

in section catchline and “this subchapter” for “subsection (a)” in subsec. (b)(1) and adding subsecs. (d) to (f).

**EFFECTIVE DATE OF 1997 AMENDMENT**

Section 906(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section and section 4003 of this title] shall apply to sales and installations occurring after the date of the enactment of this Act [Aug. 5, 1997].”

Section 1601(f)(3)(C) of Pub. L. 105-34 provided that: “The amendments made by this paragraph [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1601(f)(3)(A), (B) of 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 1996 AMENDMENT**

Section 1607(c) of Pub. L. 104-188 provided that: “The amendments made by this section [amending this section] shall apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act [Aug. 20, 1996].”

Section 1703(c)(2) of Pub. L. 104-188 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 20, 1996].”

**EFFECTIVE DATE OF 1993 AMENDMENT**

Section 13161(c) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and sections 4002, 4003, 4221, and 4222 of this title and omitting sections 4004, 4006, 4007, 4011, and 4012 of this title] shall take effect on January 1, 1993, except that the provisions of section 4001(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall take effect on the date of the enactment of this Act [Aug. 10, 1993].”

**EFFECTIVE DATE**

Section 11221(f) of Pub. L. 101-508 provided that:

“(1) **IN GENERAL.**—The amendments made by this section [enacting this subchapter, redesignating former subchapters A and B of this chapter as subchapters B and C, respectively, and amending sections 4221, 4222, and 4293 of this title] shall take effect on January 1, 1991.

“(2) **EXCEPTION FOR BINDING CONTRACTS.**—In determining whether any tax imposed by subchapter A of chapter 31 of the Internal Revenue Code of 1986, as added by this section, applies to any sale after December 31, 1990, there shall not be taken into account the amount paid for any article (or any part or accessory therefor) if the purchaser held on September 30, 1990, a contract (which was binding on such date and at all times thereafter before the purchase) for the purchase of such article (or such part or accessory).”

**§ 4002. 1st retail sale; uses, etc. treated as sales; determination of price**

**(a) 1st retail sale**

For purposes of this subchapter, the term “1st retail sale” means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

**(b) Use treated as sale**

**(1) In general**

If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

**(2) Exemption for further manufacture**

Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

**(3) Exemption for demonstration use**

Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

**(4) Exception for use after importation of certain vehicles**

Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

**(5) Computation of tax**

In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

**(c) Leases considered as sales**

For purposes of this subchapter—

**(1) In general**

Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

**(2) Special rules for long-term leases**

**(A) Tax not imposed on sale for leasing in a qualified lease**

The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

**(B) Long-term lease**

For purposes of subparagraph (A), the term “long-term lease” means any long-term lease (as defined in section 4052).

**(C) Special rules**

In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

**(i) Determination of price**

The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

**(ii) Payment of tax**

Rules similar to the rules of section 4217(e)(2) shall apply.

**(iii) No tax where exempt use by lessee**

No tax shall be imposed on any lease payment under a long-term lease if the lessee’s use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

**(d) Determination of price**

**(1) In general**

In determining price for purposes of this subchapter—

(A) there shall be included any charge incident to placing the passenger vehicle in condition ready for use,

(B) there shall be excluded—

(i) the amount of the tax imposed by this subchapter,

(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

(iii) the value of any component of such passenger vehicle if—

(I) such component is furnished by the 1st user of such passenger vehicle, and

(II) such component has been used before such furnishing, and

(C) the price shall be determined without regard to any trade-in.

### (2) Other rules

Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

(Added Pub. L. 101-508, title XI, §11221(a), Nov. 5, 1990, 104 Stat. 1388-439; amended Pub. L. 103-66, title XIII, §13161(a), Aug. 10, 1993, 107 Stat. 450.)

#### AMENDMENTS

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to imposition of luxury tax upon first retail sale or use of luxury automobile for provisions relating to imposition of similar tax upon boats.

#### 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.

### § 4003. Special rules

#### (a) Separate purchase of vehicle and parts and accessories therefor

Under regulations prescribed by the Secretary—

##### (1) In general

Except as provided in paragraph (2), if—

(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory (other than property described in section 4001(a)(2)(B)) on such vehicle, and

(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

##### (2) Limitation

The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

(A) the sum of—

(i) the price of such part or accessory and its installation,

(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

(iii) the price for which the passenger vehicle was sold, over

(B) the appropriate applicable amount as determined under section 4001(a)(2).

### (3) Exceptions

Paragraph (1) shall not apply if—

(A) the part or accessory installed is a replacement part or accessory,

(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed \$1,000 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

### (4) Installers secondarily liable for tax

The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

### (b) Imposition of tax on sales, etc., within 2 years of vehicles purchased tax-free

#### (1) In general

If—

(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

#### (2) Exempt use

For purposes of this subsection, the term “exempt use” means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

### (c) Parts and accessories sold with taxable passenger vehicle

Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

### (d) Partial payments, etc.

In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter.

(Added Pub. L. 101-508, title XI, §11221(a), Nov. 5, 1990, 104 Stat. 1388-439; amended Pub. L. 103-66, title XIII, §13161(a), Aug. 10, 1993, 107 Stat. 451; Pub. L. 105-34, title IX, §906(b)(3), (4), title XIV, §1401(a), Aug. 5, 1997, 111 Stat. 875, 1045.)