

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

“(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.”

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-128, §1(a), Nov. 26, 1969, 83 Stat. 261, provided that: “This Act [amending this section and sections 4911, 4912, 4914, 4915, 4919, 4920, 6011, and 6680 of this title and enacting provisions set out as notes under section 6680 of this title] may be cited as the ‘Interest Equalization Tax Extension Act of 1969.’”

[Subchapter E—Repealed]

PRIOR PROVISIONS

A prior subchapter E consisted of sections 4191, 4192, 4201, and 4211 of this title, prior to repeal by Pub. L. 89-44, title II, §206, title VII, §701(a), June 21, 1965, 79 Stat. 140, 155, applicable with respect to articles sold on or after June 22, 1965.

Section 4191, act Aug. 16, 1954, ch. 736, 68A Stat. 491, imposed a tax equivalent to 10 percent of the selling price upon over fifty specified office and business machines including adding machines, bookkeeping machines, cash registers, punch card and computing machines, typewriters, and tabulating machines.

Section 4192, acts Aug. 16, 1954, ch. 736, 68A Stat. 491; Sept. 2, 1958, Pub. L. 85-859, title I, §114(a), 72 Stat. 1278, granted an exemption for cash registers used in registering over-the-counter retail sales and for stencil cutting machines.

Section 4201, acts Aug. 16, 1954, ch. 736, 68A Stat. 492; Sept. 14, 1960, Pub. L. 86-779, §9(a), 74 Stat. 1003, imposed a tax equivalent to 10 percent of the selling price on mechanical pencils, fountain pens, and ballpoint pens and 10 cents on mechanical cigarette lighters.

Section 4211, act Aug. 16, 1954, ch. 736, 68A Stat. 492, imposed a tax of 2 cents per 1,000 for matches, except fancy wooden matches, and a tax of 5½ cents per 1,000 on fancy wooden matches.

[§ 4191. Repealed. Pub. L. 116-94, div. N, title I, § 501(a), Dec. 20, 2019, 133 Stat. 3118]

Section, added Pub. L. 111-152, title I, §1405(a)(1), Mar. 30, 2010, 124 Stat. 1064; amended Pub. L. 114-113, div. Q, title I, §174(a), Dec. 18, 2015, 129 Stat. 3071; Pub. L. 115-120, div. D, §4001(a), Jan. 22, 2018, 132 Stat. 38, imposed on the sale of any taxable medical device by the manufacturer, producer, or importer a tax equal to 2.3 percent of the price for which so sold.

For prior sections 4191, 4192, 4201, and 4211, see Prior Provisions note set out preceding this section.

EFFECTIVE DATE OF REPEAL

Repeal applicable to sales after Dec. 31, 2019, see section 501(d) of Pub. L. 116-94, set out as an Effective Date of 2019 Amendment note under section 4221 of this title.

Subchapter F—Special Provisions Applicable to Manufacturers Tax

Sec.	
4216.	Definition of price.
4217.	Leases.
4218.	Use by manufacturer or importer considered sale.
4219.	Application of tax in case of sales by other than manufacturer or importer.
[4220 to 4225. Repealed.]	

AMENDMENTS

1958—Pub. L. 85-859, title I, §§117(d), 119(b)(3), Sept. 2, 1958, 72 Stat. 1281, 1286, substituted “Leases” for “Lease

considered sale” in item 4217, and struck out items 4220 to 4225.

1956—Act June 29, 1956, ch. 462, title II, §207(b), 70 Stat. 392, added item 4226 and redesignated former item 4226 as 4227.

§ 4216. Definition of price

(a) Containers, packing and transportation charges.

In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Secretary in accordance with the regulations.

(b) Constructive sale price

(1) In general

If an article is—

(A) sold at retail,

(B) sold on consignment, or

(C) sold (otherwise than through an arm’s length transaction) at less than the fair market price,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. In the case of an article sold at retail, the computation under the preceding sentence shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. This paragraph shall not apply if paragraph (2) applies.

(2) Special rule

If an article is sold at retail or to a retailer, and if—

(A) the manufacturer, producer, or importer of such article regularly sells such articles at retail or to retailers, as the case may be,

(B) the manufacturer, producer, or importer of such article regularly sells such articles to one or more wholesale distributors in arm’s length transactions and he establishes that his prices in such cases are determined without regard to any tax benefit under this paragraph, and

(C) the transaction is an arm’s length transaction,

the tax under this chapter shall (if based on the price for which the article is sold) be computed on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold by such manufacturer, pro-