

Pub. L. 98-369, §474(j), amended section generally, striking out “and on tax-free covenant bonds” after “foreign corporations” in section catchline, and, in text, substituting “as a credit against the tax imposed by this subtitle” for “as credits against the tax imposed by this chapter”, and striking out designation “(1)” before “the amount of tax withheld”, and “, and (2) the amount of tax withheld at source under subchapter B of chapter 3 (relating to interest on tax-free covenant bonds)” after “on foreign corporations”).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title IV, §475(b), July 18, 1984, 98 Stat. 847, provided that: “The amendments made by subsections (j) and (r)(29) [amending this section and sections 12, 164, 1441, 1442, 6049, and 7701 of this title and repealing section 1451 of this title] shall not apply with respect to obligations issued before January 1, 1984.”

§ 34. Certain uses of gasoline and special fuels

(a) General rule

There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the amounts payable to the taxpayer—

- (1) under section 6420 (determined without regard to section 6420(g)),
- (2) under section 6421 (determined without regard to section 6421(i)), and
- (3) under section 6427 (determined without regard to section 6427(k)).

(b) Exception

Credit shall not be allowed under subsection (a) for any amount payable under section 6421 or 6427, if a claim for such amount is timely filed and, under section 6421(i) or 6427(k), is payable under such section.

(Added Pub. L. 89-44, title VIII, 809(c), June 21, 1965, 79 Stat. 167, §39; amended Pub. L. 91-258, title II, §207(c), May 21, 1970, 84 Stat. 248; Pub. L. 94-455, title XIX, §§1901(a)(3), 1906(b)(8), (9), Oct. 4, 1976, 90 Stat. 1764, 1834; Pub. L. 94-530, §1(c)(1), Oct. 17, 1976, 90 Stat. 2487; Pub. L. 95-599, title V, §505(c)(1), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 95-618, title II, §233(b)(2)(C), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 96-223, title II, §232(d)(4)(A), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(6)(A)-(C), Jan. 6, 1983, 96 Stat. 2181; renumbered §34 and amended Pub. L. 98-369, div. A, title IV, §471(c), title IX, §911(d)(2)(A), July 18, 1984, 98 Stat. 826, 1006; Pub. L. 99-514, title XVII, §1703(e)(2)(F), title XVIII, §1877(a), Oct. 22, 1986, 100 Stat. 2778, 2902; Pub. L. 100-647, title I, §1017(c)(2), Nov. 10, 1988, 102 Stat. 3576; Pub. L. 104-188, title I, §1606(b)(1), Aug. 20, 1996, 110 Stat. 1839; Pub. L. 105-206, title VI, §6023(24)(B), July 22, 1998, 112 Stat. 826; Pub. L. 110-172, §11(a)(4), Dec. 29, 2007, 121 Stat. 2484.)

Editorial Notes

PRIOR PROVISIONS

A prior section 34, acts Aug. 16, 1954, ch. 736, 68A Stat. 13; June 25, 1959, Pub. L. 86-69, §3(a)(1), 73 Stat. 139; Sept. 14, 1960, Pub. L. 86-779, §10(e), 74 Stat. 1009; Feb. 26, 1964, Pub. L. 88-272, title II, §201(a), 78 Stat. 31, related to dividends received by individuals, prior to repeal by Pub. L. 88-272, title II, §201(b), Feb. 26, 1964, 78 Stat. 31, effective with respect to dividends received after Dec. 31, 1964.

AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110-172, §11(a)(4)(A), struck out “with respect to gasoline used during the taxable year on a farm for farming purposes” before “(determined without regard to section 6420(g))”.

Subsec. (a)(2). Pub. L. 110-172, §11(a)(4)(B), which directed striking out “with respect to gasoline used during the taxable year: (A) otherwise than as a fuel in a highway vehicle; or (B) in vehicles while engaged in furnishing certain public passenger land transportation service”, was executed by striking out “with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service” before “(determined without regard to section 6421(i))”, to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 110-172, §11(a)(4)(C), struck out “with respect to fuels used for nontaxable purposes or resold during the taxable year” before “(determined without regard to section 6427(k))”.

1998—Subsec. (b). Pub. L. 105-206 substituted “section 6421(i)” for “section 6421(j)”.

1996—Subsec. (a)(3). Pub. L. 104-188 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “under section 6427—

“(A) with respect to fuels used for nontaxable purposes or resold, or

“(B) with respect to any qualified diesel-powered highway vehicle purchased (or deemed purchased under section 6427(g)(6)), during the taxable year (determined without regard to section 6427(k)).”

1988—Subsec. (b). Pub. L. 100-647 substituted “section 6421(j) or 6427(k)” for “section 6421(i) or 6427(j)”.

1986—Subsec. (a)(3). Pub. L. 99-514, §1877(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(j)).”

Pub. L. 99-514, §1703(e)(2)(F), substituted “6427(k)” for “6427(j)”.

1984—Pub. L. 98-369, §471(c), renumbered section 39 of this title as this section.

Subsec. (a)(3). Pub. L. 98-369, §911(d)(2)(A), which directed the amendment of par. (4) by substituting “6427(j)” for “6427(i)” was executed to par. (3) to reflect the probable intent of Congress and the redesignation of par. (4) as (3) by Pub. L. 97-424.

Subsec. (b). Pub. L. 98-369, §911(d)(2)(A), substituted “6427(j)” for “6427(i)”.

1983—Pub. L. 97-424, §515(b)(6)(C), substituted “and special fuels” for “, special fuels, and lubricating oil” after “gasoline” in section catchline.

Subsec. (a)(2) to (4). Pub. L. 97-424, §515(b)(6)(A), inserted “and” at end of par. (2), redesignated par. (4) as (3), and struck out former (3) which referred to amounts payable to the taxpayer under section 6424 with respect to lubricating oil used during the taxable year for certain nontaxable purposes (determined without regard to section 6424(f)).

Subsec. (b). Pub. L. 97-424, §515(b)(6)(B)(i), substituted “6421 or 6427” for “6421, 6424, or 6427” after “amount payable under”.

Pub. L. 97-424, §515(b)(6)(B)(ii), substituted “6421(i) or 6427(i)” for “6421(i), 6424(f), or 6427(i)” after “and, under”.

1980—Subsec. (a)(4). Pub. L. 96-223 substituted “6427(i)” for “6427(h)”.

Subsec. (b). Pub. L. 96-223 substituted “6427(i)” for “6427(h)”.

1978—Subsec. (a)(3). Pub. L. 95-618 substituted “for certain nontaxable purposes” for “otherwise than in a highway motor vehicle”.

Subsec. (a)(4). Pub. L. 95-599 substituted “6427(h)” for “6427(g)”.

Subsec. (b). Pub. L. 95-599 substituted “6427(h)” for “6427(g)”.

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(b)(8), substituted “6420(g)” for “6420(h)”.

Subsec. (a)(3). Pub. L. 94-455, §1906(b)(9), substituted “6424(f)” for “6424(g)”.

Subsec. (a)(4). Pub. L. 94-530 substituted “6427(g)” for “6427(f)”.

Subsec. (b). Pub. L. 94-530, which directed the amendment of subsec. (c) by substituting “6427(g)” for “6427(f)”, was executed to subsec. (b) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (b) by Pub. L. 94-455.

Pub. L. 94-455, §1901(a)(3), redesignated subsec. (c) as (b) and substituted “section 6421(i), 6424(f), or 6427(f), is payable” for “section 6421(i), 6424(g) or 6427(f) is payable”. Former subsec. (b), relating to determination of taxpayers first taxable year with respect to tax credit for certain uses of gasoline and lubricating oil, was struck out.

Subsec. (c). Pub. L. 94-455, §1901(a)(3), redesignated subsec. (c) as (b).

1970—Pub. L. 91-258, §207(c)(1), inserted reference to special fuels in section catchline.

Subsec. (a)(4). Pub. L. 91-258, §207(c)(2), added par. (4).

Subsec. (c). Pub. L. 91-258, §207(c)(3), (4), inserted references to sections 6427 and 6427(f), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title VI, §6023(32), July 22, 1998, 112 Stat. 826, provided that: “The amendments made by this section [amending this section and sections 45A, 59, 72, 142, 501, 512, 543, 871, 1017, 1250, 3121, 3401, 4092, 4221, 4222, 4973, 4975, 6039, 6050R, 6103, 6416, 6421, 6427, 6501, 7434, 7702B, 7872, and 9502 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1606(c), Aug. 20, 1996, 110 Stat. 1839, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to vehicles purchased after the date of the enactment of this Act [Aug. 20, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1703(e)(2)(F) of Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514 set out as a note under section 4081 of this title.

Amendment by section 1877(a) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 911(d)(2)(A) of Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-424, title V, §515(c), Jan. 6, 1983, 96 Stat. 2182, provided that: “The amendments made by this section [amending sections 39 [now 34], 874, 882, 4101, 4102, 4221, 4222, 6201, 6206, 6416, 6421, 6504, 6675, 7210, 7603 to 7605, 7609, and 7610 of this title and repealing sections 4091 to 4094 and 6424 of this title] shall apply with respect to articles sold after the date of the enactment of this Act [Jan. 6, 1983].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-618, title II, §233(d), Nov. 9, 1978, 92 Stat. 3192, provided that: “The amendments made by this section [amending sections 39 [now 34], 4041, 4221, 4483, 6416, 6421, 6424, 6427, 6504, and 6675 of this title and amending a provision set out as a note under section 120 of Title 23, Highways] shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act [Nov. 9, 1978].”

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-530 effective on Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

Amendment by section 1901(a)(3) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(b)(8), (9) of Pub. L. 94-455, to take effect on Feb. 1, 1977, see section 1906(d) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 applicable with respect to taxable years ending after June 30, 1970, see section 211(b) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 6420 of this title.

§ 35. Health insurance costs of eligible individuals

(a) In general

In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 72.5 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

(b) Eligible coverage month

For purposes of this section—

(1) In general

The term “eligible coverage month” means any month if—

(A) as of the first day of such month, the taxpayer—

(i) is an eligible individual,

(ii) is covered by qualified health insurance, the premium for which is paid by the taxpayer,

(iii) does not have other specified coverage, and

(iv) is not imprisoned under Federal, State, or local authority, and

(B) such month begins more than 90 days after the date of the enactment of the Trade Act of 2002, and before January 1, 2022.

- Sec.
42. Low-income housing credit.
43. Enhanced oil recovery credit.
44. Expenditures to provide access to disabled individuals.
- [44A–H. Renumbered, Repealed.]
45. Electricity produced from certain renewable resources, etc.
- 45A. Indian employment credit.
- 45B. Credit for portion of employer social security taxes paid with respect to employee cash tips.
- 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.
- 45D. New markets tax credit.
- 45E. Small employer pension plan startup costs.
- 45F. Employer-provided child care credit.
- 45G. Railroad track maintenance credit.
- 45H. Credit for production of low sulfur diesel fuel.
- 45I. Credit for producing oil and gas from marginal wells.
- 45J. Credit for production from advanced nuclear power facilities.
- 45K. Credit for producing fuel from a nonconventional source.
- 45L. New energy efficient home credit.
- [45M. Repealed.]
- 45N. Mine rescue team training credit.
- 45O. Agricultural chemicals security credit.
- 45P. Employer wage credit for employees who are active duty members of the uniformed services.
- 45Q. Credit for carbon dioxide sequestration.
- 45R. Employee health insurance expenses of small employers.
- 45S. Employer credit for paid family and medical leave.
- 45T. Auto-enrollment option for retirement savings options provided by small employers.
- 45U. Zero-emission nuclear power production credit.
- 45V. Credit for production of clean hydrogen.
- 45W. Qualified commercial clean vehicle credit.¹
- 45X. Advanced manufacturing production credit.
- 45Y. Clean electricity production credit.
- 45Z. Clean fuel production credit.
- 45AA. Military spouse retirement plan eligibility credit for small employers.

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328, div. T, title I, § 112(d), Dec. 29, 2022, 136 Stat. 5295, added item 45AA.

Pub. L. 117-169, title I, §§ 13105(b)(2), 13204(a)(4)(B), 13403(b)(3), 13502(b)(2), 13701(b)(2), 13704(b)(4), Aug. 16, 2022, 136 Stat. 1931, 1939, 1966, 1981, 1990, 2002, added items 45U to 45Z.

Pub. L. 117-169, title I, § 13203(d)(2)(D), Aug. 16, 2022, 136 Stat. 1935, which directed amendment of the analysis for “subpart D of subchapter A of chapter 1” by adding item 40B, was executed to this analysis, which is for subpart D of part IV of subchapter A of chapter 1, to reflect the probable intent of Congress.

2019—Pub. L. 116-94, div. O, title I, § 105(c), Dec. 20, 2019, 133 Stat. 3148, added item 45T.

2018—Pub. L. 115-141, div. U, title IV, § 401(a)(7), (d)(2)(A), Mar. 23, 2018, 132 Stat. 1184, 1208, struck out item 41 “Employee stock ownership credit” and item 45M “Energy efficient appliance credit” and transferred item 45K to appear after item 45J.

2017—Pub. L. 115-97, title I, § 13403(d)(3), Dec. 22, 2017, 131 Stat. 2138, added item 45S.

2010—Pub. L. 111-148, title I, § 1421(e), Mar. 23, 2010, 124 Stat. 242, added item 45R.

2008—Pub. L. 110-343, div. B, title I, § 115(c), Oct. 3, 2008, 122 Stat. 3831, which directed amendment of table

of sections for subpart B by adding item 45Q at end, was executed by adding item 45Q at end of table of sections for this subpart to reflect the probable intent of Congress.

Pub. L. 110-245, title I, § 111(d), June 17, 2008, 122 Stat. 1635, added item 45P.

Pub. L. 110-234, title XV, §§ 15321(b)(3)(B), 15343(d), May 22, 2008, 122 Stat. 1513, 1520, and Pub. L. 110-246, title XV, §§ 15321(b)(3)(B), 15343(d), June 18, 2008, 122 Stat. 2275, 2282, made identical amendments, inserting “, etc.” after “Alcohol” in item 40 and adding item 45O. The amendments by Pub. L. 110-234 were repealed by Pub. L. 110-246, § 4(a), June 18, 2008, 122 Stat. 1664.

2006—Pub. L. 109-432, div. A, title IV, § 405(d), Dec. 20, 2006, 120 Stat. 2958, added item 45N.

2005—Pub. L. 109-58, title XIII, §§ 1306(c), 1322(a)(3)(L), 1332(e), 1334(c), 1346(b)(2), Aug. 8, 2005, 119 Stat. 999, 1012, 1026, 1033, 1055, inserted “and renewable diesel” after “Biodiesel” in item 40A and added items 45J to 45M.

2004—Pub. L. 108-357, title II, § 245(d), title III, §§ 302(c)(3), 339(e), 341(d), title VII, § 710(b)(3)(B), Oct. 22, 2004, 118 Stat. 1448, 1466, 1484, 1487, 1556, added items 40A and 45G to 45I and inserted “, etc” after “resources” in item 45.

Pub. L. 108-311, title IV, § 408(b)(7), Oct. 4, 2004, 118 Stat. 1193, amended directory language of Pub. L. 107-16, § 619(c)(3). See 2001 Amendment note below.

2001—Pub. L. 107-16, title VI, § 619(c)(3), June 7, 2001, 115 Stat. 110, as amended by Pub. L. 108-311, title IV, § 408(b)(7), Oct. 4, 2004, 118 Stat. 1193, added item 45E.

Pub. L. 107-16, title II, § 205(b)(2), June 7, 2001, 115 Stat. 53, added item 45F.

2000—Pub. L. 106-554, § 1(a)(7) [title I, § 121(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-610, added item 45D.

1996—Pub. L. 104-188, title I, § 1205(a)(3)(B), Aug. 20, 1996, 110 Stat. 1775, added item 45C.

1993—Pub. L. 103-66, title XIII, §§ 13322(e), 13443(c), Aug. 10, 1993, 107 Stat. 563, 569, added items 45A and 45B.

1992—Pub. L. 102-486, title XIX, § 1914(d), Oct. 24, 1992, 106 Stat. 3023, added item 45.

1990—Pub. L. 101-508, title XI, §§ 11511(c)(1), 11611(d), Nov. 5, 1990, 104 Stat. 1388-485, 1388-503, added items 43 and 44.

1986—Pub. L. 99-514, title II, §§ 231(d)(3)(K), 252(d), Oct. 22, 1986, 100 Stat. 2180, 2205, added item 41 relating to credit for increasing research activities and item 42.

1984—Pub. L. 98-369, div. A, title IV, § 471(b), July 18, 1984, 98 Stat. 826, added subpart D heading and analysis of sections for subpart D, consisting of items 38 (new), 39 (new), 40 (formerly 44E), and 41 (formerly 44G). Former subpart D was redesignated F.

§ 38. General business credit

(a) Allowance of credit

There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

- (1) the business credit carryforwards carried to such taxable year,
- (2) the amount of the current year business credit, plus
- (3) the business credit carrybacks carried to such taxable year.

(b) Current year business credit

For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

- (1) the investment credit determined under section 46,
- (2) the work opportunity credit determined under section 51(a),
- (3) the alcohol fuels credit determined under section 40(a),
- (4) the research credit determined under section 41(a),

¹ So in original. Does not conform to section catchline.

(5) the low-income housing credit determined under section 42(a),

(6) the enhanced oil recovery credit under section 43(a),

(7) in the case of an eligible small business (as defined in section 44(b)), the disabled access credit determined under section 44(a),

(8) the renewable electricity production credit under section 45(a),

(9) the empowerment zone employment credit determined under section 1396(a),

(10) the Indian employment credit as determined under section 45A(a),

(11) the employer social security credit determined under section 45B(a),

(12) the orphan drug credit determined under section 45C(a),

(13) the new markets tax credit determined under section 45D(a),

(14) in the case of an eligible employer (as defined in section 45E(c)), the small employer pension plan startup cost credit determined under section 45E(a),

(15) the employer-provided child care credit determined under section 45F(a),

(16) the railroad track maintenance credit determined under section 45G(a),

(17) the biodiesel fuels credit determined under section 40A(a),

(18) the low sulfur diesel fuel production credit determined under section 45H(a),

(19) the marginal oil and gas well production credit determined under section 45I(a),

(20) the distilled spirits credit determined under section 5011(a),

(21) the advanced nuclear power facility production credit determined under section 45J(a),

(22) the nonconventional source production credit determined under section 45K(a),

(23) the new energy efficient home credit determined under section 45L(a),

(24) the portion of the alternative motor vehicle credit to which section 30B(g)(1) applies,

(25) the portion of the alternative fuel vehicle refueling property credit to which section 30C(d)(1) applies,

(26) the mine rescue team training credit determined under section 45N(a),

(27) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a),

(28) the differential wage payment credit determined under section 45P(a),

(29) the carbon dioxide sequestration credit determined under section 45Q(a),

(30) the portion of the new clean vehicle credit to which section 30D(c)(1) applies,

(31) the small employer health insurance credit determined under section 45R,

(32) in the case of an eligible employer (as defined in section 45S(c)), the paid family and medical leave credit determined under section 45S(a),

(33) in the case of an eligible employer (as defined in section 45T(c)), the retirement auto-enrollment credit determined under section 45T(a), plus

(34) the zero-emission nuclear power production credit determined under section 45U(a).

(35) the sustainable aviation fuel credit determined under section 40B,

(36) the clean hydrogen production credit determined under section 45V(a),

(37) the qualified commercial clean vehicle credit determined under section 45W, plus

(38) the advanced manufacturing production credit determined under section 45X(a).

(41)¹ in the case of an eligible small employer (as defined in section 45AA(c)), the military spouse retirement plan eligibility credit determined under section 45AA(a).

(c) Limitation based on amount of tax

(1) In general

The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

(A) the tentative minimum tax for the taxable year, or

(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds \$25,000.

For purposes of the preceding sentence, the term "net income tax" means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term "net regular tax liability" means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

(2) Empowerment zone employment credit may offset 25 percent of minimum tax

(A) In general

In the case of the empowerment zone employment credit—

(i) this section and section 39 shall be applied separately with respect to such credit, and

(ii) for purposes of applying paragraph (1) to such credit—

(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the empowerment zone employment credit and the specified credits).

(B) Empowerment zone employment credit

For purposes of this paragraph, the term "empowerment zone employment credit" means the portion of the credit under subsection (a) which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit).

[(3) Repealed. Pub. L. 115-141, div. U, title IV, § 401(d)(6)(B)(iii), Mar. 23, 2018, 132 Stat. 1211]

(4) Special rules for specified credits

(A) In general

In the case of specified credits—

¹ See Amendment of Subsection (b) note below.

(i) this section and section 39 shall be applied separately with respect to such credits, and

(ii) in applying paragraph (1) to such credits—

(I) the tentative minimum tax shall be treated as being zero, and

(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified credits).

(B) Specified credits

For purposes of this subsection, the term “specified credits” means—

(i) for taxable years beginning after December 31, 2004, the credit determined under section 40,

(ii) the credit determined under section 41 for the taxable year with respect to an eligible small business (as defined in paragraph (5)(A) after application of the rules of paragraph (5)(B)),

(iii) the credit determined under section 42 to the extent attributable to buildings placed in service after December 31, 2007,

(iv) the credit determined under section 45 to the extent that such credit is attributable to electricity or refined coal produced—

(I) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

(II) during the 4-year period beginning on the date that such facility was originally placed in service,

(v) the credit determined under section 45 to the extent that such credit is attributable to section 45(e)(10) (relating to Indian coal production facilities),

(vi) the credit determined under section 45B,

(vii) the credit determined under section 45G,

(viii) the credit determined under section 45R,

(ix) the credit determined under section 45S,

(x) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48,

(xi) the credit determined under section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007, and

(xii) the credit determined under section 51.

(5) Rules related to eligible small businesses

(A) Eligible small business

For purposes of this subsection, the term “eligible small business” means, with respect to any taxable year—

(i) a corporation the stock of which is not publicly traded,

(ii) a partnership, or

(iii) a sole proprietorship,

if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed \$50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(B) Treatment of partners and S corporation shareholders

For purposes of paragraph (4)(B)(ii), any credit determined under section 41 with respect to a partnership or S corporation shall not be treated as a specified credit by any partner or shareholder unless such partner or shareholder meets the gross receipts test under subparagraph (A) for the taxable year in which such credit is treated as a current year business credit.

(6) Special rules

(A) Married individuals

In the case of a husband or wife who files a separate return, the amount specified under subparagraph (B) of paragraph (1) shall be \$12,500 in lieu of \$25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(B) Controlled groups

In the case of a controlled group, the \$25,000 amount specified under subparagraph (B) of paragraph (1) shall be reduced for each component member of such group by apportioning \$25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term “controlled group” has the meaning given to such term by section 1563(a).

(C) Limitations with respect to certain persons

In the case of a person described in subparagraph (A) or (B) of section 46(e)(1) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the \$25,000 amount specified under subparagraph (B) of paragraph (1) shall equal such person's ratable share (as determined under section 46(e)(2) (as so in effect) of such amount.

(D) Estates and trusts

In the case of an estate or trust, the \$25,000 amount specified under subparagraph (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to \$25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

(E) Corporations

In the case of a corporation—

(i) the first sentence of paragraph (1) shall be applied by substituting “25 per-

cent of the taxpayer's net income tax as exceeds \$25,000" for "the greater of" and all that follows,

(ii) paragraph (2)(A) shall be applied without regard to clause (ii)(I) thereof, and

(iii) paragraph (4)(A) shall be applied without regard to clause (ii)(I) thereof.

(d) Ordering rules

For purposes of any provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

(1) In general

The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

(2) Components of investment credit

The order in which the credits listed in section 46 are used shall be determined on the basis of the order in which such credits are listed in section 46 as of the close of the taxable year in which the credit is used.

(Added and amended Pub. L. 98-369, div. A, title IV, § 473, title VI, § 612(e)(1), July 18, 1984, 98 Stat. 827, 912; Pub. L. 99-514, title II, §§ 221(a), 231(d)(1), (3)(B), 252(b), title VII, § 701(c)(4), title XI, § 1171(b)(1), (2), Oct. 22, 1986, 100 Stat. 2173, 2178, 2179, 2205, 2341, 2513; Pub. L. 100-647, title I, §§ 1002(e)(8)(A), 1007(g)(2), (8), Nov. 10, 1988, 102 Stat. 3368, 3434, 3435; Pub. L. 101-508, title XI, §§ 11511(b)(1), 11611(b)(1), 11813(b)(2), Nov. 5, 1990, 104 Stat. 1388-485, 1388-503, 1388-551; Pub. L. 102-486, title XIX, § 1914(b), Oct. 24, 1992, 106 Stat. 3023; Pub. L. 103-66, title XIII, §§ 13302(a)(1), (c)(1), 13322(a), 13443(b)(1), Aug. 10, 1993, 107 Stat. 555, 559, 569; Pub. L. 104-188, title I, §§ 1201(e)(1), 1205(a)(2), 1702(e)(4), Aug. 20, 1996, 110 Stat. 1772, 1775, 1870; Pub. L. 106-554, § 1(a)(7) [title I, § 121(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-609; Pub. L. 107-16, title II, § 205(b)(1), title VI, § 619(b), June 7, 2001, 115 Stat. 53, 110; Pub. L. 107-147, title III, § 301(b)(1), (2), title IV, § 411(d)(2), Mar. 9, 2002, 116 Stat. 39, 46; Pub. L. 108-357, title II, § 245(c)(1), title III, §§ 302(b), 339(b), 341(b), title VII, § 711(a), (b), Oct. 22, 2004, 118 Stat. 1448, 1465, 1484, 1487, 1557, 1558; Pub. L. 109-58, title XIII, §§ 1306(b), 1322(a)(2), 1332(b), 1334(b), 1341(b)(1), 1342(b)(1), Aug. 8, 2005, 119 Stat. 999, 1011, 1026, 1033, 1049, 1051; Pub. L. 109-59, title XI, §§ 11126(b), 11151(d)(1), Aug. 10, 2005, 119 Stat. 1958, 1968; Pub. L. 109-135, title I, § 103(b)(1), title II, § 201(b)(1), title IV, § 412(f), Dec. 21, 2005, 119 Stat. 2595, 2607, 2637; Pub. L. 109-432, div. A, title IV, § 405(b), Dec. 20, 2006, 120 Stat. 2957; Pub. L. 110-28, title VIII, § 8214(a), May 25, 2007, 121 Stat. 193; Pub. L. 110-172, § 11(a)(6), Dec. 29, 2007, 121 Stat. 2485; Pub. L. 110-234, title XV, § 15343(b), May 22, 2008, 122 Stat. 1519; Pub. L. 110-245, title I, § 111(b), June 17, 2008, 122 Stat. 1635; Pub. L. 110-246, § 4(a), title XV, § 15343(b), June 18, 2008, 122 Stat. 1664, 2281; Pub. L. 110-289, div. C, title I, § 3022(b), (c), July 30, 2008, 122 Stat. 2894; Pub. L. 110-343, div. B, title I, §§ 103(b), 115(b), title II, § 205(c), div. C, title III, § 316(b), Oct. 3, 2008, 122 Stat. 3811, 3831, 3838, 3872; Pub. L. 111-5, div. B, title I, § 1141(b)(2), Feb. 17,

2009, 123 Stat. 328; Pub. L. 111-148, title I, § 1421(b), (c), Mar. 23, 2010, 124 Stat. 241, 242; Pub. L. 111-240, title II, § 2013(a), (c), Sept. 27, 2010, 124 Stat. 2555; Pub. L. 113-295, div. A, title II, §§ 209(f)(1), 220(b), 221(a)(2)(B), (6), Dec. 19, 2014, 128 Stat. 4028, 4035, 4037, 4038; Pub. L. 114-113, div. Q, title I, §§ 121(b), 186(d)(1), Dec. 18, 2015, 129 Stat. 3049, 3074; Pub. L. 115-97, title I, §§ 12001(b)(1), 13403(b), (c), Dec. 22, 2017, 131 Stat. 2092, 2137; Pub. L. 115-141, div. U, title IV, § 401(a)(8), (b)(5)(A)-(D), (d)(2)(B), (6)(B)(i)-(iii), Mar. 23, 2018, 132 Stat. 1184, 1201, 1208, 1211; Pub. L. 116-94, div. O, title I, § 105(b), Dec. 20, 2019, 133 Stat. 3148; Pub. L. 117-169, title I, §§ 10101(d), 13105(b)(1), 13203(b), 13204(a)(4)(A), 13401(i)(3), 13403(b)(1), 13502(b)(1), 13701(b)(1), 13704(b)(3), Aug. 16, 2022, 136 Stat. 1828, 1931, 1934, 1939, 1961, 1965, 1981, 1990, 2002; Pub. L. 117-328, div. T, title I, § 112(b), Dec. 29, 2022, 136 Stat. 5295.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 117-169, title I, § 13701(b)(1), (c), Aug. 16, 2022, 136 Stat. 1990, provided that, applicable to facilities placed in service after Dec. 31, 2024, subsection (b) of this section is amended by striking "plus" at the end of paragraph (37), striking the period at the end of paragraph (38) and inserting ", plus", and adding at the end the following new paragraph:

(39) the clean electricity production credit determined under section 45Y(a).

See 2022 Amendment note below.

Pub. L. 117-169, title I, § 13704(b)(3), (c), Aug. 16, 2022, 136 Stat. 2002, 2003, provided that, applicable to transportation fuel produced after Dec. 31, 2024, subsection (b) of this section is amended by striking "plus" at the end of paragraph (38), striking the period at the end of paragraph (39) and inserting ", plus", and adding at the end the following new paragraph:

(40) the clean fuel production credit determined under section 45Z(a).

See 2022 Amendment note below.

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (c)(4)(B)(iv)(I), is the date of enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (c)(6)(C), is the date of enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 38, added Pub. L. 87-834, § 2(a), Oct. 16, 1962, 76 Stat. 962; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to investment in certain depreciable property, prior to repeal by Pub. L. 98-369, div. A, title IV, § 474(m)(1), July 18, 1984, 98 Stat. 833.

Another prior section 38 was renumbered section 37 of this title.

AMENDMENTS

2022—Subsec. (b)(30). Pub. L. 117-169, § 13401(i)(3), substituted "clean" for "qualified plug-in electric drive motor".

Subsec. (b)(34). Pub. L. 117-169, § 13105(b)(1), added par. (34).

Subsec. (b)(35). Pub. L. 117-169, § 13203(b), added par. (35).

Subsec. (b)(36). Pub. L. 117-169, § 13204(a)(4)(A), added par. (36).

Subsec. (b)(37). Pub. L. 117-169, § 13403(b)(1), added par. (37).

Subsec. (b)(38). Pub. L. 117-169, § 13502(b)(1), added par. (38).

Subsec. (b)(39). Pub. L. 117-169, § 13701(b)(1), added par. (39).

Subsec. (b)(40). Pub. L. 117-169, § 13704(b)(3), added par. (40).

Subsec. (b)(41). Pub. L. 117-328 added par. (41).

Subsec. (c)(6)(E). Pub. L. 117-169, § 10101(d), amended subpar. (E) generally. Prior to amendment, text read as follows: “In the case of a corporation, this subsection shall be applied by treating the corporation as having a tentative minimum tax of zero.”

2019—Subsec. (b)(33). Pub. L. 116-94 added par. (33).

2018—Subsec. (b)(24), (25). Pub. L. 115-141, § 401(d)(2)(B), redesignated pars. (25) and (26) as (24) and (25), respectively, and struck out former par. (24) which read as follows: “the energy efficient appliance credit determined under section 45M(a).”

Subsec. (b)(26) to (29). Pub. L. 115-141, § 401(d)(2)(B), (6)(B)(i), redesignated pars. (31) to (34) first as (30) to (33), and then as (26) to (29), respectively. Former par. (26) redesignated (25), and former pars. (27) to (29) redesignated (26) to (28), respectively, and then struck out.

Pub. L. 115-141, § 401(d)(2)(B), (6)(B)(i), redesignated pars. (27) to (30) as (26) to (29), respectively, and then struck them out. Prior to amendment, these four pars. set out credits for the Hurricane Katrina housing credit determined under section 1400P(b), the Hurricane Katrina employee retention credit determined under section 1400R(a), the Hurricane Rita employee retention credit determined under section 1400R(b), and the Hurricane Wilma employee retention credit determined under section 1400R(c).

Subsec. (b)(30) to (32). Pub. L. 115-141, § 401(d)(2)(B), (6)(B)(i), redesignated pars. (35) to (37) first as (34) to (36), and then as (30) to (32), respectively. Former par. (30) redesignated (29) and then struck out, and former pars. (31) and (32) first redesignated (30) and (31), then (26) and (27), respectively.

Subsec. (b)(33) to (37). Pub. L. 115-141, § 401(a)(8), (d)(2)(B), (6)(B)(i), inserted comma at end of par. (34) and subsequently redesignated pars. (33) to (37) first as (32) to (36), and then as (28) to (32), respectively.

Subsec. (c)(2)(A)(ii)(II). Pub. L. 115-141, § 401(d)(6)(B)(ii), struck out “, the New York Liberty Zone business employee credit,” after “empowerment zone employment credit”.

Pub. L. 115-141, § 401(b)(5)(B), struck out “the eligible small business credits,” before “and the specified credits”.

Subsec. (c)(3). Pub. L. 115-141, § 401(d)(6)(B)(iii), struck out par. (3) which related to special rules for New York Liberty Zone business employee credit.

Subsec. (c)(4)(A)(ii)(II). Pub. L. 115-141, § 401(b)(5)(C), struck out “the eligible small business credits and” before “the specified credits”.

Subsec. (c)(4)(B)(ii). Pub. L. 115-141, § 401(b)(5)(D), substituted “(as defined in paragraph (5)(A) after application of the rules of paragraph (5)(B))” for “(as defined in paragraph (5)(C), after application of rules similar to the rules of paragraph (5)(D))”.

Subsec. (c)(5). Pub. L. 115-141, § 401(b)(5)(A)(i), substituted “Rules related to eligible small businesses” for “Special rules for eligible small business credits in 2010” in heading.

Subsec. (c)(5)(A). Pub. L. 115-141, § 401(b)(5)(A)(i), (ii), redesignated subpar. (C) as (A) and struck out former subpar. (A) which related to eligible small business credits determined in taxable years beginning in 2010.

Subsec. (c)(5)(B). Pub. L. 115-141, § 401(b)(5)(A)(iii), amended subpar. (B) generally. Prior to amendment, text read as follows: “Credits determined with respect

to a partnership or S corporation shall not be treated as eligible small business credits by any partner or shareholder unless such partner or shareholder meets the gross receipts test under subparagraph (C) for the taxable year in which such credits are treated as current year business credits.”

Pub. L. 115-141, § 401(b)(5)(A)(i), (ii), redesignated subpar. (D) as (B) and struck out former subpar. (B) which defined “eligible small business credits”.

Subsec. (c)(5)(C), (D). Pub. L. 115-141, § 401(b)(5)(A)(ii), redesignated subpars. (C) and (D) as (A) and (B), respectively.

2017—Subsec. (b)(35) to (37). Pub. L. 115-97, § 13403(b), struck out “plus” at end of par. (35), substituted “, plus” for period at end of par. (36), and added par. (37).

Subsec. (c)(4)(B)(ix) to (xii). Pub. L. 115-97, § 13403(c), added cl. (ix) and redesignated former cls. (ix) to (xi) as (x) to (xii), respectively.

Subsec. (c)(6)(E). Pub. L. 115-97, § 12001(b)(1), added subpar. (E).

2015—Subsec. (c)(4)(B)(ii) to (iv). Pub. L. 114-113, § 121(b), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively. Former cl. (iv) redesignated (v).

Subsec. (c)(4)(B)(v) to (x). Pub. L. 114-113, § 186(d)(1), added cl. (v) and redesignated former cls. (v) to (ix) as (vi) to (x), respectively. Former cl. (x) redesignated (xi).

Pub. L. 114-113, § 121(b), redesignated cls. (iv) to (ix) as (v) to (x), respectively.

Subsec. (c)(4)(B)(xi). Pub. L. 114-113, § 186(d)(1), redesignated cl. (x) as (xi).

2014—Subsec. (b)(35) to (37). Pub. L. 113-295, § 221(a)(2)(B), inserted “plus” at end of par. (35), redesignated par. (37) as (36), and struck out former par. (36) which read as follows: “the portion of the qualified plug-in electric vehicle credit to which section 30(c)(1) applies, plus”.

Pub. L. 113-295, § 209(f)(1), struck out “plus” at end of par. (35), added par. (36), and redesignated former par. (36) as (37). Amendment was executed to subsec. (b) as it appeared after amendment by Pub. L. 111-148, § 1421(b), to reflect the probable intent of Congress, despite amendment being effective as if included in the enactment of Pub. L. 111-5. See 2010 Amendment and Effective Date of 2014 Amendment notes below.

Subsec. (c)(2)(A). Pub. L. 113-295, § 220(b), substituted “credit” for “credit credit” in introductory provisions.

Subsec. (d)(3). Pub. L. 113-295, § 221(a)(6), struck out par. (3) which related to ordering of credits no longer listed.

2010—Subsec. (b)(36). Pub. L. 111-148, § 1421(b), added par. (36).

Subsec. (c)(2)(A)(ii)(II). Pub. L. 111-240, § 2013(c)(1), inserted “the eligible small business credits,” after “the New York Liberty Zone business employee credit.”

Subsec. (c)(3)(A)(ii)(II). Pub. L. 111-240, § 2013(c)(2), inserted “, the eligible small business credits,” after “the New York Liberty Zone business employee credit”.

Subsec. (c)(4)(A)(ii)(II). Pub. L. 111-240, § 2013(c)(3), inserted “the eligible small business credits and” before “the specified credits”.

Subsec. (c)(4)(B)(vi) to (ix). Pub. L. 111-148, § 1421(c), added cl. (vi) and redesignated former cls. (vi) to (viii) as (vii) to (ix), respectively.

Subsec. (c)(5), (6). Pub. L. 111-240, § 2013(a), added par. (5) and redesignated former par. (5) as (6).

2009—Subsec. (b)(35). Pub. L. 111-5 substituted “30D(c)(1)” for “30D(d)(1)”.

2008—Subsec. (b)(32). Pub. L. 110-246, § 15343(b), added par. (32).

Subsec. (b)(33). Pub. L. 110-245 added par. (33).

Subsec. (b)(34). Pub. L. 110-343, § 115(b), added par. (34).

Subsec. (b)(35). Pub. L. 110-343, § 205(c), added par. (35).

Subsec. (c)(4)(B)(ii) to (iv). Pub. L. 110-289, § 3022(b), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively. Former cl. (iv) redesignated (v).

Subsec. (c)(4)(B)(v). Pub. L. 110-343, § 316(b)(2), added cl. (v). Former cl. (v) redesignated (vi).

- Pub. L. 110-343, § 103(b)(1), added cl. (v). Former cl. (v) redesignated (vi).
- Pub. L. 110-289, § 3022(c), added cl. (v). Former cl. (v) redesignated (vi).
- Pub. L. 110-289, § 3022(b), redesignated cl. (iv) as (v).
- Subsec. (c)(4)(B)(vi). Pub. L. 110-343, § 316(b)(1), redesignated cl. (v) as (vi). Former cl. (vi) redesignated (vii).
- Pub. L. 110-343, § 103(b)(2), substituted “section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to” for “section 47 to the extent attributable to”.
- Pub. L. 110-343, § 103(b)(1), which directed amendment of subpar. (B) by “redesignating clause (vi) as clause (vi) and (vii), respectively”, was executed by redesignating cls. (v) and (vi) as (vi) and (vii), respectively, to reflect the probable intent of Congress.
- Pub. L. 110-289, § 3022(c), redesignated cl. (v) as (vi).
- Subsec. (c)(4)(B)(vii). Pub. L. 110-343, § 316(b)(1), redesignated cl. (vi) as (vii). Former cl. (vii) redesignated (viii).
- Pub. L. 110-343, § 103(b)(1), which directed amendment of subpar. (B) by “redesignating clause (vi) as clause (vi) and (vii), respectively”, was executed by redesignating cls. (v) and (vi) as (vi) and (vii), respectively, to reflect the probable intent of Congress.
- Subsec. (c)(4)(B)(viii). Pub. L. 110-343, § 316(b)(1), redesignated cl. (vii) as (viii).
- 2007—Subsec. (b)(8), (24). Pub. L. 110-172, § 11(a)(6)(A), struck out “and” at end.
- Subsec. (b)(30). Pub. L. 110-172, § 11(a)(6)(C), inserted “plus” at end.
- Pub. L. 110-172, § 11(a)(6)(B), struck out “plus” at end.
- Subsec. (c)(4)(B)(iii), (iv). Pub. L. 110-28 added cls. (iii) and (iv).
- 2006—Subsec. (b)(29) to (31). Pub. L. 109-432 struck out “and” at end of par. (29), substituted “, plus” for period at end of par. (30), and added par. (31).
- 2005—Subsec. (b)(20). Pub. L. 109-59, § 11126(b), added par. (20).
- Subsec. (b)(21). Pub. L. 109-58, § 1306(b), as amended by Pub. L. 109-59, § 11151(d)(1), added par. (21).
- Subsec. (b)(22). Pub. L. 109-58, § 1322(a)(2), added par. (22).
- Subsec. (b)(23). Pub. L. 109-58, § 1332(b), added par. (23).
- Subsec. (b)(24). Pub. L. 109-58, § 1342(b)(1), which directed the striking out of “plus” at end, could not be executed because “plus” did not appear at end.
- Pub. L. 109-58, § 1334(b), added par. (24).
- Subsec. (b)(25). Pub. L. 109-58, § 1341(b)(1), added par. (25).
- Subsec. (b)(26). Pub. L. 109-58, § 1342(b)(1), added par. (26).
- Subsec. (b)(27). Pub. L. 109-135, § 103(b)(1), added par. (27).
- Subsec. (b)(28) to (30). Pub. L. 109-135, § 201(b)(1), added pars. (28) to (30).
- Subsec. (c)(2)(A)(ii)(II). Pub. L. 109-135, § 412(f)(1), substituted “, the New York Liberty Zone business employee credit, and the specified credits” for “or the New York Liberty Zone business employee credit or the specified credits”.
- Subsec. (c)(3)(A)(ii)(II). Pub. L. 109-135, § 412(f)(2), substituted “and the specified credits” for “or the specified credits”.
- Subsec. (c)(4)(B). Pub. L. 109-135, § 412(f)(3), substituted “means” for “includes” in introductory provisions and inserted “and” at end of cl. (i).
- 2004—Subsec. (b)(16). Pub. L. 108-357, § 245(c)(1), added par. (16).
- Subsec. (b)(17). Pub. L. 108-357, § 302(b), added par. (17).
- Subsec. (b)(18). Pub. L. 108-357, § 339(b), added par. (18).
- Subsec. (b)(19). Pub. L. 108-357, § 341(b), added par. (19).
- Subsec. (c)(2)(A)(ii)(II), (3)(A)(ii)(II). Pub. L. 108-357, § 711(b), inserted “or the specified credits” after “employee credit”.
- Subsec. (c)(4), (5). Pub. L. 108-357, § 711(a), added par. (4) and redesignated former par. (4) as (5).
- 2002—Subsec. (b)(15). Pub. L. 107-147, § 411(d)(2), substituted “45F(a)” for “45F”.
- Subsec. (c)(2)(A)(ii)(II). Pub. L. 107-147, § 301(b)(2), inserted “or the New York Liberty Zone business employee credit” after “employment credit”.
- Subsec. (c)(3), (4). Pub. L. 107-147, § 301(b)(1), added par. (3) and redesignated former par. (3) as (4).
- 2001—Subsec. (b)(12). Pub. L. 107-16, § 619(b), struck out “plus” at end.
- Subsec. (b)(13). Pub. L. 107-16, § 619(b), substituted “, plus” for period at end.
- Pub. L. 107-16, § 205(b)(1), struck out “plus” at end.
- Subsec. (b)(14). Pub. L. 107-16, § 619(b), added par. (14).
- Pub. L. 107-16, § 205(b)(1), substituted “, plus” for period at end.
- Subsec. (b)(15). Pub. L. 107-16, § 205(b)(1), added par. (15).
- 2000—Subsec. (b)(13). Pub. L. 106-554 added par. (13).
- 1996—Subsec. (b)(2). Pub. L. 104-188, § 1201(e)(1), substituted “work opportunity credit” for “targeted jobs credit”.
- Subsec. (b)(12). Pub. L. 104-188, § 1205(a)(2), added par. (12).
- Subsec. (c)(2)(C). Pub. L. 104-188, § 1702(e)(4), amended subpar. (C), as in effect on day before date of enactment of the Revenue Reconciliation Act of 1990 (title XI of Pub. L. 101-508, approved Nov. 5, 1990), by inserting before period at end of first sentence “and without regard to the deduction under section 56(h)”.
- 1993—Subsec. (b)(7). Pub. L. 103-66, § 13302(a)(1), struck out “plus” at end.
- Subsec. (b)(8). Pub. L. 103-66, § 13322(a), which directed amendment of par. (8) by striking “plus” at end, could not be executed because “plus” did not appear at end.
- Pub. L. 103-66, § 13302(a)(1), substituted “, and” for period at end.
- Subsec. (b)(9). Pub. L. 103-66, § 13443(b)(1), struck out “plus” at end.
- Pub. L. 103-66, § 13322(a), substituted “, plus” for period at end.
- Pub. L. 103-66, § 13302(a)(1), added par. (9).
- Subsec. (b)(10). Pub. L. 103-66, § 13443(b)(1), substituted “, plus” for period at end.
- Pub. L. 103-66, § 13322(a), added par. (10).
- Subsec. (b)(11). Pub. L. 103-66, § 13443(b)(1), added par. (11).
- Subsec. (c)(2), (3). Pub. L. 103-66, § 13302(c)(1), added par. (2) and redesignated former par. (2) as (3).
- 1992—Subsec. (b)(6) to (8). Pub. L. 102-486 struck out “plus” at end of par. (6), substituted “; plus” for period at end of par. (7), and added par. (8).
- 1990—Subsec. (b)(1). Pub. L. 101-508, § 11813(b)(2)(A), substituted “section 46” for “section 46(a)”.
- Subsec. (b)(4). Pub. L. 101-508, § 11511(b)(1), struck out “plus” at end.
- Subsec. (b)(5). Pub. L. 101-508, § 11611(b)(1), struck out “plus” at end.
- Pub. L. 101-508, § 11511(b)(1), substituted “, plus” for period at end.
- Subsec. (b)(6). Pub. L. 101-508, § 11611(b)(1), substituted “, plus” for period at end.
- Pub. L. 101-508, § 11511(b)(1), added par. (6).
- Subsec. (b)(7). Pub. L. 101-508, § 11611(b)(1), added par. (7).
- Subsec. (c)(2). Pub. L. 101-508, § 11813(b)(2)(B), redesignated par. (3) as (2) and struck out former par. (2) which permitted an offset of regular investment tax credit against 25 percent of minimum tax.
- Subsec. (c)(2)(C). Pub. L. 101-508, § 11813(b)(2)(C), inserted “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)” after “46(e)(1)” and “(as so in effect)” after “46(e)(2)”.
- Subsec. (c)(3). Pub. L. 101-508, § 11813(b)(2)(B), redesignated par. (3) as (2).
- Subsec. (d). Pub. L. 101-508, § 11813(b)(2)(D)(i), substituted “any provision” for “sections 46(f), 47(a), 196(a), and any other provision” in introductory provisions.
- Subsec. (d)(2). Pub. L. 101-508, § 11813(b)(2)(D)(ii), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.”

Subsec. (d)(3)(B). Pub. L. 101-508, § 11813(b)(2)(D)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2).”

1988—Subsec. (c). Pub. L. 100-647, § 1007(g)(2), amended pars. (1) to (3) generally, substituting pars. (1) and (2) for former pars. (1) to (3), redesignating former par. (4) as (3), and substituting “subparagraph (B) of paragraph (1)” for “subparagraphs (A) and (B) of paragraph (1)” in subpars. (A), (B), (C), and (D).

Pub. L. 100-647, § 1007(g)(8), made technical correction to directory language of Pub. L. 99-514, § 701(c)(4), see 1986 Amendment note below.

Subsec. (d). Pub. L. 100-647, § 1002(e)(8)(A), substituted “Ordering rules” for “Special rules for certain regulated companies” in heading and amended text generally. Prior to amendment, text read as follows: “In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), and 196(a) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 42(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).”

1986—Subsec. (b)(4). Pub. L. 99-514, § 231(d)(1), added par. (4).

Pub. L. 99-514, § 1171(b)(1), struck out former par. (4) which read as follows: “the employee stock ownership credit determined under section 41(a).”

Subsec. (b)(5). Pub. L. 99-514, § 252(b)(1), added par. (5).

Subsec. (c). Pub. L. 99-514, § 701(c)(4), as amended by Pub. L. 100-647, § 1007(g)(8), added pars. (1) to (3), redesignated former par. (3) as (4), and struck out former par. (1) “In general” which provided: “The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

“(A) so much of the taxpayer’s net tax liability for the taxable year as does not exceed \$25,000, plus

“(B) 75 percent of so much of the taxpayer’s net tax liability for the taxable year as exceeds \$25,000.” and former par. (2) “Net tax liability”, which provided: “For purposes of paragraph (1), the term ‘net tax liability’ means the tax liability (as defined in section 26(b)), reduced by the sum of the credits allowable under subparts A and B of this part.”

Subsec. (c)(1)(B). Pub. L. 99-514, § 221(a), substituted “75 percent” for “85 percent”.

Subsec. (d). Pub. L. 99-514, § 252(b)(2), inserted “42(a).”

Pub. L. 99-514, § 1171(b)(2), substituted “and 196(a)” for “196(a), and 404(i)” and struck out “41(a),” after “40(a).”

Pub. L. 99-514, § 231(d)(3)(B), inserted “41(a),” after “40(a).”

1984—Subsec. (c)(2). Pub. L. 98-369, § 612(e)(1), substituted “section 26(b)” for “section 25(b).”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-328, div. T, title I, § 112(e), Dec. 29, 2022, 136 Stat. 5295, provided that: “The amendments made by this section [enacting section 45AA of this title and amending this section and section 3511 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 29, 2022].”

Amendment by section 10101(d) of Pub. L. 117-169 applicable to taxable years beginning after Dec. 31, 2022, see section 10101(f) of Pub. L. 117-169, set out as a note under section 11 of this title.

Amendment by section 13105(b)(1) of Pub. L. 117-169 applicable to electricity produced and sold after Dec. 31, 2023, in taxable years beginning after such date, see section 13105(c) of Pub. L. 117-169, set out as an Effective Date note under section 45U of this title.

Amendment by section 13203(b) of Pub. L. 117-169 applicable to fuel sold or used after Dec. 31, 2022, see section 13203(f) of Pub. L. 117-169, set out as an Effective Date note under section 40B of this title.

Amendment by section 13204(a)(4)(A) of Pub. L. 117-169 applicable to hydrogen produced after Dec. 31, 2022, see section 13204(a)(5)(A) of Pub. L. 117-169, set out in an Effective Date note under section 45V of this title.

Amendment by section 13401(i)(3) of Pub. L. 117-169 applicable to vehicles placed in service after Dec. 31, 2022, see section 13401(k)(1) of Pub. L. 117-169, set out in an Effective Date of 2022 Amendment; Transition Rule note under section 30D of this title.

Amendment by section 13403(b)(1) of Pub. L. 117-169 applicable to vehicles acquired after Dec. 31, 2022, see section 13403(c) of Pub. L. 117-169, set out as an Effective Date note under section 45W of this title.

Amendment by section 13502(b)(1) of Pub. L. 117-169 applicable to components produced and sold after Dec. 31, 2022, see section 13502(c) of Pub. L. 117-169, set out as an Effective Date note under section 45X of this title.

Amendment by section 13701(b)(1) of Pub. L. 117-169 applicable to facilities placed in service after Dec. 31, 2024, see section 13701(c) of Pub. L. 117-169, set out as an Effective Date note under section 45Y of this title.

Amendment by section 13704(b)(3) of Pub. L. 117-169 applicable to transportation fuel produced after Dec. 31, 2024, see section 13704(c) of Pub. L. 117-169, set out as an Effective Date note under section 45Z of this title.

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. O, title I, § 105(d), Dec. 20, 2019, 133 Stat. 3148, provided that: “The amendments made by this section [enacting section 45T of this title and amending this section] shall apply to taxable years beginning after December 31, 2019.”

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 12001(b)(1) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 12001(c) of Pub. L. 115-97, set out as a note under section 11 of this title.

Pub. L. 115-97, title I, § 13403(e), Dec. 22, 2017, 131 Stat. 2138, provided that: “The amendments made by this section [enacting section 45S of this title and amending this section and sections 280C and 6501 of this title] shall apply to wages paid in taxable years beginning after December 31, 2017.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, § 121(d), Dec. 18, 2015, 129 Stat. 3052, provided that:

“(1) EXTENSION.—The amendments made by subsection (a) [amending sections 41 and 45C of this title] shall apply to shall apply to [sic] amounts paid or incurred after December 31, 2014.

“(2) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX IN CASE OF ELIGIBLE SMALL BUSINESS.—The amendments made by subsection (b) [amending this section] shall apply to credits determined for taxable years beginning after December 31, 2015.

“(3) TREATMENT OF RESEARCH CREDIT FOR CERTAIN STARTUP COMPANIES.—The amendments made by subsection (c) [amending sections 41 and 3111 of this title] shall apply to taxable years beginning after December 31, 2015.”

Pub. L. 114-113, div. Q, title I, § 186(e)(3), Dec. 18, 2015, 129 Stat. 3074, provided that: “The amendments made by subsection (d) [amending this section and section 45 of this title] shall apply to credits determined for taxable years beginning after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 209(f)(1) of Pub. L. 113-295 effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. 111-5, div. B, title I, to which such amendment relates,

see section 209(k) of Pub. L. 113-295, set out as a note under section 24 of this title.

Amendment by section 221(a)(2)(B), (6) of 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 2010 AMENDMENT

Pub. L. 111-240, title II, §2013(d), Sept. 27, 2010, 124 Stat. 2556, provided that: “The amendments made by subsection (a) [amending this section] shall apply to credits determined in taxable years beginning after December 31, 2009, and to carrybacks of such credits.”

Pub. L. 111-148, title I, §1421(f), title X, §10105(e)(4), Mar. 23, 2010, 124 Stat. 242, 907, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 45R of this title and amending this section and sections 196 and 280C of this title] shall apply to amounts paid or incurred in taxable years beginning after December 31, 2009.

“(2) MINIMUM TAX.—The amendments made by subsection (c) [amending this section] shall apply to credits determined under section 45R of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2009, and to carrybacks of such credits.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to vehicles acquired after Dec. 31, 2009, see section 1141(c) of Pub. L. 111-5, set out as a note under section 30B of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 103(b) of Pub. L. 110-343 applicable to credits determined under section 46 of this title in taxable years beginning after Oct. 3, 2008, and to carrybacks of such credits, see section 103(f)(1), (2) of Pub. L. 110-343, set out as a note under section 48 of this title.

Pub. L. 110-343, div. B, title I, §115(d), Oct. 3, 2008, 122 Stat. 3831, provided that: “The amendments made by this section [enacting section 45Q of this title and amending this section] shall apply to carbon dioxide captured after the date of the enactment of this Act [Oct. 3, 2008].”

Amendment by section 205(c) of Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2008, see section 205(e) of Pub. L. 110-343, set out as an Effective and Termination Dates of 2008 Amendment note under section 24 of this title.

Pub. L. 110-343, div. C, title III, §316(c)(2), Oct. 3, 2008, 122 Stat. 3873, provided that: “The amendments made by subsection (b) [amending this section] shall apply to credits determined under section 45G of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2007, and to carrybacks of such credits.”

Pub. L. 110-289, div. C, title I, §3022(d)(2), (3), July 30, 2008, 122 Stat. 2894, provided that:

“(2) LOW INCOME HOUSING CREDIT.—The amendments made by subsection (b) [amending this section] shall apply to credits determined under section 42 of the Internal Revenue Code of 1986 to the extent attributable to buildings placed in service after December 31, 2007.

“(3) REHABILITATION CREDIT.—The amendments made by subsection (c) [amending this section] shall apply to credits determined under section 47 of the Internal Revenue Code of 1986 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007.”

Pub. L. 110-245, title I, §111(e), June 17, 2008, 122 Stat. 1635, provided that: “The amendments made by this section [enacting section 45P of this title and amending this section and section 280C of this title] shall apply to amounts paid after the date of the enactment of this Act [June 17, 2008].”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out

as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, §15343(e), May 22, 2008, 122 Stat. 1520, and Pub. L. 110-246, §4(a), title XV, §15343(e), June 18, 2008, 122 Stat. 1664, 2282, provided that: “The amendments made by this section [enacting section 45O of this title and amending this section and section 280C of this title] shall apply to amounts paid or incurred after the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-28, title VIII, §8214(b), May 25, 2007, 121 Stat. 193, provided that: “The amendments made by this section [amending this section] shall apply to credits determined under sections 45B and 51 of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2006, and to carrybacks of such credits.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §405(e), Dec. 20, 2006, 120 Stat. 2958, provided that: “The amendments made by this section [enacting section 45N of this title and amending this section and section 280C of this title] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11126(d), Aug. 10, 2005, 119 Stat. 1958, provided that: “The amendments made by this section [enacting section 5011 of this title and amending this section] shall apply to taxable years beginning after September 30, 2005.”

Pub. L. 109-59, title XI, §11151(d)(2), Aug. 10, 2005, 119 Stat. 1968, provided that: “If the Energy Policy Act of 2005 [Pub. L. 109-58, see Tables for classification] is enacted before the date of the enactment of this Act [Aug. 10, 2005], for purposes of executing any amendments made by the Energy Policy Act of 2005 to section 38(b) of the Internal Revenue Code of 1986, the amendments made by section 11126(b) of this Act [amending this section] shall be treated as having been executed before such amendments made by the Energy Policy Act of 2005.”

Pub. L. 109-59, title XI, §11151(f)(3), Aug. 10, 2005, 119 Stat. 1969, provided that: “The amendments made by subsections (d)(1) and (e)(2) [amending this section and sections 4041 and 6426 of this title] shall take effect as if included in the provision of the Energy Tax Incentives Act of 2005 [Pub. L. 109-58, title XIII] to which they relate.”

Pub. L. 109-58, title XIII, §1306(d), Aug. 8, 2005, 119 Stat. 999, provided that: “The amendments made by this section [enacting section 45J of this title and amending this section] shall apply to production in taxable years beginning after the date of the enactment of this Act [Aug. 8, 2005].”

Amendment by section 1322(a)(2) of Pub. L. 109-58 applicable to credits determined under the Internal Revenue Code of 1986 for taxable years ending after Dec. 31, 2005, see section 1322(c)(1) of Pub. L. 109-58, set out as a note under section 45K of this title.

Pub. L. 109-58, title XIII, §1332(f), Aug. 8, 2005, 119 Stat. 1026, provided that: “The amendments made by this section [enacting section 45L of this title and amending this section and sections 196 and 1016 of this title] shall apply to qualified new energy efficient homes acquired after December 31, 2005, in taxable years ending after such date.”

Pub. L. 109-58, title XIII, §1334(d), Aug. 8, 2005, 119 Stat. 1033, provided that: “The amendments made by this section [enacting section 45M of this title and amending this section] shall apply to appliances produced after December 31, 2005.”

Amendment by section 1341(b)(1) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005,

in taxable years ending after such date, see section 1341(c) of Pub. L. 109-58, set out as an Effective Date note under section 30B of this title.

Amendment by section 1342(b)(1) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1342(c) of Pub. L. 109-58, set out as an Effective Date note under section 30C of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title II, §245(e), Oct. 22, 2004, 118 Stat. 1448, provided that: “The amendments made by this section [enacting section 45G of this title and amending this section and sections 39 and 1016 of this title] shall apply to taxable years beginning after December 31, 2004.”

Pub. L. 108-357, title III, §302(d), Oct. 22, 2004, 118 Stat. 1466, provided that: “The amendments made by this section [enacting section 40A of this title and amending this section and sections 87 and 196 of this title] shall apply to fuel produced, and sold or used, after December 31, 2004, in taxable years ending after such date.”

Pub. L. 108-357, title III, §339(f), Oct. 22, 2004, 118 Stat. 1485, provided that: “The amendments made by this section [enacting section 45H of this title and amending this section and sections 196, 280C, and 1016 of this title] shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.”

Pub. L. 108-357, title III, §341(e), Oct. 22, 2004, 118 Stat. 1487, provided that: “The amendments made by this section [enacting section 45I of this title and amending this section and section 39 of this title] shall apply to production in taxable years beginning after December 31, 2004.”

Pub. L. 108-357, title VII, §711(c), Oct. 22, 2004, 118 Stat. 1558, provided that: “Except as otherwise provided, the amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title III, §301(b)(3), Mar. 9, 2002, 116 Stat. 40, provided that: “The amendments made by this subsection [amending this section] shall apply to taxable years ending after December 31, 2001.”

Amendment by section 411(d)(2) of Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title II, §205(c), June 7, 2001, 115 Stat. 53, provided that: “The amendments made by this section [enacting section 45F of this title and amending this section and section 1016 of this title] shall apply to taxable years beginning after December 31, 2001.”

Pub. L. 107-16, title VI, §619(d), June 7, 2001, 115 Stat. 110, as amended by Pub. L. 107-147, title IV, §411(n)(2), Mar. 9, 2002, 116 Stat. 48, provided that: “The amendments made by this section [enacting section 45E of this title and amending this section and sections 39 and 196 of this title] shall apply to costs paid or incurred in taxable years beginning after December 31, 2001, with respect to qualified employer plans first effective after such date.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §121(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A-610, provided that: “The amendments made by this section [enacting section 45D of this title, amending this section and sections 39 and 196 of this title, and enacting provisions set out as notes under section 45D of this title] shall apply to investments made after December 31, 2000.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1201(g), Aug. 20, 1996, 110 Stat. 1772, provided that: “The amendments made by this

section [amending this section and sections 41, 45A, 51, 196, and 1396 of this title] shall apply to individuals who begin work for the employer after September 30, 1996.”

Amendment by section 1205(a)(2) of Pub. L. 104-188 applicable to amounts paid or incurred in taxable years ending after June 30, 1996, see section 1205(e) of Pub. L. 104-188, set out as a note under section 45K of this title.

Pub. L. 104-188, title I, §1702(i), Aug. 20, 1996, 110 Stat. 1875, provided that: “Except as otherwise expressly provided, any amendment made by this section [amending this section, sections 50, 56, 59, 143, 151, 168, 172, 179, 243, 280F, 341, 424, 460, 613A, 805, 832, 861, 897, 1248, 1250, 1367, 1504, 2701, 2702, 2704, 4093, 4975, 5041, 5061, 5354, 6038A, 6302, 6416, 6427, 6501, 6503, 6621, 6724, and 7012 of this title, and provisions set out as a note under section 42 of this title] shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 [Pub. L. 101-508, title XI] to which such amendment relates.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13303, Aug. 10, 1993, 107 Stat. 556, provided that: “The amendments made by this part [part I (§§13301-13303) of subchapter C of chapter 1 of title XIII of Pub. L. 103-66, enacting sections 1391 to 1394 and 1396 to 1397D of this title and amending this section and sections 39, 51, 196, 280C, and 381 of this title] shall take effect on the date of the enactment of this Act [Aug. 10, 1993].”

Pub. L. 103-66, title XIII, §13322(f), Aug. 10, 1993, 107 Stat. 563, provided that: “The amendments made by this section [enacting section 45A of this title and amending this section and sections 39, 196, and 280C of this title] shall apply to wages paid or incurred after December 31, 1993.”

Pub. L. 103-66, title XIII, §13443(d), Aug. 10, 1993, 107 Stat. 569, as amended by Pub. L. 104-188, title I, §1112(a)(2), Aug. 20, 1996, 110 Stat. 1759, provided that: “The amendments made by this section [enacting section 45B of this title and amending this section and section 39 of this title] shall apply with respect to taxes paid after December 31, 1993, with respect to services performed before, on, or after such date.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1914(e), Oct. 24, 1992, 106 Stat. 3023, provided that: “The amendments made by this section [enacting section 45 of this title and amending this section and section 39 of this title] shall apply to taxable years ending after December 31, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11511(b)(1) of Pub. L. 101-508 applicable to costs paid or incurred in taxable years beginning after Dec. 31, 1990, see section 11511(d)(1) of Pub. L. 101-508, set out as an Effective Date note under section 43 of this title.

Pub. L. 101-508, title XI, §11611(e), Nov. 5, 1990, 104 Stat. 1388-503, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 44 of this title and amending this section and sections 39 and 190 of this title] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Nov. 5, 1990].

“(2) SUBSECTION (c).—The amendment made by subsection (c) [amending section 190 of this title] shall apply to taxable years beginning after the date of the enactment of this Act.”

Amendment by section 11813(b)(2) of Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1002(e)(8)(C), Nov. 10, 1988, 102 Stat. 3369, provided that: "The amendments made by this paragraph [amending this section and section 49 of this title] shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years."

Amendment by section 1007(g)(2), (8) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title II, §221(b), Oct. 22, 1986, 100 Stat. 2173, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1985."

Amendment by section 231(d)(1), (3)(B) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 252(b) of Pub. L. 99-514 applicable to buildings placed in service after Dec. 31, 1986, in taxable years ending after such date, see section 252(e) of Pub. L. 99-514, set out as an Effective Date note under section 42 of this title.

Amendment by section 701(c)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Pub. L. 99-514, title XI, §1171(c), Oct. 22, 1986, 100 Stat. 2513, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 56, 108, 401, and 404 of this title and repealing sections 41 and 6699 of this title] shall apply to compensation paid or accrued after December 31, 1986, in taxable years ending after such date.

"(2) SECTIONS 404(i) AND 6699 TO CONTINUE TO APPLY TO PRE-1987 CREDITS.—The provisions of sections 404(i) and 6699 of the Internal Revenue Code of 1986 shall continue to apply with respect to credits under section 41 of such Code attributable to compensation paid or accrued before January 1, 1987 (or under section 38 of such Code with respect to qualified investment before January 1, 1983)."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to interest paid or accrued after December 31, 1984, on indebtedness incurred after December 31, 1984, see section 612(g) of Pub. L. 98-369, set out as an Effective Date note under section 25 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 21 of this title.

SAVINGS PROVISION

For provisions that amendment made by section 401(d)(6)(B)(i)–(iii) of Pub. L. 115-141 not apply, in the case of certain repeals, to various types of wages, bonds, property, or other items before specific dates, see section 401(d)(6)(C) of Pub. L. 115-141, set out as a note under former section 1400L of this title.

For provisions that nothing in amendment by section 401(b)(5)(A)–(D), (d)(2)(B), (6)(B)(i)–(iii) of Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

For provisions that nothing in amendment by section 11813(b)(2) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

BUSINESS CREDIT FOR RETENTION OF CERTAIN NEWLY HIRED INDIVIDUALS IN 2010

Pub. L. 111-147, title I, §102, Mar. 18, 2010, 124 Stat. 75, provided that:

"(a) IN GENERAL.—In the case of any taxable year ending after the date of the enactment of this Act [Mar. 18, 2010], the current year business credit determined under section 38(b) of the Internal Revenue Code of 1986 for such taxable year shall be increased, with respect to each retained worker with respect to which subsection (b)(2) is first satisfied during such taxable year, by the lesser of—

"(1) \$1,000, or

"(2) 6.2 percent of the wages (as defined in section 3401(a) [probably means section 3401(a) of the Internal Revenue Code of 1986]) paid by the taxpayer to such retained worker during the 52 consecutive week period referred to in subsection (b)(2).

"(b) RETAINED WORKER.—For purposes of this section, the term 'retained worker' means any qualified individual (as defined in [former] section 3111(d)(3) or [former] section 3221(c)(3) of the Internal Revenue Code of 1986)—

"(1) who was employed by the taxpayer on any date during the taxable year,

"(2) who was so employed by the taxpayer for a period of not less than 52 consecutive weeks, and

"(3) whose wages (as defined in section 3401(a) [probably means section 3401(a) of the Internal Revenue Code of 1986]) for such employment during the last 26 weeks of such period equaled at least 80 percent of such wages for the first 26 weeks of such period.

"(c) LIMITATION ON CARRYBACKS.—No portion of the unused business credit under section 38 of the Internal Revenue Code of 1986 for any taxable year which is attributable to the increase in the current year business credit under this section may be carried to a taxable year beginning before the date of the enactment of this section [Mar. 18, 2010].

"(d) TREATMENT OF POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS.—

"(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

"(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of this section (other than this subsection) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

"(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 against United States income taxes for any taxable year determined under sub-

section (a) shall be taken into account with respect to any person—

“(A) to whom a credit is allowed against taxes imposed by the possession by reason of this section for such taxable year, or

“(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ‘possession of the United States’ includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

“(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 [section 1001(b)(3)(C) of Pub. L. 111-5, formerly set out as a note under section 36A of this title] shall apply.”

CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

Pub. L. 103-66, title XIII, §13311, Aug. 10, 1993, 107 Stat. 556, as amended by Pub. L. 104-188, title I, §1703(n)(13), Aug. 20, 1996, 110 Stat. 1877, provided that:

“(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

“(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

“(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

“(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified CDC contribution’ means any transfer of cash—

“(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section,

“(B) the amount of which is available for use by such corporation for at least 10 years,

“(C) which is to be used by such corporation for qualified low-income assistance within its operational area, and

“(D) which is designated by such corporation for purposes of this section.

“(2) LIMITATIONS ON AMOUNT DESIGNATED.—The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed \$2,000,000.

“(e) SELECTED COMMUNITY DEVELOPMENT CORPORATIONS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘selected community development corporation’ means any corporation—

“(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

“(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

“(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

“(2) ONLY 20 CORPORATIONS MAY BE SELECTED.—The Secretary of Housing and Urban Development may select 20 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before July 1, 1994. At least 8 of the operational areas of the corporations selected must be rural areas (as defined by section 1393(a)(2) of such Code).

“(3) OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS.—A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

“(A) The area meets the size requirements under section 1392(a)(3).

“(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

“(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

“(f) QUALIFIED LOW-INCOME ASSISTANCE.—For purposes of this section, the term ‘qualified low-income assistance’ means assistance—

“(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

“(2) which is approved by the Secretary of Housing and Urban Development.”

APPLICABILITY OF CERTAIN AMENDMENTS BY PUBLIC LAW 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(c)(4) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF STEEL COMPANIES

Pub. L. 99-514, title II, §212, Oct. 22, 1986, 100 Stat. 2170, as amended by Pub. L. 100-647, title I, §1002(f), Nov. 10, 1988, 102 Stat. 3369, provided that:

“(a) GENERAL RULE.—If a qualified corporation makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

“(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

“(1) 50 percent of the portion of the corporation’s existing carryforwards to which the election under subsection (a) applies, or

“(2) the corporation’s net tax liability for the carryback period.

“(c) CORPORATION MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified corporation which makes an election under subsection (a), the portion of such corporation’s existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1986.

“(d) NET TAX LIABILITY FOR CARRYBACK PERIOD.—For purposes of this section—

“(1) IN GENERAL.—A corporation’s net tax liability for the carryback period is the aggregate of such corporation’s net tax liability for taxable years in the carryback period.

“(2) NET TAX LIABILITY.—The term ‘net tax liability’ means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 [now 1986] for such taxable year, reduced by the sum of the credits allowable under part IV of subchapter A of such chapter 1 (other than section 34 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under section 26(b)(2) of such Code shall not be treated as tax imposed by such chapter 1.

“(3) CARRYBACK PERIOD.—The term ‘carryback period’ means the period—

“(A) which begins with the corporation’s 15th taxable year preceding the 1st taxable year from which there is an unused credit included in such corporation’s existing carryforwards (but in no event shall such period begin before the corporation’s 1st taxable year ending after December 31, 1961), and

“(B) which ends with the corporation’s last taxable year beginning before January 1, 1986.

“(e) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

“(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1986, or

“(2) the amount of any credit allowable under such Code, for any taxable year in the carryback period.

“(f) REINVESTMENT REQUIREMENT.—

“(1) IN GENERAL.—Any amount determined under this section must be committed to reinvestment in, and modernization of the steel industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of steel workers.

“(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—

“(A) such corporation shall place such refund in a separate account; and

“(B) amounts in such separate account—

“(i) shall only be used by the corporation—

“(I) to purchase an insurance policy which provides that, in the event the corporation becomes involved in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1954 [now 1986]), the insurer will provide life and health insurance coverage during the 1-year period beginning on the date when the corporation receives the refund to any individual with respect to whom the corporation would (but for such involvement) have been obligated to provide such coverage the coverage provided by the insurer will be identical to the coverage which the corporation would (but for such involvement) have been obligated to provide, and provides that the payment of insurance premiums will not be required during such 1-year period to keep such policy in force, or

“(II) directly in connection with the trade or business of the corporation in the manufacturer or production of steel; and

“(ii) shall be used (or obligated) for purposes described in clause (i) not later than 3 months after the corporation receives the refund.

“(3) In the case of a qualified corporation, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation’s status under title 11, United States Code.

“(g) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED CORPORATION.—

“(A) IN GENERAL.—The term ‘qualified corporation’ means any corporation which is described in

section 806(b) of the Steel Import Stabilization Act [19 U.S.C. 2253 note] and a company which was incorporated on February 11, 1983, in Michigan.

“(B) CERTAIN PREDECESSORS INCLUDED.—In the case of any qualified corporation which has carryforward attributable to a predecessor corporation described in such section 806(b), the qualified corporation and the predecessor corporation shall be treated as 1 corporation for purposes of subsections (d) and (e).

“(2) EXISTING CARRYFORWARDS.—The term ‘existing carryforward’ means the aggregate of the amounts which—

“(A) are unused business credit carryforwards to the taxpayer’s 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) and any reduction under section 49 of the Internal Revenue Code of 1986), and

“(B) are attributable to the amount of the regular investment credit determined for periods before January 1, 1986, under section 46(a)(1) of such Code (relating to regular percentage), or any corresponding provision of prior law, determined on the basis that the regular investment credit was used first.

“(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring.

“(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section.”

EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF QUALIFIED FARMERS

Pub. L. 99-514, title II, §213, Oct. 22, 1986, 100 Stat. 2172, as amended by Pub. L. 100-647, title I, §1002(g), Nov. 10, 1988, 102 Stat. 3369, provided that:

“(a) GENERAL RULE.—If a taxpayer who is a qualified farmer makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 made by such taxpayer on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

“(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be equal to the smallest of—

“(1) 50 percent of the portion of the taxpayer’s existing carryforwards to which the election under subsection (a) applies,

“(2) the taxpayer’s net tax liability for the carryback period (within the meaning of section 212(d) of this Act [set out as a note above]), or

“(3) \$750.

“(c) TAXPAYER MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified farmer who makes an election under subsection (a), the portion of such farmer’s existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1986.

“(d) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

“(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954 [now 1986], or

“(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period (within the meaning of section 212(d)(3) of this Act [set out as a note above]).

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFIED FARMER.—The term ‘qualified farmer’ means any taxpayer who, during the 3-taxable

year period preceding the taxable year for which an election is made under subsection (a), derived 50 percent or more of the taxpayer's gross income from the trade or business of farming.

“(2) EXISTING CARRYFORWARD.—The term ‘existing carryforward’ means the aggregate of the amounts which—

“(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) of the Internal Revenue Code of 1986), and

“(B) are attributable to the amount of the investment credit determined for periods before January 1, 1986, under section 46(a) of such Code (or any corresponding provision of prior law) with respect to section 38 property which was used by the taxpayer in the trade or business of farming, determined on the basis that such credit was used first.

“(3) FARMING.—The term ‘farming’ has the meaning given such term by section 2032A(e)(4) and (5) of such Code.”

TREATMENT OF INVESTMENT TAX CREDITS WITH RESPECT TO CERTAIN PUBLIC UTILITIES

For provisions requiring different applications of subsec. (c) of this section to certain public utilities by making substitutions in the percentages of the tentative minimum tax referred to in subsec. (c)(3)(A)(i), (B), under certain circumstances, see section 701(f)(6) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

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.

TRANSITION RULES

Pub. L. 99-514, title XI, § 1177, Oct. 22, 1986, 100 Stat. 2520, as amended by Pub. L. 100-647, title I, § 1011B(l)(1), (2), Nov. 10, 1988, 102 Stat. 3493, provided that:

“(a) SECTION 1171.—The amendments made by section 1171 [amending this section and sections 56, 108, 401, and 404 of this title and repealing sections 41 and 6699 of this title] shall not apply in the case of a tax credit employee stock ownership plan if—

“(1) such plan was favorably approved on September 23, 1983, by employees, and

“(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.

“(b) SUBTITLE NOT TO APPLY TO CERTAIN NEWSPAPER.—The amendments made by section 1175 [amending section 401 of this title] shall not apply to any daily newspaper—

“(1) which was first published on December 17, 1855, and which began publication under its current name in 1954, and

“(2) which is published in a constitutional home rule city (within the meaning of section 146(d)(3)(C) of the Internal Revenue Code of 1986) which has a population of less than 2,500,000.”

Pub. L. 100-647, title I, § 1011B(l)(3), Nov. 10, 1988, 102 Stat. 3493, provided that: “If any newspaper corporation described in section 1177(b) of the Reform Act [section 1177(b) of Pub. L. 99-514, set out above], as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act [Nov. 10, 1988] to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical correc-

tions, then such dividend (to the extent the aggregate amount so paid does not exceed \$3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.”

ACCOUNTING FOR INVESTMENT CREDIT IN CERTAIN FINANCIAL REPORTS AND REPORTS TO FEDERAL AGENCIES

Pub. L. 92-178, title I, § 101(c), Dec. 10, 1971, 85 Stat. 499, as amended by Pub. L. 98-369, div. A, title IV, § 450(a), July 18, 1984, 98 Stat. 818; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—It was the intent of Congress in enacting, in the Revenue Act of 1962 [see Short Title of 1962 Amendment note set out under section 1 of this title], the investment credit allowed by section 38 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], and it is the intent of the Congress in restoring that credit in this Act [section 50 of this title], to provide an incentive for modernization and growth of private industry. Accordingly, notwithstanding any other provision of law, on and after the date of the enactment of this Act [Dec. 10, 1971]—

“(A) no taxpayer shall be required to use, for purposes of financial reports subject to the jurisdiction of any Federal agency or reports made to any Federal agency, any particular method of accounting for the credit allowed by such section 38 [this section], and

“(B) a taxpayer shall disclose, in any such report, the method of accounting for such credit used by him for purposes of such report.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to taxpayers who are subject to the provisions of section 46(e) of the Internal Revenue Code of 1986 (as added by section 105(c) of this Act) or to section 203(e) of the Revenue Act of 1964 (as modified by section 105(e) of this Act) [set out as note below].”

[Pub. L. 98-369, div. A, title IV, § 450(b), July 18, 1984, 98 Stat. 818, provided that: “The amendments made by this section [amending this note] shall take effect as if included in the Revenue Act of 1971.”]

TREATMENT OF INVESTMENT CREDIT BY FEDERAL REGULATORY AGENCIES

Pub. L. 88-272, title II, § 203(e), Feb. 26, 1964, 78 Stat. 35, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “It was the intent of the Congress in providing an investment credit under section 38 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] and it is the intent of the Congress in repealing the reduction in basis required by section 48(g) of such Code to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated). Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to a taxpayer shall, without the consent of the taxpayer, use—

“(1) in the case of public utility property (as defined in section 46(c)(3)(B) of the Internal Revenue Code of 1986, more than a proportionate part (determined with reference to the average useful life of the property with respect to which the credit was allowed) of the credit against tax allowed for any taxable year by section 38 of such Code, or

“(2) in the case of any other property, any credit against tax allowed by section 38 of such Code,

to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.”

Section 203(e) of Pub. L. 88-272, not applicable to public utility property to which section 46(e) of this title applies, see section 105(e) of Pub. L. 92-178, set out as a note under section 46 of this title.

§ 39. Carryback and carryforward of unused credits

(a) In general

(1) 1-year carryback and 20-year carryforward

If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the “unused credit year”), such excess (to the extent attributable to the amount of the current year business credit) shall be—

(A) a business credit carryback to the taxable year preceding the unused credit year, and

(B) a business credit carryforward to each of the 20 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

(2) Amount carried to each year

(A) Entire amount carried to first year

The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 21 taxable years to which (by reason of paragraph (1)) such credit may be carried.

(B) Amount carried to other 20 years

The amount of the unused credit for the unused credit year shall be carried to each of the other 20 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

(3) 5-year carryback for marginal oil and gas well production credit

Notwithstanding subsection (d), in the case of the marginal oil and gas well production credit—

(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

(B) paragraph (1) shall be applied by substituting “each of the 5 taxable years” for “the taxable year” in subparagraph (A) thereof, and

(C) paragraph (2) shall be applied—

(i) by substituting “25 taxable years” for “21 taxable years” in subparagraph (A) thereof, and

(ii) by substituting “24 taxable years” for “20 taxable years” in subparagraph (B) thereof.

(4) 3-year carryback for applicable credits

Notwithstanding subsection (d), in the case of any applicable credit (as defined in section 6417(b))—

(A) this section shall be applied separately from the business credit (other than the applicable credit),

(B) paragraph (1) shall be applied by substituting “each of the 3 taxable years” for

“the taxable year” in subparagraph (A) thereof, and

(C) paragraph (2) shall be applied—

(i) by substituting “23 taxable years” for “21 taxable years” in subparagraph (A) thereof, and

(ii) by substituting “22 taxable years” for “20 taxable years” in subparagraph (B) thereof.

(b) Limitation on carrybacks

The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

(c) Limitation on carryforwards

The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

(d) Transitional rule

No portion of the unused business credit for any taxable year which is attributable to a credit specified in section 38(b) or any portion thereof may be carried back to any taxable year before the first taxable year for which such specified credit or such portion is allowable (without regard to subsection (a)).

(Added Pub. L. 98-369, div. A, title IV, § 473, July 18, 1984, 98 Stat. 828; amended Pub. L. 99-514, title II, § 231(d)(3)(C)(i), title XVIII, § 1846, Oct. 22, 1986, 100 Stat. 2179, 2856; Pub. L. 100-647, title I, § 1002(l)(26), Nov. 10, 1988, 102 Stat. 3381; Pub. L. 101-508, title XI, §§ 11511(b)(2), 11611(b)(2), 11801(a)(2), Nov. 5, 1990, 104 Stat. 1388-485, 1388-503, 1388-520; Pub. L. 102-486, title XIX, § 1914(c), Oct. 24, 1992, 106 Stat. 3023; Pub. L. 103-66, title XIII, §§ 13302(a)(2), 13322(d), 13443(b)(2), Aug. 10, 1993, 107 Stat. 555, 563, 569; Pub. L. 104-188, title I, §§ 1205(c), 1703(n)(1), Aug. 20, 1996, 110 Stat. 1775, 1877; Pub. L. 105-34, title VII, § 701(b)(1), title X, § 1083(a), Aug. 5, 1997, 111 Stat. 869, 951; Pub. L. 105-206, title VI, § 6010(m), July 22, 1998, 112 Stat. 816; Pub. L. 106-554, § 1(a)(7) [title I, § 121(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-610; Pub. L. 107-16, title VI, § 619(c)(1), June 7, 2001, 115 Stat. 110; Pub. L. 108-357, title II, § 245(b)(1), title III, § 341(c), Oct. 22, 2004, 118 Stat. 1447, 1487; Pub. L. 109-135, title IV, § 412(g), Dec. 21, 2005, 119 Stat. 2637; Pub. L. 111-240, title II, § 2012(a), (b), Sept. 27, 2010, 124 Stat. 2554; Pub. L. 115-141, div. U, title IV, § 401(b)(5)(E), (F), Mar. 23, 2018, 132 Stat. 1202; Pub. L. 117-169, title I, § 13801(d), Aug. 16, 2022, 136 Stat. 2012.)

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1205(c) of Pub. L. 104-188 applicable to amounts paid or incurred in taxable years ending after June 30, 1996, see section 1205(e) of Pub. L. 104-188, set out as a note under section 45K of this title.

Pub. L. 104-188, title I, §1703(o), Aug. 20, 1996, 110 Stat. 1878, provided that: "Any amendment made by this section [amending this section and sections 40, 59, 108, 117, 135, 143, 163, 904, 956A, 958, 1017, 1044, 1201, 1245, 1297, 1394, 1397B, 1561, 4001, 6033, 6427, 6501, 6655, and 9502 of this title, renumbering section 6714 of this title as section 6715, and amending provisions set out as notes under sections 38, 42, 197, and 1258 of this title and section 401 of Title 42, The Public Health and Welfare] shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 [Pub. L. 103-66, title XIII, ch. I, §§13001-13444] to which such amendment relates."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13322(d) of Pub. L. 103-66 applicable to wages paid or incurred after Dec. 31, 1993, see section 13322(f) of Pub. L. 103-66, set out as a note under section 38 of this title.

Amendment by section 13443(b)(2) of Pub. L. 103-66 applicable with respect to taxes paid after Dec. 31, 1993, with respect to services performed before, on, or after such date, see section 13443(d) of Pub. L. 103-66, as amended, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-486 applicable to taxable years ending after Dec. 31, 1992, see section 1914(e) of Pub. L. 102-486, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11511(b)(2) of Pub. L. 101-508 applicable to costs paid or incurred in taxable years beginning after Dec. 31, 1990, see section 11511(d)(1) of Pub. L. 101-508, set out as an Effective Date note under section 43 of this title.

Amendment by section 11611(b)(2) of Pub. L. 101-508 applicable to expenditures paid or incurred after Nov. 5, 1990, see section 11611(e)(1) of Pub. L. 101-508, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 231(d)(3)(C)(i) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 1846 of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 21 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account

prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

For provisions that nothing in amendment by section 11801(a)(2) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

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.

§ 40. Alcohol, etc., used as fuel

(a) General rule

For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

- (1) the alcohol mixture credit,
- (2) the alcohol credit,
- (3) in the case of an eligible small ethanol producer, the small ethanol producer credit, plus
- (4) the second generation biofuel producer credit.

(b) Definition of alcohol mixture credit, alcohol credit, and small ethanol producer credit

For purposes of this section, and except as provided in subsection (h)—

(1) Alcohol mixture credit

(A) In general

The alcohol mixture credit of any taxpayer for any taxable year is 60 cents for each gallon of alcohol used by the taxpayer in the production of a qualified mixture.

(B) Qualified mixture

The term "qualified mixture" means a mixture of alcohol and gasoline or of alcohol and a special fuel which—

- (i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
- (ii) is used as a fuel by the taxpayer producing such mixture.

(C) Sale or use must be in trade or business, etc.

Alcohol used in the production of a qualified mixture shall be taken into account—

- (i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and
- (ii) for the taxable year in which such sale or use occurs.

(D) Casual off-farm production not eligible

No credit shall be allowed under this section with respect to any casual off-farm production of a qualified mixture.

(2) Alcohol credit

(A) In general

The alcohol credit of any taxpayer for any taxable year is 60 cents for each gallon of al-

cohol which is not in a mixture with gasoline or a special fuel (other than any denaturant) and which during the taxable year—

- (i) is used by the taxpayer as a fuel in a trade or business, or
- (ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

(B) User credit not to apply to alcohol sold at retail

No credit shall be allowed under subparagraph (A)(i) with respect to any alcohol which was sold in a retail sale described in subparagraph (A)(ii).

(3) Smaller credit for lower proof alcohol

In the case of any alcohol with a proof which is at least 150 but less than 190, paragraphs (1)(A) and (2)(A) shall be applied by substituting "45 cents" for "60 cents".

(4) Small ethanol producer credit

(A) In general

The small ethanol producer credit of any eligible small ethanol producer for any taxable year is 10 cents for each gallon of qualified ethanol fuel production of such producer.

(B) Qualified ethanol fuel production

For purposes of this paragraph, the term "qualified ethanol fuel production" means any alcohol which is ethanol which is produced by an eligible small ethanol producer, and which during the taxable year—

- (i) is sold by such producer to another person—

(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

(II) for use by such other person as a fuel in a trade or business, or

(III) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

- (ii) is used or sold by such producer for any purpose described in clause (i).

(C) Limitation

The qualified ethanol fuel production of any producer for any taxable year shall not exceed 15,000,000 gallons (determined without regard to any qualified second generation biofuel production).

(D) Additional distillation excluded

The qualified ethanol fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such producer increases the proof of the alcohol by additional distillation.

(5) Adding of denaturants not treated as mixture

The adding of any denaturant to alcohol shall not be treated as the production of a mixture.

(6) Second generation biofuel producer credit

(A) In general

The second generation biofuel producer credit of any taxpayer is an amount equal to

the applicable amount for each gallon of qualified second generation biofuel production.

(B) Applicable amount

For purposes of subparagraph (A), the applicable amount means \$1.01, except that such amount shall, in the case of second generation biofuel which is alcohol, be reduced by the sum of—

(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified second generation biofuel production, plus

(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

(C) Qualified second generation biofuel production

For purposes of this section, the term "qualified second generation biofuel production" means any second generation biofuel which is produced by the taxpayer, and which during the taxable year—

- (i) is sold by the taxpayer to another person—

(I) for use by such other person in the production of a qualified second generation biofuel mixture in such other person's trade or business (other than casual off-farm production),

(II) for use by such other person as a fuel in a trade or business, or

(III) who sells such second generation biofuel at retail to another person and places such second generation biofuel in the fuel tank of such other person, or

- (ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified second generation biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

(D) Qualified second generation biofuel mixture

For purposes of this paragraph, the term "qualified second generation biofuel mixture" means a mixture of second generation biofuel and gasoline or of second generation biofuel and a special fuel which—

(i) is sold by the person producing such mixture to any person for use as a fuel, or

(ii) is used as a fuel by the person producing such mixture.

(E) Second generation biofuel

For purposes of this paragraph—

(i) In general

The term "second generation biofuel" means any liquid fuel which—

(I) is derived by, or from, qualified feedstocks, and

(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

(ii) Exclusion of low-proof alcohol

The term “second generation biofuel” shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

(iii) Exclusion of certain fuels

The term “second generation biofuel” shall not include any fuel if—

(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment,

(II) the ash content of such fuel is more than 1 percent (determined by weight), or

(III) such fuel has an acid number greater than 25.

(F) Qualified feedstock

For purposes of this paragraph, the term “qualified feedstock” means—

(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

(ii) any cultivated algae, cyanobacteria, or lemna.

(G) Special rules for algae

In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

(i) such sale shall be treated as described in subparagraph (C)(i),

(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.

(H) Allocation of second generation biofuel producer credit to patrons of cooperative

Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph.

(I) Registration requirement

No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of second generation biofuel under section 4101.

(J) Application of paragraph**(i) In general**

This paragraph shall apply with respect to qualified second generation biofuel production after December 31, 2008, and before January 1, 2025.

(ii) No carryover to certain years after expiration

If this paragraph ceases to apply for any period by reason of clause (i), rules similar to the rules of subsection (e)(2) shall apply.

(c) Coordination with exemption from excise tax

The amount of the credit determined under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of section 4041(b)(2), section 6426, or section 6427(e).

(d) Definitions and special rules

For purposes of this section—

(1) Alcohol defined**(A) In general**

The term “alcohol” includes methanol and ethanol but does not include—

- (i) alcohol produced from petroleum, natural gas, or coal (including peat), or
- (ii) alcohol with a proof of less than 150.

(B) Determination of proof

The determination of the proof of any alcohol shall be made without regard to any added denaturants.

(2) Special fuel defined

The term “special fuel” includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

(3) Mixture or alcohol not used as a fuel, etc.**(A) Mixtures**

If—

- (i) any credit was determined under this section with respect to alcohol used in the production of any qualified mixture, and
- (ii) any person—

(I) separates the alcohol from the mixture, or

(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to 60 cents a gallon (45 cents in the case of alcohol with a proof less than 190) for each gallon of alcohol in such mixture.

(B) Alcohol

If—

- (i) any credit was determined under this section with respect to the retail sale of any alcohol, and
- (ii) any person mixes such alcohol or uses such alcohol other than as a fuel,

then there is hereby imposed on such person a tax equal to 60 cents a gallon (45 cents in the case of alcohol with a proof less than 190) for each gallon of such alcohol.

(C) Small ethanol producer credit

If—

- (i) any credit was determined under subsection (a)(3), and
- (ii) any person does not use such fuel for a purpose described in subsection (b)(4)(B),

then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such alcohol.

(D) Second generation biofuel producer credit

If—

(i) any credit is allowed under subsection (a)(4), and

(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C), then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such second generation biofuel.

(E) Applicable laws

All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A), (B), (C), or (D) as if such tax were imposed by section 4081 and not by this chapter.

(4) Volume of alcohol

For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).

(5) Pass-thru in the case of estates and trusts

Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(6) Special rule for second generation biofuel producer credit

No second generation biofuel producer credit shall be determined under subsection (a) with respect to any second generation biofuel unless such second generation biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term “United States” includes any possession of the United States.

(7) Limitation to alcohol with connection to the United States

No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term “United States” includes any possession of the United States.

(e) Termination

(1) In general

This section shall not apply to any sale or use—

(A) for any period after December 31, 2011, or

(B) for any period before January 1, 2012, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.

(2) No carryovers to certain years after expiration

If this section ceases to apply for any period by reason of paragraph (1), no amount attributable to any sale or use before the first day of such period may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any tax-

able year beginning after the 3-taxable-year period beginning with the taxable year in which such first day occurs.

(3) Exception for second generation biofuel producer credit

Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).

(f) Election to have alcohol fuels credit not apply

(1) In general

A taxpayer may elect to have this section not apply for any taxable year.

(2) Time for making election

An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(3) Manner of making election

An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.

(g) Definitions and special rules for eligible small ethanol producer credit

For purposes of this section—

(1) Eligible small ethanol producer

The term “eligible small ethanol producer” means a person who, at all times during the taxable year, has a productive capacity for alcohol (as defined in subsection (d)(1)(A) without regard to clauses (i) and (ii)) not in excess of 60,000,000 gallons.

(2) Aggregation rule

For purposes of the 15,000,000 gallon limitation under subsection (b)(4)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

(3) Partnership, S corporations, and other pass-thru entities

In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(4)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

(4) Allocation

For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

(5) Regulations

The Secretary may prescribe such regulations as may be necessary—

(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than

60,000,000 gallons of alcohol during the taxable year, or

(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

(6) Allocation of small ethanol producer credit to patrons of cooperative

(A) Election to allocate

(i) In general

In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

(ii) Form and effect of election

An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

(B) Treatment of organizations and patrons

(i) Organizations

The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

(ii) Patrons

The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

(iii) Special rules for decrease in credits for taxable year

If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

(I) such reduction, over

(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

(h) Reduced credit for ethanol blenders

(1) In general

In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2011—

(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting “the blender amount” for “60 cents”,

(B) subsection (b)(3) shall be applied by substituting “the low-proof blender amount” for “45 cents” and “the blender amount” for “60 cents”, and

(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting “the blender amount” for “60 cents” and “the low-proof blender amount” for “45 cents”.

(2) Amounts

For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, 2007, or 2008.	51 cents	37.78 cents
2009 through 2011	45 cents	33.33 cents.

(3) Reduction delayed until annual production or importation of 7,500,000,000 gallons

(A) In general

In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting “51 cents” for “45 cents”.

(B) Determination

A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.

(Added Pub. L. 96-223, title II, §232(b)(1), Apr. 2, 1980, 94 Stat. 273, §44E; amended Pub. L. 97-34, title II §207(c)(3), Aug. 13, 1981, 95 Stat. 225; Pub. L. 97-354, §5(a)(2), Oct. 19, 1982, 96 Stat. 1692; Pub. L. 97-424, title V, §511(b)(2), (d)(3), Jan. 6, 1983, 96 Stat. 2170, 2171; renumbered §40 and amended Pub. L. 98-369, div. A, title IV, §§471(c), 474(k), title IX, §§912(c), (f), 913(b), July 18, 1984, 98 Stat. 826, 832, 1007, 1008; Pub. L. 100-203, title X, §10502(d)(1), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 101-508, title XI, §11502(a)-(f), Nov. 5, 1990, 104 Stat. 1388-480 to 1388-482; Pub. L. 104-188, title I, §1703(j), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-178, title IX, §9003(a)(3), (b)(1), June 9, 1998, 112 Stat. 502; Pub. L. 108-357, title III, §§301(c)(1)-(4), 313(a), Oct. 22, 2004, 118 Stat. 1461, 1467; Pub. L. 109-58, title XIII, §1347(a), (b), Aug. 8, 2005, 119 Stat. 1056; Pub. L. 110-234, title XV,

§§ 15321(a)–(b)(2), (3)(B), (c)–(e), 15331(a), 15332(a), May 22, 2008, 122 Stat. 1512–1516; Pub. L. 110–246, § 4(a), title XV, §§ 15321(a)–(b)(2), (3)(B), (c)–(e), 15331(a), 15332(a), June 18, 2008, 122 Stat. 1664, 2274–2278; Pub. L. 110–343, div. B, title II, § 203(a), Oct. 3, 2008, 122 Stat. 3833; Pub. L. 111–152, title I, § 1408(a), Mar. 30, 2010, 124 Stat. 1067; Pub. L. 111–240, title II, § 2121(a), Sept. 27, 2010, 124 Stat. 2567; Pub. L. 111–312, title VII, § 708(a)(1), (2), Dec. 17, 2010, 124 Stat. 3312; Pub. L. 112–240, title IV, § 404(a)(1), (2), (b)(1)–(3)(B), Jan. 2, 2013, 126 Stat. 2338, 2339; Pub. L. 113–295, div. A, title I, § 152(a), Dec. 19, 2014, 128 Stat. 4021; Pub. L. 114–113, div. Q, title I, § 184(a), Dec. 18, 2015, 129 Stat. 3073; Pub. L. 115–123, div. D, title I, § 40406(a), Feb. 9, 2018, 132 Stat. 149; Pub. L. 115–141, div. U, title IV, § 401(a)(9), Mar. 23, 2018, 132 Stat. 1184; Pub. L. 116–94, div. Q, title I, § 122(a), Dec. 20, 2019, 133 Stat. 3231; Pub. L. 116–260, div. EE, title I, § 140(a), Dec. 27, 2020, 134 Stat. 3054; Pub. L. 117–169, title I, § 13202(a), Aug. 16, 2022, 136 Stat. 1932.)

Editorial Notes

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 40, added Pub. L. 92–178, title VI, § 601(a), Dec. 10, 1971, 85 Stat. 553; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to allowance as a credit of expenses of work incentive programs, prior to repeal by Pub. L. 98–369, div. A, title IV, § 474(m)(1), July 18, 1984, 98 Stat. 833.

Another prior section 40 was renumbered section 37 of this title.

AMENDMENTS

2022—Subsec. (b)(6)(J)(i). Pub. L. 117–169 substituted “2025” for “2022”.

2020—Subsec. (b)(6)(J)(i). Pub. L. 116–260 substituted “January 1, 2022” for “January 1, 2021”.

2019—Subsec. (b)(6)(J)(i). Pub. L. 116–94 substituted “January 1, 2021” for “January 1, 2018”.

2018—Subsec. (b)(6)(J)(i). Pub. L. 115–123 substituted “January 1, 2018” for “January 1, 2017”.

Subsec. (g)(2). Pub. L. 115–141 substituted “Aggregation” for “Aggregation” in heading.

2015—Subsec. (b)(6)(J)(i). Pub. L. 114–113 substituted “January 1, 2017” for “January 1, 2015”.

2014—Subsec. (b)(6)(J)(i). Pub. L. 113–295 substituted “January 1, 2015” for “January 1, 2014”.

2013—Pub. L. 112–240, § 404(b)(3)(A)(i), substituted “second generation biofuel” for “cellulosic biofuel” wherever appearing in text in subsecs. (a)(4), (b)(4)(C), (6), and (d)(3)(D), (6).

Subsec. (b)(6). Pub. L. 112–240, § 404(b)(3)(A)(ii), substituted “Second generation” for “Cellulosic” in heading.

Subsec. (b)(6)(C), (D). Pub. L. 112–240, § 404(b)(3)(A)(iii), substituted “second generation” for “cellulosic” in heading.

Subsec. (b)(6)(E). Pub. L. 112–240, § 404(b)(3)(A)(ii), substituted “Second generation” for “Cellulosic” in heading.

Subsec. (b)(6)(E)(i)(I). Pub. L. 112–240, § 404(b)(1), amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: “is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and”.

Subsec. (b)(6)(E)(ii). Pub. L. 112–240, § 404(b)(3)(B), substituted “The term ‘second generation biofuel’ shall not” for “Such term shall not”.

Subsec. (b)(6)(F), (G). Pub. L. 112–240, § 404(b)(2), added subpars. (F) and (G). Former subpars. (F) and (G) redesignated as (H) and (I), respectively.

Subsec. (b)(6)(H). Pub. L. 112–240, § 404(b)(3)(A)(iii), substituted “second generation” for “cellulosic” in heading.

Pub. L. 112–240, § 404(b)(2), redesignated subpar. (F) as (H). Former subpar. (H) redesignated (J).

Pub. L. 112–240, § 404(a)(1), amended subpar. (H) generally. Prior to amendment, text read as follows: “This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2013.”

Subsec. (b)(6)(I), (J). Pub. L. 112–240, § 404(b)(2), redesignated subpars. (G) and (H) as (I) and (J), respectively.

Subsec. (d)(3)(D). Pub. L. 112–240, § 404(b)(3)(A)(ii), substituted “Second generation” for “Cellulosic” in heading.

Subsec. (d)(6). Pub. L. 112–240, § 404(b)(3)(A)(iii), substituted “second generation” for “cellulosic” in heading.

Subsec. (e)(2). Pub. L. 112–240, § 404(a)(2), struck out “or subsection (b)(6)(H)” after “paragraph (1)”.

Subsec. (e)(3). Pub. L. 112–240, § 404(b)(3)(A)(iii), substituted “second generation” for “cellulosic” in heading.

2010—Subsec. (b)(6)(E)(iii). Pub. L. 111–240, § 2121(a)(4), substituted “certain” for “unprocessed” in heading.

Pub. L. 111–152 added cl. (iii).

Subsec. (b)(6)(E)(iii)(III). Pub. L. 111–240, § 2121(a)(1)–(3), added subcl. (III).

Subsec. (e)(1)(A). Pub. L. 111–312, § 708(a)(1)(A), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (e)(1)(B). Pub. L. 111–312, § 708(a)(1)(B), substituted “January 1, 2012” for “January 1, 2011”.

Subsec. (h)(1), (2). Pub. L. 111–312, § 708(a)(2), substituted “2011” for “2010”.

2008—Pub. L. 110–246, § 15321(b)(3)(B), inserted “, etc.,” after “Alcohol” in section catchline.

Subsec. (a)(4). Pub. L. 110–246, § 15321(a), added par. (4).

Subsec. (b)(4)(C). Pub. L. 110–246, § 15321(e), inserted “(determined without regard to any qualified cellulosic biofuel production)” after “15,000,000 gallons”.

Subsec. (b)(6). Pub. L. 110–246, § 15321(b)(1), added par. (6).

Subsec. (d)(3)(C). Pub. L. 110–246, § 15321(c)(2)(A), substituted “Small ethanol producer” for “Producer” in heading.

Subsec. (d)(3)(D). Pub. L. 110–246, § 15321(c)(1), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (d)(3)(E). Pub. L. 110–246, § 15321(c)(2)(B), substituted “(C), or (D)” for “or (C)”.

Pub. L. 110–246, § 15321(c)(1), redesignated subpar. (D) as (E).

Subsec. (d)(4). Pub. L. 110–246, § 15332(a), substituted “2 percent” for “5 percent”.

Subsec. (d)(6). Pub. L. 110–246, § 15321(d), added par. (6).

Subsec. (d)(7). Pub. L. 110–343 added par. (7).

Subsec. (e)(2). Pub. L. 110–246, § 15321(b)(2)(A), inserted “or subsection (b)(6)(H)” after “by reason of paragraph (1)”.

Subsec. (e)(3). Pub. L. 110–246, § 15321(b)(2)(B), added par. (3).

Subsec. (h)(2). Pub. L. 110–246, § 15331(a)(1), in table, substituted “2005, 2006, 2007, or 2008” for “2005 through 2010”, struck out period after “37.78 cents”, and inserted last row reading “2009 through 2010”, “45 cents”, and “33.33 cents.”

Subsec. (h)(3). Pub. L. 110–246, § 15331(a)(2), added par. (3).

2005—Subsec. (g)(1), (2), (5)(A). Pub. L. 109–58, § 1347(a), substituted “60,000,000” for “30,000,000”.

Subsec. (g)(6)(A)(ii). Pub. L. 109–58, § 1347(b), inserted at end “Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).”

2004—Subsec. (c). Pub. L. 108–357, § 301(c)(1), substituted “section 4041(b)(2), section 6426, or section 6427(e)” for “subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)”.

Subsec. (d)(4). Pub. L. 108-357, §301(c)(2), reenacted heading without change and amended text of par. (4) generally, substituting provisions relating to determination of the number of gallons of alcohol with respect to which a credit is allowable under subsec. (a) for provisions relating to determination of the number of gallons of alcohol with respect to which a credit is allowable under subsec. (a) or the percentage of any mixture which consists of alcohol under section 4041(k) or 4081(c).

Subsec. (e)(1)(A). Pub. L. 108-357, §301(c)(3)(A), substituted “2010” for “2007”.

Subsec. (e)(1)(B). Pub. L. 108-357, §301(c)(3)(B), substituted “2011” for “2008”.

Subsec. (g)(6). Pub. L. 108-357, §313(a), added par. (6).
Subsec. (h)(1). Pub. L. 108-357, §301(c)(4)(A), substituted “2010” for “2007” in introductory provisions.

Subsec. (h)(2). Pub. L. 108-357, §301(c)(4)(B), substituted “through 2010” for “, 2006, or 2007” in table.

1998—Subsec. (e)(1). Pub. L. 105-178, §9003(a)(3), substituted “December 31, 2007” for “December 31, 2000” in subpar. (A) and “January 1, 2008” for “January 1, 2001” in subpar. (B).

Subsec. (h). Pub. L. 105-178, §9003(b)(1), reenacted heading without change and amended text of subsec. (h) generally. Prior to amendment, text read as follows: “In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

“(1) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting ‘54 cents’ for ‘60 cents’;

“(2) subsection (b)(3) shall be applied by substituting ‘40 cents’ for ‘45 cents’ and ‘54 cents’ for ‘60 cents’; and

“(3) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting ‘54 cents’ for ‘60 cents’ and ‘40 cents’ for ‘45 cents.’”

1996—Subsec. (e)(1)(B). Pub. L. 104-188 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “for any period before January 1, 2001, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.”

1990—Subsec. (a)(2). Pub. L. 101-508, §11502(a)(1), substituted “, plus” for period at end.

Subsec. (a)(3). Pub. L. 101-508, §11502(a)(2), added par. (3).

Subsec. (b). Pub. L. 101-508, §11502(e)(2), which directed the insertion of “, and except as provided in subsection (h)” in introductory provisions without specifying the location of such insertion, was executed after “section” to reflect the probable intent of Congress.

Pub. L. 101-508, §11502(b)(3), substituted “, alcohol credit, and small ethanol producer credit” for “and alcohol credit” in heading.

Subsec. (b)(4), (5). Pub. L. 101-508, §11502(b)(1), (2), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d)(3)(C), (D). Pub. L. 101-508, §11502(d)(1), (2), added subpar. (C), redesignated former subpar. (C) as (D), and substituted “subparagraph (A), (B), or (C)” for “subparagraph (A) or (B)”.

Subsec. (e). Pub. L. 101-508, §11502(f), amended subsec. (e) generally, substituting present provisions for provisions prohibiting the applicability of this section to any sale or use after Dec. 31, 1992, and prohibiting carryovers to any taxable year beginning after Dec. 31, 1994.

Subsec. (g). Pub. L. 101-508, §11502(c), added subsec. (g).

Subsec. (h). Pub. L. 101-508, §11502(e)(1), added subsec. (h).

1987—Subsec. (c). Pub. L. 100-203 substituted “, section 4081(c), or section 4091(c)” for “or section 4081(c)”.

1984—Pub. L. 98-369, §471(c), renumbered section 44E of this title as this section.

Subsec. (a). Pub. L. 98-369, §474(k)(1), substituted “For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of” for “There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of” in introductory provisions.

Subsec. (b)(1)(A), (2)(A). Pub. L. 98-369, §912(c)(1), substituted “60 cents” for “50 cents”.

Subsec. (b)(3). Pub. L. 98-369, §912(c), substituted “45 cents” for “37.5 cents” and “60 cents” for “50 cents”.

Subsec. (c). Pub. L. 98-369, §913(b), substituted “(b)(2), (k), or (m)” for “(b)(2) or (k)”.

Pub. L. 98-369, §474(k)(2), substituted “the credit determined under this section” for “the credit allowable under this section”.

Subsec. (d)(1)(A)(i). Pub. L. 98-369, §912(f), substituted “coal (including peat)” for “coal”.

Subsec. (d)(3)(A). Pub. L. 98-369, §912(c), substituted “60 cents” for “50 cents” and “45 cents” for “37.5 cents”.

Subsec. (d)(3)(A)(i). Pub. L. 98-369, §474(k)(3), substituted “credit was determined” for “credit was allowable”.

Subsec. (d)(3)(B). Pub. L. 98-369, §912(c), substituted “60 cents” for “50 cents” and “45 cents” for “37.5 cents”.

Subsec. (d)(3)(B)(i). Pub. L. 98-369, §474(k)(3), substituted “credit was determined” for “credit was allowable”.

Subsec. (e). Pub. L. 98-369, §474(k)(4), redesignated subsec. (f) as (e). Former subsec. (e), which had placed a limitation based on the amount of tax, was struck out.

Subsec. (e)(2). Pub. L. 98-369, §474(k)(5), substituted “section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart)” for “subsection (e)(2)”.

Subsec. (f). Pub. L. 98-369, §474(k)(6), added subsec. (f). Former subsec. (f) redesignated (e).

1983—Subsec. (b)(1)(A), (2)(A). Pub. L. 97-424, §511(d)(3)(A), substituted “50 cents” for “40 cents”.

Subsec. (b)(3). Pub. L. 97-424, §511(d)(3), substituted “50 cents” for “40 cents” and “37.5 cents” for “30 cents”.

Subsec. (c). Pub. L. 97-424, §511(b)(2), substituted “subsection (b)(2) or (k) of section 4041 or section 4081(c)” for “section 4041(k) or 4081(c)” after “reason of the application of”.

Subsec. (d)(3)(A), (B). Pub. L. 97-424, §511(d)(3), substituted “50 cents” for “40 cents” and “37.5 cents” for “30 cents”.

1982—Subsec. (d)(5). Pub. L. 97-354 substituted “Pass-thru in the case of estates and trusts” for “Pass-through in the case of subchapter S corporations, etc.” in par. heading, and substituted provisions relating to the applicability of rules similar to rules of subsec. (d) of section 52 for provisions relating to the applicability of rules similar to rules of subsecs. (d) and (e) of section 52.

1981—Subsec. (e)(2)(A). Pub. L. 97-34 substituted “15” for “7” in two places, and “14” for “6” in one place.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-169, title I, §13202(b), Aug. 16, 2022, 136 Stat. 1932, provided that: “The amendment made by subsection (a) [amending this section] shall apply to qualified second generation biofuel production after December 31, 2021.”

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. EE, title I, §140(b), Dec. 27, 2020, 134 Stat. 3054, provided that: “The amendment made by this section [amending this section] shall apply to qualified second generation biofuel production after December 31, 2020.”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, §122(b), Dec. 20, 2019, 133 Stat. 3231, provided that: “The amendment made by this section [amending this section] shall apply to qualified second generation biofuel production after December 31, 2017.”

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. D, title I, § 40406(b), Feb. 9, 2018, 132 Stat. 149, provided that: “The amendment made by this section [amending this section] shall apply to qualified second generation biofuel production after December 31, 2016.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, § 184(b), Dec. 18, 2015, 129 Stat. 3073, provided that: “The amendment made by this subsection [probably means this section, amending this section] shall apply to qualified second generation biofuel production after December 31, 2014.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, § 152(b), Dec. 19, 2014, 128 Stat. 4021, provided that: “The amendment made by this section [amending this section] shall apply to qualified second generation biofuel production after December 31, 2013.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title IV, § 404(a)(3), Jan. 2, 2013, 126 Stat. 2338, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in section 15321(b) of the Heartland, Habitat, and Horticulture Act of 2008 [probably should be Heartland, Habitat, Harvest, and Horticulture Act of 2008, title XV of Pub. L. 110-246].”

Pub. L. 112-240, title IV, § 404(b)(4), Jan. 2, 2013, 126 Stat. 2339, provided that: “The amendments made by this subsection [amending this section and section 4101 of this title] shall apply to fuels sold or used after the date of the enactment of this Act [Jan. 2, 2013].”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, § 708(a)(3), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendments made by this subsection [amending this section] shall apply to periods after December 31, 2010.”

Pub. L. 111-240, title II, § 2121(b), Sept. 27, 2010, 124 Stat. 2567, provided that: “The amendments made by this section [amending this section] shall apply to fuels sold or used on or after January 1, 2010.”

Pub. L. 111-152, title I, § 1408(b), Mar. 30, 2010, 124 Stat. 1067, provided that: “The amendment made by this section [amending this section] shall apply to fuels sold or used on or after January 1, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title II, § 203(d), Oct. 3, 2008, 122 Stat. 3834, provided that: “The amendments made by this section [amending this section and sections 40A, 6426, and 6427 of this title] shall apply to claims for credit or payment made on or after May 15, 2008.”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, § 15321(g), May 22, 2008, 122 Stat. 1514, and Pub. L. 110-246, § 4(a), title XV, § 15321(g), June 18, 2008, 122 Stat. 1664, 2276, provided that: “The amendments made by this section [amending this section and sections 40A and 4101 of this title] shall apply to fuel produced after December 31, 2008.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110-234, title XV, § 15331(c), May 22, 2008, 122 Stat. 1516, and Pub. L. 110-246, § 4(a), title XV, § 15331(c), June 18, 2008, 122 Stat. 1664, 2278, provided that: “The amendments made by this section [amending this section and section 6426 of this title] shall take effect on the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a)

of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110-234, title XV, § 15332(c), May 22, 2008, 122 Stat. 1516, and Pub. L. 110-246, § 4(a), title XV, § 15332(c), June 18, 2008, 122 Stat. 1664, 2278, provided that: “The amendments made by this section [amending this section and section 6426 of this title] shall apply to fuel sold or used after December 31, 2008.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-58, title XIII, § 1347(c), Aug. 8, 2005, 119 Stat. 1056, provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 8, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title III, § 301(d), Oct. 22, 2004, 118 Stat. 1463, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting section 6426 of this title and amending this section and sections 4041, 4081, 4083, 4101, 6427, and 9503 of this title] shall apply to fuel sold or used after December 31, 2004.

“(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) [amending section 4101 of this title] shall take effect on April 1, 2005.

“(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].

“(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) [amending section 9503 of this title] shall apply to fuel sold or used after September 30, 2004.”

Pub. L. 108-357, title III, § 313(b), Oct. 22, 2004, 118 Stat. 1468, provided that: “The amendment made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-178, title IX, § 9003(b)(3), June 9, 1998, 112 Stat. 503, provided that: “The amendments made by this subsection [amending this section and sections 4041, 4081, and 4091 of this title] shall take effect on January 1, 2001.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§ 13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, § 11502(h), Nov. 5, 1990, 104 Stat. 1388-482, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to alcohol produced, and sold or used, in taxable years beginning after December 31, 1990.

“(2) The amendments made by subsection (g) [amending provisions not classified to the Code] shall apply to articles entered or withdrawn from warehouse on or after January 1, 1991.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, § 10502(e), Dec. 22, 1987, 101 Stat. 1330-445, provided that: “The amendments made by this section [enacting sections 4091 to 4093 of this title, amending this section and sections 4041, 4081, 4101, 4221, 6206, 6416, 6421, 6427, 6652, 9502, 9503, and 9508 of this

title, and enacting provisions set out as notes under sections 4091 and 9502 of this title] shall apply to sales after March 31, 1988.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(k) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Pub. L. 98-369, div. A, title IX, §912(g), July 18, 1984, 98 Stat. 1008, provided that: “The amendments made by this section [amending this section and sections 4041, 4081, and 6427 of this title] shall take effect on January 1, 1985.”

Amendment by section 913(b) of Pub. L. 98-369 effective Aug. 1, 1984, see section 913(c) of Pub. L. 98-369, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendments by section 511(b)(2), (d)(3) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97-424, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to unused credit years ending after Sept. 30, 1980, see section 209(c)(2)(C) of Pub. L. 97-34, set out as an Effective Date note under section 168 of this title.

EFFECTIVE DATE

Pub. L. 96-223, title II, §232(h)(1), (4), Apr. 2, 1980, 94 Stat. 281, as amended by Pub. L. 97-448, title II, §202(e), Jan. 12, 1983, 96 Stat. 2396, provided that:

“(1) The amendments made by subsections (b) and (c) [enacting sections 44E [now 40] and 86 of this title and amending sections 55, 381, 383, 4081, and 6096 of this title] shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

“(4) Notwithstanding paragraph (1), the provisions of section 44E(d)(4)(B) [now 40(d)(4)(B)] of such Code, as added by this section, shall take effect on April 2, 1980.”

§ 40A. Biodiesel and renewable diesel used as fuel

(a) General rule

For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

- (1) the biodiesel mixture credit, plus
- (2) the biodiesel credit, plus
- (3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.

(b) Definition of biodiesel mixture credit, biodiesel credit, and small agri-biodiesel producer credit

For purposes of this section—

(1) Biodiesel mixture credit

(A) In general

The biodiesel mixture credit of any taxpayer for any taxable year is \$1.00 for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

(B) Qualified biodiesel mixture

The term “qualified biodiesel mixture” means a mixture of biodiesel and diesel fuel

(as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

- (i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
- (ii) is used as a fuel by the taxpayer producing such mixture.

(C) Sale or use must be in trade or business, etc.

Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

- (i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and
- (ii) for the taxable year in which such sale or use occurs.

(D) Casual off-farm production not eligible

No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

(2) Biodiesel credit

(A) In general

The biodiesel credit of any taxpayer for any taxable year is \$1.00 for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

- (i) is used by the taxpayer as a fuel in a trade or business, or
- (ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person’s vehicle.

(B) User credit not to apply to biodiesel sold at retail

No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

(3) Certification for biodiesel

No credit shall be allowed under paragraph (1) or (2) of subsection (a) unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

(4) Small agri-biodiesel producer credit

(A) In general

The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel production of such producer.

(B) Qualified agri-biodiesel production

For purposes of this paragraph, the term “qualified agri-biodiesel production” means any agri-biodiesel which is produced by an eligible small agri-biodiesel producer, and which during the taxable year—

- (i) is sold by such producer to another person—

(I) for use by such other person in the production of a qualified biodiesel mixture in such other person’s trade or business (other than casual off-farm production),

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 12001(b)(17) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 12001(c) of Pub. L. 115-97, set out as a note under section 11 of this title.

Amendment by section 13001(b)(2)(P) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as a note under section 11 of this title.

Amendment by section 14401(d)(3) of Pub. L. 115-97 applicable to base erosion payments (as defined in section 59A(d) of this title) paid or accrued in taxable years beginning after Dec. 31, 2017, see section 14401(e) of Pub. L. 115-97, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-41 applicable to returns for taxable years beginning after Dec. 31, 2015, with special rule for certain C corporations, see section 2006(a)(3) of Pub. L. 114-41, set out as a note under section 170 of this title.

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 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, set out as notes under sections 6154 and 51 of this title, see section 103(f) of Pub. L. 90-364, set out as an Effective Date of 1968 Amendment note under section 6154 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 6426. Credit for alcohol fuel, biodiesel, and alternative fuel mixtures

(a) Allowance of credits

There shall be allowed as a credit—

- (1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), (e), and (k), and
- (2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).

No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.

(b) Alcohol fuel mixture credit

(1) In general

For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable amount is—

- (i) in the case of calendar years beginning before 2009, 51 cents, and
- (ii) in the case of calendar years beginning after 2008, 45 cents.

(B) Mixtures not containing ethanol

In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(C) Reduction delayed until annual production or importation of 7,500,000,000 gallons

In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting “51 cents” for “45 cents”.

(3) Alcohol fuel mixture

For purposes of this subsection, the term “alcohol fuel mixture” means a mixture of alcohol and a taxable fuel which—

- (A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or
- (B) is used as a fuel by the taxpayer producing such mixture.

For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

(4) Other definitions

For purposes of this subsection—

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include—

- (i) alcohol produced from petroleum, natural gas, or coal (including peat), or
- (ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) Taxable fuel

The term “taxable fuel” has the meaning given such term by section 4083(a)(1).

(5) Volume of alcohol

For purposes of determining under subsection (a) the number of gallons of alcohol

with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2011.

(c) Biodiesel mixture credit

(1) In general

For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection, the applicable amount is \$1.00.

(3) Biodiesel mixture

For purposes of this section, the term “biodiesel mixture” means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

(4) Certification for biodiesel

No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agribiodiesel in the product.

(5) Other definitions

Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2024.

(d) Alternative fuel credit

(1) In general

For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, sold by the taxpayer for use as a fuel in aviation, or so used by the taxpayer.

(2) Alternative fuel

For purposes of this section, the term “alternative fuel” means—

(A) liquefied petroleum gas,

(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),

(C) compressed or liquefied natural gas,

(D) any liquid fuel which meets the requirements of paragraph (4) and which is derived from coal (including peat) through the Fischer-Tropsch process,

(E) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and

(F) liquid fuel derived from biomass (as defined in section 45K(c)(3)).

Such term does not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

(3) Gasoline gallon equivalent

For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Carbon capture requirement

(A) In general

The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility’s total carbon dioxide emissions.

(B) Applicable percentage

For purposes of subparagraph (A), the applicable percentage is—

(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

(ii) 75 percent in the case of fuel produced after December 30, 2009.

(5) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2024.

(e) Alternative fuel mixture credit

(1) In general

For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture

For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel (other than a fuel described in subparagraph (A), (C), or (E) of subsection (d)(2)) and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

(3) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2024.

(f) Mixture not used as a fuel, etc.

(1) Imposition of tax

If—

(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

- (B) any person—
(i) separates the alcohol or biodiesel from the mixture, or
(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) Applicable laws

All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

(g) Coordination with exemption from excise tax

Rules similar to the rules under section 40(c) shall apply for purposes of this section.

(h) Denial of double benefit

No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40, 40A, or 40B.

(i) Limitation to fuels with connection to the United States

(1) Alcohol

No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

(2) Biodiesel and alternative fuels

No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term “United States” includes any possession of the United States.

(j) Energy equivalency determinations for liquefied petroleum gas and liquefied natural gas

For purposes of determining any credit under this section, any reference to the number of gallons of an alternative fuel or the gasoline gallon equivalent of such a fuel shall be treated as a reference to—

- (1) in the case of liquefied petroleum gas, the energy equivalent of a gallon of gasoline, as defined in section 4041(a)(2)(C), and
(2) in the case of liquefied natural gas, the energy equivalent of a gallon of diesel, as defined in section 4041(a)(2)(D).

(k) Sustainable aviation fuel credit

(1) In general

For purposes of this section, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture, an amount equal to the product of—

- (A) the number of gallons of sustainable aviation fuel in such mixture, multiplied by
(B) the sum of—
(i) \$1.25, plus
(ii) the applicable supplementary amount with respect to such sustainable aviation fuel.

(2) Definitions

Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

(3) Registration requirement

For purposes of this subsection, rules similar to the rules of section 40B(f) shall apply.

(Added Pub. L. 108-357, title III, §301(a), Oct. 22, 2004, 118 Stat. 1459; amended Pub. L. 109-58, title XIII, §1344(a), Aug. 8, 2005, 119 Stat. 1052; Pub. L. 109-59, title XI, §§11113(b)(1)-(3)(A), 11151(e)(2), Aug. 10, 2005, 119 Stat. 1947, 1948, 1969; Pub. L. 110-172, §5(a)(2), (3), Dec. 29, 2007, 121 Stat. 2479; Pub. L. 110-234, title XV, §§15331(b), 15332(b), May 22, 2008, 122 Stat. 1516; Pub. L. 110-246, §4(a), title XV, §§15331(b), 15332(b), June 18, 2008, 122 Stat. 1664, 2278; Pub. L. 110-343, div. B, title II, §§202(a), (b)(2), 203(c)(1), 204(a)(1), (2), (b), (c), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111-312, title VII, §§701(b)(1), 704(a), (b), 708(b)(1), Dec. 17, 2010, 124 Stat. 3310-3312; Pub. L. 112-240, title IV, §§405(b)(1), 412(a), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113-295, div. A, title I, §160(a)(1), (b)(1), (c)(1), Dec. 19, 2014, 128 Stat. 4022; Pub. L. 114-113, div. Q, title I, §§185(b)(1), 192(a)(1), title III, §342(a), Dec. 18, 2015, 129 Stat. 3073, 3075, 3114; Pub. L. 115-123, div. D, title I, §§40407(b)(1), 40415(a)(1), Feb. 9, 2018, 132 Stat. 149, 152; Pub. L. 115-141, div. U, title IV, §401(a)(294), Mar. 23, 2018, 132 Stat. 1198; Pub. L. 116-94, div. Q, title I, §§121(b)(1)(A), 133(a)(1), (b)(1), Dec. 20, 2019, 133 Stat. 3230, 3233; Pub. L. 116-260, div. EE, title I, §147(a), Dec. 27, 2020, 134 Stat. 3055; Pub. L. 117-169, title I, §§13201(b)(1), (c), (d), 13203(d)(1), (2)(A), 13204(d)(1), (2), Aug. 16, 2022, 136 Stat. 1931, 1932, 1934, 1935, 1941.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 6426, added Pub. L. 91-258, title II, §206(c), May 21, 1970, 84 Stat. 245; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a refund of aircraft use tax where plane transports for hire in foreign air commerce, prior to repeal by Pub. L. 97-248, title II, §280(c)(2)(G), (d), Sept. 3, 1982, 96 Stat. 564, 565, applicable with respect to transportation beginning after Aug. 31, 1982.

AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-169, §13203(d)(2)(A)(i), substituted “(e), and (k)” for “and (e)”.

Subsec. (c)(6). Pub. L. 117-169, §13201(b)(1), substituted “December 31, 2024” for “December 31, 2022”.

Subsec. (d)(2)(D) to (G). Pub. L. 117-169, §13204(d)(1), redesignated subpars. (E) to (G) as (D) to (F), respectively, and struck out former subpar. (D) which read as follows: “liquefied hydrogen,”.

Subsec. (d)(5). Pub. L. 117-169, §13201(c), substituted “December 31, 2024” for “December 31, 2021”.

Subsec. (e)(2). Pub. L. 117-169, §13204(d)(2), substituted “(E)” for “(F)” in introductory provisions.

Subsec. (e)(3). Pub. L. 117-169, §13201(d), substituted “December 31, 2024” for “December 31, 2021”.

Subsec. (h). Pub. L. 117-169, §13203(d)(2)(A)(ii), substituted “under section 40, 40A, or 40B” for “under section 40 or 40A”.

Subsec. (k). Pub. L. 117-169, §13203(d)(1), added subsec. (k).

2020—Subsecs. (d)(5), (e)(3). Pub. L. 116-260 substituted “December 31, 2021” for “December 31, 2020”.

2019—Subsec. (c)(6). Pub. L. 116-94, §121(b)(1)(A), substituted “December 31, 2022” for “December 31, 2017”.

Subsec. (d)(5). Pub. L. 116-94, §133(a)(1), substituted “December 31, 2020” for “December 31, 2017”.

Subsec. (e)(2). Pub. L. 116-94, §133(b)(1), in introductory provisions, substituted “mixture of alternative fuel (other than a fuel described in subparagraph (A), (C), or (F) of subsection (d)(2))” for “mixture of alternative fuel”.

Subsec. (e)(3). Pub. L. 116-94, §133(a)(1), substituted “December 31, 2020” for “December 31, 2017”.

2018—Subsec. (b)(2)(A)(ii). Pub. L. 115-141 substituted “cents.” for “cents..”

Subsec. (c)(6). Pub. L. 115-123, §40407(b)(1), substituted “December 31, 2017” for “December 31, 2016”.

Subsecs. (d)(5), (e)(3). Pub. L. 115-123, §40415(a)(1), substituted “December 31, 2017” for “December 31, 2016”.

2015—Subsec. (c)(6). Pub. L. 114-113, §185(b)(1), substituted “December 31, 2016” for “December 31, 2014”.

Subsecs. (d)(5), (e)(3). Pub. L. 114-113, §192(a)(1), substituted “December 31, 2016” for “December 31, 2014”.

Subsec. (j). Pub. L. 114-113, §342(a), added subsec. (j).

2014—Subsec. (c)(6). Pub. L. 113-295, §160(a)(1), substituted “December 31, 2014” for “December 31, 2013”.

Subsecs. (d)(5), (e)(3). Pub. L. 113-295, §160(c)(1), which directed striking out “(September 30, 2014 in the case of any sale or use involving liquefied hydrogen)”, was executed by striking out “(September 30, 2014, in the case of any sale or use involving liquefied hydrogen)” before period at end, to reflect the probable intent of Congress.

Pub. L. 113-295, §160(b)(1), substituted “December 31, 2014” for “December 31, 2013”.

2013—Subsec. (c)(6). Pub. L. 112-240, §405(b)(1), substituted “December 31, 2013” for “December 31, 2011”.

Subsecs. (d)(5), (e)(3). Pub. L. 112-240, §412(a), substituted “December 31, 2013” for “December 31, 2011”.

2010—Subsec. (b)(6). Pub. L. 111-312, §708(b)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (c)(6). Pub. L. 111-312, §701(b)(1), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (d)(2). Pub. L. 111-312, §704(b), substituted “biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp” for “or biodiesel” in concluding provisions.

Subsecs. (d)(5), (e)(3). Pub. L. 111-312, §704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (b)(2)(A). Pub. L. 110-246, §15331(b)(3), substituted “subparagraphs (B) and (C)” for “subparagraph (B)” in introductory provisions.

Pub. L. 110-246, §15331(b)(1), substituted “the applicable amount is—” for “the applicable amount is 51 cents” and added cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 110-246, §15331(b)(2), added subpar. (C).

Subsec. (b)(5), (6). Pub. L. 110-246, §15332(b), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(2). Pub. L. 110-343, §202(b)(2), amended par. (2) generally. Prior to amendment, text read as follows: “For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

“(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is \$1.00.”

Subsec. (c)(6). Pub. L. 110-343, §202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (d)(1). Pub. L. 110-343, §204(b)(2), inserted “sold by the taxpayer for use as a fuel in aviation,” after “motorboat.”

Subsec. (d)(2)(E). Pub. L. 110-343, §204(c)(2), inserted “which meets the requirements of paragraph (4) and which is” after “any liquid fuel”.

Subsec. (d)(2)(F), (G). Pub. L. 110-343, §204(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (d)(4). Pub. L. 110-343, §204(c)(1), added par. (4). Former par. (4) redesignated (5).

Pub. L. 110-343, §204(a)(1), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (d)(5). Pub. L. 110-343, §204(c)(1), redesignated par. (4) as (5).

Subsec. (e)(3). Pub. L. 110-343, §204(a)(2), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (i). Pub. L. 110-343, §203(c)(1), added subsec. (i).

2007—Subsec. (d)(2)(F). Pub. L. 110-172, §5(a)(2), substituted “fuel” for “hydrocarbons”.

Subsec. (h). Pub. L. 110-172, §5(a)(3), added subsec. (h).

2005—Pub. L. 109-59, §11113(b)(3)(A), substituted “alcohol fuel, biodiesel, and alternative fuel” for “alcohol fuel and biodiesel” in section catchline.

Subsec. (a). Pub. L. 109-59, §11113(b)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

“(1) the alcohol fuel mixture credit, plus

“(2) the biodiesel mixture credit.”

Subsec. (c)(6). Pub. L. 109-58 substituted “2008” for “2006”.

Subsec. (d). Pub. L. 109-59, §11113(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (d)(2)(F). Pub. L. 109-59, §11151(e)(2), substituted “section 45K(c)(3)” for “section 29(c)(3)”.

Subsecs. (e) to (g). Pub. L. 109-59, §11113(b)(2), added subsec. (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by section 13201(b)(1), (c), (d) of Pub. L. 117-169 applicable to fuel sold or used after Dec. 31, 2021, see section 13201(f) of Pub. L. 117-169, set out as a note under section 40A of this title.

Amendment by section 13203(d)(1), (2)(A) of Pub. L. 117-169 applicable to fuel sold or used after Dec. 31, 2022, see section 13203(f) of Pub. L. 117-169, set out as an Effective Date note under section 40B of this title.

Pub. L. 117-169, title I, §13204(d)(3), Aug. 16, 2022, 136 Stat. 1941, provided that: “The amendments made by this subsection [amending this section] shall apply to fuel sold or used after December 31, 2022.”

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. EE, title I, §147(c), Dec. 27, 2020, 134 Stat. 3055, provided that: “The amendments made by this subsection [probably means “this section”, amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2020.”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, §121(b)(2), Dec. 20, 2019, 133 Stat. 3230, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2017.”

Pub. L. 116-94, div. Q, title I, §133(a)(4), Dec. 20, 2019, 133 Stat. 3233, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2017.”

Pub. L. 116-94, div. Q, title I, §133(b)(2), Dec. 20, 2019, 133 Stat. 3233, provided that: “The amendment made by this subsection [amending this section] shall apply to—

“(A) fuel sold or used on or after the date of the enactment of this Act [Dec. 20, 2019], and

“(B) fuel sold or used before such date of enactment, but only to the extent that claims for the credit under section 6426(e) of the Internal Revenue Code of 1986 with respect to such sale or use—

“(i) have not been paid or allowed as of such date, and

“(ii) were made on or after January 8, 2018.”

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–123, div. D, title I, § 40407(b)(3), Feb. 9, 2018, 132 Stat. 149, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2016.”

Pub. L. 115–123, div. D, title I, § 40415(a)(3), Feb. 9, 2018, 132 Stat. 152, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2016.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. Q, title I, § 185(b)(3), Dec. 18, 2015, 129 Stat. 3073, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2014.”

Pub. L. 114–113, div. Q, title I, § 192(b), Dec. 18, 2015, 129 Stat. 3075, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2014.”

Pub. L. 114–113, div. Q, title III, § 342(b), Dec. 18, 2015, 129 Stat. 3114, provided that: “The amendments made by this section [amending this section] shall apply to fuel sold or used after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–295, div. A, title I, § 160(d), Dec. 19, 2014, 128 Stat. 4022, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2013.

“(2) LIQUEFIED HYDROGEN.—The amendments made by subsection (c) [amending this section and section 6427 of this title] shall apply to fuel sold or used after September 30, 2014.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(1) of Pub. L. 112–240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112–240, set out as a note under section 40A of this title.

Pub. L. 112–240, title IV, § 412(c), Jan. 2, 2013, 126 Stat. 2343, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(1) of Pub. L. 111–312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111–312, set out as a note under section 40A of this title.

Pub. L. 111–312, title VII, § 704(d), Dec. 17, 2010, 124 Stat. 3311, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2009.”

Pub. L. 111–312, title VII, § 708(b)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to periods after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a), (b)(2) of Pub. L. 110–343 applicable to fuel produced, and sold or used, after Dec.

31, 2008, see section 202(g)(1) of Pub. L. 110–343, set out as a note under section 40A of this title.

Amendment by section 203(c)(1) of Pub. L. 110–343 applicable to claims for credit or payment made on or after May 15, 2008, see section 203(d) of Pub. L. 110–343, set out as a note under section 40 of this title.

Pub. L. 110–343, div. B, title II, § 204(d), Oct. 3, 2008, 122 Stat. 3835, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after the date of the enactment of this Act [Oct. 3, 2008].”

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15331(b) of Pub. L. 110–246 effective June 18, 2008, see section 15331(c) of Pub. L. 110–246, set out as a note under section 40 of this title.

Amendment by section 15332(b) of Pub. L. 110–246 applicable to fuel sold or used after Dec. 31, 2008, see section 15332(c) of Pub. L. 110–246, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–172, § 5(b), Dec. 29, 2007, 121 Stat. 2479, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect as if included in the provisions of the SAFETEA-LU [Pub. L. 109–59] to which they relate.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 11113(b)(1)–(3)(A) of Pub. L. 109–59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109–59, set out as a note under section 4041 of this title.

Amendment by section 11151(e)(2) of Pub. L. 109–59 effective as if included in the provision of the Energy Tax Incentives Act of 2005, Pub. L. 109–58, title XIII, to which such amendment relates, see section 11151(f)(3) of Pub. L. 109–59, set out as a note under section 38 of this title.

EFFECTIVE DATE

Section applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108–357, set out as an Effective Date of 2004 Amendment note under section 40 of this title.

SPECIAL RULE FOR 2022

Pub. L. 117–169, title I, § 13201(g), Aug. 16, 2022, 136 Stat. 1932, provided that: “In the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2022, and ending with the close of the last calendar quarter beginning before the date of the enactment of this Act [Aug. 16, 2022], such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULES FOR 2018 AND 2019

Pub. L. 116–94, div. Q, title I, § 121(b)(3), Dec. 20, 2019, 133 Stat. 3230, provided that: “Notwithstanding any

other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2018, and ending with the close of the last calendar quarter beginning before the date of the enactment of this Act [Dec. 20, 2019], such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

Pub. L. 116-94, div. Q, title I, §133(a)(3), Dec. 20, 2019, 133 Stat. 3233, provided that: "Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2018, and ending with the close of the last calendar quarter beginning before the date of the enactment of this Act [Dec. 20, 2019], such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

NO INFERENCE

Pub. L. 116-94, div. Q, title I, §133(b)(3), Dec. 20, 2019, 133 Stat. 3234, provided that: "Nothing contained in this subsection [amending this section and enacting provisions set out as a note under this section] or the amendments made by this subsection shall be construed to create any inference as to a change in law or guidance in effect prior to enactment of this subsection."

SPECIAL RULES FOR 2017

Pub. L. 115-123, div. D, title I, §40407(b)(4), Feb. 9, 2018, 132 Stat. 149, provided that: "Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Feb. 9, 2018] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guid-

ance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

Pub. L. 115-123, div. D, title I, §40415(b), Feb. 9, 2018, 132 Stat. 152, provided that: "Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Feb. 9, 2018] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULES FOR 2015

Pub. L. 114-113, div. Q, title I, §185(b)(4), Dec. 18, 2015, 129 Stat. 3073, provided that: "Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2015, and ending on December 31, 2015, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 18, 2015] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

Pub. L. 114-113, div. Q, title I, §192(c), Dec. 18, 2015, 129 Stat. 3075, provided that: "Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2015, and ending on December 31, 2015, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 18, 2015] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after

such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULE FOR CERTAIN PERIODS DURING 2014

Pub. L. 113-295, div. A, title I, §160(e), Dec. 19, 2014, 128 Stat. 4023, provided that: “Notwithstanding any other provision of law, in the case of—

“(1) any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act [Dec. 19, 2014], and

“(2) any alternative fuel credit properly determined under section 6426(d) of such Code for such periods, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 19, 2014] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULES FOR 2010

Pub. L. 111-312, title VII, §701(c), Dec. 17, 2010, 124 Stat. 3310, provided that: “Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

Pub. L. 111-312, title VII, §704(c), Dec. 17, 2010, 124 Stat. 3311, provided that: “Notwithstanding any other provision of law, in the case of any alternative fuel credit or any alternative fuel mixture credit properly determined under subsection (d) or (e) of section 6426 of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide

for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

(i) which is available to the general public, and

(ii) which is scheduled and along regular routes,

such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULE FOR CERTAIN PERIODS DURING 2014

Pub. L. 113-295, div. A, title I, §160(e), Dec. 19, 2014, 128 Stat. 4023, provided that: “Notwithstanding any other provision of law, in the case of—

“(1) any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act [Dec. 19, 2014], and

“(2) any alternative fuel credit properly determined under section 6426(d) of such Code for such periods, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 19, 2014] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

SPECIAL RULES FOR 2010

Pub. L. 111-312, title VII, §701(c), Dec. 17, 2010, 124 Stat. 3310, provided that: “Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

Pub. L. 111-312, title VII, §704(c), Dec. 17, 2010, 124 Stat. 3311, provided that: “Notwithstanding any other provision of law, in the case of any alternative fuel credit or any alternative fuel mixture credit properly determined under subsection (d) or (e) of section 6426 of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide

for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.”

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

(i) which is available to the general public, and

(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term “qualified local bus” means any local bus—

(i) which has a seating capacity of at least 20 adults (not including the driver), and

(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(4) Refunds for use of diesel fuel in certain intercity buses

With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(A) is registered under section 4101, and

(B) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that “liquid taxable under section 4041” shall be substituted for “gasoline” each place it appears in such paragraph (4)).

(d) Use by certain aircraft museums or in certain other aircraft uses

Except as provided in subsection (k), if—

(1) any gasoline on which tax was imposed by section 4081, or

(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(l), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

(e) Alcohol, biodiesel, alternative fuel, or sustainable aviation fuel

Except as provided in subsection (k)—

(1) Used to produce a mixture

If any person produces a mixture described in section 6426 in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit or the alternative fuel mixture credit or the sustainable aviation fuel mixture credit with respect to such mixture.

(2) Alternative fuel

If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.

(3) Coordination with other repayment provisions

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel with respect to which an amount is allowed as a credit under section 6426.

(4) Registration requirement for alternative fuels

The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.

(5) Limitation to fuels with connection to the United States

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).

(6) Termination

This subsection shall not apply with respect to—

(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2011,

(B) any biodiesel mixture (as defined in section 6426(c)(3)) sold or used after December 31, 2024,

(C) any alternative fuel (as defined in section 6426(d)(2)) sold or used after December 31, 2024,

(D) any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011, and

(E) any qualified mixture of sustainable aviation fuel (as defined in section 6426(k)(3))¹ sold or used after December 31, 2024.

¹ See References in Text note below.

[(f) **Repealed.** Pub. L. 109-59, title XI, § 11151(a)(1), Aug. 10, 2005, 119 Stat. 1968]

[(g) **Repealed.** Pub. L. 104-188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]

(h) Blend stocks not used for producing taxable fuel

(1) Gasoline blend stocks or additives not used for producing gasoline

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

(2) Diesel fuel blend stocks or additives not used for producing diesel

Except as provided in subsection (k), if any diesel fuel blend stock is not used by any person to produce diesel fuel and such person establishes that the ultimate use of such diesel fuel blend stock is not to produce diesel fuel, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such diesel fuel blend stock.

(i) Time for filing claims; period covered

(1) General rule

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (l), (m), or (o) by any person with respect to fuel used during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exceptions

(A) In general

If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), (m), and (o) of this section and section 6421 to such person with respect to fuel used during—

- (i) such quarter, or
- (ii) any prior quarter (for which no other claim has been filed) during such taxable year,

a claim may be filed under this section with respect to such fuel.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

(C) Nonapplication of paragraph

This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).

(3) Special rule for mixture credits and the alternative fuel credit

(A) In general

A claim may be filed under subsection (e)(1) by any person with respect to a mixture described in section 6426 or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2)) for any period—

- (i) for which \$200 or more is payable under such subsection (e)(1) or (e)(2), and
- (ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

(B) Payment of claim

Notwithstanding subsection (e)(1) or (e)(2), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

(C) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(4) Special rule for vendor refunds

(A) In general

A claim may be filed under paragraph (4)(C) or (5) of subsection (l) by any person with respect to fuel sold by such person for any period—

- (i) for which \$200 or more (\$100 or more in the case of kerosene) is payable under paragraph (4)(C) or (5) of subsection (l), and
- (ii) which is not less than 1 week.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under subsections (b)(4), (l)(4)(C)(ii), and (l)(5).

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(j) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041 and 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or

the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(k) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under this section only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

(3) Allowance of credit against income tax

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

(l) Nontaxable uses of diesel fuel and kerosene

(1) In general

Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(C)(i).

(2) Nontaxable use

For purposes of this subsection, the term “nontaxable use” means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.

(3) Refund of certain taxes on fuel used in diesel-powered trains

For purposes of this subsection, the term “nontaxable use” includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

(4) Refunds for kerosene used in aviation

(A) Kerosene used in commercial aviation

In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other

than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

(B) Kerosene used in noncommercial aviation

In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

(i) any tax imposed by subsection (c) or (d)(2) of section 4041, and

(ii) so much of the tax imposed by section 4081 as is attributable to—

(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

(C) Payments to ultimate, registered vendor

(i) In general

With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(I) is registered under section 4101, and

(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(ii) Payments for kerosene used in noncommercial aviation

The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

(I) is registered under section 4101, and

(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to State and local governments

(A) In general

Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.

(B) Sales of kerosene not for use in motor fuel

Paragraph (1) shall not apply to kerosene (other than kerosene used in aviation) sold by a vendor—

(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

(C) Payment to ultimate, registered vendor

Except as provided in subparagraph (D), the amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

(i) is registered under section 4101, and

(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(D) Credit card issuer

For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.

(m) Diesel fuel used to produce emulsion

(1) In general

Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) Definitions

For purposes of paragraph (1)—

(A) Regular tax rate

The term "regular tax rate" means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

(B) Incentive tax rate

The term "incentive tax rate" means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

(n) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(o) Payments for taxes imposed by section 4041(d)

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

(p) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Pub. L. 91-258, title II, §207(a), May 21, 1970, 84 Stat. 246; amended Pub. L. 94-455, title XIX, §1906(a)(31)(A), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 94-530, §1(b), (c)(2)-(5), Oct. 17, 1976, 90 Stat. 2487, 2488; Pub. L. 95-458, §3(b), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 95-599, title V, §505(a), (b), (c)(2)-(4), Nov. 6, 1978, 92 Stat. 2758-2760; Pub. L. 95-600, title VII, §703(l)(3), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 95-618, title II, §233(a)(2), Nov. 9, 1978, 92 Stat. 3190; Pub. L. 96-223, title II, §232(d)(1), (2), (4)(B)-(D), Apr. 2, 1980, 94 Stat. 277, 278; Pub. L. 96-541, §4, Dec. 17, 1980, 94 Stat. 3205; Pub. L. 97-248, title II, §279(b)(2), Sept. 3, 1982, 96 Stat. 563; Pub. L. 97-424, title V, §§511(d)(4), (e)(1)-(3), (g)(2)(B)-(D), 516(b)(5), Jan. 6, 1983, 96 Stat. 2171, 2172, 2173, 2183; Pub. L. 97-473, title II, §202(b)(13), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), title VII, §§732(a)(3), 734(c)(2), title IX, §§911(b), (d)(2)(B)-(F), 912(d), 914, 915(a), July 18, 1984, 98 Stat. 846, 977, 979, 1005-1008; Pub. L. 99-499, title V, §521(c)(3)(A), (B)(i), (C), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99-514, title IV, §422(b), title XVII, §1703(d), (e)(1), (2)(A)-(E), title XVIII, §§1877(b), 1899A(55), (56), Oct. 22, 1986, 100 Stat. 2230, 2777, 2778, 2902, 2961, as amended by Pub. L. 99-499, title V, §521(c)(3)(B)(ii), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 100-17, title V, §502(b)(8), (9), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, §10502(c), Dec. 22, 1987, 101 Stat. 1330-442; Pub. L. 100-223, title IV, §405(b)(1), (2), Dec. 30, 1987, 101 Stat. 1534, 1535; Pub. L. 100-647, title I, §1017(c)(3), (10), title II, §§2001(d)(7)(B)-(D), 2004(s)(2), (3), title III, §3002(a)-(c), Nov. 10, 1988, 102 Stat. 3576, 3596, 3609, 3615, 3616; Pub. L. 101-239, title VII, §§7501(b)(3), 7812(a), 7822(b)(1)-(4), 7841(d)(20), Dec. 19, 1989, 103 Stat. 2361, 2412, 2424, 2425, 2429; Pub. L. 101-508, title XI, §§11211(b)(4)(B), (5), (6)(E)(ii), (d)(7), (8), 11213(b)(3), 11801(a)(46), (c)(23), Nov. 5, 1990, 104 Stat. 1388-425 to 1388-427, 1388-433, 1388-522, 1388-528; Pub. L. 102-240, title VIII, §8002(b)(7), (8), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(f)(8)-(10), 13242(c), (d)(21), (25)-(31), Aug. 10, 1993, 107 Stat. 512, 521, 524, 525; Pub. L. 104-188, title I, §§1606(a), (b)(2), 1702(b)(2)(B), 1703(k), Aug. 20, 1996, 110 Stat. 1839, 1868, 1877; Pub. L. 105-34, title X, §1032(c)(3), (e)(7)-(10), Aug. 5, 1997, 111 Stat. 934, 935; Pub. L. 105-178, title IX, §§9003(a)(2), 9006(b)(2),

9009(a)–(b)(2), June 9, 1998, 112 Stat. 502, 506, 507; Pub. L. 105–206, title VI, §§ 6016(b), 6017(a), 6023(16), (25), (26), July 22, 1998, 112 Stat. 822, 825, 826; Pub. L. 108–357, title II, § 241(a)(2)(D), title III, § 301(c)(9), (10), title VIII, §§ 851(d)(3), 853(c), (d)(2)(J), (K), 857(b), (c), 870(b), Oct. 22, 2004, 118 Stat. 1438, 1462, 1609, 1611, 1613, 1617, 1624; Pub. L. 109–58, title XIII, §§ 1343(b)(1), (3), 1344(a), Aug. 8, 2005, 119 Stat. 1051, 1052; Pub. L. 109–59, title XI, §§ 1113(b)(3)(C), 11151(a), 11161(b)(2), (3)(B), (D)–(F), 11162(a), (b), 11163(c), Aug. 10, 2005, 119 Stat. 1948, 1968, 1970–1974; Pub. L. 109–432, div. A, title IV, § 420(a), (b)(1), (3), (4), Dec. 20, 2006, 120 Stat. 2968, 2969; Pub. L. 110–172, §§ 5(a)(1), 11(a)(37)–(39)(A), (e)(1), Dec. 29, 2007, 121 Stat. 2478, 2487–2489; Pub. L. 110–343, div. B, title II, §§ 202(a), 203(c)(2), 204(a)(3), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111–312, title VII, §§ 701(b)(2), 704(a), 708(c)(1), Dec. 17, 2010, 124 Stat. 3310–3312; Pub. L. 112–240, title IV, §§ 405(b)(2), 412(b), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113–295, div. A, title I, § 160(a)(2), (b)(2), (c)(2), Dec. 19, 2014, 128 Stat. 4022; Pub. L. 114–113, div. Q, title I, §§ 185(b)(2), 192(a)(2), Dec. 18, 2015, 129 Stat. 3073, 3075; Pub. L. 115–123, div. D, title I, §§ 40407(b)(2), 40415(a)(2), Feb. 9, 2018, 132 Stat. 149, 152; Pub. L. 116–94, div. Q, title I, §§ 121(b)(1)(B), 133(a)(2), Dec. 20, 2019, 133 Stat. 3230, 3233; Pub. L. 116–260, div. EE, title I, § 147(b), Dec. 27, 2020, 134 Stat. 3055; Pub. L. 117–169, title I, §§ 13201(b)(2), (e), 13203(d)(2)(B), Aug. 16, 2022, 136 Stat. 1932, 1935.)

Editorial Notes

REFERENCES IN TEXT

Section 6426(k)(3), referred to in subsec. (e)(6)(E), probably should be a reference to section 40B of this title, which contains a definition of “sustainable aviation fuel”. Section 6426(k)(3) of this title, as enacted by Pub. L. 117–169, does not define that term. However, a prior version of the bill that became Pub. L. 117–169 contained an amendment adding subsec. (k) to section 6426 that did contain such a par. (3) that adopted the definitions in section 40B.

Section 4081(c), referred to in subsec. (f)(1), was repealed by Pub. L. 108–357, title III, § 301(c)(7), Oct. 22, 2004, 118 Stat. 1461.

Section 4091, referred to in subsec. (f)(1), (2)(A)(ii), (B)(ii), was repealed by Pub. L. 108–357, title VIII, § 853(d)(1), Oct. 22, 2004, 118 Stat. 1612.

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–169, § 13203(d)(2)(B)(i), substituted “alternative fuel, or sustainable aviation fuel” for “or alternative fuel” in heading.

Subsec. (e)(1). Pub. L. 117–169, § 13203(d)(2)(B)(ii), inserted “or the sustainable aviation fuel mixture credit” after “alternative fuel mixture credit”.

Subsec. (e)(6)(B). Pub. L. 117–169, § 13201(b)(2), substituted “December 31, 2024” for “December 31, 2022”.

Subsec. (e)(6)(C). Pub. L. 117–169, § 13201(e), substituted “December 31, 2024” for “December 31, 2021”.

Subsec. (e)(6)(E). Pub. L. 117–169, § 13203(d)(2)(B)(iii), added subpar. (E).

2020—Subsec. (e)(6)(C). Pub. L. 116–260 substituted “December 31, 2021” for “December 31, 2020”.

2019—Subsec. (e)(6)(B). Pub. L. 116–94, § 121(b)(1)(B), substituted “December 31, 2022” for “December 31, 2017”.

Subsec. (e)(6)(C). Pub. L. 116–94, § 133(a)(2), substituted “December 31, 2020” for “December 31, 2017”.

2018—Subsec. (e)(6)(B). Pub. L. 115–123, § 40407(b)(2), substituted “December 31, 2017” for “December 31, 2016”.

Subsec. (e)(6)(C). Pub. L. 115–123, § 40415(a)(2), substituted “December 31, 2017” for “December 31, 2016”.

2015—Subsec. (e)(6)(B). Pub. L. 114–113, § 185(b)(2), substituted “December 31, 2016” for “December 31, 2014”.

Subsec. (e)(6)(C). Pub. L. 114–113, § 192(a)(2), substituted “December 31, 2016” for “December 31, 2014”.

2014—Subsec. (e)(6)(B). Pub. L. 113–295, § 160(a)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(C). Pub. L. 113–295, § 160(c)(2)(A), (B), substituted “any” for “except as provided in subparagraph (D), any” and inserted “and” at end.

Pub. L. 113–295, § 160(b)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(D), (E). Pub. L. 113–295, § 160(c)(2)(C), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “any alternative fuel (as so defined) involving liquefied hydrogen sold or used after September 30, 2014, and”.

2013—Subsec. (e)(6)(B). Pub. L. 112–240, § 405(b)(2), substituted “December 31, 2013” for “December 31, 2011”.

Subsec. (e)(6)(C). Pub. L. 112–240, § 412(b)(1), substituted “(as defined in section 6426(d)(2))” for “or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426)” and “December 31, 2013,” for “December 31, 2011, and”.

Subsec. (e)(6)(D). Pub. L. 112–240, § 412(b)(2)(A), struck out “or alternative fuel mixture” after “any alternative fuel”.

Subsec. (e)(6)(E). Pub. L. 112–240, § 412(b)(2)(B), (3), added subpar. (E).

2010—Subsec. (e)(6)(A). Pub. L. 111–312, § 708(c)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (e)(6)(B). Pub. L. 111–312, § 701(b)(2), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (e)(6)(C). Pub. L. 111–312, § 704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (e)(5). Pub. L. 110–343, § 203(c)(2), added par. (5). Former par. (5) redesignated (6).

Subsec. (e)(5)(B). Pub. L. 110–343, § 202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (e)(6). Pub. L. 110–343, § 203(c)(2), redesignated par. (5) as (6).

Subsec. (e)(6)(C). Pub. L. 110–343, § 204(a)(3), which directed amendment of subsec. (e)(5)(C) by substituting “December 31, 2009” for “September 30, 2009”, was executed by making the substitution in par. (6)(C), to reflect the probable intent of Congress and the redesignation of par. (5) as (6) by Pub. L. 110–343, § 203(c)(2). See above.

2007—Subsec. (e)(3). Pub. L. 110–172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5). Pub. L. 110–172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5)(B). Pub. L. 110–172, § 11(e)(1), substituted “2008” for “2006”.

Subsec. (i)(3). Pub. L. 110–172, § 5(a)(1)(C), substituted “mixture credits and the alternative fuel credit” for “alcohol fuel and biodiesel mixture credit” in heading.

Subsec. (i)(3)(A). Pub. L. 110–172, § 5(a)(1)(A), in introductory provisions, inserted “or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2))” after “section 6426”.

Subsec. (i)(3)(A)(i), (B). Pub. L. 110–172, § 5(a)(1)(B), inserted “or (e)(2)” after “subsection (e)(1)”.

Subsec. (j)(4)(A)(ii). Pub. L. 110–172, § 11(a)(38), which directed substitution of “section 4081(a)(2)(A)(iii)” for “section 4081(a)(2)(iii)”, could not be executed, because “section 4081(a)(2)(iii)” did not appear subsequent to amendment by Pub. L. 109–432, § 420(a). See 2006 Amendment note below.

Subsecs. (p), (q). Pub. L. 110–172, § 11(a)(39)(A), redesignated subsec. (q) as (p) and struck out heading and text of former subsec. (p). Text of former subsec. (p) read as follows: “Except as provided in subsection (k), if—

“(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

“(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4

cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used.”

2006—Subsec. (i)(4)(A). Pub. L. 109-432, § 420(b)(3), substituted “paragraph (4)(C) or (5)” for “paragraph (4)(B), (5), or (6)” in introductory provisions and cl. (i) and “(l)(4)(C)(ii), and (l)(5)” for “(l)(5), and (l)(6)” in concluding provisions.

Subsec. (l)(1). Pub. L. 109-432, § 420(b)(4), substituted “paragraph (4)(C)(i)” for “paragraph (4)(B)”.

Subsec. (l)(4). Pub. L. 109-432, § 420(a), amended heading and text of par. (4) generally, substituting provisions relating to refunds for kerosene used in commercial aviation, refunds for kerosene used in noncommercial aviation, and payments to ultimate, registered vendor, consisting of subpars. (A) to (C), for provisions relating to refunds for kerosene used in commercial aviation and payment to ultimate, registered vendor, consisting of subpars. (A) and (B).

Subsec. (l)(5), (6). Pub. L. 109-432, § 420(b)(1), redesignated par. (6) as (5) and struck out former par. (5), which related to refunds for kerosene used in noncommercial aviation.

2005—Subsec. (e). Pub. L. 109-59, § 11113(b)(3)(C)(ix), substituted “, biodiesel, or alternative fuel” for “or biodiesel used to produce alcohol fuel and biodiesel mixtures” in heading.

Subsec. (e)(1). Pub. L. 109-59, § 11113(b)(3)(C)(i), inserted “or the alternative fuel mixture credit” after “biodiesel mixture credit”.

Subsec. (e)(2). Pub. L. 109-59, § 11113(b)(3)(C)(iii), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 109-59, § 11113(b)(3)(C)(iv), substituted “under paragraph (1) or (2) with respect to any mixture or alternative fuel” for “under paragraph (1) with respect to any mixture”.

Pub. L. 109-59, § 11113(b)(3)(C)(ii), redesignated par. (2) as (3).

Subsec. (e)(4). Pub. L. 109-59, § 11113(b)(3)(C)(v), added par. (4).

Subsec. (e)(4)(B). Pub. L. 109-58, § 1344(a), which directed amendment of par. (4)(B) by substituting “2008” for “2006”, could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, § 11113(b)(3)(C)(v). See 2007 Amendment note above relating to subsec. (e)(5)(B).

Subsec. (e)(5). Pub. L. 109-59, § 11113(b)(3)(C)(ii), which directed amendment of subsec. (e) by redesignating par. (4) as (5), could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, § 11113(b)(3)(C)(v). See 2005 and 2007 Amendment notes above.

Subsec. (e)(5)(C), (D). Pub. L. 109-59, § 11113(b)(3)(C)(vi)–(viii), added subpars. (C) and (D).

Subsec. (f). Pub. L. 109-59, § 11151(a)(1), struck out subsec. (f) which related to payment by Secretary of an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to any gasoline, diesel fuel, kerosene, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate, which is used by any person in producing a mixture described in section 4081(c) or 4091(c)(1)(A), and which is sold or used in such person’s trade or business.

Subsec. (i)(1), (2)(A). Pub. L. 109-58, § 1343(b)(3), inserted “(m),” after “(l),” in par. (1) and in par. (2)(A) in introductory provisions.

Subsec. (i)(4)(A). Pub. L. 109-59, § 11161(b)(3)(D)(ii), which directed amendment of subpar. (A) by substituting “subsections (b)(4), (l)(5), and (l)(6)” for “subsection (b)(4) and subsection (l)(5)” in concluding provisions, was executed by making the substitution for “subsections (b)(4) and subsection (l)(5)” to reflect the probable intent of Congress.

Pub. L. 109-59, § 11161(b)(3)(D)(i), substituted “paragraph (4)(B), (5), or (6)” for “paragraph (4)(B) or (5)” in two places.

Subsec. (l). Pub. L. 109-59, § 11161(b)(3)(B), substituted “and kerosene” for “, kerosene and aviation fuel” in heading.

Subsec. (l)(2). Pub. L. 109-59, § 11161(b)(2)(A), reenacted heading without change and amended text generally.

Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘nontaxable use’ means—

“(A) in the case of diesel fuel or kerosene, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

“(B) in the case of aviation-grade kerosene—

“(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

“(ii) any use in commercial aviation (within the meaning of section 4083(b)).”

Subsec. (l)(4). Pub. L. 109-59, § 11161(b)(3)(E)(iv), substituted “kerosene used in commercial aviation” for “aviation-grade kerosene” in heading.

Subsec. (l)(4)(A). Pub. L. 109-59, § 11161(b)(3)(E)(i), struck out “aviation-grade” before “kerosene” in introductory provisions.

Subsec. (l)(4)(A)(ii). Pub. L. 109-59, § 11161(b)(3)(E)(ii), substituted “section 4081(a)(2)(iii)” for “section 4081(a)(2)(A)(iv)”.

Subsec. (l)(4)(B). Pub. L. 109-59, § 11161(b)(3)(E)(iii), substituted “kerosene used in commercial aviation as described in subparagraph (A)” for “aviation-grade kerosene” in introductory provisions.

Subsec. (l)(5). Pub. L. 109-59, § 11161(b)(2)(B), added par. (5). Former par. (5) redesignated (6).

Subsec. (l)(6). Pub. L. 109-59, § 11162(b), struck out “farmers and” before “State and local governments” in heading.

Pub. L. 109-59, § 11161(b)(2)(B), redesignated par. (5) as (6).

Subsec. (l)(6)(A). Pub. L. 109-59, § 11162(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to diesel fuel or kerosene used—

“(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

“(ii) by a State or local government.”

Subsec. (l)(6)(B). Pub. L. 109-59, § 11161(b)(3)(F), substituted “kerosene used in aviation” for “aviation-grade kerosene” in introductory provisions.

Subsec. (l)(6)(C). Pub. L. 109-59, § 11163(c)(1), substituted “Except as provided in subparagraph (D), the amount” for “The amount” in introductory provisions.

Subsec. (l)(6)(D). Pub. L. 109-59, § 11163(c)(2), added subpar. (D).

Subsecs. (m), (n). Pub. L. 109-58, § 1343(b)(1), added subsec. (m) and redesignated former subsec. (m) as (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 109-58, § 1343(b)(1), redesignated subsec. (n) as (o). Former subsec. (o) redesignated (p).

Pub. L. 109-59, § 11151(a)(2), which directed the redesignation of subsec. (p) as (o) and the striking of former subsec. (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (p). Pub. L. 109-58, § 1343(b)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Pub. L. 109-59, § 11151(a)(2), which directed the redesignation of subsec. (p) as (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (q). Pub. L. 109-58, § 1343(b)(1), redesignated subsec. (p) as (q).

2004—Subsec. (b)(4). Pub. L. 108-357, § 857(b), added par. (4).

Subsec. (e). Pub. L. 108-357, § 301(c)(9), added subsec. (e).

Subsec. (h). Pub. L. 108-357, § 870(b), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such per-

son with respect to such gasoline blend stock or additive.”

Subsec. (i)(2)(C). Pub. L. 108-357, § 851(d)(3), added subpar. (C).

Subsec. (i)(3). Pub. L. 108-357, § 301(c)(10)(F), substituted “alcohol fuel and biodiesel mixture” for “alcohol mixture” in heading.

Subsec. (i)(3)(A). Pub. L. 108-357, § 301(c)(10)(A)–(C), substituted “a mixture described in section 6426” for “gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” in introductory provisions, substituted “subsection (e)(1)” for “subsection (f)” in two places, and inserted concluding provisions.

Subsec. (i)(3)(B). Pub. L. 108-357, § 301(c)(10)(D), (E), substituted “subsection (e)(1)” for “subsection (f)(1)” and “45 days of the date of the filing of such claim (20 days in the case of an electronic claim)” for “20 days of the date of the filing of such claim”.

Subsec. (i)(4)(A). Pub. L. 108-357, § 857(c), which directed the insertion of “subsections (b)(4) and” after “filed under”, was executed by making the insertion in concluding provisions, to reflect the probable intent of Congress.

Pub. L. 108-357, § 853(c)(2), substituted “paragraph (4)(B) or (5) of subsection (l)” for “subsection (l)(5)” in introductory provisions and in cl. (i) and substituted “subsection (l)(5)” for “the preceding sentence” before period at end of concluding provisions.

Subsec. (j)(1). Pub. L. 108-357, § 853(d)(2)(J), substituted “and 4081” for “, 4081, and 4091”.

Subsec. (l)(1). Pub. L. 108-357, § 853(d)(2)(K)(i), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “Except as otherwise provided in this subsection and in subsection (k), if—

“(A) any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081, or

“(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.”

Subsec. (l)(2)(B). Pub. L. 108-357, § 853(c)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.”

Subsec. (l)(3)(B). Pub. L. 108-357, § 241(a)(2)(D), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

“(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

“(iii) 4.3 cents per gallon after October 31, 1998.”

Subsec. (l)(4). Pub. L. 108-357, § 853(c)(1), amended heading and text of par. (4) generally. Text read as follows: “In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

“(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.”

Subsec. (l)(5)(B). Pub. L. 108-357, § 853(d)(2)(K)(ii), substituted “Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)” for “Paragraph (1)(A) shall not apply to kerosene” in introductory provisions.

1998—Subsec. (d). Pub. L. 105-206, § 6016(b), in heading, substituted “other aircraft uses” for “helicopters” and, in concluding provisions, inserted “or a fixed-wing aircraft” after “helicopter”.

Subsec. (f)(3). Pub. L. 105-206, § 6023(25), struck out “, (e),” after “subsection (d)”.

Subsec. (f)(4). Pub. L. 105-178, § 9003(a)(2), substituted “2007” for “1999”.

Subsec. (i)(1). Pub. L. 105-206, § 6023(26)(B), substituted “(o)” for “(q)”.

Subsec. (i)(2)(A). Pub. L. 105-206, § 6023(26)(B), substituted “(o)” for “(q)”.

Pub. L. 105-178, § 9009(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under subsections (a), (b), (d), (h), and (q) to any person with respect to fuel used during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.”

Subsec. (i)(2)(B). Pub. L. 105-206, § 6017(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

Subsec. (i)(4), (5). Pub. L. 105-178, § 9009(b)(1), redesignated par. (5) as (4) and struck out par. (4) which read as follows:

“(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (I).—

“(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least \$750 is payable under subsection (l) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (l) with respect to such fuel.

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.”

Subsec. (k)(2). Pub. L. 105-178, § 9009(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).”

Subsec. (l)(3)(B)(ii). Pub. L. 105-178, § 9006(b)(2)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (l)(3)(B)(iii). Pub. L. 105-178, § 9006(b)(2)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (m) to (p). Pub. L. 105-206, § 6023(26)(A), redesignated subsecs. (n), (p), (q), and (r) as (m), (n), (o), and (p), respectively.

Subsec. (q). Pub. L. 105-206, § 6023(26)(A), redesignated subsec. (q) as (o).

Subsec. (q)(2). Pub. L. 105-206, § 6023(16), substituted “section 4041(c)(2)” for “section 4041(c)(4)”.

Subsec. (r). Pub. L. 105-206, § 6023(26)(A), redesignated subsec. (r) as (p).

1997—Subsec. (f). Pub. L. 105-34, § 1032(e)(7), inserted “kerosene,” after “diesel fuel,” in subsec. heading and in text of par. (1).

Subsec. (f)(2)(A)(i), (B)(i). Pub. L. 105-34, § 1032(e)(8), substituted “, diesel fuel, or kerosene” for “or diesel fuel”.

Subsec. (f)(3). Pub. L. 105-34, § 1032(e)(7), inserted “kerosene,” after “diesel fuel,”.

Subsec. (i)(3)(A). Pub. L. 105-34, § 1032(e)(9), substituted “, diesel fuel, or kerosene” for “or diesel fuel” in introductory provisions.

Subsec. (i)(4). Pub. L. 105-34, § 1032(e)(10), amended heading generally. Prior to amendment, heading read as follows: “Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4081 or 4091”.

Subsec. (i)(5)(A)(i). Pub. L. 105-34, § 1032(c)(3)(E), inserted “(\$100 or more in the case of kerosene)” after “\$200 or more”.

Subsec. (l). Pub. L. 105-34, § 1032(c)(3)(D), inserted “, kerosene,” after “diesel fuel” in heading.

Subsec. (l)(1)(A), (2)(A). Pub. L. 105-34, § 1032(c)(3)(A), inserted “or kerosene” after “diesel fuel”.

Subsec. (l)(5). Pub. L. 105-34, §1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in heading.

Subsec. (l)(5)(A). Pub. L. 105-34, §1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in introductory provisions.

Subsec. (l)(5)(B). Pub. L. 105-34, §1032(c)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (l)(5)(C). Pub. L. 105-34, §1032(c)(3)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)” in introductory provisions.

1996—Subsec. (f)(4). Pub. L. 104-188, §1703(k), substituted “1999” for “1995”.

Subsec. (g). Pub. L. 104-188, §1606(a), struck out subsec. (g) which related to advance repayment of increased diesel fuel tax to original purchasers of diesel-powered automobiles and light trucks.

Subsec. (i)(1), (2)(A). Pub. L. 104-188, §1606(b)(2), struck out “(g),” after “(d),” and “(or a qualified diesel powered highway vehicle purchased)” after “with respect to fuel used” wherever appearing.

Subsec. (l)(4). Pub. L. 104-188, §1702(b)(2)(B), amended par. (4), as in effect before the amendments made by the Revenue Reconciliation Act of 1993 [ch. I, §§13001-13444, of title XIII of Pub. L. 103-66], by inserting before the period “unless such fuel was used by a State or any political subdivision thereof”. See 1993 Amendment note below for subsec. (l).

1993—Subsec. (a). Pub. L. 103-66, §13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)” in introductory provisions.

Subsec. (b)(1). Pub. L. 103-66, §13242(d)(25), substituted “if any fuel other than gasoline (as defined in section 4083(a))” for “if any fuel” in introductory provisions and “4081” for “4091” in introductory and concluding provisions.

Subsec. (b)(2). Pub. L. 103-66, §13241(f)(8)(B), substituted “Reduction” for “3-cent reduction” in heading.

Subsec. (b)(2)(A). Pub. L. 103-66, §13242(d)(25)(B), substituted “4081” for “4091”.

Pub. L. 103-66, §13241(f)(8)(A), substituted “7.4 cents” for “3.1 cents”.

Subsec. (c). Pub. L. 103-66, §13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)”.

Subsec. (f)(1). Pub. L. 103-66, §13242(d)(26)(A), substituted “or 4091(c)(1)(A)” for “, 4091(c)(1)(A), or 4091(d)(1)(A)”.

Subsec. (f)(2). Pub. L. 103-66, §13242(d)(26)(B), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “For purposes of paragraph (1)—

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

“(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.”

Subsec. (h). Pub. L. 103-66, §13242(d)(27), substituted “section 4083(a)(2)” for “section 4082(b)”.

Subsec. (i)(1). Pub. L. 103-66, §13242(c)(2)(B), substituted “otherwise provided in this subsection” for “provided in paragraphs (2), (3), and (4)”.

Subsec. (i)(3). Pub. L. 103-66, §13242(d)(28)(A), substituted “alcohol mixture” for “gasohol” in heading.

Subsec. (i)(3)(A). Pub. L. 103-66, §13242(d)(28)(B), substituted “gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” for “gasoline used to produce gasohol (as defined in section 4081(c)(1))”.

Subsec. (i)(3)(C). Pub. L. 103-66, §13242(c)(2)(D), added subpar. (C).

Subsec. (i)(4). Pub. L. 103-66, §13242(d)(30), inserted “4081 or” before “4091” in heading.

Subsec. (i)(5). Pub. L. 103-66, §13242(c)(2)(A), added par. (5).

Subsec. (j)(1). Pub. L. 103-66, §13242(d)(29), substituted “sections 4041, 4081, and 4091” for “section 4041”.

Subsec. (k)(2). Pub. L. 103-66, §13242(c)(2)(C), substituted “(4), or (5)” for “or (4)”.

Subsec. (l). Pub. L. 103-66, §13242(d)(31), amended subsec. heading and headings and text of pars. (1) to (4) generally. Prior to amendment, pars. (1) to (4) read as follows:

“(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

“(2) NONTAXABLE USE.—For purposes of this subsection, the term ‘nontaxable use’ means, with respect to any fuel, any use of such fuel if such use is exempt under section 4041 from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

“(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

“(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.”

Pub. L. 103-66, §13241(f)(9), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

“(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

“(A) fuel used in a diesel-powered train, and

“(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

“(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section.” See 1996 Amendment note for subsec. (l)(4) above.

Subsec. (l)(5). Pub. L. 103-66, §13242(c)(1), added par. (5).

Subsec. (m). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (m). Text read as follows: “For purposes of subsection (a), in the case of gasoline—

“(1) on which tax was imposed under section 4041(c)(2),

“(2) on which tax was not imposed under section 4081, and

“(3) which was not used as an off-highway business use (within the meaning of section 6421(e)(2)), the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.”

Subsec. (o). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (o). Text read as follows: “Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (l) shall only apply with respect to fuels purchased before October 1, 1999.”

1991—Subsecs. (g)(5), (o). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (b)(2)(A). Pub. L. 101-508, §11211(b)(5), substituted “shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be” for “shall not exceed 12 cents”.

Subsec. (e). Pub. L. 101-508, §11801(a)(46), struck out subsec. (e) which required payment of refunds of gasoline or fuel tax to ultimate purchasers where such gasoline or fuel was used in a qualified taxicab engaged exclusively in furnishing qualified taxicab services.

Subsec. (f). Pub. L. 101-508, §11213(b)(3), amended subsec. (f) generally, restructuring and restating pars. (1) to (3) as (1) to (4) and extending the termination date from Sept. 30, 1993, to Sept. 30, 1995.

Subsec. (g)(5). Pub. L. 101-508, §11211(d)(7), substituted “1995” for “1993”.

Subsec. (i)(1). Pub. L. 101-508, §11801(c)(23)(A), struck out “(e),” before “(g),”.

Subsec. (i)(2)(A). Pub. L. 101-508, §11801(c)(23)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “If—

“(i) \$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (q), or

“(ii) \$50 or more is payable under subsection (e), to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.”

Subsec. (i)(2)(B), (C). Pub. L. 101-508, §11801(c)(23)(C), redesignated subpar. (C) as (B) and struck out former subpar. (B) “Special rule” which read as follows: “If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).”

Subsec. (l)(1). Pub. L. 101-508, §11211(b)(4)(B)(ii), inserted reference to par. (4).

Subsec. (l)(4). Pub. L. 101-508, §11211(b)(4)(B)(i), added par. (4).

Subsec. (o). Pub. L. 101-508, §11211(d)(8), substituted “1995” for “1993”.

Subsec. (q). Pub. L. 101-508, §11211(b)(6)(E)(ii), substituted heading for one which read: “Gasoline used in noncommercial aviation during period rate reduction in effect” and amended text generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if—

“(1) any tax is imposed by section 4081 on any gasoline,

“(2) such gasoline is used during 1991 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

“(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1991 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to

the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.”

1989—Subsec. (f)(1)(B). Pub. L. 101-239, §7812(a), made technical correction to directory language of Pub. L. 100-647, §2001(d)(7)(C), see 1988 Amendment note below.

Subsec. (i)(1). Pub. L. 101-239, §7822(b)(1), substituted “subsection (a), (b), (c), (d), (e), (g), (h), (l), or (q) by any person” for “subsection (a), (b), (c), (d), (e), (g), (h), or (l) by any person”.

Subsec. (i)(2)(A)(i). Pub. L. 101-239, §7822(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “\$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and or”.

Subsec. (i)(2)(B). Pub. L. 101-239, §7822(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “If the requirements of clause (ii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause of subparagraph (A) the requirements of which are met by such person for such quarter.”

Subsec. (j)(2). Pub. L. 101-239, §7841(d)(20), substituted “section 7602(a)” for “section 7602”.

Subsec. (p). Pub. L. 101-239, §7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

Subsec. (q). Pub. L. 101-239, §7501(b)(3), substituted “1991” for “1990” in pars. (2) and (3).

Pub. L. 101-239, §7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

1988—Subsec. (f)(1)(A). Pub. L. 100-647, §2001(d)(7)(B), substituted “regular tax rate” for “regular Highway Trust Fund financing rate” in two places and “incentive tax rate” for “incentive Highway Trust Fund Financing rate”, notwithstanding directory language that “incentive tax rate” was to be substituted for “Highway Trust Fund financing rate”.

Subsec. (f)(1)(B). Pub. L. 100-647, §2001(d)(7)(C), as amended by Pub. L. 101-239, §7812(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) defined “regular Highway Trust Fund financing rate” and “incentive Highway Trust Fund Financing rate”.

Subsec. (i)(1). Pub. L. 100-647, §3002(c)(1), substituted “paragraphs (2), (3), and (4)” for “paragraph (2)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-647, §3002(c)(2), struck out “(l),” after “and”.

Subsec. (i)(4). Pub. L. 100-647, §3002(a), added par. (4).

Subsec. (k)(2). Pub. L. 100-647, §3002(b), substituted “paragraph (2), (3), or (4)” for “paragraph (2) or (3)”.

Pub. L. 100-647, §1017(c)(10), substituted “paragraph (2) or (3) of subsection (i),” for “subsection” and all that followed, thereby effecting the purpose of the amendment contained in section 1703(e)(2)(E) of Pub. L. 99-514. See 1986 Amendment note below.

Subsec. (l)(2). Pub. L. 100-647, §2001(d)(7)(D), inserted “under section 4041” after “exempt”.

Subsec. (l)(3)(B). Pub. L. 100-647, §2004(s)(2), inserted “(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))” after “aircraft”.

Subsec. (m)(3). Pub. L. 100-647, §1017(c)(3), substituted “6421(e)(2)” for “6421(d)(2)”.

Subsecs. (p), (q). Pub. L. 100-647, §2004(s)(3), redesignated subsec. (p), relating to gasoline used in noncommercial aviation during period rate reduction in effect, as (q). Former subsec. (q), relating to cross references, redesignated (r).

Subsec. (r). Pub. L. 100-647, §2004(s)(3), redesignated subsec. (q), relating to cross references, as (r).

1987—Subsec. (b)(1). Pub. L. 100-203, §10502(c)(2), substituted “section 4041(a) or 4091” for first reference to “subsection (a) of section 4041”, “section 4041(a) or 4091, as the case may be” for second reference to “subsection (a) of section 4041”.

Subsec. (e)(1)(B). Pub. L. 100-203, §10502(c)(3), inserted “or 4091” after “section 4041”.

Subsec. (f). Pub. L. 100-203, § 10502(c)(4), amended subsec. (f) generally, substituting new heading for “Gasoline used to produce certain alcohol fuels”, and revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (g)(5). Pub. L. 100-17, § 502(b)(8), substituted “1993” for “1988”.

Subsec. (i)(1). Pub. L. 100-223, § 405(b)(2)(A), which directed substitution of “(h), or (p)” for “or (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, § 10502(c)(5)(A), substituted “(h), or (l)” for “or (h)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-223, § 405(b)(2)(B), which directed substitution of “(h), and (p)” for “and (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, § 10502(c)(5)(B), substituted “(h), and (l)” for “and (h)”.

Subsecs. (l) to (n). Pub. L. 100-203, § 10502(c)(1), added subsec. (l) and redesignated former subsecs. (l) to (n) as (m) to (o), respectively.

Subsec. (o). Pub. L. 100-203, § 10502(c)(1), (6), redesignated subsec. (n) as (o) and amended it generally, substituting new heading for “Termination of subsections (a), (b), (c), (d), (g), and (h)” and amending text generally. Prior to amendment, text read as follows: “Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), and (h) shall only apply with respect to fuels purchased before October 1, 1993.” Former subsec. (o) redesignated (p).

Pub. L. 100-17, § 502(b)(9), substituted “1993” for “1988” in subsec. (m), which was successively redesignated to subsec. (o) by Pub. L. 99-514 and Pub. L. 100-203.

Subsec. (p). Pub. L. 100-223, § 405(b)(1), added subsec. (p). Former subsec. (p) redesignated (q).

Pub. L. 100-203, § 10502(c)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Subsec. (q). Pub. L. 100-223, § 405(b)(1), redesignated subsec. (p), relating to payments for taxes imposed by section 4041(d), as (q).

Pub. L. 100-203, § 10502(c)(1), redesignated subsec. (p), relating to cross references, as (q).

1986—Subsec. (a). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(1). Pub. L. 99-514, § 1899A(55), substituted “otherwise provided in this subsection” for “provided in paragraph (2)”.

Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(2)(A). Pub. L. 99-514, § 1877(b)(2), substituted “subparagraphs (B) and (C)” for “subparagraph (B)”.

Subsec. (b)(2)(B). Pub. L. 99-514, § 1877(b)(1), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 99-514, § 1877(b)(1), (3), redesignated subpar. (B) as (C) and substituted “Exception for certain intracity transportation” for “Exception” in heading. Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 99-514, § 1877(b)(1), redesignated former subpar. (C) as (D).

Subsecs. (c), (d), (e)(1). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (e)(3). Pub. L. 99-514, § 422(b), substituted “September 30, 1988” for “September 30, 1985”.

Subsec. (f)(1). Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Pub. L. 99-499, § 521(c)(3)(C), which directed the substitution of “at the Highway Trust Fund financing rate” for “at the rate”, was executed by making the substitution for the first such reference as the probable intent of Congress.

Subsec. (g)(1). Pub. L. 99-514, § 1899A(56), substituted “amount” for “anount”.

Pub. L. 99-514, § 1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (h). Pub. L. 99-514, § 1703(e)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 99-514, § 1703(d)(1)(B)(i), (e)(2)(B), struck out “(f)” after “subsection (a), (b), (c), (d), (e),” and substituted “(g), or (h)” for “or (g)”.

Subsec. (i)(2)(A). Pub. L. 99-514, § 1703(d)(1)(B)(ii), inserted “or” at end of cl. (i), struck out “or” at end of cl. (ii), and struck out cl. (iii) which read as follows: “\$200 or more is payable under subsection (f).”.

Subsec. (i)(2)(A)(i). Pub. L. 99-514, § 1703(e)(2)(C), substituted “(g), and (h)” for “and (g)”.

Subsec. (i)(2)(B). Pub. L. 99-514, § 1703(d)(1)(B)(ii)(III), struck out “(or clauses)” after “referred to in the clause”. Notwithstanding directory language that the amendment be made to subpar. (A) of this par., the amendment was executed to subpar. (B), the only place in the section where “(or clauses)” appeared, to reflect the probable intent of Congress.

Pub. L. 99-514, § 1703(d)(1)(B)(iii), struck out “or clause (iii)” after “If the requirements of clause (ii)”. Notwithstanding directory language that the amendment be made to subsec. (f)(2)(B) of this section, the amendment was executed to subsec. (i)(2)(B), the only place in the section where “or clause (iii)” appeared, to reflect the probable intent of Congress.

Subsec. (i)(3). Pub. L. 99-514, § 1703(d)(1), added par. (3).

Subsec. (j). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 99-514, § 1703(e)(2)(E), which directed the substitution of “(i)(2)” for “subsection (h)(2)” in subsec. (i)(2) (as so redesignated), was executed to subsec. (k)(2), the only place in the section where “subsection (h)(2)” appeared, to reflect the probable intent of Congress. See 1988 Amendment note above.

Pub. L. 99-514, § 1703(d)(1)(B)(iv), substituted “subsection (h)(2) or (h)(3)” for “subsection (h)(2)”.

Subsec. (l). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 99-514, § 1703(e)(1)(A), redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Pub. L. 99-499, § 521(c)(3)(A), substituted “Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections” for “Subsection”.

Subsec. (n). Pub. L. 99-514, § 1703(e)(1)(A), (2)(C), (D), redesignated subsec. (m) as (n) and substituted “(g), and (h)” for “and (g)” in heading and text. Former subsec. (n) redesignated (o).

Pub. L. 99-499, § 521(c)(3)(B)(i), added subsec. (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 99-514, § 1703(e)(1)(A), as amended by Pub. L. 99-499, § 521(c)(3)(B)(ii), redesignated subsec. (n), as added by Pub. L. 99-499, § 521(c)(3)(B)(i), as (o). Former subsec. (o) redesignated (p).

Pub. L. 99-499, § 521(c)(3)(B)(i), redesignated subsec. (n) as (o).

Subsec. (p). Pub. L. 99-514, § 1703(e)(1)(A), as amended by Pub. L. 99-499, § 521(c)(3)(B)(ii), redesignated subsec. (o) as (p).

1984—Subsecs. (a), (b)(1). Pub. L. 98-369, § 911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Subsec. (b)(2), (3). Pub. L. 98-369, § 915(a), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d), (e)(1). Pub. L. 98-369, § 911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Subsec. (e)(3). Pub. L. 98-369, § 914, substituted “September 30, 1985” for “September 30, 1984”.

Subsec. (f)(1). Pub. L. 98-369, § 911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Pub. L. 98-369, § 912(d), substituted “5½ cents” for “4½ cents”.

Pub. L. 98-369, § 732(a)(3), substituted “4½ cents” for “5 cents”.

Subsec. (g). Pub. L. 98-369, § 911(b), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 98-369, §911(b), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 98-369, §911(d)(2)(C), substituted “(f), or (g)” for “or (f)”, and inserted “(or a qualified diesel powered highway vehicle purchased)” after “fuel used” in two places.

Subsec. (h)(2)(A). Pub. L. 98-369, §911(d)(2)(D), substituted “(e), and (g)” for “and (e)”, and inserted “(or a qualified diesel powered highway vehicle purchased)” after “fuel used” in two places.

Subsec. (i). Pub. L. 98-369, §911(b), redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(3). Pub. L. 98-369, §474(r)(38), substituted “section 34” for “section 39”.

Subsec. (j). Pub. L. 98-369, §911(b), redesignated former subsec. (i), relating to income tax credit in lieu of payment, as (j). Former subsec. (j), relating to special rules with respect to noncommercial aviation, redesignated (k).

Pub. L. 98-369, §734(c)(2), added subsec. (j) relating to special rules with respect to noncommercial aviation. Former subsec. (j), relating to regulations, redesignated (k).

Subsec. (j)(2). Pub. L. 98-369, §911(d)(2)(E), which directed the amendment of subsec. (k)(2) by substituting “(h)(2)” for “(g)(2)” was executed to subsec. (j)(2) to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 98-369, §911(b), redesignated former subsec. (j), relating to special rules with respect to noncommercial aviation, as (k). Former subsec. (k), relating to regulations, redesignated (l).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (j), relating to regulations, as (k). Former subsec. (k), relating to termination of subsections, redesignated (l).

Subsec. (l). Pub. L. 98-369, §911(b), redesignated former subsec. (k), relating to regulations, as (l). Former subsec. (l), relating to termination of subsections, redesignated (m).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (k), relating to termination of subsections, as (l). Former subsec. (l), relating to cross references, redesignated (m).

Subsec. (m). Pub. L. 98-369, §911(b), (d)(2)(F), redesignated former subsec. (l), relating to termination of subsections, as (m) and substituted “(d), and (g)” for “and (d)” in heading and text. Former subsec. (m), relating to cross references, redesignated (n).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (l), relating to cross references, as (m).

Subsec. (n). Pub. L. 98-369, §911(b), redesignated former subsec. (m), relating to cross references, as (n).

1983—Subsec. (a). Pub. L. 97-424, §511(g)(2)(B), substituted “section 4041(a) or (c)” for “section 4041(a), (b), or (c)”.

Subsec. (b)(1). Pub. L. 97-424, §511(g)(2)(C), substituted “subsection (a) of section 4041” for “subsection (a) or (b) of section 4041” wherever appearing.

Subsec. (c). Pub. L. 97-424, §511(g)(2)(D), substituted “section 4041(a) or (c)” for “section 4041(a), (b), or (c)”.

Subsec. (e)(1). Pub. L. 97-424, §511(e)(1), substituted “an amount determined at the rate of 4 cents a gallon” for “an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel”.

Subsec. (e)(2)(A)(i). Pub. L. 97-424, §511(e)(3), struck out “is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and” after “(ii)”.

Subsec. (e)(3). Pub. L. 97-424, §511(e)(2), substituted “September 30, 1984” for “December 31, 1982”.

Subsec. (f)(1). Pub. L. 97-424, §511(d)(4), substituted “on which a tax” for “on which tax”, inserted “at the rate of 9 cents a gallon” after “is imposed by section 4081”, and substituted “the amount determined at the rate of 5 cents a gallon” for “the aggregate amount of the tax imposed on such gasoline”.

Subsec. (f)(2). Pub. L. 97-424, §511(d)(4), substituted provision that no amount shall be payable under paragraph (1) with respect to any gasoline with respect to

which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421, for provision that no amount would be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount was payable under paragraph (1).

Subsec. (k). Pub. L. 97-424, §516(b)(5), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(3). Pub. L. 97-473 purported to add par. (3). See par. below for subsec. (l)(3).

Subsec. (l). Pub. L. 97-424, §516(b)(5), redesignated former subsec. (k) as (l).

Subsec. (l)(3). Pub. L. 97-473 added par. (3). Notwithstanding the directory language that par. (3) be added to subsec. (k), it was added to subsec. (l) to reflect the probable intent of Congress and the intervening redesignation of subsec. (k) as (l) by Pub. L. 97-424.

1982—Subsec. (d). Pub. L. 97-248 inserted “or in certain helicopters” after “museums” in heading and “or is used in a helicopter for a purpose described in section 4041(b),” after “section 4041(h)(2)(C),” in text.

1980—Subsecs. (a), (b)(1), (c), (d), (e)(1). Pub. L. 96-223, §232(d)(4)(B), substituted “subsection (i)” for “subsection (h)”.

Subsec. (e)(3). Pub. L. 96-541 extended subsec. (e) termination date to Dec. 31, 1982, from Dec. 31, 1980.

Subsecs. (f), (g). Pub. L. 96-223, §232(d)(1)(A), (2), (4)(C), added subsec. (f), redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, inserted reference to subsec. (f) in par. (1), added par. (2)(A)(iii), and, in par. (2)(B), substituted “If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter” for “If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e)”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96-223, §232(d)(1)(A), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96-223, §232(d)(1)(A), (4)(D), redesignated former subsec. (h) as (i), and in par. (2) of subsec. (i) as so redesignated, substituted “subsection (g)(2)” for “subsection (f)(2)”. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Pub. L. 96-223, §232(d)(1)(A), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1978—Subsec. (a). Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (b). Pub. L. 95-618, among other changes, provided for the refund or credit of the taxes paid on fuel pursuant to section 4041(a) or (b) but only to the extent such fuel is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”. See Effective Date of 1978 Amendment note below.

Subsec. (c). Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Pub. L. 95-458 substituted provision requiring that the rules of section 6420(c)(4) be applied in determining the user and purchaser of fuel if the fuel was used on a farm by any person other than the owner, tenant, or operator for provision which deemed the owner, tenant, or operator of the farm as the user and purchaser if fuel was used on the farm by any other person.

Subsec. (d). Pub. L. 95-600 struck out “or his delegate” after “Secretary”.

Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (e). Pub. L. 95-599, § 505(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95-599, § 505(a)(1), (b), (c)(3), redesignated former subsec. (e) as (f) and, in par. (1), substituted “(d), or (e)” for “or (d)” and amended par. (2) generally, designating existing provisions as subpars. (A)(i) and (c) and adding subpars. (A)(ii) and (B). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-599, § 505(a)(1), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-599, § 505(a)(1), (c)(4), redesignated former subsec. (g) as (h) and substituted “(f)(2)” for “(e)(2)”. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 95-599, § 505(a)(1), redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1976—Subsec. (a). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” after “sale of any fuel and” and “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used by the purchaser” and “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-530, § 1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, § 1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used on a farm” and “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-530, § 1(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e)(1). Pub. L. 94-530, § 1(b), (c)(3), redesignated former subsec. (d)(1) as (e)(1) and substituted “(a), (b), (c), or (d)” for “(a), (b), or (c)”. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 94-530, § 1(b), (c)(4), redesignated former subsec. (d)(2) as (e)(2) and substituted “(a), (b), and (d)” for “(a) and (b)”.

Subsec. (f). Pub. L. 94-530, § 1(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g) and amended.

Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (g). Pub. L. 94-530, § 1(b), (c)(5), redesignated former subsec. (f) as (g) and substituted “subsection (e)(2)” for “subsection (d)(2)” in par. (2).

Subsecs. (h), (i). Pub. L. 94-530, § 1(b), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (h). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by section 13201(b)(2), (e) of Pub. L. 117-169 applicable to fuel sold or used after Dec. 31, 2021, see section 13201(f) of Pub. L. 117-169, set out as a note under section 40A of this title.

Amendment by section 13203(d)(2)(B) of Pub. L. 117-169 applicable to fuel sold or used after Dec. 31, 2022, see section 13203(f) of Pub. L. 117-169, set out as an Effective Date note under section 40B of this title.

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 applicable to fuel sold or used after Dec. 31, 2020, see section 147(c) of div. EE of Pub. L. 116-260, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by section 121(b)(1)(B) of Pub. L. 116-94 applicable to fuel sold or used after Dec. 31, 2017, see section 121(b)(2) of Pub. L. 116-94, set out as a note under section 6426 of this title.

Amendment by section 133(a)(2) of Pub. L. 116-94 applicable to fuel sold or used after Dec. 31, 2017, see section 133(a)(4) of Pub. L. 116-94, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 40407(b)(2) of Pub. L. 115-123 applicable to fuel sold or used after Dec. 31, 2016, see section 40407(b)(3) of Pub. L. 115-123, set out as a note under section 6426 of this title.

Amendment by section 40415(a)(2) of Pub. L. 115-123 applicable to fuel sold or used after Dec. 31, 2016, see section 40415(a)(3) of Pub. L. 115-123, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 185(b)(2) of Pub. L. 114-113 applicable to fuel sold or used after Dec. 31, 2014, see section 185(b)(3) of Pub. L. 114-113, set out as a note under section 6426 of this title.

Amendment by section 192(a)(2) of Pub. L. 114-113 applicable to fuel sold or used after Dec. 31, 2014, see section 192(b) of Pub. L. 114-113, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 160(a)(2), (b)(2) of Pub. L. 113-295 applicable to fuel sold or used after Dec. 31, 2013, see section 160(d)(1) of Pub. L. 113-295, set out as a note under section 6426 of this title.

Amendment by section 160(c)(2) of Pub. L. 113-295 applicable to fuel sold or used after Sept. 30, 2014, see section 160(d)(2) of Pub. L. 113-295, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(2) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112-240, set out as a note under section 40A of this title.

Amendment by section 412(b) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 412(c) of this title, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(2) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111-312, set out as a note under section 40A of this title.

Amendment by section 704(a) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 704(d) of Pub. L. 111-312, set out as a note under section 6426 of this title.

Pub. L. 111-312, title VII, § 708(c)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to sales and uses after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a) of Pub. L. 110-343 applicable to fuel produced, and sold or used, after Dec. 31, 2008, see section 202(g)(1) of Pub. L. 110-343, set out as a note under section 40A of this title.

Amendment by section 203(c)(2) of Pub. L. 110-343 applicable to claims for credit or payment made on or after May 15, 2008, see section 203(d) of Pub. L. 110-343, set out as a note under section 40 of this title.

Amendment by section 204(a)(3) of Pub. L. 110-343 applicable to fuel sold or used after Oct. 3, 2008, see section 204(d) of Pub. L. 110-343, set out as a note under section 6426 of this title.

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by section 5(a)(1) of Pub. L. 110-172 effective as if included in the provisions of the SAFETEA-LU, Pub. L. 109-59, to which such amendment relates, see section 5(b) of Pub. L. 110-172, set out as a note under section 6426 of this title.

Amendment by section 11(e)(1) of Pub. L. 110-172 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which such amend-

ment relates, see section 11(e)(3) of Pub. L. 110-172, set out as a note under section 41 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, § 420(c), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4082, 9502, and 9503 of this title] shall apply to kerosene sold after September 30, 2005.

“(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act [Dec. 20, 2006], the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.”

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by section 11113(b)(3)(C) of Pub. L. 109-59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by section 11151(a) of Pub. L. 109-59 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11151(f)(1) of Pub. L. 109-59, set out as a note under section 4081 of this title.

Amendment by section 11161(b)(2), (3)(B), (D)–(F) of Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Pub. L. 109-59, title XI, § 11162(c), Aug. 10, 2005, 119 Stat. 1973, provided that: “The amendments made by this section [amending this section] shall apply to sales after September 30, 2005.”

Amendment by section 11163(c) of Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

Amendment by section 1343(b)(1), (3) of Pub. L. 109-58 effective Jan. 1, 2006, see section 1343(c) of Pub. L. 109-58, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(D) of Pub. L. 108-357 effective Jan. 1, 2005, see section 241(c) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Amendment by section 301(c)(9), (10) of Pub. L. 108-357 applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 851(d)(3) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 851(d)(4) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 853(c), (d)(2)(J), (K) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Amendment by section 857(b), (c) of Pub. L. 108-357 applicable to fuel sold after Dec. 31, 2004, see section 857(d) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 870(b) of Pub. L. 108-357 applicable to fuel removed, sold, or used after Dec. 31, 2004, see section 870(c) of Pub. L. 108-357, set out as a note under section 4083 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-206, title VI, § 6017(b), July 22, 1998, 112 Stat. 822, provided that: “The amendment made by sub-

section (a) [amending this section] shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178].”

Amendment by section 6023(16), (25), and (26) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6016(b) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

Amendment by section 9009(a)–(b)(2) of Pub. L. 105-178 effective Oct. 1, 1998, see section 9009(c) of Pub. L. 105-178, set out as a note under section 6421 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1606(a), (b)(2) of Pub. L. 104-188 applicable to vehicles purchased after Aug. 20, 1996, see section 1606(c) of Pub. L. 104-188, set out as a note under section 34 of this title.

Amendment by section 1702(b)(2)(B) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Amendment by section 1703(k) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§ 13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(8)–(10) of Pub. L. 103-66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13242(c), (d)(21), (25)–(31) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(b)(4)(B), (5), (6)(E)(ii) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11213(b)(3) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11213(b)(4) of Pub. L. 101-508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7812(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Amendment by section 7822(b)(1)–(4) of Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(3), (10) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see

section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title II, §2001(d)(7)(E), Nov. 10, 1988, 102 Stat. 3597, provided that: "The amendments made by this paragraph [amending this section] shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987 [Pub. L. 100-203]."

Amendment by section 2004(s)(2), (3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title III, §3002(d), Nov. 10, 1988, 102 Stat. 3616, provided that: "The amendments made by this section [amending this section] shall apply to fuel used after December 31, 1988."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 1703(d), (e)(1), (2)(A)–(E) of Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

Amendment by section 1877(b) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(38) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 732(a)(3) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

Amendment by section 734(c)(2) of Pub. L. 98-369 effective on first day of first calendar quarter beginning after July 18, 1984, see section 734(c)(3) of Pub. L. 98-369, set out as a note under section 4082 of this title.

Pub. L. 98-369, div. A, title IX, §911(e), July 18, 1984, 98 Stat. 1007, provided that: "The amendments made by this section [amending this section and sections 34, 4041, 7210, 7603 to 7605, 7609, 7610, and 9503 of this title] shall take effect on August 1, 1984."

Amendment by section 912(d) of Pub. L. 98-369 effective Jan. 1, 1985, see section 912(g) of Pub. L. 98-369, set out as a note under section 40 of this title.

Pub. L. 98-369, div. A, title IX, §915(b), July 18, 1984, 98 Stat. 1009, provided that: "The amendments made by this section [amending this section] shall take effect on August 1, 1984."

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511 of Pub. L. 97-424 effective Apr. 1, 1983, except that amendment by section 511(e)(2) of Pub. L. 97-424 is effective Jan. 1, 1983, and amendment by section 511(e)(3) of Pub. L. 97-424 is applicable with respect to fuel purchased after Dec. 31, 1982, and

before Jan. 1, 1984, see section 511(h) of Pub. L. 97-424, set out as an Effective Date of 1983 Amendment note under section 4041 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Sept. 1, 1982, see section 279(c) of Pub. L. 97-248, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-223, title II, §232(h)(2), Apr. 2, 1980, 94 Stat. 281, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) IN GENERAL.—The amendments made by subsection (d) [amending this section and sections 39 [now 34], 4081, 7210, 7603, 7604, 7605, 7609, and 7610 of this title] shall take effect on January 1, 1979.

"(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act [Apr. 2, 1980] which is described in section 6427(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act."

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

Pub. L. 95-599, title V, §505(d), Nov. 6, 1978, 92 Stat. 2760, provided that: "The amendments made by this section [amending this section and sections 39 [now 34], 7210, 7603, 7604, 7605, 7609 and 7610 of this title] shall take effect on January 1, 1979."

Amendment by Pub. L. 95-458 effective on first day of first calendar quarter beginning more than 90 days after Oct. 14, 1978, see section 3(d) of Pub. L. 95-458, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

Pub. L. 94-455, title XIX, §1906(a)(31)(B), Oct. 4, 1976, 90 Stat. 1829, provided that: "The amendments made by subparagraph (A) [amending this section] shall apply with respect to fuel used or resold after June 30, 1970."

EFFECTIVE DATE

Section applicable with respect to taxable years ending after June 30, 1970, see section 211(b) of Pub. L. 91-258, set out as an Effective Date of 1956 Amendments note under section 4041 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(a)(46), (c)(23) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CONSTRUCTION OF AMENDMENT BY PUB. L. 109-59

Pub. L. 110-172, §11(a)(39)(B), Dec. 29, 2007, 121 Stat. 2488, provided that: "The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) of section 11151(a) of the SAFETEA-LU [Pub. L. 109-59, amending this section] had never been enacted."

SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES

Pub. L. 109-432, div. A, title IV, §420(d), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users [Aug. 10, 2005]).

“(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

“(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act [Dec. 20, 2006].

“(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

“(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.”

FORMAT FOR FILING

Pub. L. 108-357, title III, §301(e), Oct. 22, 2004, 118 Stat. 1463, provided that: “The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than December 31, 2004.”

EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS

Pub. L. 105-34, title XVI, §1601(g)(1), Aug. 5, 1997, 111 Stat. 1091, provided that: “Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act [Aug. 5, 1997].”

TREATMENT OF AMENDMENT BY SECTION 10502(c)(4) OF PUB. L. 100-203

Pub. L. 100-647, title II, §2001(d)(7)(A), Nov. 10, 1988, 102 Stat. 3596, provided that: “The amendment made by section 10502(c)(4) of the Revenue Act of 1987 [Pub. L. 100-203, amending this section] shall be treated as if included in the amendments made by section 1703 of the Reform Act [Pub. L. 99-514, see Tables for classification] except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.”

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.

STUDY OF TAXICAB FUEL RATES

Pub. L. 97-424, title V, §511(e)(4), Jan. 6, 1983, 96 Stat. 2172, directed Secretary of the Treasury or his delegate to conduct a study of reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code, and transmit a report on study to Congress, together with such recommendations as he may deem advisable, not later than Jan. 1, 1984.

§ 6428. 2020 recovery rebates for individuals

(a) In general

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A for the first taxable year beginning in 2020 an amount equal to the sum of—

(1) \$1,200 (\$2,400 in the case of eligible individuals filing a joint return), plus

(2) an amount equal to the product of \$500 multiplied by the number of qualifying children (within the meaning of section 24(c)) of the taxpayer.

(b) Treatment of credit

The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1.

(c) Limitation based on adjusted gross income

The amount of the credit allowed by subsection (a) (determined without regard to this subsection and subsection (e)) shall be reduced (but not below zero) by 5 percent of so much of the taxpayer's adjusted gross income as exceeds—

(1) \$150,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

(2) \$112,500 in the case of a head of household, and

(3) \$75,000 in the case of a taxpayer not described in paragraph (1) or (2).

(d) Eligible individual

For purposes of this section, the term “eligible individual” means any individual other than—

(1) any nonresident alien individual,

(2) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

(3) an estate or trust.

(e) Coordination with advance refunds of credit

(1) In general

The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (f). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

(2) Joint returns

In the case of a refund or credit made or allowed under subsection (f) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.