

§ 4611. Imposition of tax**(a) General Rule**

There is hereby imposed a tax at the rate specified in subsection (c) on—

- (1) crude oil received at a United States refinery, and
- (2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) Tax on certain uses and exportation**(1) In general**

If—

- (A) any domestic crude oil is used in or exported from the United States, and
- (B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax at the rate specified in subsection (c) is hereby imposed on such crude oil.

(2) Exception for use on premises where produced

Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) Rate of tax**(1) In general**

The rate of the taxes imposed by this section is the sum of—

- (A) the Hazardous Substance Superfund financing rate, and
- (B) the Oil Spill Liability Trust Fund financing rate.

(2) Rates

For purposes of paragraph (1)—

- (A) the Hazardous Substance Superfund financing rate is 9.7 cents a barrel, and
- (B) the Oil Spill Liability Trust Fund financing rate is—
 - (i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and
 - (ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.

(d) Persons liable for tax**(1) Crude oil received at refinery**

The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) Imported petroleum product

The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) Tax on certain uses or exports

The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

(e) Application of Hazardous Substance Superfund financing rate**(1) In general**

Except as provided in paragraphs (2) and (3), the Hazardous Substance Superfund financing

rate under this section shall apply after December 31, 1986, and before January 1, 1996.

(2) No tax if unobligated balance in Fund exceeds \$3,500,000,000

If on December 31, 1993, or December 31, 1994—

- (A) the unobligated balance in the Hazardous Substance Superfund exceeds \$3,500,000,000, and

- (B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance in the Hazardous Substance Superfund will exceed \$3,500,000,000 on December 31 of 1994 or 1995, respectively, if no tax is imposed under this section and sections 4661 and 4671,

then no tax shall be imposed under this section (to the extent attributable to the Hazardous Substance Superfund financing rate) during 1994 or 1995, as the case may be.

(3) No tax if amounts collected exceed \$11,970,000,000**(A) Estimates by Secretary**

The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under this section (to the extent attributable to the Hazardous Substance Superfund financing rate) and sections 4661 and 4671 and credited to the Hazardous Substance Superfund during the period beginning January 1, 1987, and ending December 31, 1995.

(B) Termination if \$11,970,000,000 credited before January 1, 1996

If the Secretary estimates under subparagraph (A) that more than \$11,970,000,000 will be credited to the Fund before January 1, 1996, the Hazardous Substance Superfund financing rate under this section shall not apply after the date on which (as estimated by the Secretary) \$11,970,000,000 will be so credited to the Fund.

(f) Application of Oil Spill Liability Trust Fund financing rate**(1) In general**

Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than \$2,000,000,000.

(2) Termination

The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2020.

(Added Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2797; amended Pub. L. 99-499, title V, §§511(a), 512(a), (b), Oct. 17, 1986, 100 Stat. 1760, 1761; Pub. L. 99-509, title VIII, §8032(a), (c)(1), (2), Oct. 21, 1986, 100 Stat. 1957, 1958; Pub. L. 100-647, title VI, §6108, Nov. 10, 1988, 102 Stat. 3712; Pub.

L. 101-221, §8(a), Dec. 12, 1989, 103 Stat. 1891; Pub. L. 101-239, title VII, §7505(a), (b), Dec. 19, 1989, 103 Stat. 2363; Pub. L. 101-508, title XI, §11231(a)(1)(B), (2), (b), Nov. 5, 1990, 104 Stat. 1388-445; Pub. L. 109-58, title XIII, §1361, Aug. 8, 2005, 119 Stat. 1058; Pub. L. 110-343, div. B, title IV, §405(a)(1), (b)(1), (2), Oct. 3, 2008, 122 Stat. 3860, 3861; Pub. L. 113-295, div. A, title II, §221(a)(12)(I), Dec. 19, 2014, 128 Stat. 4039; Pub. L. 115-123, div. D, title I, §40416(a), Feb. 9, 2018, 132 Stat. 152; Pub. L. 116-94, div. Q, title I, §134(a), Dec. 20, 2019, 133 Stat. 3234.)

CODIFICATION

Amendments by Pub. L. 99-509, title VIII, §8031(a), (b), and (d)(1), Oct. 21, 1986, 100 Stat. 1955, to subsecs. (a) to (e) of this section were not executed to text pursuant to Pub. L. 99-509, title VIII, §8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

2019—Subsec. (f)(2). Pub. L. 116-94 substituted “December 31, 2020” for “December 31, 2018”.

2018—Subsec. (f)(2). Pub. L. 115-123 substituted “December 31, 2018” for “December 31, 2017”.

2014—Subsec. (e)(2)(B). Pub. L. 113-295, §221(a)(12)(I)(i), substituted “this section” for “section 59A, this section.”

Subsec. (e)(3)(A). Pub. L. 113-295, §221(a)(12)(I)(ii), struck out “section 59A,” after “collected under” and comma after “rate”.

2008—Subsec. (c)(2)(B). Pub. L. 110-343, §405(a)(1), substituted “is—” for “is 5 cents a barrel.” and added cls. (i) and (ii).

Subsec. (f)(1). Pub. L. 110-343, §405(b)(2), substituted “paragraph (2)” for “paragraphs (2) and (3)”.

Subsec. (f)(2), (3). Pub. L. 110-343, §405(b)(1), added par. (2) and struck out former pars. (2) and (3), which provided that the Oil Spill Liability Trust Fund financing rate would not apply if the unobligated balance in the Fund exceeded \$2,700,000,000 and that the Fund financing rate would not apply after Dec. 31, 2014.

2005—Subsec. (f). Pub. L. 109-58 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995.

“(2) NO TAX IF UNOBLIGATED BALANCE IN FUND EXCEEDS \$1,000,000,000.—The Oil Spill Liability Trust Fund financing rate shall not apply during any calendar quarter if the Secretary estimates that as of the close of the preceding calendar quarter the unobligated balance in the Oil Spill Liability Trust Fund exceeds \$1,000,000,000.”

1990—Subsec. (e)(1). Pub. L. 101-508, §11231(a)(1)(B), substituted “January 1, 1996” for “January 1, 1992”.

Subsec. (e)(2). Pub. L. 101-508, §11231(a)(2), substituted “1993” for “1989” and “1994” for “1990” in introductory provisions and “1994” for “1990” and “1995” for “1991” in subpar. (B) and concluding provisions.

Subsec. (e)(3). Pub. L. 101-508, §11231(b), substituted “\$11,970,000,000” for “\$6,650,000,000” in heading.

Subsec. (e)(3)(A). Pub. L. 101-508, §11231(b), substituted “December 31, 1995” for “December 31, 1991”.

Subsec. (e)(3)(B). Pub. L. 101-508, §11231(a)(1)(B), (b), substituted “January 1, 1996” for “January 1, 1992” in heading and text and “\$11,970,000,000” for “\$6,650,000,000” in heading and twice in text.

1989—Subsec. (c)(2)(A). Pub. L. 101-221 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Hazardous Substance Superfund financing rate is—

“(i) except as provided in clause (ii), 8.2 cents a barrel, and

“(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and”.

Subsec. (c)(2)(B). Pub. L. 101-239, §7505(b), substituted “5 cents” for “1.3 cents”.

Subsec. (f). Pub. L. 101-239, §7505(a)(1), amended subsec. (f) generally, substituting pars. (1) and (2) for former pars. (1) general applicability, (2) commencement date, and (3) limit on tax of \$300,000,000.

1988—Subsec. (f)(2)(B). Pub. L. 100-647 substituted “December 31, 1990” for “September 1, 1987”.

1986—Subsecs. (a), (b)(1). Pub. L. 99-499, §512(a), substituted “at the rate specified in subsection (c)” for “of 0.79 cent a barrel”.

Subsec. (c). Pub. L. 99-509, §8032(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the rate of the taxes imposed by this section is 8.2 cents a barrel.

“(2) IMPORTED PETROLEUM PRODUCTS.—The rate of the tax imposed by subsection (a)(2) shall be 11.7 cents a barrel.”

Pub. L. 99-499, §512(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 99-499, §512(b), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-509, §8032(c)(1), substituted “Hazardous Substance Superfund financing rate” for “taxes” in heading, substituted “the Hazardous Substance Superfund financing rate under this section” for “the taxes imposed by this section” in par. (1), inserted “(to the extent attributable to the Hazardous Substance Superfund financing rate)” after “this section” in pars. (2) and (3)(A), and substituted “the Hazardous Substance Superfund financing rate under this section shall not apply” for “no tax shall be imposed under this section” in par. (3)(B).

Pub. L. 99-499, §§511(a), 512(b), amended subsec. (d) generally and redesignated it as (e). Prior to amendment and redesignation, subsec. (d), termination, read as follows: “The taxes imposed by this section shall not apply after September 30, 1985, except that if on September 30, 1983, or September 30, 1984—

“(1) the unobligated balance in the Hazardous Substance Response Trust Fund as of such date exceeds \$900,000,000, and

“(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed \$500,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above,

then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).”

Subsec. (f). Pub. L. 99-509, §8032(c)(2), added subsec. (f).

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, §134(b), Dec. 20, 2019, 133 Stat. 3234, provided that: “The amendment made by this section [amending this section] shall apply on and after the first day of the first calendar month beginning after the date of the enactment of this Act [Dec. 20, 2019].”

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. D, title I, §40416(b), Feb. 9, 2018, 132 Stat. 152, provided that: “The amendment made by this section [amending this section] shall apply on and after the first day of the first calendar month beginning after the date of the enactment of this Act [Feb. 9, 2018].”

EFFECTIVE DATE OF 2014 AMENDMENT

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

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, § 405(a)(2), Oct. 3, 2008, 122 Stat. 3860, provided that: “The amendment made by this subsection [amending this section] shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act [Oct. 3, 2008].”

Pub. L. 110-343, div. B, title IV, § 405(b)(3), Oct. 3, 2008, 122 Stat. 3861, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-221, § 8(b), Dec. 12, 1989, 103 Stat. 1891, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Dec. 12, 1989].”

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99-509, title VIII, § 8032(d), Oct. 21, 1986, 100 Stat. 1959, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 4612, 4661, 4671, and 9507 of this title] shall take effect on the commencement date (as defined in [former] section 4611(f)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section).

“(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—The amendments made by this section shall take effect only if the Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99-499, approved Oct. 17, 1986] is enacted.”

[Pub. L. 101-239, title VII, § 7505(d)(1), Dec. 19, 1989, 103 Stat. 2363, provided that: “For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509, set out as notes above and under section 9509 of this title], the commencement date is January 1, 1990.”]

Pub. L. 99-499, title V, § 511(c), Oct. 17, 1986, 100 Stat. 1761, provided that: “The amendments made by this section [amending this section and repealing section 9653 of Title 42, The Public Health and Welfare] shall take effect on January 1, 1987.”

Pub. L. 99-499, title V, § 512(d), Oct. 17, 1986, 100 Stat. 1761, provided that: “The amendments made by this section [amending this section and section 4612 of this title] shall take effect on January 1, 1987.”

EFFECTIVE DATE

Pub. L. 96-510, title II, § 211(c), Dec. 11, 1980, 94 Stat. 2801, provided that: “The amendments made by this section [enacting subchapters A and B of this chapter] shall take effect on April 1, 1981.”

SHORT TITLE

For short title of title II of Pub. L. 96-510 as the “Hazardous Substance Response Revenue Act of 1980”, see Short Title of 1980 Amendment note, set out under section 1 of this title.

§ 4612. Definitions and special rules**(a) Definitions**

For purposes of this subchapter—

(1) Crude oil

The term “crude oil” includes crude oil condensates and natural gasoline.

(2) Domestic crude oil

The term “domestic crude oil” means any crude oil produced from a well located in the United States.

(3) Petroleum product

The term “petroleum product” includes crude oil.

(4) United States**(A) In general**

The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) United States includes continental shelf areas

The principles of section 638 shall apply for purposes of the term “United States”.

(C) United States includes foreign trade zones

The term “United States” includes any foreign trade zone of the United States.

(5) United States refinery

The term “United States refinery” means any facility in the United States at which crude oil is refined.

(6) Refineries which produce natural gasoline

In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) Premises

The term “premises” has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) Barrel

The term “barrel” means 42 United States gallons.

(9) Fractional part of barrel

In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) Only 1 tax imposed with respect to any product

No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax imposed by such section has been imposed with respect to such product.

(c) Credit where crude oil returned to pipeline

Under regulations prescribed by the Secretary, if an operator of a United States refinery—

(1) removes crude oil from a pipeline, and

(2) returns a portion of such crude oil into a stream of other crude oil in the same pipeline,

there shall be allowed as a credit against the tax imposed by section 4611 to such operator an amount equal to the product of the rate of tax imposed by section 4611 on the crude oil so removed by such operator and the number of barrels of crude oil returned by such operator to such pipeline. Any crude oil so returned shall be treated for purposes of this subchapter as crude oil on which no tax has been imposed by section 4611.

(d) Credit against portion of tax attributable to oil spill rate

There shall be allowed as a credit against so much of the tax imposed by section 4611 as is at-