

“(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—

“(1) beginning after December 31, 2013, and ending before January 1, 2017, and

“(2) beginning after December 31, 2017.”

[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. ¹
[A. Repealed.]	
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.

A prior section 4003, acts Aug. 16, 1954, ch. 736, 68A Stat. 474; Sept. 2, 1958, Pub. L. 85-859, title I, §102, 72 Stat. 1276, specified exemptions to tax imposed by section 4001.

A prior section 4011, act Aug. 16, 1954, ch. 736, 68A Stat. 475, imposed an excise tax equivalent to 10 percent of selling price upon fur articles.

A prior section 4012, act Aug. 16, 1954, ch. 736, 68A Stat. 475, defined “article sold at retail” to include ar-

¹ Section numbers editorially supplied.

ticles manufactured from material supplied by customer and articles sold at auction.

A prior section 4013, act Aug. 16, 1954, ch. 736, 68A Stat. 475, specified exemptions to tax imposed by section 4011.

A prior section 4021, acts Aug. 16, 1954, ch. 736, 68A Stat. 476; Apr. 8, 1960, Pub. L. 86-413, § 1, 74 Stat. 31, imposed an excise tax equivalent to 10 percent of selling price upon toilet preparations.

A prior section 4022, act Aug. 16, 1954, ch. 736, 68A Stat. 476, specified certain exemptions from tax imposed by section 4021, including items for babies, items used in barber shops and beauty parlors, and miniature samples.

A prior section 4031, acts Aug. 16, 1954, ch. 736, 68A Stat. 477; Sept. 2, 1958, Pub. L. 85-859, title I, § 103, 72 Stat. 1276, imposed an excise tax equivalent to 10 percent of selling price upon luggage and handbags, including billfolds and wallets, traveler's garment bags, and briefcases.

A prior section 4042, act Aug. 16, 1954, ch. 736, 68A Stat. 478, provided a cross reference to section 4222 for exemption from tax where special motor fuels are sold for use for certain vessels.

A prior section 4051, act Aug. 16, 1954, ch. 736, 68A Stat. 479, defined price for which articles were sold for purposes of determining retailers excise taxes.

A prior section 4052, act Aug. 16, 1954, ch. 736, 68A Stat. 479, provided that lease of an article would be considered sale of article for excise tax purposes.

A prior section 4053, acts Aug. 16, 1954, ch. 736, 68A Stat. 479; Sept. 2, 1958, Pub. L. 85-859, title I, § 104, 72 Stat. 1276, made provision for imposition of retailers tax on installment sales.

A prior section 4054, act Aug. 16, 1954, ch. 736, 68A Stat. 479, related to application of taxes to retail sales by United States or by any agency or instrumentality of United States unless specifically exempted from such tax.

A prior section 4055, act Aug. 16, 1954, ch. 736, 68A Stat. 480; June 21, 1965, Pub. L. 89-44, title I, § 101(b)(3), 79 Stat. 136, exempted from taxes articles sold for exclusive use of any State, Territory of United States, or any political subdivision thereof, or District of Columbia, including use by such entities of any liquid as a fuel.

A prior section 4056, act Aug. 16, 1954, ch. 736, 68A Stat. 480, provided that no tax shall be imposed upon sale of any article for export, or for shipment to a possession of United States and in due course so shipped and exported.

A prior section 4057, added Pub. L. 85-859, title I, § 105(a), Sept. 2, 1958, 72 Stat. 1277; amended Pub. L. 86-344, § 2(a), Sept. 21, 1959, 73 Stat. 617; Pub. L. 89-44, title I, § 101(b)(4), June 21, 1965, 79 Stat. 136; Pub. L. 91-172, title I, § 101(j)(25), Dec. 30, 1969, 83 Stat. 528, provided an exception with respect to sale of any article to a non-profit educational organization for its exclusive use including use of any liquid as a fuel and defined "non-profit educational organization".

A prior section 4058, act Aug. 16, 1954, ch. 736, 68A Stat. 480, § 4058, formerly 4057; renumbered Sept. 2, 1958, Pub. L. 85-859, title I, § 105(a), 72 Stat. 1277, related to cross references for exemption of sales to United States in certain cases and administrative provisions of general application.

AMENDMENTS

2014—Pub. L. 113-295, div. A, title II, § 221(a)(103)(A), Dec. 19, 2014, 128 Stat. 4052, struck out item for subchapter A "Luxury passenger vehicles".

1993—Pub. L. 103-66, title XIII, § 13161(b)(3), Aug. 10, 1993, 107 Stat. 453, substituted "Luxury passenger vehicles" for "Certain luxury items" in item for subchapter A.

1990—Pub. L. 101-508, title XI, § 11221(e), Nov. 5, 1990, 104 Stat. 1388-444, added item for subchapter A and redesignated former items for subchapters A and B as B and C, respectively.

1983—Pub. L. 97-424, title V, § 512(b)(2)(A), Jan. 6, 1983, 96 Stat. 2177, substituted "Retail Excise Taxes" for

"Special Fuels" in chapter heading, and added an analysis for subchapters A and B.

1976—Pub. L. 94-455, title XIX, § 1904(a)(1)(A), Oct. 4, 1976, 90 Stat. 1810, substituted "Special Fuels" for "Retailers Excise Taxes" in chapter heading.

[Subchapter A—Repealed]

PRIOR PROVISIONS

This subchapter consisted of part I with subparts A (§§ 4001-4004) and B (§§ 4006, 4007) and part II (§§ 4011, 4012), prior to being amended generally by Pub. L. 103-66, title XIII, § 13161(a), Aug. 10, 1993, 107 Stat. 449.

Another prior subchapter A of chapter 31 was redesignated subchapter B by Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-438.

[§§ 4001 to 4003, Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(103)(A), Dec. 19, 2014, 128 Stat. 4052]

Section 4001, 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. 449; Pub. L. 104-188, title I, §§ 1607(a), (b), 1703(c)(1), Aug. 20, 1996, 110 Stat. 1839, 1875; Pub. L. 105-34, title IX, § 906(a)-(b)(2), title XVI, § 1601(f)(3)(A), (B), Aug. 5, 1997, 111 Stat. 874, 875, 1090, provided for imposition of tax on luxury passenger vehicles.

Section 4002, 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, related to 1st retail sale, uses treated as sales, and determination of price.

Section 4003, 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, related to special rules for separate purchase of vehicles, parts and accessories.

Prior sections 4004, 4006, 4007, 4011, and 4012 of this title were omitted in the general revision of this subchapter by Pub. L. 103-66, title XIII, § 13161(a), Aug. 10, 1993, 107 Stat. 449.

Section 4004, added Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-440; amended Pub. L. 103-66, title XIII, § 13162(a), Aug. 10, 1993, 107 Stat. 453, related to certain rules applicable to former subpart A of part I of this subchapter.

Section 4006, added Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-441, related to imposition of tax on 1st retail sale of jewelry.

Section 4007, added Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-442, related to imposition of tax on 1st retail sale of furs.

Section 4011, added Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-442, provided definitions and special rules for purposes of this subchapter.

Section 4012, added Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-444, provided that taxes imposed by this subchapter did not apply to any sale or use after Dec. 31, 1999.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

Subchapter B—Special Fuels

Sec. 4041.	Imposition of tax.
4042.	Tax on fuel used in commercial transportation on inland waterways.
4043.	Surtax on fuel used in aircraft part of a fractional ownership program.

PRIOR PROVISIONS

A prior subchapter B of chapter 31 was redesignated subchapter C by Pub. L. 101-508, title XI, § 11221(a), Nov. 5, 1990, 104 Stat. 1388-438.