

“(2) PENALTY FOR FAILURE TO REPORT.—

“(A) IN GENERAL.—In the case of any failure to make a report containing the information required by paragraph (1) on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid by the covered entity failing to file such report, an amount equal to—

- “(i) \$10,000, plus
- “(ii) the lesser of—
  - “(I) an amount equal to \$1,000, multiplied by the number of days during which such failure continues, or
  - “(II) the amount of the fee imposed by this section for which such report was required.

“(B) TREATMENT OF PENALTY.—The penalty imposed under subparagraph (A)—

- “(i) shall be treated as a penalty for purposes of subtitle F of the Internal Revenue Code of 1986,
- “(ii) shall be paid on notice and demand by the Secretary and in the same manner as tax under such Code, and
- “(iii) with respect to which only civil actions for refund under procedures of such subtitle F shall apply.

“(3) ACCURACY-RELATED PENALTY.—

“(A) IN GENERAL.—In the case of any understatement of a covered entity’s net premiums written with respect to health insurance for any United States health risk for any calendar year, there shall be paid by the covered entity making such understatement, an amount equal to the excess of—

- “(i) the amount of the covered entity’s fee under this section for the calendar year the Secretary determines should have been paid in the absence of any such understatement, over
- “(ii) the amount of such fee the Secretary determined based on such understatement.

“(B) UNDERSTATEMENT.—For purposes of this paragraph, an understatement of a covered entity’s net premiums written with respect to health insurance for any United States health risk for any calendar year is the difference between the amount of such net premiums written as reported on the return filed by the covered entity under paragraph (1) and the amount of such net premiums written that should have been reported on such return.

“(C) TREATMENT OF PENALTY.—The penalty imposed under subparagraph (A) shall be subject to the provisions of subtitle F of the Internal Revenue Code of 1986 that apply to assessable penalties imposed under chapter 68 of such Code.

“(4) TREATMENT OF INFORMATION.—Section 6103 of the Internal Revenue Code of 1986 shall not apply to any information reported under this subsection.

“(h) ADDITIONAL DEFINITIONS.—For purposes of this section—

- “(1) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or the Secretary’s delegate.
- “(2) UNITED STATES.—The term ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.
- “(3) HEALTH INSURANCE.—The term ‘health insurance’ shall not include—
  - “(A) any insurance coverage described in paragraph (1)(A) or (3) of section 9832(c) of the Internal Revenue Code of 1986,
  - “(B) any insurance for long-term care, or
  - “(C) any medicare supplemental health insurance (as defined in section 1882(g)(1) of the Social Security Act [42 U.S.C. 1395ss(g)(1)]).
- “(i) GUIDANCE.—The Secretary shall publish guidance necessary to carry out the purposes of this section and shall prescribe such regulations as are necessary or appropriate to prevent avoidance of the purposes of this section, including inappropriate actions taken to qualify as an exempt entity under subsection (c)(2).

“(j) EFFECTIVE DATE.—This section shall apply to calendar years beginning after December 31, 2013.”

[Pub. L. 111-152, title I, §1406(a)(3)(C), Mar. 30, 2010, 124 Stat. 1065, which directed amendment of section 9010(c) of Pub. L. 111-148, set out above, by substituting “subparagraph (C) or (D)” for “subparagraph (C)(i)(I), (D)(i)(I), or (E)(i)” in par. (3)(A), was executed by making the substitution in concluding provisions of par. (3), to reflect the probable intent of Congress.]

[Pub. L. 111-152, title I, §1406(b), Mar. 30, 2010, 124 Stat. 1067, provided that: “The amendments made by this section [amending section 9010 of Pub. L. 111-148, set out above] shall take effect as if included in section 9010 of the Patient Protection and Affordable Care Act [Pub. L. 111-148].”]

[Pub. L. 111-148, title X, §10905(g), Mar. 23, 2010, 124 Stat. 1019, provided that: “The amendments made by this section [amending section 9010 of Pub. L. 111-148, set out above] shall take effect as if included in the enactment of section 9010.”]

**CHAPTER 31—RETAIL EXCISE TAXES**

Subchapter	Sec. <sup>1</sup>
A. Luxury passenger vehicles <sup>2</sup> .....	4001
B. Special fuels .....	4041
C. Heavy trucks and trailers .....	4051

PRIOR PROVISIONS

The provisions of a prior chapter 31, Miscellaneous Excise Taxes, were set out as:

- Subchapter (A), Jewelry and related items, comprising sections 4001 to 4003;
- Subchapter (B), Furs, comprising sections 4011 to 4013;
- Subchapter (C), Toilet preparations, comprising sections 4021 and 4022;
- Subchapter (D), Luggage, handbags, etc., comprising section 4031;
- Subchapter (E), Special fuels, comprising sections 4041 and 4042; and
- Subchapter (F), Special provisions applicable to retailers tax, comprising sections 4051 to 4058.

The headings for subchs. (A) to (D) were struck out by section 101(b)(1) and the listed sections were repealed by section 101(a) of Pub. L. 89-44, title I, June 21, 1965, 79 Stat. 136, the Excise Tax Reduction Act of 1965, applicable with respect to articles sold on or after June 22, 1965, as provided in section 701(a) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

The headings for subchs. (E) and (F) were stricken by section 1904(a)(1)(A) of Pub. L. 94-455, title XIX, Oct. 4, 1976, 90 Stat. 1810, the Tax Reform Act of 1976. Sections 4051 to 4053 were repealed by section 101(b)(2) of Pub. L. 89-44, title I, June 21, 1965, 79 Stat. 136, applicable with respect to articles sold on or after June 22, 1965, as provided in section 701(a) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4061 of this title; and sections 4042 and 4054 to 4058 were repealed by section 1904(a)(1)(D) of Pub. L. 94-455, title XIX, Oct. 4, 1976, 90 Stat. 1811, effective Feb. 1, 1977, as provided in section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

The subject matter of the prior sections was as follows:

A prior section 4001, acts Aug. 16, 1954, ch. 736, 68A Stat. 473; Sept. 2, 1958, Pub. L. 85-859, title I, §101, 72 Stat. 1275; Sept. 21, 1959, Pub. L. 86-344, §1(a), 73 Stat. 617, imposed an excise tax equivalent to 10 percent of selling price upon jewelry, stones, watches, clocks, case and movements for watches and clocks, flatware and hollow ware, opera glasses, lorgnettes, marine glasses, field glasses, and binoculars.

A prior section 4002, act Aug. 16, 1954, ch. 736, 68A Stat. 473, defined “articles sold at retail” to include articles sold at auction.

<sup>1</sup> Section numbers editorially supplied.

<sup>2</sup> So in original. Does not conform to subchapter heading.