

prior taxable years with respect to such taxpayer.

(ii) Overall limitation

The amount determined under this clause with respect to any taxpayer is the excess of—

(I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Fund were transferred¹ on January 1, 1990, and the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over

(II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

(3) Cost of income tax credit borne by Trust Fund

(A) In general

The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

(B) Trust Fund balance may not be reduced below \$1,000,000,000

Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds \$1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

(4) No carryback

No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph.

(f) Disposition of revenues from Puerto Rico and the Virgin Islands

The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4611.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2798; amended Pub. L. 99-499, title V, §512(c), Oct. 17, 1986, 100 Stat. 1761; Pub. L. 99-509, title VIII, §8032(b), Oct. 21, 1986, 100 Stat. 1957; Pub. L. 101-239, title VII, §7505(c), Dec. 19, 1989, 103 Stat. 2363; Pub. L. 101-380, title IX, §9002, Aug. 18, 1990, 104 Stat. 574; Pub. L. 102-486, title XIX, §1922(a), Oct. 24, 1992, 106 Stat. 3028.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (e)(4), is the date of the enactment of Pub. L. 102-486, which was approved Oct. 24, 1992.

CODIFICATION

Amendments by Pub. L. 99-509, title VIII, §8031(c), Oct. 21, 1986, 100 Stat. 1955, to subsections. (c) and (d) of this

¹ So in original. Probably should be “transferred”.

section were not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

1992—Subsecs. (e), (f). Pub. L. 102-486 added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (d). Pub. L. 101-380 substituted at end “For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section 1504(a)(2) were applied by substituting ‘100 percent’ for ‘80 percent’ shall be treated as 1 taxpayer.” for “Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund.”

1989—Subsec. (d). Pub. L. 101-239 inserted at end “The preceding sentence shall also apply to amounts paid by the taxpayer into the Trans-Alaska Pipeline Liability Fund to the extent of amounts transferred from such Fund into the Oil Spill Liability Trust Fund. Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund.”

1986—Subsec. (c). Pub. L. 99-499 added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 99-509 added subsec. (d) and redesignated former subsec. (d) as (e).

Pub. L. 99-499 redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 99-509 redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1922(b), Oct. 24, 1992, 106 Stat. 3029, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 24, 1992].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-509 effective on commencement date as defined in section 4611(f)(2), see section 8032(d) of Pub. L. 99-509, set out as a note under section 4611 of this title.

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 512(d) of Pub. L. 99-499, set out as a note under section 4611 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

Subchapter B—Tax on Certain Chemicals

Sec. 4661. Imposition of tax.
4662. Definitions and special rules.

§ 4661. Imposition of tax

(a) General rule

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

(b) Amount of tax

The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

In the case of:	The tax is the following amount per ton
Acetylene	\$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Napthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

For periods before 1992, the item relating to xylene in the preceding table shall be applied by substituting "10.13" for "4.87".

(c) Termination

No tax shall be imposed under this section during any period during which the Hazardous Substance Superfund financing rate under section 4611 does not apply.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2798; amended Pub. L. 99-499, title V, §513(a), Oct. 17, 1986, 100 Stat. 1761; Pub. L. 99-509, title VIII, §8032(c)(3), Oct. 21, 1986, 100 Stat. 1958.)

CODIFICATION

Amendment by Pub. L. 99-509, title VIII, §8031(d)(2), Oct. 21, 1986, 100 Stat. 1956, to subsec. (c) of this section was not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-499 inserted at end "For periods before 1992, the item relating to xylene in the preceding table shall be applied by substituting '10.13' for '4.87'."

Subsec. (c). Pub. L. 99-509 substituted "the Hazardous Substance Superfund financing rate under section 4611 does not apply" for "no tax is imposed under section 4611(a)".

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-509 effective on commencement date as defined in former section 4611(f)(2), see section 8032(d) of Pub. L. 99-509, set out as a note under section 4611 of this title.

Pub. L. 99-499, title V, §513(h), Oct. 17, 1986, 100 Stat. 1765, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 4662 of this title] shall take effect on January 1, 1987.

"(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

"(A) REFUND OF TAX PREVIOUSLY IMPOSED.—

"(i) IN GENERAL.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

"(ii) CONDITION TO ALLOWANCE.—Clause (i) shall not apply to a sale of xylene unless the person who (but for clause (i)) would be liable for the tax imposed by section 4661 on such sale meets requirements similar to the requirements of paragraph (1) of section 6416(a) of such Code. For purposes of the preceding sentence, subparagraph (A) of section 6416(a)(1) of such Code shall be applied without regard to the material preceding 'has not collected'.

"(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act [Oct. 17, 1986] (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

"(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term 'xylene' shall include any isomer of xylene whether or not separated.

"(3) INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (f) [amending section 4662 of this title] shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980 [Pub. L. 96-510, enacting this chapter].

"(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1986.

"(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

"(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (f))

shall apply to exchanges made after December 31, 1986.

“(4) EXPORTS OF TAXABLE SUBSTANCES.—Subclause (II) of section 4662(e)(2)(A)(ii) of such Code (as added by this section) shall not apply to the export of any taxable substance (as defined in section 4672(a) of such Code) before January 1, 1989.

“(5) SALES OF INTERMEDIATE HYDROCARBON STREAMS.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) [amending section 4662 of this title] shall apply as if included in the amendments made by section 211 of the Hazardous Substances Response Revenue Act of 1980.

“(B) PURCHASER MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall apply only if the purchaser agrees to be treated as the manufacturer, producer, or importer for purposes of subchapter B of chapter 38 of such Code.

“(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer of such stream paid the tax imposed by section 4661 with respect to such sale on all taxable chemicals contained in such stream.

“(D) REGISTRATION REQUIREMENTS.—Section 4662(b)(10)(C) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1986.”

EFFECTIVE DATE

Subchapter effective Apr. 1, 1981, see section 211(c) of Pub. L. 96-510, set out as a note under section 4611 of this title.

§ 4662. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Taxable chemical

Except as provided in subsection (b), the term “taxable chemical” means any substance—

(A) which is listed in the table under section 4661(b), and

(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) United States

The term “United States” has the meaning given such term by section 4612(a)(4).

(3) Importer

The term “importer” means the person entering the taxable chemical for consumption, use, or warehousing.

(4) Ton

The term “ton” means 2,000 pounds. In the case of any taxable chemical which is a gas, the term “ton” means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

(5) Fractional part of ton

In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) Exceptions; other special rules

For purposes of this subchapter—

(1) Methane or butane used as a fuel

Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

(2) Substances used in the production of fertilizer

(A) In general

In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia which is a qualified fertilizer substance, no tax shall be imposed under section 4661(a).

(B) Qualified fertilizer substance

For purposes of this section, the term “qualified fertilizer substance” means any substance—

(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fertilizer use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

(C) Qualified fertilizer use

The term “qualified fertilizer use” means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

(D) Taxation of nonqualified sale or use

For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(3) Sulfuric acid produced as a byproduct of air pollution control

In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.

(4) Substances derived from coal

For purposes of this subchapter, the term “taxable chemical” shall not include any substance to the extent derived from coal.

(5) Substances used in the production of motor fuel, etc.

(A) In general

In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

(B) Qualified fuel substance

For purposes of this section, the term “qualified fuel substance” means any substance—

(i) used in a qualified fuel use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fuel use, or