

§ 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 house-

hold 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—