

covered entity and for each branded prescription drug of the covered entity covered by the Medicare Part B program under section 1862(a) of the Social Security Act [42 U.S.C. 1395y(a)], the product of—

“(A) the per-unit average sales price (as defined in section 1847A(c) of the Social Security Act [42 U.S.C. 1395w-3a(c)]) or the per-unit Part B payment rate for a separately paid branded prescription drug without a reported average sales price, and

“(B) the number of units of the branded prescription drug paid for under the Medicare Part B program.

The Centers for Medicare and Medicaid Services shall establish a process for determining the units and the allocated price for purposes of this section for those branded prescription drugs that are not separately payable or for which National Drug Codes are not reported.

“(3) MEDICAID PROGRAM.—The Secretary of Health and Human Services shall report, for each covered entity and for each branded prescription drug of the covered entity covered under the Medicaid program, the product of—

“(A) the per-unit ingredient cost paid to pharmacies by States for the branded prescription drug dispensed to Medicaid beneficiaries, minus any per-unit rebate paid by the covered entity under section 1927 of the Social Security Act [42 U.S.C. 1396r-8] and any State supplemental rebate, and

“(B) the number of units of the branded prescription drug paid for under the Medicaid program.

“(4) DEPARTMENT OF VETERANS AFFAIRS PROGRAMS.—The Secretary of Veterans Affairs shall report, for each covered entity and for each branded prescription drug of the covered entity the total amount paid for each such branded prescription drug procured by the Department of Veterans Affairs for its beneficiaries.

“(5) DEPARTMENT OF DEFENSE PROGRAMS AND TRICARE.—The Secretary of Defense shall report, for each covered entity and for each branded prescription drug of the covered entity, the sum of—

“(A) the total amount paid for each such branded prescription drug procured by the Department of Defense for its beneficiaries, and

“(B) for each such branded prescription drug dispensed under the TRICARE retail pharmacy program, the product of—

“(i) the per-unit ingredient cost, minus any per-unit rebate paid by the covered entity, and

“(ii) the number of units of the branded prescription drug dispensed under such program.

“(h) SECRETARY.—For purposes of this section, the term ‘Secretary’ includes the Secretary’s delegate.

“(i) GUIDANCE.—The Secretary of the Treasury shall publish guidance necessary to carry out the purposes of this section.

“(j) EFFECTIVE DATE.—This section shall apply to calendar years beginning after December 31, 2010.

“(k) CONFORMING AMENDMENT.—[Amended section 1395t of Title 42, The Public Health and Welfare.]”

[Pub. L. 111-152, title I, §1404(b), Mar. 30, 2010, 124 Stat. 1064, provided that: “The amendments made by this section [amending section 9008 of Pub. L. 111-148, set out above] shall take effect as if included in section 9008 of the Patient Protection and Affordable Care Act [Pub. L. 111-148].”]

IMPOSITION OF ANNUAL FEE ON MEDICAL DEVICE MANUFACTURERS AND IMPORTERS

Pub. L. 111-148, title IX, §9009, Mar. 23, 2010, 124 Stat. 862, as amended by Pub. L. 111-148, title X, §10904(a), Mar. 23, 2010, 124 Stat. 1016, provided for the imposition of an annual fee on medical device manufacturers and importers in calendar years beginning after 2010, prior to repeal by Pub. L. 111-152, title I, §1405(d), Mar. 30, 2010, 124 Stat. 1065.

[Pub. L. 111-152, title I, §1405(d), Mar. 30, 2010, 124 Stat. 1065, provided that the repeal of section 9009 of Pub. L. 111-148, formerly set out above, is effective as of Mar. 23, 2010.]

IMPOSITION OF ANNUAL FEE ON HEALTH INSURANCE PROVIDERS

Pub. L. 111-148, title IX, §9010, title X, §10905(a)-(f), Mar. 23, 2010, 124 Stat. 865, 1017-1019, as amended by Pub. L. 111-152, title I, §1406(a), Mar. 30, 2010, 124 Stat. 1065; Pub. L. 114-113, div. P, title II, §201, Dec. 18, 2015, 129 Stat. 3037; Pub. L. 115-120, div. D, §4003(b), Jan. 22, 2018, 132 Stat. 38, which imposed an annual fee on certain entities that provided health insurance for any United States health risk, was repealed by Pub. L. 116-94, div. N, title I, §502(a), Dec. 20, 2019, 133 Stat. 3119.

[Pub. L. 116-94, div. N, title I, §502(b), Dec. 20, 2019, 133 Stat. 3119, provided that, “The amendment made by this section [repealing section 9010 of Pub. L. 111-148, formerly set out above] shall apply to calendar years beginning after December 31, 2020.”]

CHAPTER 31—RETAIL EXCISE TAXES

Subchapter Sec.1
[A. Repealed.]
B. Special fuels ..... 4041
C. Heavy trucks and trailers ..... 4051

Editorial Notes

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

1 Section numbers editorially supplied.