

“(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.
4132.	Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter C consisted of sections 4141 to 4143, 4151, and 4152 of this title.

Section 4141, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Aug. 11, 1955, ch. 805, §2(a), 69 Stat. 690; Sept. 2, 1958, Pub. L. 85–859, title I, §113(a), 72 Stat. 1278, imposed a tax equivalent to 10 percent of selling price on radio and television receiving sets, phonographs, radio, television, and phonograph combinations, components, and phonograph records, prior to repeal by Pub. L. 89–44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4142, acts Aug. 16, 1954, ch. 736, 68A Stat. 487; Sept. 2, 1958, Pub. L. 85–859, title I, §113(a), 72 Stat. 1278;

Oct. 13, 1964, Pub. L. 88-653, §6(a), 78 Stat. 1086, defined "radio and television components" and provided formula to determine selling price of rebuilt television picture tubes, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4143, Pub. L. 85-859, title I, §113(a), Sept. 2, 1958, 72 Stat. 1278, granted an exemption for certain types of communication, detection, and navigation equipment and components, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4151, act Aug. 16, 1954, ch. 736, 68A Stat. 488, imposed a tax equivalent to 10 percent of selling price upon the sale of musical instruments, prior to repeal by Pub. L. 89-44, title II, §204, June 21, 1965, 79 Stat. 140, applicable with respect to articles sold on or after June 22, 1965.

Section 4152, act Aug. 16, 1954, ch. 736, 68A Stat. 488, related to exemption of musical instruments sold for religious or educational use, prior to repeal by Pub. L. 85-859, title I, §119(b)(2), Sept. 2, 1958, 72 Stat. 1286, effective on the first day of the first calendar quarter which began more than 60 days after Sept. 2, 1958.

§ 4131. Imposition of tax

(a) General rule

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

(b) Amount of tax

(1) In general

The amount of the tax imposed by subsection (a) shall be 75 cents per dose of any taxable vaccine.

(2) Combinations of vaccines

If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.

(c) Application of section

The tax imposed by this section shall apply— (1) after December 31, 1987, and before January 1, 1993, and

(2) during periods after the date of the enactment of the Revenue Reconciliation Act of 1993.

(Added Pub. L. 100-203, title IX, §9201(a), Dec. 22, 1987, 101 Stat. 1330-327; amended Pub. L. 103-66, title XIII, §13421(a), Aug. 10, 1993, 107 Stat. 565; Pub. L. 105-34, title IX, §904(a), Aug. 5, 1997, 111 Stat. 873.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1993, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 103-66, which was approved Aug. 10, 1993.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

Table with 2 columns: 'If the taxable vaccine is:' and 'The tax per dose is:'. Row 1: DPT vaccine \$4.56

“If the taxable vaccine is: The tax per dose is:

Table with 2 columns: Vaccine type and Tax per dose. Row 1: DT vaccine 0.06. Row 2: MMR vaccine 4.44. Row 3: Polio vaccine 0.29.

“(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.”

1993—Subsec. (c). Pub. L. 103-66 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to termination of tax if amounts collected exceeded projected fund liability.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §904(d), Aug. 5, 1997, 111 Stat. 874, provided that: “The amendments made by this section [amending this section and section 4132 of this title] shall take effect on the day after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE

Pub. L. 100-203, title IX, §9201(d), Dec. 22, 1987, 101 Stat. 1330-330, provided that: “The amendments made by this section [enacting this section and section 4132 of this title and amending sections 4221 and 6416 of this title] shall take effect on January 1, 1988.”

FLOOR STOCKS TAX

Pub. L. 103-66, title XIII, §13421(c), Aug. 10, 1993, 107 Stat. 566, provided that:

“(1) IMPOSITION OF TAX.—On any taxable vaccine—

“(A) which was sold by the manufacturer, producer, or importer on or before the date of the enactment of this Act [Aug. 10, 1993],

“(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

“(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

“(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

“(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.”

§ 4132. Definitions and special rules

(a) Definitions relating to taxable vaccines

For purposes of this subchapter—

(1) Taxable vaccine

The term “taxable vaccine” means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing: