

(May 12, 1933, ch. 25, title I, § 16, 48 Stat. 40; May 9, 1934, ch. 263, §§ 10, 17, 48 Stat. 676, 678; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, § 10, 49 Stat. 48; Aug. 24, 1935, ch. 641, §§ 20(b), 25–27, 49 Stat. 768, 769; June 4, 1936, ch. 501, 49 Stat. 1464; June 22, 1936, ch. 690, § 601(a), (c), (g), 49 Stat. 1739, 1740.)

### Editorial Notes

#### CONSTITUTIONALITY

Section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See *U.S. v. Butler*, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

#### AMENDMENTS

1936—Subsec. (e)(1). Act June 22, 1936, § 601(a), (g), reenacted par. (1) for certain refund purposes only and substituted "on or after June 1, 1934" for "subsequent to June 26, 1934", respectively.

Act June 4, 1936, substituted "on or after June 1, 1934" for "subsequent to June 26, 1934".

Subsec. (e)(3). Act June 22, 1936, § 601(a), reenacted par. (3) for certain refund purposes only.

Subsec. (g). Act June 22, 1936, § 601(c), repealed subsec. (g) which related to the time for filing refunds.

1935—Subsec. (a)(2). Act Aug. 24, 1935, § 25, substituted a new par. (2) for former par. (2).

Subsec. (b). Act Aug. 24, 1935, § 26, amended second sentence generally.

Subsec. (c). Act Aug. 24, 1935, § 20(b), struck out last sentence.

Subsec. (e). Act Mar. 18, 1935, redesignated former subsec. (c) as (e).

Subsec. (e)(1). Act Aug. 24, 1935, § 27(a), inserted "subsequent to June 26, 1934" at beginning of paragraph, and "in the case of hogs" after "made" in proviso and inserted "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only."

Subsec. (f). Act Mar. 18, 1935, added subsec. (f).

Subsec. (g). Act Aug. 24, 1935, § 27(b), added subsec. (g).

1934—Subsec. (a)(1). Act May 9, 1934, § 10, inserted second sentence.

Subsec. (c). Act June 26, 1934, added subsec. (c).

Subsec. (c)(1). Act May 9, 1934, § 17, added par. (1).

Subsec. (d). Act May 9, 1934, § 17, added subsec. (d).

### Statutory Notes and Related Subsidiaries

#### SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional. See section 614 of this title.

#### APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

### Executive Documents

#### TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appen-

dix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

### § 617. Refund on goods exported; bond to suspend tax on commodity intended for export

(a) Upon the exportation to any foreign country (and/or to the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this chapter which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this chapter with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.

(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this chapter, or to hold for such exportation any article processed wholly or partly therefrom.

(May 12, 1933, ch. 25, title I, § 17, 48 Stat. 40; May 9, 1934, ch. 263, §§ 12, 13, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 11, 49 Stat. 48; Aug. 24, 1935, ch. 641, § 28, 49 Stat. 770; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

### Editorial Notes

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

#### CODIFICATION

References to the Philippine Islands in subsec. (a) were omitted from the Code as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, cited to text, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

#### CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

## AMENDMENTS

1936—Subsec. (a). Act June 22, 1936, reenacted subsec. (a) for refund purposes only.

1935—Subsec. (a). Act Aug. 24, 1935, struck out first two sentences and substituted "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

Act Mar. 18, 1935, inserted third sentence.

1934—Subsec. (a). Act May 9, 1934, amended subsec. (a) generally.

Subsec. (b). Act May 9, 1934, §13, substituted "partly" for "in chief value".

**Statutory Notes and Related Subsidiaries**

## SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

## APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

**Executive Documents**

## TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan. No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

**§ 618. Existing contracts; imposition of tax on vendee; collection**

(a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any commodity is first imposed under this chapter, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this chapter. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall

cause collections of such taxes to be made from the vendee.

(May 12, 1933, ch. 25, title I, §18, 48 Stat. 41.)

**Editorial Notes**

## CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

## SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

**Executive Documents**

## TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

**§ 619. Collection of tax; provisions of internal revenue laws applicable; returns**

(a) The taxes provided in this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable in respect of taxes imposed by this chapter: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of not exceeding three-fourths of the amount of the taxes covered by any return under this chapter, but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.

(c) Repealed. June 30, 1947, ch. 166, title II, §206(d), 61 Stat. 208.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this chapter to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof,