

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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*FEDERAL EXCISE TAXES AND STATUTORY
EXEMPTIONS*

Marie B. Morris, American Law Division

Updated March 20, 1998

Abstract. This report consists of a chart of selected federal excise taxes that apply to sales of goods and services. It covers how each tax is imposed and whether there are statutory exemptions from the tax. There is a special emphasis on whether there are exemptions for federal agencies.

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Federal Excise Taxes and Statutory Exemptions

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Abstract

This report consists of a chart of selected federal excise taxes that apply to sales of goods and services. The report covers how each tax is imposed and whether there are statutory exemptions from the tax. There is a special emphasis on whether there are exemptions for federal agencies. The report does not cover details such as how the tax revenues are used, tax rates, effective dates, or sunset dates. The report does not cover payroll taxes such as social security, medicare, or unemployment taxes, nor does it include excise taxes which are used to regulate tax-exempt organizations or the excise tax on greenmail.

Federal Excise Taxes and Statutory Exemptions

Summary

This report consists of a chart of selected federal excise taxes that apply to sales of goods and services. The chart is divided into two columns. The first indicates how the taxes are imposed, and the second contains a general listing of statutory exemptions, with a special emphasis on whether there are statutory exemptions for federal agencies. This report does not cover such details as how the tax revenues are used, tax rates, effective dates, or sunset dates. The report does not cover payroll taxes such as social security, medicare, or unemployment taxes, nor does it include excise taxes which are used to regulate tax-exempt organizations or the excise tax on greenmail. The report does not cover expired taxes, such as those known as the superfund taxes.

If available, CRS Reports containing more detailed information are cited in connection with each tax mentioned.

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Federal Excise Taxes and Statutory Exemptions

The chart below lists various federal excise taxes on retailers and manufacturers, the location of the tax in the Internal Revenue Code, a general rule as to who has to pay the tax, and a listing of statutory exemptions, with an indication of whether there are special exemptions for federal agencies.

The general rule for federal agencies is contained in IRC § 4907. Under IRC § 4907, the taxes imposed by subtitle D of the Code, except the occupational tax on wagering imposed by IRC § 4411, do apply to agencies and instrumentalities of the United States unless there are specific statutory exemptions. Subtitle D includes most of the excise taxes in the Internal Revenue Code, but it does not cover taxes on alcohol, tobacco, firearms, and the greenmail taxes contained in subtitle E.

IRC § 4221 contains five general exemptions from the excise taxes in chapters 31 and 32 of subtitle D. These include exemptions when the article is first sold (1) for use in further manufacture; (2) for export; (3) for use as supplies for vessels and aircraft; (4) to a state or local government for its exclusive use; and (5) to a nonprofit education organization for its exclusive use. The extent to which each of these exemptions applies to the relevant excise taxes is noted below.

Passenger Vehicle Luxury Tax IRC § 4001

Imposed on first retail sale of any passenger vehicle with a sales price above \$30,000 (as adjusted for inflation since 1992).¹

Exemptions: taxicabs, sales to federal, state and local governments for police, fire-fighting, search and rescue, or other law enforcement or public safety or public works activities. IRC § 4001(c) and (d). All 5 exemptions in IRC § 4221(a) apply.

Diesel Fuel IRC §§ 4041(a)(1), 4081(a)(2)

Imposed on any liquid other than gasoline sold by any person to an owner, operator, or lessee of a diesel-powered highway vehicle or diesel-powered train for use as fuel in the vehicle or train or used by any person as a fuel if there was no prior taxable sale of fuel [IRC § 4041]. Also imposed upon removal of taxable fuel from a refinery or terminal, or entry of taxable fuel into the United States. [IRC § 4081] Special rates for trains and buses. Additional tax for Leaking underground storage tank trust fund (LUST taxes).²

Exemptions: previously taxed fuel, IRC § 4041(a)(1)(B); school buses, intracity transportation, IRC § 4041(a)(1)(C); fuel used on a farm for farming purposes, IRC § 4041(f); supplies for vessels (including military aircraft) of war of the United States or any foreign nation, vessels employed in fisheries or whaling, vessels (including civil aircraft) engaged in foreign trade or between Atlantic and Pacific ports of the U.S., or between the U.S. and its possessions, IRC § 4041(g)(1); for the exclusive use of any state, political subdivision, or the District of Columbia for use as fuel, IRC § 4041(g)(2); for export or shipment to a possession of the U.S., IRC § 4041(g)(3); sold to a nonprofit educational organization for its exclusive use, or with respect to use by a nonprofit educational organization for use as a fuel, IRC § 4041(g)(4); aircraft museums, IRC § 4041(h); sold for use in a helicopter or fixed-wing aircraft transporting passengers to and from rural airports, or when transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil or gas, or the planting, cultivation, cutting, or transportation of, or caring for, trees providing the helicopter does not take off from or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970, IRC § 4041(i); off-highway business use, IRC § 4041(b). None of the 5 exemptions in IRC § 4221(a) apply to the tax in IRC §§ 4041 or 4081; however, exemptions similar to 2-5 are contained in IRC § 4041(g).

IRC § 4041(j) specifically imposes taxes on sales at retail by the United States.

Gasoline Special Motor Fuels IRC § 4041(a)(2), 4081(a)(2)(A)(i)

After June 30, 1998: tax on any liquid other than kerosene, gas oil, or fuel oil, sold for use as fuel in a motor vehicle or motor boat or used as such a fuel. [IRC § 4041(a)(2)]. General rate on gasoline. Special rates for aviation gasoline, liquefied petroleum gas, liquefied natural gas. Additional LUST taxes.³

Exemptions: Same as above, except for the bus exemptions.

Compressed Natural Gas IRC § 4041(a)(3)

Imposed on compressed natural gas sold by any person to an owner, operator, lessee, or user of a motor vehicle or motorboat for use as fuel.⁴

Exemptions: Same as diesel fuel. No tax on use in school buses or buses for intracity transportation, IRC § 4041(a)(3)(B).

Methanol and Ethanol Fuel IRC §§ 4041(b)(2), 4081(c)

Imposed on special motor fuels which are at least 85 percent methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas. LUST taxes.⁵

Exemptions: Same as special motor fuels.

Noncommercial Aviation Fuel Other than Gasoline IRC §§ 4041(c), 4091

Imposed on the sale of kerosene or other non-gasoline aviation fuel by the producer or importer or on any use by a producer which has not been taxed. LUST tax.⁶

Exemptions: Same as diesel fuel, but no bus or off-highway business use exemptions, which is logical since they don't use aviation fuel.

Fuel Used in Commercial Transportation on Inland Waterways IRC § 4042

Imposed on any liquid used by any person as a fuel in a vessel in commercial waterway transportation. LUST tax.⁷

Exemptions: Vessels with draft of more than 12 feet, passenger vessels, state or local government use, tugboats moving LASH and SEABEE barges released by ocean-going carriers to pick up or deliver international cargoes. All 5 exemptions in IRC § 4221 apply.

Heavy Trucks and Trailers Sold at Retail IRC § 4051

First retail sale of automobile truck chassis, automobile truck bodies, truck trailer and semitrailer chassis, truck trailer and semitrailer bodies, tractors of the kind chiefly used for highway transportation in combination with trailer or semitrailer.

Exemptions: Exclusions for trucks weighing 33,000 pounds or less; trailers weighing 26,000 pounds or less, replacement parts or accessories, parts and accessories priced at less than \$1,000, IRC § 4051(a), (b); camper coaches for self-propelled mobile homes; feed, seed, and fertilizer equipment for use on farms; house trailers; ambulances, hearses; concrete mixers, trash containers; rail trailers and rail vans. IRC § 4053. All 5 exemptions in IRC § 4221 apply, but 4 (state and local governments) and 5 (nonprofit educational organizations) will not apply after October 1, 1999.

Gas Guzzler Tax IRC § 4064(a)

Imposed on the sale by the manufacturer of each automobile and limousine at rates based on projected fuel economy of the model of vehicle.

Exemptions for use by the United States or by a States or local government for police or law enforcement purposes; ambulances, ambulance-hearses; emergency uses prescribed by the IRS (including firefighting). IRC § 4064(b)(1). All 5 exemptions under IRC § 4221 apply. IRC § 4293 does not authorize Secretary of Treasury to provide exemption from this tax for the U.S.

Tires of the type Used on Highway Vehicles IRC § 4071

Imposed on tires of the type used on highway vehicles, if wholly or partially made of rubber, sold by the manufacturer, producer, or importer. Rate is based on weight of the tire.⁸

Exemptions: All 5 exemptions under IRC § 4221 apply, but exemptions 4 (sale to a state or local government for the exclusive use of a state or local government) and 5 (sales to a nonprofit educational organization will not apply on or after October 1, 1999; Tires sold for use on intercity, local, and school buses are not subject to tax. IRC § 4221(e)(3). Exemption for tires of extruded tiring with an internal wire fastening agent. IRC § 4073. Under IRC § 4293, Secretary of Treasury may exempt tires purchased for the exclusive use of the United States if the tax will cause a substantial burden or expense which can be avoided by granting tax exemption and the full benefit of the exemption will accrue to the U.S.

Coal IRC § 4121

Coal from mines located in the U.S. sold by the producer. Tax is a rate per ton based on type of mine--underground, surface, etc.

Exemptions: Tax does not apply to lignite, imported coal. No other exemptions. Reg. § 48.4121-1(b)(1). IRC § 4293 does not authorize U.S. exemptions for this tax.

Vaccines IRC § 4131

Imposed on taxable vaccines sold by the manufacturer, producer, or importer for use or warehousing in the United States. Taxable vaccines include any vaccine containing diphtheria toxoid, tetanus toxoid, pertussis bacteria or specific pertussis antigens, polio virus, any vaccine against measles, mumps, rubella, hepatitis B, chicken pox, any HIB vaccine.

Exemptions: Under IRC § 4221, exemption 1, sales for resale or further manufacture, applies. Exemption 2 applies, but there is no exemption for vaccines exported to U.S. possessions. Exemptions 3 - 5 do not apply. IRC § 4293 authorizes the Secretary of Treasury to exempt sales to the U.S. for the exclusive use of the United States if the tax will cause a substantial burden or expense which can be avoided by granting tax exemption and the full benefit of the exemption will accrue to the U.S.

Sporting Goods IRC § 4161

Imposed on sale of sport fishing equipment, including electric outboard motors or sonar devices suitable for finding fish; on the sale of any bow which has a draw weight of 10 pounds or more; on the sale of any shaft, point,nock, or vane used in the manufacture of any arrow which measures over 18 inches or is suitable for use with a bow with a draw weight of 10 pounds or more, by the manufacturer, producer, or importer.

Exemptions: All 5 exemptions in IRC § 4221. IRC § 4225 exempts articles of native Indian handicrafts manufactured or produced by Indians on Indian reservations or in Indian schools or by Indians under the jurisdiction of the United States Government in Alaska. IRC § 4293 authorizes the Secretary of Treasury to exempt sales to the U.S. FOR the exclusive use of the United States if the tax will cause a substantial burden or expense which can be avoided by granting tax exemption and the full benefit of the exemption will accrue to the U.S.

Firearms IRC § 4181

Imposed on the sale of pistols, revolvers, other firearms, shells and cartridges by the manufacturer, producer or importer.⁹

Exemptions: Does not apply to weapons on which a transfer tax under IRC § 5811 has been paid (machine guns and short-barreled firearms); to any items purchased with funds appropriated for a military department of the U.S. IRC § 4182. All 5 exemptions in IRC § 4221 apply. IRC § 4293 authorizes the Secretary of Treasury to exempt sales to the U.S. FOR the exclusive use of the United States if the tax will cause a substantial burden or expense which can be avoided by granting tax exemption and the full benefit of the exemption will accrue to the U.S.

Communications IRC § 4251

Local telephone service, toll (long-distance) telephone service, and teletype- writer exchange service (Including prepaid phone cards).¹⁰

Exemptions: IRC § 4253 exempts coin-operated telephones, news services, services furnished to an international organization or to the American National Red Cross, telephone service which originates within a combat zone from a member of the Armed Forces of the United States, nonprofit hospitals, state and local governments, and the District of Columbia, nonprofit educational organizations, services used by a common carrier, telephone or telegraph company or television or radio broadcasting station or network in the conduct of its business as such. IRC § 4293 permits the Secretary of Treasury to exempt taxes imposed on services furnished to the United States if the taxes will cause substantial burden or expense which can be avoided by granting exemption and the full benefit of the exemption will accrue to the U.S.

Transportation by Air IRC § 4261

Imposed on percentage of value of taxable transportation, plus a fixed amount for each domestic segment. Imposed on use of international travel facilities in the U.S.¹¹

Exemptions: Taxable transportation tax and domestic segment tax only apply when transportation begins and ends in the U.S. Domestic segment tax not imposed on segments to and from rural airports. No tax on transportation by helicopter when transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil or gas, or the planting, cultivation, cutting, or transportation of, or caring for, trees providing the helicopter does not take off from or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970. No tax on skydiving transportation. IRC §§ 4261(e), (f), (g), 4262, 4263. No tax on transportation by aircraft having a maximum certificated takeoff weight of 6,000 pounds or less, except when such aircraft is operated on an established line. IRC § 4281.

Transportation of Property by Air IRC § 4271

Imposed on the amount paid for the transportation of property by air, which transportation begins and ends in the U.S.

No tax on transportation when providing emergency medical services by helicopter, or by a fixed-wing aircraft equipped for and exclusively dedicated on that flight to acute emergency medical services. IRC § 4261(g). No tax on transportation for skydiving. IRC § 4261(h). No tax on transportation by aircraft having a maximum certificated takeoff weight of 6,000 pounds or less, except when such aircraft is operated on an established line. IRC § 4281.

No tax on transportation by air for other members of an affiliated group (providing the owner does not hire out the aircraft to persons who are not members of the affiliated group. IRC § 4282.

Foreign Insurers IRC § 4371

Imposed on each policy of insurance, indemnity bond, annuity contract or policy or reinsurance issued by any foreign insurer or reinsurer. Rate depends on the type of policy .

Exemptions: IRC § 4373 exempts any amount which is effectively connected with a trade or business in the United States unless the amount is exempt from U.S. taxes pursuant to treaty. IRC § 4374 exempts the United States or any agency or instrumentality from liability for the tax.

Wagering IRC § 4401

Excise tax on percentage of amount of wager. Rate is .25% on legal wagers; 2% on illegal wagers.

Exemptions: State-licensed parimutuel wagers; coin-operated devices; state lotteries, IRC § 4402.

Occupational Tax on Wagering IRC § 4411

Imposed on any person who is liable for the tax under IRC § 4401 or who is engaged in receiving wagers for or on behalf of any person liable for the tax.

Exemptions: IRC § 4907 exempts federal agencies and instrumentalities.

Ship Passengers Tax IRC § 4463

Tax of \$3 per passenger on commercial passenger vessels on trips which extend over 1 or more nights or trips which transport passengers engaged in gambling aboard a vessel beyond the territorial waters of the U.S.

Exemptions: IRC § 4472(a)(1)(A) exempts voyages on any vessel owned or operated by the United States, a state, or any agency or subdivision thereof.

Highway Use Tax IRC § 4481

Imposed on the use of any highway motor vehicle which (together with any trailers customarily used with that type of vehicle) has a taxable gross weight of at least 55,000 pounds; higher tax on vehicles over 75,000 pounds.

Exemptions: IRC § 4483(b) authorizes the Secretary of Treasury to exempt vehicles used by the United States if the imposition of the tax will cause substantial burden or expense which can be avoided by granting tax exemption and the full benefit of such exemption will accrue to the U.S. IRC § 4483(a) exempts state and local governments. IRC § 4483(c) exempts certain transit type buses. IRC § 4483(d) exempts trucks used for less than 5,000 miles on public highways and exempts agricultural vehicles used less than 7,500 miles on public highways. IRC § 4483(e) provides for lower taxes on logging trucks and trucks based-plated in a contiguous foreign country.

Ozone-Depleting Chemicals IRC § 4681

Imposed on any ozone-depleting chemical sold or used by the manufacturer, producer, or importer, and any imported taxable product sold or used by the importer.

Exemptions: Use in further manufacture, use in inhalers, products to be exported, and for products recovered or used in certain recycling activities. IRC § 4682.

Unregistered Obligations IRC § 4701

Imposed on any person who issues a registration-required obligation which is not in registered form.

Regulation 26 CFR §46.4701-1(b) states that "person" includes all governmental entities.

Wagering Occupational Tax IRC § 4901

Imposed on persons engaged in the trade or business subject to the wagering tax under IRC § 4411.

IRC § 4907 states that any tax imposed by this subtitle, except the tax imposed by IRC § 4411, shall apply to any agency or instrumentality of the U.S. unless the agency or instrumentality is granted by statute a specific exemption from such tax.

Gallonage Taxes IRC § 5001

Imposed on all distilled spirits produced in or imported into the United States at a rate of \$13.50 per proof gallon.¹²

IRC § 7510 is cited as exempting use by the United States. IRC § 5066 exempts use by foreign embassies. IRC § 5214(a)(1) permits exemption for denatured spirits for export, for use in manufacture of chemical substances, for use in arts and industries and fuel, light, and power; (a)(2) exempts nonbeverage use by the United States or any governmental agency, any state, political subdivision, the District of Columbia; (a)(3) exempts nonbeverage use of any educational organization or for use of any scientific university or college of learning, for any laboratory use in scientific research, for use at hospitals, blood banks, sanitariums, pathological laboratories, clinics operated for charity. Many other exemptions, including transfers for export, to foreign trade zones, for use of vessels and aircraft, see IRC § 5211-5214.

Wines IRC § 5041

Imposed on all wines having not in excess of 24 percent alcohol by volume, in bond in, produced in, or imported into, the United States. Different rates depending on type and alcohol content.

Exemptions: Cider, family use, experimental or research use. IRC § 5042. IRC § 5362(c) exempts use by the United States or any agency thereof; exempts use for analysis, testing, research, or experimentation by the governments of the states and the District of Columbia, or any political subdivision or agency; use in the production of vinegar, use in experimental or research purposes by scientific universities or colleges of learning or institutions of scientific research; for export, for transfer to foreign trade zones, for use of certain vessels and aircraft. IRC § 5362(e) permits exemption of for use by foreign embassies. Several other exemptions in same section.

Beer IRC § 5051

Beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Rate per barrel, with lower rate on certain small domestic producers.¹³

Exemptions: Export, unfit for beverage use, laboratory analysis, research, development, or testing, personal or family use. IRC § 5053. 19 U.S.C. § 1309 permits exemption of supplies of vessels or aircraft operated by the United States; vessels of the United States employed in fisheries or whaling or engaged in foreign trade or certain other trade; aircraft registered in the United States and engaged in foreign trade or certain other trade; supplies of vessels of war of any foreign nation or foreign vessels in fisheries, whaling, foreign trade; supplies of foreign aircraft engaged in foreign trade or certain other trade. Although not cited as such, IRC § 7510 may provide exemption for use by the United States. Unable to find specific IRC sections analogous to those providing exemptions for distilled spirits and wine.

Tobacco IRC § 5701

Imposed on various tobacco products manufactured in or imported into the U.S. Different rates for cigars, cigarettes, cigarette papers, tubes, smokeless tobacco, pipe tobacco

Exemptions: Employee use, experimental purposes IRC § 5704(a); transfers under bond for consumption in a foreign country, Puerto Rico, Virginia Islands, a possession of the U.S., or beyond the jurisdiction of the internal revenue laws of the U.S. IRC § 5704(b). IRC § 7510 may provide an exemption for use by the United States.

Machine Guns, Destructive Devices, and Certain Other Firearms IRC §§ 5801, 5811

Occupational tax on every importer, manufacturer, and dealer in firearms IRC § 5801; transfer tax on transfers of firearms IRC § 5811; tax on making a firearm IRC § 5821.

Exemptions: Persons can be exempted from the occupational tax if they establish that their business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency, IRC § 5851; transfers to the United States or any department, independent establishment, or agency are exempt from the transfer tax, IRC § 5852; transfers to a state, possession of the U.S., a political subdivision, any official police organization of such government entity engaged in criminal investigations are exempt from the transfer tax, IRC § 5853(a); firearms may be exported without payment of the transfer tax, IRC § 5854; firearms may be made without paying the making tax if they are made by or on behalf of a state, possession of the U.S. any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations, IRC § 5853(b). IRC § 5851 permits the Secretary of Treasury to relieve any person manufacturing firearms for, or on behalf of, the U.S. from complying with any provision of chapter 53 in the conduct of such business.

Endnotes

1. For additional information, see CRS Report 96-733, *History and Economics of U.S. Excise Taxation of Luxury Goods*.

2. For additional information, see CRS Report 97-824, *Transportation Fuel Taxes: What the Taxpayer Relief Act Has Wrought*; CRS Report 97-194, *The Tax Treatment of Alternative Transportation Fuels*; and CRS Report 97-472, *Leaking Underground Storage Tank Trust Fund (LUST)*.

3. For additional information, see reports cited in Note 2 and CRS Report 97-853, *Federal Excise Taxes on Gasoline and the Highway Trust Fund: A Short History*.

4. For additional information, see reports cited in Note 2.

5. For additional information, see reports cited in Note 2 and CRS Report 97-416, *Federal Tax Incentives for Alcohol Fuels*.

6. For additional information, see CRS Report 97-657, *Aviation Taxes and Airport and Airway Trust Fund*.

7. For additional information, see reports cited in Note 2.

8. For additional information, see CRS Report 97-897, *Federal Excise Tax on Tires: Where the Rubber Meets the Road*.

9. For additional information, see CRS Report 97-506, *Wildlife Restoration Projects Fund*.

10. For additional information, see CRS Report 97-250, *Federal Excise Taxes Imposed on Telephone Service: Are Revenues Dedicated for Defense Spending?*

11. For additional information, see CRS Report 97-854, *The Taxpayer Relief Act of 1997: An Overview* and CRS Report 97-657, *Aviation Taxes and the Airport and Airway Trust Fund*.

12. For additional information, see CRS Report 97-331, *Excise Taxes on Alcohol, Tobacco, and Gasoline: History and Inflation Adjusted Rates*.

13. For additional information, see CRS Report 97-582, *Beer Excise Taxes: Proposed Reduction in Rates*.