Publication 510

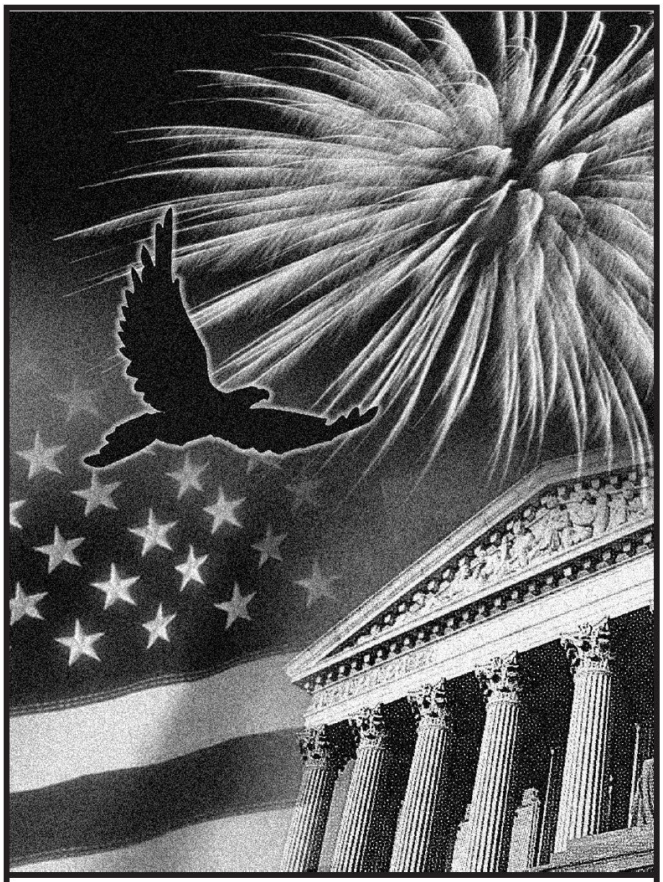
Excise Tax

(Including Fuel Tax Credits and Refunds)

For use in preparing

2019 Returns

Volume 3 of 4



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Department of the Treasury
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The certificate must be in substantially the same form as the sample certificate set forth in Regulations section 52.4682-5(d)(3). The tax benefit of this exemption is limited. For more information, see Regulations section 52.4682-5.

ODCs used as feedstock. There is no tax on ODCs sold for use or used as a feedstock. An ODC is used as a feedstock only if the ODC is entirely consumed in the manufacture of another chemical. The transformation of an ODC into one or more new compounds qualifies as use as a feedstock but use of an ODC in a mixture doesn't qualify.

For a sale to be nontaxable, you must obtain from the purchaser an exemption certificate that you rely on in good faith. The certificate must be in substantially the same form as the sample certificate set forth in Regulations section 52.4682-2(d)(2). Keep the certificate with your records.

Credits or refunds. A credit or refund (without interest) of tax paid on ODCs may be claimed if a taxed ODC is:

- Used as a propellant in a metered-dose inhaler (the person who used the ODC as a propellant may file a claim),
- Exported (the manufacturer may file a claim), or
- Used as a feedstock (the person who used the ODC may file a claim).

For information on how to file for credits or refunds, see the Instructions for Form 720 or Schedule 6 (Form 8849).

Conditions to allowance for ODCs exported. To claim a credit or refund for ODCs that are exported, you must have repaid or agreed to repay the tax to the exporter or obtained the exporter's written consent to allowance of the credit or refund. You must also have the evidence required by the EPA as proof that the ODCs were exported.

Imported Taxable Products

An imported product containing or manufactured with ODCs is subject to tax if it's entered into the United States for

consumption, use, or warehousing and is listed in the Imported Products Table. The Imported Products Table is listed in Regulations section 52.4682-3(f)(6).

The tax is based on the weight of the ODCs used in the manufacture of the product. Use the following methods to figure the ODC weight.

- The actual (exact) weight of each ODC used as a material in manufacturing the product.
- If the actual weight can't be determined, the ODC weight listed for the product in the Imported Products Table.

However, if you can't determine the actual weight and the table doesn't list an ODC weight for the product, the rate of tax is 1% of the entry value of the product.

Taxable event. Tax is imposed on an imported taxable product when the product is first sold or used by its importer. The importer is liable for the tax.

Use of imported products. You use an imported product if you put it into service in a trade or business or for the production of income or use it in the making of an article, including incorporation into the article. The loss, destruction, packaging, repackaging, warehousing, or repair of an imported product isn't a use of that product.

Entry as use. The importer may choose to treat the entry of a product into the United States as the use of the product. Tax is imposed on the date of entry instead of when the product is sold or used. The choice applies to all imported taxable products that you own and haven’t used when you make the choice and all later entries. Make the choice by checking the box in Part II of Form 6627. The choice is effective as of the beginning of the calendar quarter to which the Form 6627 applies. You can revoke this choice only with IRS consent.

Sale of article incorporating imported product. The importer may treat the sale of an article manufactured or assembled in the United States as the first sale or use of an

imported taxable product incorporated in that article if both the following apply.

- The importer has consistently treated the sale of similar items as the first sale or use of similar taxable imported products.
- The importer hasn’t chosen to treat entry into the United States as use of the product.

Imported products table. The table lists all the products that are subject to the tax on imported taxable products and specifies the ODC weight (discussed later) of each product.

Each listing in the table identifies a product by name and includes only products that are described by that name. Most listings identify a product by both name and Harmonized Tariff Schedule (HTS) heading. In those cases, a product is included in that listing only if the product is described by that name and the rate of duty on the product is determined by reference to that HTS heading. A product is included in the listing even if it's manufactured with or contains a different ODC than the one specified in the table.

Part II of the table lists electronic items that aren’t included within any other list in the table. An imported product is included in this list only if the product meets one of the following tests.

- it's an electronic component whose operation involves the use of nonmechanical amplification or switching devices such as tubes, transistors, and integrated circuits.
- It contains components described in (1), which account for more than 15% of the cost of the product.

These components don’t include passive electrical devices, such as resistors and capacitors. Items such as screws, nuts, bolts, plastic parts, and similar specially fabricated parts that may be used to construct an electronic item aren’t themselves included in the listing for electronic items.

Rules for listing products. Products are listed in the table according to the following rules.

1. A product is listed in Part I of the table if it's a mixture containing ODCs.
2. A product is listed in Part II of the table if the Commissioner has determined that the ODCs used as materials in the manufacture of the product under the predominant method are used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.
3. A product is listed in Part III of the table if the Commissioner has determined that the product meets both the following tests.
    a. It isn't an imported taxable product.
    b. It would otherwise be included within a list in Part II of the table.

For example, floppy disk drive units are listed in Part III because they aren’t imported taxable products and would have been included in the Part II list for electronic items

not specifically identified, but for their listing in Part III.

ODC weight. The Table ODC weight of a product is the weight, determined by the Commissioner, of the ODCs used as materials in the manufacture of the product under the predominant method of manufacturing. The ODC weight is listed in Part II in pounds per single unit of product unless otherwise specified.

Modifying the table. A manufacturer or importer of a product may request that the IRS add a product and its ODC weight to the table. They also may request the IRS remove a product from the table or change or specify the ODC weight of a product. To request a modification, see Regulations section 52.4682-3(g) for the mailing address and information that must be included in the request.

Floor Stocks Tax

Tax is imposed on any ODC held (other than by the manufacturer or importer of the ODC) on January 1 for sale or use in further

manufacturing. The person holding title (as determined under local law) to the ODC is liable for the tax, whether or not delivery has been made.

These chemicals are taxable without regard to the type or size of storage container in which the ODCs are held. The tax may apply to an ODC whether it's in a 14-ounce can or a 30-pound tank.

You are liable for the floor stocks tax if you hold any of the following on January 1.

1. At least 400 pounds of ODCs other than halons or methyl chloroform,
2. At least 50 pounds of halons, or
3. At least 1,000 pounds of methyl chloroform.

If you are liable for the tax, prepare an inventory on January 1 of the taxable ODCs held on that date for sale or for use in further manufacturing. You must pay this floor stocks tax by June 30 of each year. Report the tax on Form 6627 and Part II of Form 720 for the second calendar quarter.

For the tax rates, see the Form 6627 instructions.

ODCs not subject to floor stocks tax. The floor stocks tax isn't imposed on any of the following ODCs.

1. ODCs mixed with other ingredients that contribute to achieving the purpose for which the mixture will be used, unless the mixture contains only ODCs and one or more stabilizers.
2. ODCs contained in a manufactured article in which the ODCs will be used for their intended purpose without being released from the article.
3. ODCs that have been reclaimed or recycled.
4. ODCs sold in a qualifying sale for:
    a. Use as a feedstock,
    b. Export, or
    c. Use as a propellant in a metered-dose inhaler.

4.

Communications and Air Transportation Taxes

Excise taxes are imposed on amounts paid for certain facilities and services. If you receive any payment on which tax is imposed, you are required to collect the tax, file returns, and pay the tax over to the government.

If you fail to collect and pay over the taxes, you may be liable for the trust fund recovery penalty. See chapter 14, later.

Uncollected Tax Report

A separate report is required to be filed by collecting agents of communications services and air transportation taxes if the person from whom the facilities or services tax (the tax) is required to be collected (the taxpayer) refuses to pay the tax, or it's impossible for the collecting agent to collect the tax. The report must contain the name and address of the taxpayer, the type of facility provided or service rendered, the amount paid for the

facility or service (the amount on which the tax is based), and the date paid.

Regular method taxpayers. For regular method taxpayers, the report must be filed by the due date of the Form 720 on which the tax would have been reported.

Alternative method taxpayers. For alternative method taxpayers, the report must be filed by the due date of the Form 720 that includes an adjustment to the separate account for the uncollected tax. See *Alternative method* in chapter 11.

Where to file. Don't file the uncollected tax report with Form 720. Instead, mail the report to:

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999

Communications Tax

A 3% tax is imposed on amounts paid for local telephone service and teletypewriter exchange service.

Local telephone service. This includes access to a local telephone system and the privilege of telephonic quality communication with most people who are part of the system. Local telephone service also includes any facility or services provided in connection with this service. The tax applies to lease payments for certain customer premises equipment (CPE) even though the lessor doesn't also provide access to a local telecommunications system.

Local-only service. Local-only service is local telephone service as described above, provided under a plan that doesn't include long distance telephone service or that separately states the charge for local service on the bill to customers. Local-only service also includes any facility or services provided in connection with this service, even though these services and facilities may also be used with long-distance service.

Private communication service. Private communication service isn't local telephone service. Private communication service includes accessory-type services provided in

connection with a Centrex, PBX, or other similar system for dual use accessory equipment. However, the charge for the service must be stated separately from the charge for the basic system, and the accessory must function, in whole or in part, in connection with intercommunication among the subscriber's stations.

Teletypewriter exchange service. This includes access from a teletypewriter or other data station to a teletypewriter exchange system and the privilege of intercommunication by that station with most persons having teletypewriter or other data stations in the same exchange system.

Figuring the tax. The tax is based on the sum of all charges for local telephone service included in the bill. However, if the bill groups individual items for billing and tax purposes, the tax is based on the sum of the individual items within that group. The tax on the remaining items not included in any group is based on the charge for each item separately. Don't include in the tax base state or local

sales or use taxes that are separately stated on the taxpayer's bill.

Exemptions

Payments for certain services or payments from certain users are exempt from the communications tax.

Nontaxable service. Nontaxable service means bundled service and long distance service. Nontaxable service also includes pre-paid telephone cards and pre-paid cellular service.

Bundled service. Bundled service is local and long distance service provided under a plan that doesn't separately state the charge for the local telephone service. Bundled service includes plans that provide both local and long distance service for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the service is used. Telecommunications companies provide bundled service for both landlines and wireless (cellular) service. If Voice over Internet Protocol service provides both local and long distance service and the

charges aren’t separately stated, such service is bundled service.

The method for sending or receiving a call, such as on a landline telephone, wireless (cellular), or some other method, doesn't affect whether a service is local-only or bundled.

Long distance service. Long distance service is telephonic quality communication with persons whose telephones are outside the local telephone system of the caller.

Pre-paid telephone cards (PTC). A PTC will be treated as bundled service unless a PTC expressly states it's for local-only service. Generally, the person responsible for collecting the tax is the carrier who transfers the PTC to the transferee. The transferee is the first person that isn't a carrier to whom a PTC is transferred by the carrier. The transferee is the person liable for the tax and is eligible to request a credit or refund. For more information, see Regulations section 49.4251-4.

The holder is the person that purchases a PTC to use and not to resell. Holders aren’t liable for the tax and can't request a credit or refund.

Pre-paid cellular telephones. Rules similar to the PTC rules described above apply to pre-paid cellular telephones. The transferee is the person eligible to request the credit or refund.

Installation charges. The tax doesn't apply to payments received for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment. However, the tax does apply to payments for the repair or replacement of those items incidental to ordinary maintenance.

Answering services. The tax doesn't apply to amounts paid for a private line, an answering service, and a one-way paging or message service if they don’t provide access to a local telephone system and the privilege of telephonic communication as part of the local telephone system.

Mobile radio telephone service. The tax doesn't apply to payments for a two-way radio service that doesn't provide access to a local telephone system.

Coin-operated telephones. The tax for local telephone service doesn't apply to payments made for services by inserting coins in public coin-operated telephones. But the tax applies if the coin-operated telephone service is furnished for a guaranteed amount. Figure the tax on the amount paid under the guarantee plus any fixed monthly or other periodic charge.

Telephone-operated security systems. The tax doesn't apply to amounts paid for telephones used only to originate calls to a limited number of telephone stations for security entry into a building. In addition, the tax doesn't apply to any amounts paid for rented communication equipment used in the security system.

News services. The tax on teletypewriter exchange service doesn't apply to charges for the following news services.

- Services dealing exclusively with the collection or dissemination of news for or through the public press or radio or television broadcasting.
- Services used exclusively in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press.

This exemption applies to payments received for messages from one member of the news media to another member (or to or from their bona fide correspondents). For the exemption to apply, the charge for these services must be billed in writing to the person paying for the service and that person must certify in writing that the services are used for an exempt purpose.

Services not exempted. The tax applies to amounts paid by members of the news media for local telephone service.

International organizations and the American Red Cross. The tax doesn't apply to communication services furnished to an

international organization or to the American National Red Cross.

Nonprofit hospitals. The tax doesn't apply to telephone services furnished to income tax-exempt nonprofit hospitals for their use. Also, the tax doesn't apply to amounts paid by these hospitals to provide local telephone service in the homes of their personnel who must be reached during their off-duty hours.

Nonprofit educational organizations. The tax doesn't apply to payments received for services and facilities furnished to a nonprofit educational organization for its use. A nonprofit educational organization is one that satisfies all the following requirements.

- It normally maintains a regular faculty and curriculum.
- It normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.
- it's exempt from income tax under section 501(a).

This includes a school operated by an organization exempt under section 501(c)(3) if the school meets the above qualifications.

Qualified blood collector organizations. The tax doesn't apply to telephone services furnished to qualified blood collector organizations for their use. A qualified blood collector organization is one that is:

- Described in section 501(c)(3) and exempt from tax under section 501(a),
- Primarily engaged in the activity of collecting human blood,
- Registered with the IRS, and
- Registered by the Food and Drug Administration to collect blood.

Federal, state, and local government. The tax doesn't apply to communication services provided to the government of the United States, the government of any state or its political subdivisions, the District of Columbia, or the United Nations. Treat an Indian tribal government as a state for the exemption from the communications tax only if the services

involve the exercise of an essential tribal government function.

Exemption certificate. Any form of exemption certificate will be acceptable if it includes all the information required by the Internal Revenue Code and Regulations. See Regulations section 49.4253-11. File the certificate with the provider of the communication services. An exemption certificate isn't required for nontaxable services.

The following users that are exempt from the communications tax don’t have to file an annual exemption certificate after they have filed the initial certificate to claim an exemption from the communications tax.

- The American National Red Cross and other international organizations.
- Nonprofit hospitals.
- Nonprofit educational organizations.
- Qualified blood collector organizations.
- State and local governments.

The federal government doesn't have to file any exemption certificate.

All other organizations must furnish exemption certificates when required.

Credits or Refunds

If tax is collected and paid over for nontaxable services, or for certain services or users exempt from the communications tax, the collector or taxpayer may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the tax may claim a refund. For more information on how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

Collectors. The collector may request a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. These requirements also apply to nontaxable service refunds.

Collectors using the regular method for deposits. Collectors using the regular method for deposits must use Form 720-X to request a credit or refund if the collector has repaid the tax to the person from whom the tax was collected, or obtained the consent of that person to the allowance of the credit or refund.

Collectors using the alternative method for deposits. Collectors using the alternative method for deposits must adjust their separate accounts for the credit or refund if it has repaid the tax to the person from whom the tax was collected, or obtained the consent of that person to the allowance of the credit or refund. For more information, see the Instructions for Form 720.

Air Transportation Taxes

Taxes are imposed on amounts paid for:

- Aircraft Management Services
- Transportation of persons by air,
- Use of international air travel facilities, and

- Transportation of property by air.

Aircraft Management Services

Effective December 23, 2017, payments related to the management of private aircraft are exempt from section 4261 excise taxes imposed on taxable transportation by air. If the passenger is the owner of the aircraft and makes a payment to a management company for the provision of a pilot and services on the aircraft owner's personal aircraft, the payment isn’t subject to the tax. However, the provision provides a pro rata allocation rule in the event that a monthly payment made to a management company is allocated in part to exempt services for flights on the aircraft owner's aircraft, and in part to flights on aircraft other than the aircraft owner's. In this circumstance, the tax must be collected on that portion of the payment attributable to flights on aircraft not owned by the aircraft owner. This exemption includes those who lease an aircraft for more than 31 days. If the lease is for less than 31 days, fractional aircraft ownerships, or on an aircraft that is part of a fleet of aircraft available for third-

party charter services, then the payment is subject to the tax.

Transportation of Persons by Air

The tax on transportation of persons by air is made up of the:

- Percentage tax, and
- Domestic-segment tax.

Percentage tax. A tax of 7.5% applies to amounts paid for taxable transportation of persons by air. Amounts paid for transportation include charges for layover or waiting time and movement of aircraft in deadhead service.

Mileage awards. The percentage tax may apply to an amount paid (in cash or in kind) to an air carrier (or any related person) for the right to provide mileage awards for, or other reductions in the cost of, any transportation of persons by air. For example, this applies to mileage awards purchased by credit card companies, telephone companies, restaurants, hotels, and other businesses.

Generally, the percentage tax doesn't apply to amounts paid for mileage awards where the mileage awards can't, under any circumstances, be redeemed for air transportation that is subject to the tax. Until regulations are issued, the following rules apply to mileage awards.

- Amounts paid for mileage awards that can't be redeemed for taxable transportation beginning and ending in the United States aren’t subject to the tax. For this rule, mileage awards issued by a foreign air carrier are considered to be usable only on that foreign air carrier and thus not redeemable for taxable transportation beginning and ending in the United States. Therefore, amounts paid to a foreign air carrier for mileage awards aren’t subject to the tax.
- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation aren’t subject to the tax to the extent those miles will be awarded in

connection with the purchase of taxable transportation.

- Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are subject to the tax to the extent those miles won't be awarded in connection with the purchase of taxable transportation.

Domestic-segment tax. The domestic-segment tax is a flat dollar amount for each segment of taxable transportation for which an amount is paid. However, see *Rural airports* below. A segment is a single takeoff and a single landing.

Note. Generally, the tax on each domestic segment of taxable air transportation increases annually based on adjustments for inflation. See the Instructions for Form 720 for the tax rate.

Charter flights. If an aircraft is chartered, the domestic-segment tax for each segment of taxable transportation is figured by

multiplying the tax by the number of passengers transported on the aircraft.

Rural airports. The domestic-segment tax doesn't apply to a segment to or from a rural airport. An airport is a rural airport for a calendar year if fewer than 100,000 commercial passengers departed from the airport by air during the second preceding calendar year (the 100,000-passenger rule), and one of the following is true:

1. The airport isn't located within 75 miles of another airport from which 100,000 or more commercial passengers departed during the second preceding calendar year,
2. The airport was receiving essential air service subsidies as of August 5, 1997, or
3. The airport isn't connected by paved roads to another airport.

To apply the 100,000-passenger rule to any airport described in (3) above, only count commercial passengers departing from the

airport by air on flight segments of at least 100 miles.

An updated list of rural airports can be found on the Department of Transportation website at *www.dot.gov* and enter the phrase "Essential Air Service" in the search box.

Taxable transportation. Taxable transportation is transportation by air that meets either of the following tests.

- It begins and ends either in the United States or at any place in Canada or Mexico not more than 225 miles from the nearest point on the continental United States boundary (this is the 225-mile zone).
- it's directly or indirectly from one port or station in the United States to another port or station in the United States, but only if it isn't a part of uninterrupted international air transportation, discussed later.

Round trip. A round trip is considered two separate trips. The first trip is from the point of departure to the destination. The second trip is the return trip from that destination.

Uninterrupted international air transportation. This means transportation entirely by air that doesn't begin and end in the United States or in the 225-mile zone if there isn't more than a 12-hour scheduled interval between arrival and departure at any station in the United States. For a special rule that applies to military personnel, see *Exemptions*, later.

Transportation between the continental United States and Alaska or Hawaii. This transportation is partially exempt from the tax on transportation of persons by air. The tax doesn't apply to the part of the trip between the point at which the route of transportation leaves or enters the continental United States (or a port or station in the 225-mile zone) and the point at which it enters or leaves Hawaii or Alaska. Leaving or entering occurs when the route of the transportation passes over either the United States border or a point 3 nautical miles (3.45 statute miles) from low tide on the coastline, or when it leaves a port or station in the 225-mile zone. Therefore, this transportation is subject to the percentage tax on the part of

the trip in U.S. airspace, the domestic-segment tax for each domestic segment, and the tax on the use of international air travel facilities, discussed later.

Transportation within Alaska or Hawaii. The tax on transportation of persons by air applies to the entire fare paid in the case of flights between any of the Hawaiian Islands, and between any ports or stations in the Aleutian Islands or other ports or stations elsewhere in Alaska. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on the direct line of transportation between the ports or stations is more than 225 miles from the United States (Hawaii or Alaska).

Package tours. The air transportation taxes apply to "complimentary" air transportation furnished solely to participants in package holiday tours. The amount paid for these package tours includes a charge for air transportation even though it may be advertised as "free." This rule also applies to

the tax on the use of international air travel facilities, discussed later.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person receiving the payment collects the tax, files the returns, and pays the tax over to the government. However, if payment is made outside the United States for a prepaid order, exchange order, or similar order, the person furnishing the initial transportation provided for under that order must collect the tax.

A travel agency that is an independent broker and sells tours on aircraft that it charters must collect the transportation tax, file the returns, and pay the tax over to the government. However, a travel agency that sells tours as the agent of an airline must collect the tax and remit it to the airline for the filing of returns and for the payment of the tax over to the government. An independent third party that isn't under the airline's supervision or control, but is acting on behalf of, and receiving compensation from, a passenger, isn't required to collect the

tax and pay it to the government. For more information on resellers of air transportation, see Revenue Ruling 2006-52. You can find Revenue Ruling 2006-52 on page 761 of I.R.B. 2006-43, at *IRS.gov/PUB/IRB/IRB2006-43#RR2006-52.*

The fact that the aircraft doesn't use public or commercial airports in taking off and landing has no effect on the tax. But see *Certain helicopter uses*, later.

For taxable transportation that begins and ends in the United States, the tax applies regardless of whether the payment is made in or outside the United States.

If the tax isn't paid when payment for the transportation is made, the air carrier providing the initial segment of the transportation that begins or ends in the United States becomes liable for the tax.

Exemptions. The tax on transportation of persons by air doesn't apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

Military personnel on international trips. When traveling in uniform at their own expense, United States military personnel on authorized leave are deemed to be traveling in uninterrupted international air transportation (defined earlier) even if the scheduled interval between arrival and departure at any station in the United States is actually more than 12 hours. However, such personnel must buy their tickets within 12 hours after landing at the first domestic airport and accept the first available accommodation of the type called for by their tickets. The trip must begin or end outside the United States and the 225-mile zone.

Certain helicopter uses. The tax doesn't apply to air transportation by helicopter if the helicopter is used for any of the following purposes.

1. Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.

2. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
3. Providing emergency medical transportation.

However, during a use described in items (1) or (2), the tax applies if the helicopter takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

Fixed-wing aircraft uses. The tax doesn't apply to air transportation by fixed-wing aircraft if the fixed-wing aircraft is used for any of the following purposes.

1. Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
2. Providing emergency medical transportation. The aircraft must be equipped for and exclusively dedicated

on that flight to acute care emergency medical services.

However, during a use described in item (1), the tax applies if the fixed-wing aircraft takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code.

Skydiving. The tax doesn't apply to any air transportation exclusively for the purpose of skydiving.

Seaplanes. The tax doesn't apply to any air transportation by seaplane for any segment consisting of a takeoff from, and a landing on, water if the places where the takeoff and landing occur aren’t receiving financial assistance from the Airport and Airways Trust Fund.

Bonus tickets. The tax doesn't apply to free bonus tickets issued by an airline company to its customers who have satisfied all requirements to qualify for the bonus tickets.

However, the tax applies to amounts paid by customers for advance bonus tickets when customers have traveled insufficient mileage to fully qualify for the free advance bonus tickets.

International Air Travel Facilities

A tax per person is imposed (whether in or outside the United States) for international flights that begin **or** end in the United States. However, for a domestic segment that begins or ends in Alaska or Hawaii, a reduced tax per person applies only to departures. This tax doesn't apply if all the transportation is subject to the percentage tax, discussed earlier. It also doesn't apply if the surtax on fuel used in a fractional ownership program aircraft (discussed earlier) is imposed. See the Instructions for Form 720 for the tax rates.

Note. Generally, both the tax on the use of international air travel facilities for any international air transportation, if the transportation begins or ends in the United States, and the tax per person for domestic

segments that begins or ends in Alaska or Hawaii (applies to departures only), are increased annually based on inflation adjustments. See the Instructions for Form 720 for the tax rate.

Transportation of Property by Air

A tax of 6.25% is imposed on amounts paid (whether in or outside the United States) for transportation of property by air. The fact that the aircraft may not use public or commercial airports in taking off and landing has no effect on the tax. The tax applies only to amounts paid to a person engaged in the business of transporting property by air for hire.

The tax applies only to transportation (including layover time and movement of aircraft in deadhead service) that begins and ends in the United States. Thus, the tax doesn't apply to transportation of property by air that begins or ends outside the United States.

Exemptions. The tax on transportation of property by air doesn't apply in the following

situations. See also *Special Rules on Transportation Taxes*, later.

Cropdusting and firefighting service. The tax doesn't apply to amounts paid for cropdusting or aerial firefighting service.

Exportation. The tax doesn't apply to payments for transportation of property by air in the course of exportation (including to United States possessions) by continuous movement, as evidenced by the execution of Form 1363, Export Exemption Certificate. See Form 1363 for more information.

Certain helicopter and fixed-wing air ambulance uses. The tax doesn't apply to amounts paid for the use of helicopters in construction to set heating and air conditioning units on roofs of buildings, to dismantle tower cranes, and to aid in construction of power lines and ski lifts.

The tax also doesn't apply to air transportation by helicopter or fixed-wing aircraft for the purpose of providing emergency medical services. The fixed-wing aircraft must be equipped for and exclusively

dedicated on that flight to acute care emergency medical services.

Skydiving. The tax doesn't apply to any air transportation exclusively for the purpose of skydiving.

Excess baggage. The tax doesn't apply to excess baggage accompanying a passenger on an aircraft operated on an established line.

Surtax on fuel used in a fractional ownership program aircraft. The tax doesn't apply if the surtax on fuel used in a fractional ownership program aircraft (discussed earlier) is imposed.

Alaska and Hawaii. For transportation of property to and from Alaska and Hawaii, the tax in general doesn't apply to the portion of the transportation that is entirely outside the continental United States (or the 225-mile zone if the aircraft departs from or arrives at an airport in the 225-mile zone). But the tax applies to flights between ports or stations in Alaska and the Aleutian Islands, as well as between ports or stations in Hawaii. The tax applies even though parts of the flights may

be over international waters or over Canada, if no point on a line drawn from where the route of transportation leaves the United States (Alaska) to where it reenters the United States (Alaska) is more than 225 miles from the United States.

Liability for tax. The person paying for taxable transportation is liable for the tax and, ordinarily, the person engaged in the business of transporting property by air for hire receives the payment, collects the tax, files the returns, and pays the tax over to the government.

If tax isn't paid when a payment is made outside the United States, the person furnishing the last segment of taxable transportation collects the tax from the person to whom the property is delivered in the United States.

Special Rules on Transportation Taxes

Aircraft used by affiliated corporations. The taxes don’t apply to payments received by one member of an affiliated group of

corporations from another member for services furnished in connection with the use of an aircraft. However, the aircraft must be owned or leased by a member of the affiliated group and can't be available for hire by a nonmember of the affiliated group. Determine whether an aircraft is available for hire by a nonmember of an affiliated group on a flight-by-flight basis.

For this rule, an affiliated group of corporations is any group of corporations connected with a common parent corporation through 80% or more of stock ownership.

Small aircraft. The taxes don’t apply to transportation furnished by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less. However, the taxes do apply if the aircraft is operated on an established line. “Operated on an established line” means the aircraft operates with some degree of regularity between definite points. However, it doesn't include any time an aircraft is being operated on a flight that is solely for sightseeing.

Consider an aircraft to be operated on an established line if it's operated on a charter basis between two cities also served by that carrier on a regularly scheduled basis.

Also, the taxes apply if the aircraft is jet-powered, regardless of its maximum certificated takeoff weight or whether or not it's operated on an established line.

Mixed load of persons and property. If a single amount is paid for air transportation of persons and property, the payment must be allocated between the amount subject to the tax on transportation of persons and the amount subject to the tax on transportation of property. The allocation must be reasonable and supported by adequate records.

Credits or refunds. If tax is collected and paid over for air transportation that isn't taxable air transportation, the collector may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the

tax may claim a refund. For information on how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

5.

Manufacturers Taxes

The following discussion of manufacturers taxes applies to the tax on:

- Sport fishing equipment;
- Fishing rods and fishing poles;
- Electric outboard motors;
- Fishing tackle boxes;
- Bows, quivers, broadheads, and points;
- Arrow shafts;
- Coal;
- Taxable tires;
- Gas guzzler automobiles; and
- Vaccines.

Manufacturer. The term “manufacturer” includes a producer or importer. A manufacturer is any person who produces a taxable article from new or raw material, or from scrap, salvage, or junk material, by processing or changing the form of an article or by combining or assembling two or more articles. If you furnish the materials and keep title to those materials and to the finished article, you are considered the manufacturer even though another person actually manufactures the taxable article.

A manufacturer who sells a taxable article in knockdown (unassembled) condition is liable for the tax. The person who buys these component parts and assembles a taxable article may also be liable for tax as a further manufacturer depending on the labor, material, and overhead required to assemble the completed article if the article is assembled for business use.

Importer. An importer is a person who brings a taxable article into the United States or withdraws a taxable article from a customs

bonded warehouse for sale or use in the United States.

Sale. A sale is the transfer of the title to, or the substantial incidents of ownership in, an article to a buyer for consideration that may consist of money, services, or other things.

Use considered sale. A manufacturer who uses a taxable article is liable for the tax in the same manner as if it were sold.

Lease considered sale. The lease of an article (including any renewal or extension of the lease) by the manufacturer is generally considered a taxable sale. However, for the gas guzzler tax, only the first lease (excluding any renewal or extension) of the automobile by the manufacturer is considered a sale.

Manufacturers taxes based on sale price. The manufacturers taxes imposed on the sale of sport fishing equipment, electric outboard motors, and bows are based on the sale price of the article. The taxes imposed on coal are based either on the sale price or the weight.

The price for which an article is sold includes the total consideration paid for the article,

whether that consideration is in the form of money, services, or other things. However, you include certain charges made when a taxable article is sold and you exclude others. To figure the price on which you base the tax, use the following rules.

1. **Include** both the following charges in the price.
    a. Any charge for coverings or containers (regardless of their nature).
    b. Any charge incident to placing the article in a condition packed ready for shipment.
2. **Exclude** all the following amounts from the price.
    a. The manufacturers excise tax, whether or not it's stated as a separate charge.
    b. The transportation charges pursuant to the sale. The cost of transportation of goods to a

warehouse before their bona fide sale isn't excludable.

c. Delivery, insurance, installation, retail dealer preparation charges, and other charges you incur in placing the article in the hands of the purchaser under a bona fide sale.

d. Discounts, rebates, and similar allowances actually granted to the purchaser.

e. Local advertising charges. A charge made separately when the article is sold and that qualifies as a charge for “local advertising” may, within certain limits, be excluded from the sale price.

f. Charges for warranty paid at the purchaser's option. However, a charge for a warranty of an article that the manufacturer requires the purchaser to pay to obtain the article is included in the sale price on which the tax is figured.

Bonus goods. Allocate the sale price if you give free nontaxable goods with the purchase of taxable merchandise. Figure the tax only on the sale price attributable to the taxable articles.

Example. A manufacturer sells a quantity of taxable articles and gives the purchaser certain nontaxable articles as a bonus. The sale price of the shipment is $1,500. The normal sale price is $2,000: $1,500 for the taxable articles and $500 for the nontaxable articles. Since the taxable items represent 75% of the normal sale price, the tax is based on 75% of the actual sale price, or $1,125 (75% of $1,500). The remaining $375 is allocated to the nontaxable articles.

Taxable Event

Tax attaches when the title to the article sold passes from the manufacturer to the buyer. When the title passes depends on the intention of the parties as gathered from the contract of sale. In the absence of expressed intention, the legal rules of presumption

followed in the jurisdiction where the sale occurs determine when title passes.

If the taxable article is used by the manufacturer, the tax attaches at the time use begins.

The manufacturer is liable for the tax.

Partial payments. The tax applies to each partial payment received when taxable articles are:

- Leased,
- Sold conditionally,
- Sold on installment with chattel mortgage, or
- Sold on installment with title to pass in the future.

To figure the tax, multiply the partial payment by the tax rate in effect at the time of the payment.

Exemptions

The following sales by the manufacturer are exempt from the manufacturers tax.

- Sale of an article to a state or local government for the exclusive use of the state or local government. This exemption doesn't apply to the taxes on coal, gas guzzlers, and vaccines. State is defined in *Definitions* in chapter 1.
- Sale of an article to a nonprofit educational organization for its exclusive use. This ex- emption doesn't apply to the taxes on coal, gas guzzlers, and vaccines. Nonprofit educational organization is defined under *Communications Tax* in chapter 4.
- Sale of an article to a qualified blood collector organization. This exemption doesn't apply to gas guzzlers, recreational equipment, and vaccines. Qualified blood collector organizations are defined under *Communications Tax* in chapter 4.
- Sale of an article for use by the purchaser as supplies for vessels. This exemption doesn't apply to the taxes on coal and vaccines. Supplies for vessels means ships' stores, sea stores, or legitimate equipment on vessels of war of the United

States or any foreign nation, vessels employed in the fisheries or whaling business, or vessels actually engaged in foreign trade.

- Sale of an article for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by the second purchaser for further manufacture. This exemption doesn't apply to the tax on coal and tires. Use for further manufacture means use in the manufacture or production of an article subject to the manufacturers excise taxes. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and sold them.
- Sale of an article for export or for resale by the purchaser to a second purchaser for export. The article may be exported to a foreign country or to a possession of the United States. A vaccine shipped to a possession of the United States isn't considered to be exported. If an article is

sold tax free for export and the manufacturer doesn't receive proof of export, described later, the manufacturer is liable for the tax.

- Sales of articles of native Indian handicraft, such as bows and arrow shafts, manufactured by Indians on reservations, in Indian schools, or under U.S. jurisdiction in Alaska.
- For tire exemptions, see section 4221(e)(2).

Requirements for Exempt Sales

The following requirements must be met for a sale to be exempt from the manufacturers tax.

Registration requirements. The manufacturer, first purchaser, and second purchaser in the case of resales must be registered. See the Form 637 instructions for more information.

Exceptions to registration requirements. Registration isn't required for:

- State or local governments,
- Foreign purchasers of articles sold or resold for export,
- The U.S. Government, or
- Parties to a sale of supplies for vessels and aircraft.

Certification requirement. If the purchaser is required to be registered, the purchaser must give the manufacturer its registration number and certify the exempt purpose for which the article will be used. The information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with the sale.

For a sale to a state or local government, an exemption certificate must be signed by an officer or employee authorized by the state or local government. See Regulations section 48.4221-5(c) for the certificate requirements.

For sales for use as supplies for vessels and aircraft, if the manufacturer and purchaser aren’t registered, the owner or agent of the

vessel must provide an exemption certificate to the manufacturer before or at the time of sale. See Regulations section 48.4221-4(d) for the certificate requirements.

Proof of export requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof of exportation. See Regulations section 48.4221-3(d) for evidence that qualifies as proof of exportation.

Proof of resale for further manufacture requirement. Within 6 months of the date of sale or shipment by the manufacturer, whichever is earlier, the manufacturer must receive proof that the article has been resold for use in further manufacture. See Regulations section 48.4221-2(c) for evidence that qualifies as proof of resale.

Information to be furnished to purchaser. The manufacturer must indicate to the purchaser that the articles normally would be subject to tax and are being sold tax free for an exempt purpose because the

purchaser has provided the required certificate.

Credits or Refunds

The manufacturer may be eligible to obtain a credit or refund of the manufacturers tax for certain uses, sales, exports, and price readjustments. The claim must set forth in detail the facts upon which the claim is based.

Uses, sales, and exports. A credit or refund (without interest) of the manufacturer's taxes may be allowable if a tax-paid article is, by any person:

- Exported,
- Used or sold for use as supplies for vessels (except for coal and vaccines),
- Sold to a state or local government for its exclusive use (except for coal, gas guzzlers, and vaccines),
- Sold to a nonprofit educational organization for its exclusive use (except for coal, gas guzzlers, and vaccines),

- Sold to a qualified blood collector organization for its exclusive use (except for gas guzzlers, recreational equipment, and vaccines), or
- Used for further manufacture of another article subject to the manufacturer's taxes (except for coal).

Export. If a tax-paid article is exported, the exporter or shipper may claim a credit or refund if the manufacturer waives its right to claim the credit or refund. In the case of a tax-paid article used to make another taxable article, the subsequent manufacturer may claim the credit or refund.

Price readjustments. In addition, a credit or refund (without interest) may be allowable for a tax-paid article for which the price is readjusted by reason of return or repossession of the article or a bona fide discount, rebate, or allowance for taxes based on price.

Conditions to allowance. To claim a credit or refund in the case of export; supplies for vessels; or sales to a state or local

government, nonprofit educational organization, or qualified blood collector organization, the person who paid the tax must certify on the claim that one of the following applies and that the claimant has the required supporting information.

- The claimant sold the article at a tax-excluded price.
- The person has repaid, or agreed to repay, the tax to the ultimate vendor of the article.
- The person has obtained the written consent of the ultimate vendor to make the claim.

The ultimate vendor generally is the seller making the sale that gives rise to the overpayment of tax.

Claim for further manufacture. To claim a credit or refund for further manufacture the claimant must include a statement that contains the following.

- The name and address of the manufacturer and the date of payment.

- An identification of the article for which the credit or refund is claimed.
- The amount of tax paid on the article and the date on which it was paid.
- Information indicating that the article was used as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the manufacturer, or was sold on or in connection with, or with the sale of a second article manufactured or produced by the manufacturer.
- An identification of the second article.

For claims by the exporter or shipper, the claim must contain the proof of export and a statement signed by the person that paid the tax waiving the right to claim a credit or refund. The statement must include the amount of tax paid, the date of payment, and the office to which it was paid.

Claim for price readjustment. To claim a credit or refund for a price readjustment, the person who paid the tax must include with

the claim, a statement that contains the following.

- A description of the circumstances that gave rise to the price readjustment.
- An identification of the article whose price was readjusted.
- The price at which the article was sold.
- The amount of tax paid on the article and the date on which it was paid.
- The name and address of the purchaser.
- The amount repaid to the purchaser or credited to the purchaser's account.

Sport Fishing Equipment

A tax of 10% of the sale price is imposed on many articles of sport fishing equipment sold by the manufacturer. This includes any parts or accessories sold on or in connection with the sale of those articles.

Pay this tax with Form 720. No tax deposits are required.

Sport fishing equipment includes all the following items.

1. Fishing rods and poles (and component parts), fishing reels, fly fishing lines, and other fishing lines not over 130 pounds test, fishing spears, spear guns, and spear tips.

2. Items of terminal tackle, including leaders, artificial lures, artificial baits, artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels (but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in (1)).

3. The following items of fishing supplies and accessories: fish stringers, creels, bags, baskets, and other containers designed to hold fish, portable bait containers, fishing vests, landing nets, gaff hooks, fishing hook disgorgers, and dressing for fishing lines and artificial flies.

4. Fishing tip-ups and tilts.

5. Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers.

See Revenue Ruling 88-52 in Cumulative Bulletin 1988-1 for a more complete description of the items of taxable equipment.

Fishing rods and fishing poles. The tax on fishing rods and fishing poles (and component parts) is 10% of the sales price not to exceed $10 per article. The tax is paid by the manufacturer, producer, or importer.

Fishing tackle boxes. The tax on fishing tackle boxes is 3% of the sales price. The tax is paid by the manufacturer, producer, or importer.

Electric outboard boat motors. A tax of 3% of the sale price is imposed on the sale by the manufacturer of electric outboard motors. This includes any parts or accessories sold on or in connection with the sale of those articles.

Certain equipment resale. The tax on the sale of sport fishing equipment is imposed a

second time under the following circumstances. If the manufacturer sells a taxable article to any person, the manufacturer is liable for the tax. If the purchaser or any other person then sells it to a person who is related (discussed next) to the manufacturer, that related person is liable for a second tax on any subsequent sale of the article. The second tax, however, isn't imposed if the constructive sale price rules under section 4216(b) apply to the sale by the manufacturer.

If the second tax is imposed, a credit for tax previously paid by the manufacturer is available provided the related person can document the tax paid. The documentation requirement is generally satisfied only through submission of copies of actual records of the person that previously paid the tax.

Related person. For the tax on sport fishing equipment, a person is a related person of the manufacturer if that person and the manufacturer have a relationship described in section 465(b)(3)(C).

Bows, Quivers, Broadheads, and Points

The tax on bows is 11% (.11) of the sales price. The tax is paid by the manufacturer, producer, or importer. It applies to bows having a peak draw weight of 30 pounds or more. The tax is also imposed on the sale of any part or accessory suitable for inclusion in or attachment to a taxable bow and any quiver, broadhead, or point suitable for use with arrows described below.

Pay this tax with Form 720. No tax deposits are required.

Arrow Shafts

Generally, the section 4161 tax on arrow shafts increases annually based on inflation adjustments. See Form 720 for the tax rate. The tax is paid by the manufacturer, producer, or importer of any arrow shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow

that after its assembly meets either of the following conditions.

- It measures 18 inches or more in overall length.
- It measures less than 18 inches in overall length but is suitable for use with a taxable bow, described earlier.

Exemption for certain wooden arrows. After October 3, 2008, the tax doesn't apply to any shaft made of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) and used in the manufacture of any arrow that after its assembly meets both of the following conditions.

- It measures 5/16 of an inch or less in diameter.
- It isn't suitable for use with a taxable bow, described earlier.

Pay this tax with Form 720. No tax deposits are required.

Coal

Section 4121 imposes a tax on the first sale of coal mined in the United States. The producer of the coal is liable for the tax. The **producer** is the person who has vested ownership of the coal under state law immediately after the coal is severed from the ground. Determine vested ownership without regard to any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. A producer includes any person who extracts coal from coal waste refuse piles (or from the silt waste product that results from the wet washing of coal).

The tax isn't imposed on coal extracted from a riverbed by dredging if it can be shown that the coal has been taxed previously.

Tax rates. The tax on underground-mined coal is the lower of:

- $1.10 a ton, or
- 4.4% of the sale price.

The tax on surface-mined coal is the lower of:

- 55 cents a ton, or
- 4.4% of the sale price.

Coal will be taxed at the 4.4% rate if the selling price is less than $25 a ton for underground-mined coal and less than $12.50 a ton for surface-mined coal. Apply the tax proportionately if a sale or use includes a portion of a ton.

The section 4121 tax rates may change after 2020. See the Instructions for Form 720 or Form 720 for updates.

Example. If you sell 21,000 pounds (10.5 tons) of coal from an underground mine for $525, the price per ton is $50. The tax is $1.10 × 10.5 tons ($11.55).

Coal production. Coal is produced from surface mines if all geological matter (trees, earth, rock) above the coal is removed before the coal is mined. Treat coal removed by auger and coal reclaimed from coal waste refuse piles as produced from a surface mine.

Treat coal as produced from an underground mine when the coal isn't produced from a surface mine. In some cases, a single mine may yield coal from both surface mining and underground mining. Determine if the coal is from a surface mine or an underground mine for each ton of coal produced and not on a mine-by-mine basis.

Determining tonnage or selling price. The producer pays the tax on coal at the time of sale or use. In figuring the selling price for applying the tax, the point of sale is f.o.b. (free on board) mine or f.o.b. cleaning plant if you clean the coal before selling it. This applies even if you sell the coal for a delivered price. The f.o.b. mine or f.o.b. cleaning plant is the point at which you figure the number of tons sold for applying the applicable tonnage rate, and the point at which you figure the sale price for applying the 4.4% rate.

The tax applies to the full amount of coal sold. However, the IRS allows a calculated reduction of the taxable weight of the coal for the weight of the moisture in excess of the

coal's inherent moisture content. Include in the sale price any additional charge for a freeze-conditioning additive in figuring the tax.

Don't include in the sales price the excise tax imposed on coal.

Coal used by the producer. The tax on coal applies if the coal is used by the producer in other than a mining process. A mining process means the same for this purpose as for percentage depletion. For example, the tax doesn't apply if, before selling the coal, you break it, clean it, size it, or apply any other process considered mining under the rules for depletion. In this case, the tax applies only when you sell the coal. The tax doesn't apply to coal used as fuel in the coal drying process since it's considered to be used in a mining process. However, the tax does apply when you use the coal as fuel or as an ingredient in making coke since the coal isn't used in a mining process.

You must use a constructive sale price to figure the tax under the 4.4% rate if you use the coal in other than a mining process. Base

your constructive sale price on sales of a like kind and grade of coal by you or other producers made f.o.b. mine or cleaning plant. Normally, you use the same constructive price used to figure your percentage depletion deduction.

Blending. If you blend surface-mined coal with underground-mined coal during the cleaning process, you must figure the excise tax on the sale of the blended, cleaned coal. Figure the tax separately for each type of coal in the blend. Base the tax on the amount of each type in the blend if you can determine the proportion of each type of coal contained in the final blend. Base the tax on the ratio of each type originally put into the cleaning process if you can't determine the proportion of each type of coal in the blend. However, the tax is limited to 4.4% of the sale price per ton of the blended coal.

Exemption from tax. The tax doesn't apply to sales of lignite and imported coal. The only other exemption from the tax on the sale of coal is for coal exported as discussed next.

Exported. The tax doesn't apply to the sale of coal if the coal is in the stream of export when sold by the producer and the coal is actually exported.

Coal is in the stream of export when sold by the producer if the sale is a step in the exportation of the coal to its ultimate destination in a foreign country. For example, coal is in the stream of export when:

1. The coal is loaded on an export vessel and title is transferred from the producer to a foreign purchaser, or
2. The producer sells the coal to an export broker in the United States under terms of a contract showing that the coal is to be shipped to a foreign country.

Proof of export includes any of the following items.

- A copy of the export bill of lading issued by the delivering carrier.

- A certificate signed by the export carrier's agent or representative showing actual exportation of the coal.
- A certificate of landing signed by a customs officer of the foreign country to which the coal is exported.
- If the foreign country doesn't have a customs administrator, a statement of the foreign consignee showing receipt of the coal.

Taxable Tires

Taxable tires are divided into three categories for reporting and figuring the tax as described below.

A tax is imposed on taxable tires sold by the manufacturer, producer, or importer at the rate of $.0945 ($.04725 in the case of a biasply tire or super single tire) for each 10 pounds of the maximum rated load capacity over 3,500 pounds. The three categories for reporting the tax and the tax rate are listed below.

- Taxable tires other than biasply or super single tires at $.0945.
- Taxable tires, biasply or super single tires (other than super single tires designed for steering) at $.04725.
- Taxable tires, super single tires designed for steering at $.0945.

A **taxable tire** is any tire of the type used on highway vehicles if wholly or partially made of rubber and if marked according to federal regulations for highway use. A biasply tire is a pneumatic tire on which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread. A super single tire is a tire greater than 13 inches in cross section width designed to replace 2 tires in a dual fitment.

Special rule, manufacturer's retail stores. The excise tax on taxable tires is imposed at the time the taxable tires are delivered to the manufacturer-owned retail stores, not at the time of sale.

Tires on imported articles. The importer of an article equipped with taxable tires is treated as the manufacturer of the tires and is liable for the taxable tire excise tax when the article is sold (except in the case of an automobile bus chassis or body with tires).

Tires exempt from tax. The tax on taxable tires doesn't apply to the following items.

- Domestically recapped or retreaded tires if the tires have been sold previously in the United States and were taxable tires at the time of sale.
- Tire carcasses not suitable for commercial use.
- Tires for use on qualifying intercity, local, and school buses. For tax-free treatment, the registration requirements discussed earlier under *Requirements for Exempt* Sales apply.
- Tires sold for the exclusive use of the Department of Defense or the Coast Guard.

- Tires of a type used exclusively on mobile machinery. A taxable tire used on mobile machinery isn't exempt from tax.

Qualifying intercity or local bus. This is any bus used mainly (more than 50%) to transport the general public for a fee and that either operates on a schedule along regular routes or seats at least 20 adults (excluding the driver).

Qualifying school bus. This is any bus substantially all the use (85% or more) of which is to transport students and employees of schools.

Credit or refund. A credit or refund (without interest) is allowable on tax-paid tires if the tires have been:

- Exported;
- Sold to a state or local government for its exclusive use;
- Sold to a nonprofit educational organization for its exclusive use (as defined under *Communications Tax* in chapter 4);

- Sold to a qualified blood collector organization (as defined under *Communications Tax* in chapter 4) for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood;
- Used or sold for use as supplies for vessels; or
- Sold in connection with qualified intercity, local, or school buses.

Also, a credit or refund (without interest) is allowable on tax-paid tires sold by any person on, or in connection with, any other article that is sold or used in an activity listed above.

The person who paid the tax is eligible to make the claim.

Gas Guzzler Tax

Tax is imposed on the sale by the manufacturer of automobiles of a model type that has a fuel economy standard as measured by the Environmental Protection Agency (EPA) of less than 22.5 miles per

gallon. If you import an automobile for personal use, you may be liable for this tax. Figure the tax on Form 6197, as discussed later. The tax rate is based on fuel economy rating. The tax rates for the gas guzzler tax are shown on Form 6197.

A person that lengthens an existing automobile is the manufacturer of an automobile.

Automobiles. An automobile (including limousines) means any four-wheeled vehicle that is:

- Rated at an unloaded gross vehicle weight of 6,000 pounds or less,
- Propelled by an engine powered by gasoline or diesel fuel, and
- Intended for use mainly on public streets, roads, and highways.

Vehicles not subject to tax. For the gas guzzler tax, the following vehicles aren't considered automobiles.

1. Limousines with a gross unloaded vehicle weight of more than 6,000 pounds.
2. Vehicles operated exclusively on a rail or rails.
3. Vehicles sold for use and used primarily:
    a. As ambulances or combination ambulance-hearses,
    b. For police or other law enforcement purposes by federal, state, or local governments, or
    c. For firefighting purposes.
4. Vehicles treated under 49 U.S.C. 32901 (1978) as non-passenger automobiles. This includes limousines manufactured primarily to transport more than 10 persons.

The manufacturer can sell a vehicle described in item (3) tax free only when the sale is made directly to a purchaser for the described emergency use and the manufacturer and

purchaser (other than a state or local government) are registered.

Treat an Indian tribal government as a state only if the police or other law enforcement purposes are an essential tribal government function.

Model type. Model type is a particular class of automobile as determined by EPA regulations.

Fuel economy. Fuel economy is the average number of miles an automobile travels on a gallon of gasoline (or diesel fuel) rounded to the nearest 0.1 mile as figured by the EPA.

Imported automobiles. The tax also applies to automobiles that don't have a prototype-based fuel economy rating assigned by the EPA. An automobile imported into the United States without a certificate of conformity to United States emission standards and that has no assigned fuel economy rating must be either:

- Converted by installation of emission controls to conform in all material respects to an automobile already certified for sale in the United States, or

- Modified by installation of emission control components and individually tested to demonstrate emission compliance.

An imported automobile that has been converted to conform to an automobile already certified for sale in the United States may use the fuel economy rating assigned to that certified automobile.

A fuel economy rating isn't generally available for modified imported automobiles because the EPA doesn't require a highway fuel economy test on them. A separate highway fuel economy test would be required to devise a fuel economy rating (otherwise the automobile is presumed to fall within the lowest fuel economy rating category).

For more information about fuel economy ratings for imported automobiles, see Revenue Ruling 86-20 and Revenue Procedure 86-9 in Cumulative Bulletin 1986-1, and Revenue Procedure 87-10 in Cumulative Bulletin 1987-1.

Exemptions. No one is exempt from the gas guzzler tax, including the federal government,

state and local governments, qualified blood collector organizations, and nonprofit educational organizations. However, see *Vehicles not subject to tax,* earlier.

Form 6197. Use Form 6197 to figure your tax liability for each quarter. Attach Form 6197 to your Form 720 for the quarter. See the Form 6197 instructions for more information and the one-time filing rules.

Credit or refund. If the manufacturer paid the tax on a vehicle that is used or resold for an emergency use (see item (3) under *Vehicles not subject to tax*), the manufacturer can claim a credit or refund. For information about how to file for credits or refunds, see the Instructions for Form 720 or Form 8849.

Vaccines

Tax is imposed on certain vaccines sold by the manufacturer in the United States. A taxable vaccine means any of the following vaccines.

- Any vaccine containing diphtheria toxoid.
- Any vaccine containing tetanus toxoid.

- Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.
- Any vaccine containing polio virus.
- Any vaccine against measles.
- Any vaccine against mumps.
- Any vaccine against rubella.
- Any vaccine against hepatitis A.
- Any vaccine against hepatitis B.
- Any vaccine against chicken pox.
- Any vaccine against rotavirus gastroenteritis.
- Any HIB vaccine.
- Any conjugate vaccine against streptococcus pneumoniae.
- Any trivalent vaccine against influenza or any other vaccine against influenza.
- Any meningococcal vaccine.
- Any vaccine against the human papillomavirus.

The effective date for the tax on any vaccine against influenza, other than trivalent influenza vaccines, is the later of August 1, 2013, or the date the Secretary of Health and Human Services lists a vaccine against seasonal influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

The tax is $.75 per dose of each taxable vaccine. The tax per dose on a vaccine that contains more than one taxable vaccine is $.75 times the number of taxable vaccines.

Taxable use. Any manufacturer (including a governmental entity) that uses a taxable vaccine before it's sold will be liable for the tax in the same manner as if the vaccine was sold by the manufacturer.

Credit or refund. A credit or refund (without interest) is available if the vaccine is:

- Returned to the person who paid the tax (other than for resale), or
- Destroyed.

The claim for a credit or refund must be filed within 6 months after the vaccine is returned or destroyed.

Conditions to allowance. To claim a credit or refund, the person who paid the tax must have repaid or agreed to repay the tax to the ultimate purchaser of the vaccine or obtained the written consent of such purchaser to allowance of the credit or refund.

6.

Retail Tax on Heavy Trucks, Trailers, and Tractors

A tax of 12% of the sales price is imposed on the first retail sale of the following articles, including related parts and accessories sold on or in connection with, or with the sale of, the articles.

- Truck chassis and bodies.
- Truck trailer and semitrailer chassis and bodies.

- Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A truck is a highway vehicle primarily designed to transport its load on the same chassis as the engine, even if it's equipped to tow a vehicle, such as a trailer or semitrailer.

A tractor is a highway vehicle designed to tow a vehicle, such as a trailer or semitrailer. A tractor may carry incidental items of cargo when towing or limited amounts of cargo when not towing.

A sale of a truck, truck trailer, or semitrailer is considered a sale of a chassis and a body.

The seller is liable for the tax.

Chassis or body. A chassis or body is taxable only if you sell it for use as a component part of a highway vehicle that is a truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it's also designed to perform other functions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of

vehicles aren’t considered highway vehicles for purposes of the retail tax.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle isn't a highway vehicle if all the following apply.

    a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.

    b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.

c. The chassis couldn’t, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.

2. **Vehicles specially designed for off-highway transportation.** A vehicle isn't treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicles's capability to transport a load over a public highway is substantially limited or impaired.

   To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It doesn't matter that the vehicle can

carry heavier loads off highway than it's allowed to carry over the highway.

3. **Nontransportation trailers and semitrailers**. A trailer or semitrailer isn't treated as a highway vehicle if it's specially designed to function only as an enclosed stationary shelter for carrying on a nontransportation function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation isn't a highway vehicle.

Gross vehicle weight. The tax doesn't apply to truck chassis and bodies suitable for use with a vehicle that has a gross vehicle weight (defined below) of 33,000 pounds or less. It also doesn't apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. Tractors that have a gross vehicle weight of 19,500 pounds or less and a gross combined weight of 33,000 pounds or less are excluded from the 12% retail tax.

The following four classifications of truck body types meet the **suitable for use standard** and will be excluded from the retail excise tax.

- Platform truck bodies 21 feet or less in length.
- Dry freight and refrigerated truck van bodies 24 feet or less in length.
- Dump truck bodies with load capacities of 8 cubic yards or less.
- Refuse packer truck bodies with load capacities of 20 cubic yards or less.

For more information on these classifications, see Revenue Procedure 2005-19, which is on page 832 of I.R.B. 2005-14 at *IRS.gov/PUB/IRB/IRB2015-14#RR2005-19.*

The gross vehicle weight means the maximum total weight of a loaded vehicle. Generally, this maximum total weight is the gross vehicle weight rating provided by the manufacturer or determined by the seller of the completed article. The seller's gross vehicle weight rating is determined solely on

the basis of the strength of the chassis frame and the axle capacity and placement. The seller may not take into account any readily attachable components (such as tires or rim assemblies) in determining the gross vehicle weight. See Regulations section 145.4051-1(e)(3) for more information.

Parts or accessories. The tax applies to parts or accessories sold on or in connection with, or with the sale of, a taxable article. For example, if at the time of the sale by the retailer, the part or accessory has been ordered from the retailer, the part or accessory will be considered as sold in connection with the sale of the vehicle. The tax applies in this case whether or not the retailer bills the parts or accessories separately.

If the retailer sells a taxable chassis, body, or tractor without parts or accessories considered essential for the operation or appearance of the taxable article, the sale of the parts or accessories by the retailer to the purchaser is considered made in connection with the sale of the taxable article even

though they are shipped separately, at the same time, or on a different date. The tax applies unless there is evidence to the contrary. For example, if a retailer sells to any person a chassis and the bumpers for the chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to the parts or accessories regardless of the method of billing or the time at which the shipments were made. The tax doesn't apply to parts and accessories that are spares or replacements.

The tax imposed on parts and accessories sold on or in connection with the taxable articles listed earlier and the tax imposed on the separate purchase of parts and accessories (discussed next) for the taxable articles listed earlier don’t apply to an idling reduction device or insulation that has an R value of at least R35 per inch.

Idling reduction device. An idling reduction device is any device or system of devices that provide the tractor with services, such as heat, air conditioning, and electricity, without the use of the main drive engine while the

tractor is temporarily parked or stationary. The device must be affixed to the tractor and determined by the Administrator of the EPA, in consultation with the Secretary of Energy and Secretary of Transportation, to reduce idling while parked or stationary. The EPA discusses idling reduction technologies on its website at *www.epa.gov/smartway/technology/idling.htm.*

Separate purchase*.* The tax generally applies to the price of a part or accessory and its installation if the following conditions are met.

- The owner, lessee, or operator of any vehicle that contains a taxable article installs any part or accessory on the vehicle.
- The installation occurs within 6 months after the vehicle is first placed in service.

The owners of the trade or business installing the parts or accessories are secondarily liable for the tax.

A vehicle is placed in service on the date the owner takes actual possession of the vehicle. This date is established by a signed delivery ticket or other comparable document indicating delivery to and acceptance by the owner.

The tax doesn't apply if the installed part or accessory is a replacement part or accessory. The tax also doesn't apply if the total price of the parts and accessories, including installation charges, during the 6-month period is $1,000 or less. However, if the total price is more than $1,000, the tax applies to the cost of all parts and accessories (and installation charges) during that period.

Example. You bought a taxable vehicle and placed it in service on April 8. On May 3, you bought and installed parts and accessories at a cost of $850. On July 15, you bought and installed parts and accessories for $300. Tax of $138 (12% of $1,150) applies on July 15. Also, tax will apply to any costs of additional parts and accessories installed on the vehicle before October 8.

First retail sale defined. The sale of an article is treated as the first retail sale, and the seller will be liable for the tax imposed on the sale unless one of the following exceptions applies.

- There has been a prior taxable sale, lease, or use of the article (however, see *Tax on resale of tax-paid trailers and semitrailers,* later).
- The sale qualifies as a tax-free sale under section 4221 (see *Sales exempt from tax*, later).
- The seller in good faith accepts from the purchaser a statement signed under penalties of perjury and executed in good faith that the purchaser intends to resell the article or lease it on a long-term basis. There is no registration requirement.

Leases. A long-term lease (a lease with a term of 1 year or more, taking into account options to renew) before a first retail sale is treated as a taxable sale. The tax is imposed on the lessor at the time of the lease.

A short-term lease (a lease with a term of less than 1 year, taking into account options to renew) before a first retail sale is treated as a taxable use. The tax is imposed on the lessor at the time of the lease.

Exported vehicle. A vehicle exported before its first retail sale, used in a foreign country, and then returned to the United States is subject to the retail tax on its first domestic use or retail sale after importation.

Tax on resale of tax-paid trailers and semitrailers. The tax applies to a trailer or semitrailer resold within 6 months after having been sold in a taxable sale. The seller liable for the tax on the resale can claim a credit equal to the tax paid on the prior taxable sale. The credit can't exceed the tax on the resale. See Regulations section 145.4052-1(a)(4) for information on the conditions to allowance for the credit.

Use treated as sale. If any person uses a taxable article before the first retail sale of the article, that person is liable for the tax as if the article had been sold at retail by that person. Figure the tax on the price at which

similar articles are sold in the ordinary course of trade by retailers. The tax attaches when the use begins. If the seller of an article regularly sells the articles at retail in arm's-length transactions, figure the tax on its use on the lowest established retail price for the articles in effect at the time of the taxable use.

If the seller of an article doesn't regularly sell the articles at retail in arm's-length transactions, a constructive price on which the tax is figured will be determined by the IRS after considering the selling practices and price structures of sellers of similar articles.

If a seller of an article incurs liability for tax on the use of the article and later sells or leases the article in a transaction that otherwise would be taxable, liability for tax isn't incurred on the later sale or lease.

Presumptive retail sales price. There are rules to ensure that the tax base of transactions considered to be taxable sales includes either an actual or presumed markup percentage.