

**(b) Contents of return**

Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

**(c) Enforcement**

With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.

(Added Pub. L. 108-357, title III, §303(a), Oct. 22, 2004, 118 Stat. 1466.)

EFFECTIVE DATE

Pub. L. 108-357, title III, §303(c), Oct. 22, 2004, 118 Stat. 1466, provided that: "The amendments made by this section [enacting this section] shall take effect on January 1, 2005."

**§ 4105. Two-party exchanges**

**(a) In general**

In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

**(b) Two-party exchange**

The term "two-party exchange" means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

- (1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.
- (2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.
- (3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.
- (4) The transaction is the subject of a written contract.

(Added Pub. L. 108-357, title VIII, §866(a), Oct. 22, 2004, 118 Stat. 1621.)

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.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §866(c), Oct. 22, 2004, 118 Stat. 1622, provided that: "The amendment made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004]."

**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.

**§ 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 producer, 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) December 31, 2018, or
- (B) the first December 31 after 2007 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; Pub. L. 110-343, div. B, title I, §113(a), Oct. 3, 2008, 122 Stat. 3824.)

## PRIOR PROVISIONS

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

## AMENDMENTS

2008—Subsec. (e)(2)(A). Pub. L. 110-343, §113(a)(1), substituted “December 31, 2018” for “January 1, 2014”.

Subsec. (e)(2)(B). Pub. L. 110-343, §113(a)(2), substituted “December 31 after 2007” for “January 1 after 1981” in introductory provisions.

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.

## SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS

Pub. L. 110-343, div. B, title I, §114, Oct. 3, 2008, 122 Stat. 3826, provided that:

“(a) REFUND.—

“(1) COAL PRODUCERS.—

“(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

“(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

“(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act [Oct. 3, 2008], and

“(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by

the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

“(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

“(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

“(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

“(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

“(I) is made by a court of competent jurisdiction within the United States,

“(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

“(III) is in favor of the coal producer or the party related to the coal producer.

“(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

“(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

“(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act [Oct. 3, 2008], and

“(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to \$0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, [sic] by the exporter.

“(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ‘settlement with the Federal Government’ shall not include any settlement or stipulation entered into as of the date of the enactment of this Act [Oct. 3, 2008], the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

“(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

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

“(1) COAL PRODUCER.—The term ‘coal producer’ means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

“(2) EXPORTER.—The term ‘exporter’ means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

“(A) is indicated in the shipper’s export declaration or other documentation as the exporter of record, or

“(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

“(3) RELATED PARTY.—The term ‘a party related to such coal producer’ means a person who—

“(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

“(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

“(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of [the] Treasury or the Secretary’s designee.

“(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

“(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

“(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

“(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

“(2) in the case of a payment to an exporter, an amount equal to \$0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

“(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act [Oct. 3, 2008].

“(i) STANDING NOT CONFERRED.—

“(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

“(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.”

#### 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.

#### Subchapter C—Certain Vaccines

Sec.  
4131. Imposition of tax.