

Amendment by section 511(f) 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.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-458, §3(d), Oct. 14, 1978, 92 Stat. 1257, provided that: "The amendments made by this section [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(26), (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(b)(6)(B), Oct. 4, 1976, 90 Stat. 1834, provided that: "The amendments made by subparagraph (A) [amending this section] shall apply with respect to the use of liquids after December 31, 1970."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, and applicable with respect to taxable years ending after June 30, 1970, respectively, see section 211(a), (b) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §809(f), June 21, 1965, 79 Stat. 168, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 6421 of this title] shall apply with respect to gasoline used on or after July 1, 1965. The amendments made by subsections (c) and (d) [renumbering section 39 as 40, enacting section 39 and amending sections 72, 874, 1314, 1481, 6201, 6211, 6213, and 6401 of this title] shall apply to taxable years beginning on or after July 1, 1965."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, set out as a note under section 6415 of this title.

§ 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes

(a) Nonhighway uses

Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

(b) Intercity, local, or school buses

(1) Allowance

Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

(2) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Exempt purposes

If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4)¹ (5), or (6) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081. The preceding sentence shall apply notwithstanding paragraphs (2) and (3) of subsection (f). Subsection (a) shall not apply to gasoline to which this subsection applies.

(d) Time for filing claims; period covered

(1) In general

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exception

For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).

(3) Application to sales under subsection (c)

For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose.

(e) Definitions

For purposes of this section—

(1) Gasoline

The term "gasoline" has the meaning given to such term by section 4083(a).

¹ So in original. Probably should be followed by a comma.

(2) Off-highway business use**(A) In general**

The term “off-highway business use” means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Uses in boats**(i) In general**

Except as otherwise provided in this subparagraph, the term “off-highway business use” does not include any use in a motorboat.

(ii) Fisheries and whaling

The term “off-highway business use” shall include any use in a vessel employed in the fisheries or in the whaling business.

(C) Uses in mobile machinery**(i) In general**

The term “off-highway business use” shall include any use in a vehicle which meets the requirements described in clause (ii).

(ii) Requirements for mobile machinery

The requirements described in this clause are—

- (I) the design-based test, and
- (II) the use-based test.

(iii) Design-based test

For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(iv) Use-based test

For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle

on public highways was less than 7,500 miles during the taxpayer’s taxable year. This clause shall be applied without regard to use of the vehicle by any organization which is described in section 501(c) and exempt from tax under section 501(a).

(f) Exempt sales; other payments or refunds available**(1) Gasoline used on farms**

This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(2) Gasoline used in aviation

This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in aviation which is not commercial aviation (as defined in section 4083(b)), or

(B) in commercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.

(3) Gasoline used in trains

In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

(g) Applicable laws**(1) In general**

All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(h) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(i) Income tax credit in lieu of payment**(1) Persons not subject to income tax**

Payment shall be made under subsections (a) and (b) only to—

(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under subsection (d)(2).

(3) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(j) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State and² a subdivision of an Indian tribal government as a political subdivision of a State, see section 7871.

(Added June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended July 25, 1956, ch. 725, § 2, 70 Stat. 644; Pub. L. 85-859, title I, §§ 163(d)(3), 164(a), Sept. 2, 1958, 72 Stat. 1312; Pub. L. 86-342, title II, § 201(d)(2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 87-61, title II, § 201(e), June 29, 1961, 75 Stat. 124; Pub. L. 87-508, § 5(c)(2), June 28, 1962, 76 Stat. 118; Pub. L. 89-44, title VIII, § 809(b), June 21, 1965, 79 Stat. 166; Pub. L. 91-258, title II, §§ 205(b)(1), (c)(8), 207(b), May 21, 1970, 84 Stat. 241, 242, 248; Pub. L. 91-605, title III, § 303(a)(11), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, § 303(a)(11), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, § 1906(a)(27)(A)(i), (B)-(D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1827, 1828, 1834; Pub. L. 95-599, title V, § 502(a)(10), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95-618, title II, §§ 222(a)(1), 233(a)(1), (3)(A), Nov. 9, 1978, 92 Stat. 3186, 3190; Pub. L. 96-222, title I, § 108(c)(1), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97-424, title V, §§ 511(c)(1), (3), 515(b)(7), 516(a)(6), Jan. 6, 1983, 96 Stat. 2170, 2171, 2182, 2183; Pub. L. 97-473, title II, § 202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, § 474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99-499, title V, § 521(c)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 99-514, title XVII, § 1703(c)(1), (2)(A), (B), (D), Oct. 22, 1986, 100 Stat. 2776, 2777; Pub. L. 100-17, title V, § 502(b)(7), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, § 10502(d)(9), (10), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 100-647, title I, § 1017(c)(6)-(8), (15), title II, § 2001(d)(3)(E), (F), Nov. 10, 1988, 102 Stat. 3576, 3577, 3595; Pub. L. 101-239, title VII, § 7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, § 11211(d)(6), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, § 8002(b)(6), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§ 13163(b), 13241(f)(6), (7), 13242(d)(20), (22)-(24), Aug. 10, 1993, 107 Stat. 454, 512, 524; Pub. L. 104-188, title I, § 1609(g)(4)(C), Aug. 20, 1996, 110 Stat. 1843; Pub. L. 105-34, title IX, § 902(a), Aug. 5, 1997, 111 Stat. 873; Pub. L. 105-178, title IX, §§ 9006(b)(1), 9009(b)(3), June 9,

1998, 112 Stat. 506, 507; Pub. L. 105-206, title VI, §§ 6010(g)(3), 6023(24)(A), (C), July 22, 1998, 112 Stat. 814, 826; Pub. L. 108-357, title II, § 241(a)(2)(C), title VIII, § 851(d)(1), Oct. 22, 2004, 118 Stat. 1438, 1608; Pub. L. 109-59, title XI, § 11151(b)(3), Aug. 10, 2005, 119 Stat. 1968; Pub. L. 109-280, title XII, § 1207(b)(3)(B), Aug. 17, 2006, 120 Stat. 1070.)

PRIOR PROVISIONS

A prior section 6421 was renumbered section 6422 of this title.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-280, which directed the substitution of “(5), or (6)” for “or (5)” in section 6421(c), without specifying the act to be amended, was executed by making the substitution in subsec. (c) of this section, which is section 6421 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (f)(2)(A). Pub. L. 109-59, § 11151(b)(3)(A), substituted “aviation which is not commercial aviation (as defined in section 4083(b))” for “noncommercial aviation (as defined in section 4041(c)(2))”.

Subsec. (f)(2)(B). Pub. L. 109-59, § 11151(b)(3)(B), substituted “commercial aviation” for “aviation which is not noncommercial aviation”.

2004—Subsec. (e)(2)(C). Pub. L. 108-357, § 851(d)(1), added subpar. (C).

Subsec. (f)(3)(B). Pub. L. 108-357, § 241(a)(2)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

“(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

“(iii) 4.3 cents per gallon after October 31, 1998.”

1998—Subsecs. (a), (b)(1). Pub. L. 105-206, § 6023(24)(C), substituted “subsection (i)” for “subsection (j)”.

Subsec. (c). Pub. L. 105-206, § 6010(g)(3), substituted “(2) and (3)” for “(2)(A) and (3)” and inserted at end “Subsection (a) shall not apply to gasoline to which this subsection applies.”

Subsec. (d)(2). Pub. L. 105-178, § 9009(b)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

Subsec. (f)(3)(B)(ii). Pub. L. 105-178, § 9006(b)(1)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (f)(3)(B)(iii). Pub. L. 105-178, § 9006(b)(1)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (i) to (k). Pub. L. 105-206, § 6023(24)(A), redesignated subsecs. (j) and (k) as (i) and (j), respectively.

1997—Subsec. (e)(2)(B)(iii), (iv). Pub. L. 105-34 struck out cls. (iii) and (iv) which read as follows:

“(iii) EXCEPTION FOR DIESEL FUEL.—The term ‘off-highway business use’ shall include the use of diesel fuel in a boat in the active conduct of—

“(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

“(II) except as provided in clause (iv), any other trade or business.

“(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

“(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

² So in original. Probably should be “(and)”.

- “(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999.”
- 1996—Subsec. (f)(2)(A). Pub. L. 104-188 substituted “4041(c)(2)” for “4041(c)(4)”.
- 1993—Subsec. (c). Pub. L. 103-66, §13242(d)(22), inserted at end “The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f).”
- Subsec. (e)(1). Pub. L. 103-66, §13242(d)(20), substituted “section 4083(a)” for “section 4082(b)”.
- Subsec. (e)(2)(B). Pub. L. 103-66, §13163(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘off-highway business use’ does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.”
- Subsec. (f)(2)(B). Pub. L. 103-66, §13242(d)(23), inserted before period at end “and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon”.
- Subsec. (f)(3). Pub. L. 103-66, §13242(d)(24), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate on gasoline used as a fuel in a train.”
- Pub. L. 103-66, §13241(f)(6), inserted “and deficit reduction tax” after “tax” in heading and “and at the deficit reduction rate” after “financing rate” in text.
- Subsec. (i). Pub. L. 103-66, §13241(f)(7), struck out heading and text of subsec. (i). Text read as follows: “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.”
- 1991—Subsec. (i). Pub. L. 102-240 substituted “1999” for “1995”.
- 1990—Subsec. (i). Pub. L. 101-508 substituted “1995” for “1993”.
- 1989—Subsec. (g)(2). Pub. L. 101-239 substituted “section 7602(a)” for “section 7602”.
- 1988—Subsec. (a). Pub. L. 100-647, §2001(d)(3)(F), substituted “paragraph (2) of subsection (f)” for “paragraph (3) of subsection (e)”.
- Pub. L. 100-647, §1017(c)(7), substituted “subsection (j)” for “subsection (i)”.
- Subsec. (b)(1). Pub. L. 100-647, §1017(c)(7), substituted “subsection (j)” for “subsection (i)”.
- Subsec. (d)(3). Pub. L. 100-647, §1017(c)(15), added par. (3).
- Subsec. (f)(2). Pub. L. 100-647, §2001(d)(3)(E), added par. (2) and struck out former par. (2) which read as follows: “This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in non-commercial aviation (as defined in section 4041(c)(4)).”
- Subsec. (f)(3). Pub. L. 100-647, §2001(d)(3)(E), added par. (3).
- Subsec. (f)(4). Pub. L. 100-647, §2001(d)(3)(E), struck out par. (4) which read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business.”
- Subsec. (i). Pub. L. 100-647, §1017(c)(6), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j).
- Subsec. (j). Pub. L. 100-647, §1017(c)(6), (8), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j), and substituted “subsection (d)(2)” for “subsection (c)(2)” in par. (2). Former subsec. (j) redesignated (k).
- Subsec. (k). Pub. L. 100-647, §1017(c)(6), redesignated former subsec. (j) as (k).
- 1987—Subsec. (e)(2)(C). Pub. L. 100-203, §10502(d)(9), struck out subpar. (C) which specified section 4221(a)(3) and (d)(3), section 6416(b)(2)(B), and section 4041(g)(1) as provisions exempting from tax, gasoline and special motor fuels used for commercial fishing vessels.
- Subsec. (i). Pub. L. 100-17 substituted “1993” for “1988” in the subsec. (h) which was redesignated (i) by section 1703(c) of Pub. L. 99-514.
- Subsec. (j). Pub. L. 100-203, §10502(d)(10), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: “For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.”
- 1986—Pub. L. 99-514, §1703(c)(2)(D), substituted “, used by local transit systems, or sold for certain exempt purposes” for “or by local transmit systems” in section catchline.
- Subsec. (c). Pub. L. 99-514, §1703(c)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).
- Subsec. (d). Pub. L. 99-514, §1703(c)(1)(A), (2)(A), redesignated subsec. (c) as (d) and, in par. (1), substituted “not more than claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)” for “and not more than one claim may be filed under subsection (b)”. Former subsec. (d) redesignated (e).
- Subsec. (e). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).
- Subsec. (e)(4). Pub. L. 99-499, §521(c)(2)(B), added par. (4).
- Subsec. (f). Pub. L. 99-514, §1703(c)(1)(A), (2)(B), redesignated subsec. (e) as (f), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) “Exempt sales” which read as follows: “No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.” Former subsec. (f) redesignated (g).
- Subsec. (g). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).
- Subsec. (h). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).
- Pub. L. 99-499, §521(c)(2)(A), substituted “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section” for “This section”.
- Subsec. (i). Pub. L. 99-514, §1703(c)(1)(A), redesignated subsec. (h), relating to effective date, as (i).
- 1984—Subsec. (i)(3). Pub. L. 98-369 substituted “section 34” for “section 39”.
- 1983—Subsec. (a). Pub. L. 97-424, §511(c)(1), substituted provision that, except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081, for provision that, except as provided in subsection (i), if gasoline were used in a qualified business use, the Secretary would pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax had been paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax had been paid at the rate of 4 cents a gallon.
- Subsec. (d)(2). Pub. L. 97-424, §511(c)(3), substituted “Off-Highway” for “Qualified” in heading, and “off-highway business use” for “qualified business use” wherever appearing in text.
- Subsec. (d)(2)(C). Pub. L. 97-424, §515(b)(7), substituted “and special motor fuels” for “, special motor fuels, and lubricating oil” after “gasoline”.
- Subsec. (h). Pub. L. 97-424, §516(a)(6), substituted “1988” for “1984”.
- Subsec. (j)(4). Pub. L. 97-473 added par. (4).
- 1980—Subsec. (d)(2)(B). Pub. L. 96-222 inserted provisions requiring that the preceding sentence not apply

to use in a vessel employed in the fisheries or in the whaling business.

1978—Subsec. (a). Pub. L. 95-618, §222(a)(1)(A), substituted “Except as provided in subsection (i), if gasoline is used in a qualified business use” for “Except as provided in subsection (i), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a vehicle owned by the United States, is used on the highway”.

Subsec. (b). Pub. L. 95-618, §233(a)(1), among other changes, provided for the refund or credit of the taxes paid on gasoline but only to the extent such gasoline is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Subsec. (d)(2). Pub. L. 95-618, §233(a)(3)(A), redesignated par. (3) as (2), and struck out former par. (2) which defined “commuter fare revenue”.

Subsec. (d)(3). Pub. L. 95-618, §§222(a)(1)(B), 233(a)(3)(A), added par. (3) and redesignated former par. (3) as (2).

Subsec. (h). Pub. L. 95-599 substituted “1984” for “1979”.

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(27)(A)(i), (b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing, and substituted “in the case of gasoline used as a fuel” for “in the case of gasoline used after June 30, 1970, as a fuel”.

Subsec. (b)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(a)(27)(B), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person’s first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (e)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(3). Pub. L. 94-455, §1906(a)(27)(A)(i), struck out “after June 30, 1970,” after “used”.

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

Subsec. (h). Pub. L. 94-455, §1906(a)(27)(C), struck out “after June 30, 1956, and” after “purchased”.

Pub. L. 94-280 substituted “1979” for “1977”.

Subsec. (i)(1). Pub. L. 94-455, §1906(a)(27)(D)(i), struck out “with respect to gasoline used after June 30, 1965,” after “subsections (a) and (b)”.

Subsec. (i)(2). Pub. L. 94-455, §1906(a)(27)(D)(ii), substituted “subsection (c)(2)” for “subsection (c)(3)(B)”.

Subsec. (i)(3). Pub. L. 94-455, §1906(a)(27)(D)(iii), struck out “for gasoline used after June 30, 1965” after “subtitle A”.

1970—Subsec. (a). Pub. L. 91-258, §205(b)(1)(A), inserted requirement that, except as provided in par. (3) of subsec. (e) of this section, where gasoline is used after June 30, 1970, as a fuel in an aircraft, the Secretary or his delegate pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

Subsec. (c)(3)(A)(ii). Pub. L. 91-258, §207(b), substituted “a claim for credit or refund of overpayment of income tax” for “an income tax return” after “time prescribed by law for filing”.

Subsec. (e)(3). Pub. L. 91-258, §205(b)(1)(B), added par. (3).

Subsec. (h). Pub. L. 91-605 substituted “1977” for “1972”.

Subsec. (j)(1). Pub. L. 91-258, §205(c)(8), substituted “For rate of tax in case of special fuels used in non-commercial aviation or for nonhighway purposes, see section 4041” for “For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041”.

Subsec. (j)(2). Pub. L. 91-258, §205(c)(8), redesignated par. (4) as (2). Former par. (2), which provided “For par-

tial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J)”, was struck out.

Subsec. (j)(3). Pub. L. 91-258, §205(c)(8), redesignated par. (5) as (3). Former par. (3), which provided “For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H)”, was struck out.

Subsec. (j)(4), (5). Pub. L. 91-258, §205(c)(8), redesignated pars. (4) and (5) as (2) and (3), respectively.

1965—Subsec. (a). Pub. L. 89-44, §809(b)(1)(A), substituted “Except as provided in subsection (i), if” for “If”.

Subsec. (b). Pub. L. 89-44, §809(b)(1)(A), substituted “Except as provided in subsection (i), if” for “If”.

Subsec. (c)(1). Pub. L. 89-44, §809(b)(2)(A), struck out “General rule” in heading and inserted in lieu thereof “Gasoline used before July 1, 1965”, and substituted “paragraphs (2) and (3)” for “Paragraph (2)” after “Except as provided in”.

Subsec. (c)(2). Pub. L. 89-44, §809(b)(2)(B), substituted “Except as provided in paragraph (3), if” for “If”.

Subsec. (c)(3). Pub. L. 89-44, §809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89-44, §809(b)(3), substituted “payable” for “paid” in first sentence.

Subsecs. (i), (j). Pub. L. 89-44, §809(b)(1)(B), added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (b)(1)(B), (2). Pub. L. 87-508, §5(c)(2)(A), substituted “commuter fare revenue” for “tax-exempt passenger fare revenue” in two places and struck out “(not including the tax imposed by section 4261, relating to the tax on transportation of persons)” after “total passenger fare revenue” in two places.

Subsec. (d)(2). Pub. L. 87-508, §5(c)(2)(B), substituted definition of “commuter fare revenue” for definition of “tax-exempt passenger fare revenue”.

1961—Subsec. (h). Pub. L. 87-61, substituted “October 1, 1972” for “July 1, 1972”.

1959—Subsec. (a). Pub. L. 86-342 substituted “1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon” for “1 cent for each gallon of gasoline so used”.

Subsec. (b)(1)(A). Pub. L. 86-342 substituted “1 cent at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon” for “1 cent for each gallon of gasoline so used”.

1958—Subsec. (c). Pub. L. 85-859, §164(a), permitted, in cases where \$1,000 or more is payable to any person with respect to gasoline used during a calendar quarter, the filing of a claim on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

Subsec. (i)(2), (3). Pub. L. 85-859, §163(d)(3), substituted “section 6416(b)(2)(I) and (J)” for “section 6416(b)(2) (J) and (K)” in cl. (2), and “section 6416(b)(2)(H)” for “section 6416(b)(2)(L)” in cl. (3).

1956—Subsec. (d)(2). Act July 25, 1956, substituted “4263(a)” for “4262(b)”.

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 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11151(f)(1) of Pub. L. 109-59, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(C) of Pub. L. 108-357 effective Jan. 1, 2005, see section 241(c) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Amendment by section 851(d)(1) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 851(d)(4) of Pub. L. 108-357, set out as a note under section 4082 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 6023(24)(A), (C) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(3) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

Pub. L. 105-178, title IX, §9009(c), June 9, 1998, 112 Stat. 507, provided that: "The amendments made by this section [amending this section and section 6427 of this title] shall take effect on October 1, 1998."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective Jan. 1, 1998, see section 902(c) of Pub. L. 105-34, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104-188, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13163(b) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13163(d) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13241(f)(6), (7) of Pub. L. 103-66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20), (22)-(24) of 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 1988 AMENDMENT

Amendment by section 1017(c)(6)-(8), (15) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 2001(d)(3)(E), (F) 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by 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 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

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 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(c)(1), (3) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97-424, set out as a note under section 4041 of this title.

Amendment by section 515(b)(7) 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 AMENDMENT

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 AMENDMENT

Amendment by section 222(a)(1) of Pub. L. 95-618 applicable with respect to uses after Dec. 31, 1978, see section 222(b) of Pub. L. 95-618, set out as a note under section 4041 of this title.

Amendment by section 233(a)(1), (3)(A) 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.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1906(a)(27)(A)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: "The amendments made by clause (i) [amending this section] shall only apply with respect to gasoline used as a fuel after June 30, 1970."

Amendment by section 1906(a)(27)(B)-(D), (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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 205(b)(1), (c)(8) of Pub. L. 91-258 effective July 1, 1970, and amendment by section 207(b) of Pub. L. 91-258 applicable with respect to taxable years ending after June 30, 1970, see section 211(a), (b) 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 applicable with respect to gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 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)(2) [amending this section] shall apply only in respect of claims filed with respect to gasoline used on or after November 16, 1962."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective July 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 163(d)(3) of Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, set out as a note under section 6415 of this title.

Pub. L. 85-859, title I, §164(b), Sept. 2, 1958, 72 Stat. 1312, provided that: "The amendment made by subsection (a) [amending this section] shall apply only

with respect to claims the last day for the filing of which occurs after the effective date specified in section 1(c) of this Act.”

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 25, 1956, applicable to amounts paid on or after first day of first month which begins more than sixty days after July 25, 1956, for transportation commencing on or after such first day, see section 6 of act July 25, 1956, set out as a note under section 4261 of this title.

§ 6422. Cross references

- (1) For limitations on credits and refunds, see chapter B of chapter 66.
- (2) For overpayment in case of adjustments to accrued foreign taxes, see section 905(c).
- (3) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.
- (4) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.
- (5) For refund or redemption of stamps, see chapter 69.
- (6) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.
- (7) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).¹
- (8) For restrictions on transfers and assignments of claims against the United States, see section 3727 of title 31, United States Code.
- (9) For set-off of claims against amounts due the United States, see section 3728 of title 31, United States Code.
- (10) For special provisions relating to alcohol and tobacco taxes, see subtitle E.
- (11) for² credit or refund in case of deficiency dividends paid by a regulated investment company or real estate investment trust, see section 860.
- (12) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.

(Aug. 16, 1954, ch. 736, 68A Stat. 802, §6420; renumbered §6421, Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; renumbered §6422, June 29, 1956, ch. 462, title II, §208(c), 70 Stat. 394; amended Pub. L. 85-859, title II, §204(4), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 88-36, title II, §201(c), June 4, 1963, 77 Stat. 54; Pub. L. 94-455, title XVI, §1601(f)(1), title XIX, §§1901(b)(36)(B), 1906(a)(28), Oct. 4, 1976, 90 Stat. 1746, 1802, 1828; Pub. L. 95-600, title III, §362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97-248, title IV, §402(c)(4), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97-258, §3(f)(8), (9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101-508, title XI, §11801(c)(17)(A), Nov. 5, 1990, 104 Stat. 1388-527; Pub. L. 105-34, title XI, §1131(c)(3), Aug. 5, 1997, 111 Stat. 980; Pub. L. 114-74, title XI, §1101(f)(2), Nov. 2, 2015, 129 Stat. 637.)

AMENDMENT OF SECTION

Pub. L. 114-74, title XI, §1101(f)(2), (g), Nov. 2, 2015, 129 Stat. 637, 638, provided that, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, this section is amended by striking paragraph (12). See 2015 Amendment note below.

¹ See References in Text note below.

² So in original. Probably should be capitalized.

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in par. (7), is section 9 of act Mar. 8, 1946, ch. 82, 60 Stat. 46, which was repealed by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

2015—Par. (12). Pub. L. 114-74 struck out par. (12) which read as follows: “For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.”

1997—Pars. (5) to (13). Pub. L. 105-34 struck out par. (5) and redesignated pars. (6) to (13) as (5) to (12), respectively. Prior to amendment, par. (5) read as follows: “For abatement or refund of tax on transfers to avoid income tax, see section 1494(b).”

1990—Pub. L. 101-508 struck out par. (6) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (7) to (12), (14), and (15)) by redesignating such pars. as (6) to (13), respectively. Prior to amendment, par. (6) provided a cross reference to section 1481 of this title for overpayment in certain renegotiations of war contracts.

1982—Par. (10). Pub. L. 97-258, §3(f)(8), substituted “section 3727 of title 31, United States Code” for “R.S. 3477 (31 U.S.C. 203)”.

Par. (11). Pub. L. 97-258, §3(f)(9), substituted “section 3728 of title 31, United States Code” for “the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)”.

Par. (15). Pub. L. 97-248 added par. (15).

1978—Par. (14). Pub. L. 95-600 inserted “regulated investment company or” before “real estate investment trust” and substituted “section 860” for “section 859”.

1976—Par. (2). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (3) as (2). Former par. (2), which set forth a cross reference to section 1321 of this title for overpayment arising out of adjustments incident to involuntary liquidation of inventory, was struck out.

Pars. (3) to (8). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (4) to (9) as (3) to (8), respectively.

Par. (9). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(A), redesignated par. (10) as (9) and substituted “(50 U.S.C. App. 1742)” for “(60 Stat. 48; 50 U.S.C. App. 1742)”. Former par. (9) redesignated (8).

Par. (10). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Par. (11). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(B), redesignated par. (12) as (11) and substituted “(31 U.S.C. 227)” for “(47 Stat. 1516; 31 U.S.C. 227)”. Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (12) and (13) as (11) and (12), respectively.

Par. (14). Pub. L. 94-455, §1601(f)(1), added par. (14).

1963—Pars. (7) to (14). Pub. L. 88-36 redesignated pars. (8) to (14) as (7) to (13), respectively. Former par. (7), which was cross reference provision for abatement or refund in case of tax on silver bullion to section 4894, was struck out.

1958—Pub. L. 85-859 substituted “subtitle E” for “sections 5011, 5044, 5057, 5063, 5705, and 5707” in par. (14).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as a note under section 6221 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section