (D) of par. (3) and the other article referred to in such paragraph is by any person exported or sold as provided in such paragraph, and to eliminate provisions which excluded leaf springs, coils, timers, and tire chains in the case of articles taxable under section 4061(b).

Subsec. (b)(3) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in the case of tires or inner tubes taxable under section 4071 and automobile radio or television receiving sets taxable under section 4141 where the articles are resold in certain particular cases, and taxes paid in the case of radio receiving sets or automobile radio receiving sets which are used by the manufacturer or producer as component parts of any other article manufactured or produced by him, and are exported or sold in certain particular cases, and to provide that for purposes of subpars. (A) and (B) an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(4), (5). Pub. L. 85-859, §163(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 85-859, §163(a), authorized a credit with respect to tires, inner tubes, or automobile radio or television receiving sets which are sold on or in connection with, or with the sale of, another article taxable under chapter 32, and permitted the credit only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

Subsec. (f). Pub. L. 85-475, §4(b)(6), struck out reference to section 4281.

Subsecs. (g) to (i). Pub. L. 85-859, §163(c), added subsecs. (g) to (i).

1956—Subsec. (b)(2)(C). Act Apr. 2, 1956, included liquid used on a farm for farming purposes.

Subsec. (b)(2)(J) to (M). Act June 29, 1956, added subpars. (J) to (M).

1955—Subsec. (b)(2)(G). Act Aug. 11, 1955, ch. 805, §2(b), repealed subpar. (G) relating to credit for communication, detection, and navigation receivers when sold to the United States Government.

Subsec. (b)(2)(I). Act Aug. 11, 1955, ch. 793, added subpar. (I).

Subsec. (b)(3)(A). Act Aug. 11, 1955, ch. 805, §1(h), inserted "and other than an automobile part or accessory taxable under section 4061(b), a refrigerator component taxable under section 4111, a radio or television component taxable under section 4141, or a camera lens taxable under section 4171" after "section 4141".

Subsec. (b)(3)(B). Act Aug. 11, 1955, ch. 805, §1(i), substituted provisions allowing a credit for automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under sections 4061(b), 4111, 4141, or 4171, respectively, of this title, for provisions allowing a credit for radio and television components purchased and used by a producer in the manufacture of communication, detection, or navigation receivers in commercial, military, or marine installations if such receivers were sold to the United States.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2019 AMENDMENT**

Amendment by Pub. L. 116–94 applicable to sales after Dec. 31, 2019, see section 501(d) of Pub. L. 116–94, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 applicable to sales after Dec. 31, 2012, see section 1405(c) of Pub. L. 111–152, set out as an Effective Date note under section 4191 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–172, §11(d)(2), Dec. 29, 2007, 121 Stat. 2489, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109–59] to which they relate.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 effective Jan. 1, 2007, see section 1207(g)(1) of Pub. L. 109–280, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109–59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 853(d)(2)(G)–(I) of Pub. L. 108–357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108–357, set out as a note under section 4041 of this title.

Pub. L. 108–357, title VIII, §865(b), Oct. 22, 2004, 118 Stat. 1621, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2005.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title IX, §905(b), Aug. 5, 1997, 111 Stat. 874, provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1032(e)(6) of Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

Pub. L. 105–34, title XIV, §1436(c), Aug. 5, 1997, 111 Stat. 1053, provided that: “The amendments made by this section [amending this section and section 4091 of this title] shall apply to fuel acquired by the producer after September 30, 1997.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective July 1, 1991, see section 11212(f)(1) of Pub. L. 101–508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2001(d)(1)(B) of Pub. L. 100–647 effective, except as otherwise provided, as if included in

the provision of the Superfund Revenue Act of 1986, Pub. L. 99–499, title V, to which it relates, see section 2001(e) of Pub. L. 100–647, set out as a note under section 56 of this title.

Pub. L. 100–647, title VI, §6102(b), Nov. 10, 1988, 102 Stat. 3711, provided that: “The amendment made by this section [amending this section] shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9201(b)(2) of Pub. L. 100–203 effective Jan. 1, 1988, see section 9201(d) of Pub. L. 100–203, set out as an Effective Date note under section 4131 of this title.

Amendment by section 10502(d)(6)–(8) of Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(g)(2)(A) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

Amendment by section 512(b)(2)(C), (D) of Pub. L. 97–424 effective Apr. 1, 1983, see section 512(b)(3) of Pub. L. 97–424, set out as a note under section 4051 of this title.

Amendment by section 515(b)(4) of Pub. L. 97–424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97–424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96–598, set out as a note under section 4071 of this title.

Pub. L. 96–596, §4(c)(2), Dec. 24, 1980, 94 Stat. 3476, provided that: “The amendments made by this subsection [amending this section] shall apply to the adjustments of any tire after December 31, 1982.”

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95–618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96–222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(c)(3) of Pub. L. 95–618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95–618, set out as an Effective Date note under section 4064 of this title.

Amendment by section 232(b) of Pub. L. 95–618 applicable to sales on or after day of first calendar month beginning more than 10 days after Nov. 9, 1978, see section 232(c) of Pub. L. 95–618, set out as a note under section 4221 of this title.

Amendment by section 233(c)(3) of Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

Amendment by Pub. L. 95–227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L.

95-227, set out as an Effective Date note under section 4121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(1), (2) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(24)(A), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(a)(24)(B)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: "The repeals made by clause (i) [amending this section] shall apply with respect to the use or resale for use of liquids after December 31, 1976."

Pub. L. 94-455, title XXI, §2108(b), Oct. 4, 1976, 90 Stat. 1904, provided that: "The amendment made by this section [amending this section] shall apply to parts and accessories sold after the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1971 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENTS

Pub. L. 91-614, title III, §302(c), Dec. 31, 1970, 84 Stat. 1845, provided that: "The amendments made by subsections (a) and (b) of this section [amending this section] shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act [Dec. 31, 1970], but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law."

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 207(c) of Pub. L. 89-44 effective June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

Amendment by section 601(c) of Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

Amendment by section 801(d)(2) applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89-44, set out as a note under section 4216 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: "The amendments made by subsection (c)(3) [amending this section] shall apply only in respect to the use or sale of special fuels made on or after November 16, 1962."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 applicable only in the case of gasoline sold on or after Oct. 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86-781 applicable with respect to articles sold on or after first day of first calendar quarter beginning more than twenty days after Sept. 14, 1960, see section 3 of Pub. L. 86-781, set out as a note under section 4216 of this title.

Amendment by Pub. L. 86-418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after first day of first month which begins more than 10 days after Apr. 8, 1960, see section 4 of Pub. L. 86-418, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Pub. L. 85-859, title I, §163(b), Sept. 2, 1958, 72 Stat. 1311, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Section 6416(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, shall apply only with respect to articles exported, sold, or resold, as the case may be, on or after the effective date specified in section 1(c) of this Act [set out as a note under section 6415 of this title]."

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

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

Act Apr. 2, 1956, ch. 160, §2(b)(2), 70 Stat. 90, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to liquid sold after December 31, 1955."

EFFECTIVE DATE OF 1955 AMENDMENTS

Act Aug. 11, 1955, ch. 805, §3, 69 Stat. 690, as amended by Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "The amendments made by the first section and section 2 of this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]. Notwithstanding the preceding sentence—

"(1) the repeal of section 6416(b)(2)(G) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Aug. 11, 1955], and

"(2) section 6416(b)(3)(B) of the Internal Revenue Code of 1986, as amended by subsection (i) of the first section of this Act [Aug. 11, 1955], shall apply with respect to articles used on or after such first day by the manufacturer or producer as material in the manufacture of, production of, or as a component part of, another article."

Act Aug. 11, 1955, ch. 793, §3, 69 Stat. 676, provided that: "The amendments made by this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first calendar quarter which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]."

OVERPAYMENT OF TAX ON CERTAIN RADIO RECEIVING SETS AND RADIO AND TELEVISION COMPONENTS

Pub. L. 85-859, title I, §163(e), Sept. 2, 1958, 72 Stat. 1312, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If—

"(1) a radio receiving set, an automobile radio receiving set, or a radio or television component was (before any other use) used as a component part of any other article, and

"(2) such other article was (before any other use) by any person exported, or sold to a State or local government for the exclusive use of a State or local government,

then any tax imposed by chapter 32 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provisions of prior revenue law) in respect of such set or component which has been paid shall be deemed to have been an overpayment, by the manufac-

turer, producer, or importer of such other article, at the time paid. No credit or refund shall be allowed or made under this subsection unless the manufacturer, producer, or importer of such other article establishes to the satisfaction of the Secretary of the Treasury or his delegate that he did not include the amount of the tax in the price of such other article (and has not collected the amount of the tax from the purchaser of such other article), that the amount of the tax has been repaid to the ultimate purchaser of such other article, or that he has obtained the written consent of such ultimate purchaser to the allowance of the credit or the making of the refund. No interest shall be allowed or paid in respect of any such overpayment.”

§ 6417. Elective payment of applicable credits

(a) In general

In the case of an applicable entity making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any applicable credit determined with respect to such entity, such entity shall be treated as making a payment against the tax imposed by subtitle A (for the taxable year with respect to which such credit was determined) equal to the amount of such credit.

(b) Applicable credit

The term “applicable credit” means each of the following:

(1) So much of the credit for alternative fuel vehicle refueling property allowed under section 30C which, pursuant to subsection (d)(1) of such section, is treated as a credit listed in section 38(b).

(2) So much of the renewable electricity production credit determined under section 45(a) as is attributable to qualified facilities which are originally placed in service after December 31, 2022.

(3) So much of the credit for carbon oxide sequestration determined under section 45Q(a) as is attributable to carbon capture equipment which is originally placed in service after December 31, 2022.

(4) The zero-emission nuclear power production credit determined under section 45U(a).

(5) So much of the credit for production of clean hydrogen determined under section 45V(a) as is attributable to qualified clean hydrogen production facilities which are originally placed in service after December 31, 2012.

(6) In the case of a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A), the credit for qualified commercial vehicles determined under section 45W by reason of subsection (d)(3) thereof.

(7) The credit for advanced manufacturing production under section 45X(a).

(8) The clean electricity production credit determined under section 45Y(a).

(9) The clean fuel production credit determined under section 45Z(a).

(10) The energy credit determined under section 48.

(11) The qualifying advanced energy project credit determined under section 48C.

(12) The clean electricity investment credit determined under section 48E.

(c) Application to partnerships and S corporations

(1) In general

In the case of any applicable credit determined with respect to any facility or property

held directly by a partnership or S corporation, any election under subsection (a) shall be made by such partnership or S corporation. If such partnership or S corporation makes an election under such subsection (in such manner as the Secretary may provide) with respect to such credit—

(A) the Secretary shall make a payment to such partnership or S corporation equal to the amount of such credit,

(B) subsection (e) shall be applied with respect to such credit before determining any partner’s distributive share, or shareholder’s pro rata share, of such credit,

(C) any amount with respect to which the election in subsection (a) is made shall be treated as tax exempt income for purposes of sections 705 and 1366, and

(D) a partner’s distributive share of such tax exempt income shall be based on such partner’s distributive share of the otherwise applicable credit for each taxable year.

(2) Coordination with application at partner or shareholder level

In the case of any facility or property held directly by a partnership or S corporation, no election by any partner or shareholder shall be allowed under subsection (a) with respect to any applicable credit determined with respect to such facility or property.

(3) Treatment of payments to partnerships and S corporations

For purposes of section 1324 of title 31, United States Code, the payments under paragraph (1)(A) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(d) Special rules

For purposes of this section—

(1) Applicable entity

(A) In general

The term “applicable entity” means—

(i) any organization exempt from the tax imposed by subtitle A,

(ii) any State or political subdivision thereof,

(iii) the Tennessee Valley Authority,

(iv) an Indian tribal government (as defined in section 30D(g)(9)),

(v) any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)), or

(vi) any corporation operating on a cooperative basis which is engaged in furnishing electric energy to persons in rural areas.

(B) Election with respect to credit for production of clean hydrogen

If a taxpayer other than an entity described in subparagraph (A) makes an election under this subparagraph with respect to any taxable year in which such taxpayer has placed in service a qualified clean hydrogen production facility (as defined in section 45V(c)(3)), such taxpayer shall be treated as an applicable entity for purposes of this sec-