

RELIEF FROM TAXES ON GASOLINE AND SPECIAL FUELS USED ON FARMS

MARCH 2, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8780]

The Committee on Finance, to whom was referred the bill (H. R. 8780) to amend the Internal Revenue Code of 1954 to relieve farmers from excise taxes in the case of gasoline and special fuels used on the farm for farming purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

I. GENERAL STATEMENT

This bill relieves farmers of the burden of the excise taxes on the gasoline and special fuels used on their farms for farming purposes. The relief in the case of the gasoline tax is accomplished by providing for annual refunds payable by the Federal Government directly to the farmers. It is estimated that this will provide farmers with approximately \$59 million of tax relief each full year of operation.

Your committee made one substantive amendment to the House bill. Refunds with respect to the gasoline tax are not to be allowed for custom operators (i. e., independent contractors) with respect to cultivating, harvesting, etc., operations. However, where farmers perform similar services for their neighbors refunds may be claimed if these operations for neighbors constitute less than half of the total of these operations of the farmer. Custom operators are excluded from the benefits of this provision by your committee because there is no assurance that they will pass the benefit of the refunds on to the farmers.

The depressed situation in agriculture probably constitutes the most important domestic problem before Congress at the present time. Although the industrial segment of the economy is operating at a high level, both farm prices and farm income are depressed. The decline in farm income has now continued for several years and unless reversed is likely to constitute a threat to the well-being of the entire economy.

The farmer today is caught in a severe price-cost squeeze. At the same time farm prices are declining, the costs of the articles he must buy have been rising. This problem must be met on several fronts, one of these involving the reduction of the costs which the farmer must pay. One of the costs which the farmer must meet is the Federal 2-cents-a-gallon tax presently imposed on the gasoline he uses on his farm. This bill reduces the farmers' operating costs by removing the taxes in the case of gasoline and special fuels used by farmers but in both cases only with respect to the use on a farm for farming purposes.

Your committee hopes that the Internal Revenue Service will coordinate the administration of the gasoline tax refund, to the extent feasible, with the administration of gasoline tax refunds by the various States.

II. SUMMARY OF PROVISIONS OF THE BILL

Section 1, the basic section in both the House and your committee's bill, provides for the refund of tax with respect to gasoline used on farms.

A. GASOLINE

In the new code section 6420, it is provided that refunds are to be paid to purchasers of gasoline used on a farm for farming purposes. The refund under present tax rates will be 2 cents (1½ cents on and after April 1, 1956, if the reduced rates go into effect), multiplied by the number of gallons of gasoline used for the prescribed purposes.

The phrase "used on a farm for farming purposes" is defined as including only gasoline used—

- (1) in carrying on a trade or business,
- (2) on a farm in the United States, and
- (3) for farming purposes.

The terms "farm" and "farming purposes" as used here are also defined terms. These definitions are described subsequently.

B. TIME AND MANNER OF MAKING REFUND

The refunds with respect to gasoline are to be provided on an annual period ending on June 30. The claim is to be filed on or before September 30 of each year, and is to be filed by the farmer directly with the appropriate office of the Internal Revenue Service.

C. DEFINITION OF FARM AND FARMING PURPOSE

As indicated previously, refunds are to be available with respect to gasoline only where used in carrying on a trade or business, on a farm in the United States, and for farming purposes. The term "farm" as used here is defined as including stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. This definition is the same as that presently in the 1954 Code with respect to the Federal Insurance Contributions Act which it is understood includes a feed yard for fattening cattle.

The term "farming purposes" is also defined in the House and your committee's bill. Under the House-passed bill it included use by any person in connection with cultivation of the soil, or the raising or harvesting of agricultural or horticultural commodities, including the

raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife. As a result, gasoline used by custom operators or other independent contractors performing a service on a farm in connection with cultivating the soil or raising or harvesting agricultural or horticultural commodities was eligible for a refund claim under the House-passed bill. Under your committee's bill, the term "farming purposes" includes the above-described type of operations, but generally only with respect to the operations of an owner, tenant, or operator on his own farm. Operations of a farmer other than on his own farm are included only where the gasoline so used is less than one-half of all of the gasoline used by the farmer for the prescribed type of operations.

The term "farming purposes" under both versions of the bill also includes the handling, drying, packing, grading, or storing of agricultural or horticultural commodities but only if the work is done by the owner, tenant, or operator and only if such person produced more than half of the commodity receiving this treatment during the year. This means that with respect to handling, drying, packing, grading, or storing of these commodities services performed by custom operators or other independent contractors, even though on the farm, are not the type with respect to which a refund may be claimed.

The definition of "farming purposes" under both the House and your committee's bill also includes the planting, cultivating, caring for, or cutting of trees, as well as the preparation (other than sawing logs into lumber, chipping and other milling operations) of trees for the market if the work is performed by the owner, tenant, or operator of a farm and also only if it is incidental to farming operations. Still another category of work included in the farming purpose definition under both versions of the bill is that done by the owner, tenant, or operator of the farm in connection with the operation, management, conservation, improvement, or maintenance of the farm, including farm buildings, tools, and equipment.

D. DIESEL FUEL AND SPECIAL MOTOR FUELS

Section 2 of both versions of the bill provides relief for diesel fuel and special motor fuels (such as propane, butane, and so forth, including what is sometimes referred to as hot tractor fuel). In the case of diesel fuel, present law already provides that this tax is to apply only when the fuel is used in highway vehicles. Both the House and your committee's bill provide an exemption with respect to diesel fuel used in any of these highway vehicles where the vehicles are used on a farm for farming purposes.

In the case of special motor fuels, present law provides a tax only when the fuel is for use in a motor vehicle, motor boat, or airplane. Both versions of the bill provide an exemption for such use of special motor fuel when it is used on a farm for farming purposes.

Even under present law diesel fuel and special motor fuel are exempt from tax when used in a farm tractor since farm tractors have been held not to be motor vehicles under existing law.

Provision is also made in the House and your committee's bill for credits or refunds with respect to diesel fuel and special motor fuels which are used on a farm for farming purposes and have been sold taxpaid. In this case the credit or refund is to be obtained by processing the claim back through the person making the first taxpaid sale.

This is the same procedure already in use in the case of other refunds or credits for diesel fuel and special motor fuel.

B. CIVIL PENALTY FOR EXCESSIVE CLAIMS

Section 3 of both the House and your committee's bill provides a special civil penalty for excessive claims for refunds with respect to gasoline. The new provision (in addition to any of the regular criminal penalties which may be applicable) provides that if a claim for a gasoline refund is excessive, a civil penalty may be imposed unless it can be shown that the claim for the excessive amount is due to reasonable cause. Section 3 is intended to be in addition to, and not in lieu of, other methods of enforcement now provided by existing law. The penalty imposed by section 3 is 2 times the excess amount claimed but not less than \$10. As is indicated in section 4 in both versions of the bill the penalty described above, as well as the excessive amount itself, is to be assessed and collected as a tax.

III. TECHNICAL EXPLANATION OF THE BILL

Section 1 of the bill, both as passed by the House and as amended by your committee, amends subchapter B of chapter 65 of the Internal Revenue Code of 1954 by renumbering section 6420 as section 6421 and inserting a new section 6420. Section 1 of the bill, as amended by your committee, differs from the House bill only in the change noted below in subsection (b) (3) (A) of the proposed section 6420.

SECTION 6420. RELIEF FROM THE EXCISE TAX ON GASOLINE

Subsection (a).—Subsection (a) of the new section 6420 provides that the Secretary or his delegate shall pay to the ultimate purchaser of gasoline used on a farm for farming purposes the amount determined by multiplying (1) the number of gallons so used, by (2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline. The meaning of the terms used on a farm for farming purposes, farm, farming purposes, and gasoline, are set forth in subsection (c) of section 6420. Interest is not allowable with respect to payments made pursuant to the provisions of section 6420. It will not be necessary for the claimant to show that the tax was in fact paid by the producer of the gasoline. In case of a change in rate of tax, the gasoline which is first purchased by the claimant will, as a general rule, be deemed to have been first used for purposes of claiming the farm-use payment.

Subsection (a) of section 6420 also provides that only the ultimate purchaser shall receive the payment for the farm use of gasoline. This makes it clear that prior purchasers of such gasoline will not be entitled to claim payment. For example, if farmer A purchases 200 gallons of gasoline and subsequently sells 50 gallons of such gasoline to farmer B who uses the fuel on his farm for farming purposes, only farmer B may claim payment with respect to the 50 gallons of gasoline so used by him inasmuch as he is the ultimate purchaser. The payment for farm use is to be made to the purchaser of the gasoline even though he is not the user of the gasoline. For instance, in the absence of special circumstances, a lessor of a farm who purchased the gasoline and furnished it to his tenant for use on the farm for farming purposes

is the one who is authorized under the new section to claim payment if the gasoline is so used.

If a vehicle or equipment is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, the claimant is entitled to payment under section 6420 only with respect to that portion of the gasoline which was consumed on the farm for farming purposes. Accordingly, if a truck used on a farm in connection with the cultivating or harvesting of agricultural commodities is also used on the highways (whether to deliver commodities to market or otherwise), the gasoline used in operating the truck on the highways is not to be taken into account in computing the payments authorized by section 6420.

Subsection (b).—Subsection (b) relates to the time for filing a claim and the period to be covered by such claim. Not more than one claim may be filed under this section by any person with respect to gasoline used during the 1-year period ending on June 30 of any year. This subsection also provides that no claim is to be allowed with respect to any 1-year period unless the claim is filed on or before September 30 of the calendar year in which the 1-year period ends. Thus, for example, for the 1-year period ending June 30, 1957, the purchaser may make a claim for any gasoline used (on a farm for farming purposes) after June 30, 1956, and before July 1, 1957. Such claim must be filed on or before September 30, 1957. It should be noted that under subsection (g) of the new section 6420, claims filed under this section before October 1, 1956, will cover only gasoline purchased after December 31, 1955. The same limitation will apply in the case of claims for any subsequent period, that is to say, no payment is allowable under this section at any time for gasoline purchased before January 1, 1956.

Subsection (c).—Paragraph (1) of subsection (c) of the new section 6420 provides that gasoline shall be treated as used on a farm for farming purposes only if used (1) in carrying on a trade or business, (2) on a farm situated in the United States (that is, the several States, Alaska, Hawaii, and the District of Columbia), and (3) for farming purposes. The term "trade or business" has the same meaning as when used in section 162 of the 1954 Code in connection with expenses paid or incurred in carrying on any trade or business.

Paragraph (2) of subsection (c) defines the term "farm" to include stock (including feed yards for fattening cattle), dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. This definition is the same as that contained in section 3121 (g) of the 1954 Code.

Under paragraph (3) of subsection (c) gasoline is to be treated as used for farming purposes only if used as provided in subparagraph (A), (B), (C), or (D). Under subparagraph (A) as it appears in the House bill, gasoline is treated as used for farming purposes if used by any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wild-life.

Your committee has amended subparagraph (A) so that gasoline will be treated as used on a farm for farming purposes only if used by

the owner, tenant, or operator of a farm in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife—

(a) on a farm of which he is the owner, tenant, or operator, or

(b) on any other farm, but only if the gasoline used by him on other farms is less than one-half of all gasoline used by him on all farms for the purposes enumerated in such subparagraph during the period with respect to which claim is filed.

Thus gasoline used by a custom operator or other independent contractor in performing a service for the purposes enumerated in subparagraph (A) may not be included in a refund claim by such operator. If a farmer provides services for another farmer (for the purposes enumerated in subparagraph (A)), all the gasoline used for such services may be included in his refund claim if less than one-half of all the gasoline used by him for the purposes enumerated in subparagraph (A) is used off his farm. If one-half or more of the gasoline is used by the farmer off his farm he may only claim a refund with respect to the gasoline used on his farm for those purposes.

Under both the House and your committee's bill gasoline used on a farm in connection with the production or harvesting of maple sap or in connection with the production or harvesting of crude gum (oleoresin) from a living tree is treated as used for farming purposes; but gasoline used in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar or used in the processing of crude gum (oleoresin) into gum spirits of turpentine and gum rosin is not so treated, even though such processing operations are conducted on a farm.

Under subparagraph (B) of the new section 6420 (c) (2) gasoline is to be treated as used for farming purposes, if used by the owner, tenant, or operator of a farm in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the 1-year period with respect to which claim is filed under this section. The term "operator of a farm" means a person in possession of a farm and engaged in the operation of such farm. Whether use by the owner or tenant qualifies under this subparagraph (or subparagraph (C) or (D)) is to be determined without regard to whether the owner or tenant is in possession of the farm and without regard to whether he is the operator of the farm. Gasoline used in operations other than those of the prescribed character (such as canning, freezing, packaging, and processing operations) is not considered to be used for farming purposes within the meaning of subparagraph (B). The term "commodity" refers to a single agricultural or horticultural product, that is, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The operations with respect to each such commodity are to be considered separately in applying the "one-half" test described in the first sentence of this paragraph.

Under subparagraph (C), gasoline is to be treated as used for farming purposes if used by the owner, tenant, or operator of a farm, in connection with the planting, cultivating, caring for, or cutting of trees or in the preparation (other than milling) of trees for market; but only if such operations are incidental to farming operations. These opera-

tions include the felling of trees and cutting them into logs or firewood but do not include sawing logs into lumber, chipping, or other milling operations.

Operations of the character specified in subparagraph (C) must be incidental to the farming operations of such farm or to the farming operations of the owner, tenant, or operator of the farm. The word "incidental" is used in the statute in order to insure that the volume of the operations of the specified character will be, by comparison with the total farming operations involved, of a minor nature.

Under subparagraph (D), gasoline is to be treated as used for farming purposes if used by the owner, tenant, or operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment. These operations may include clearing land, repairing, painting, irrigating, and other activities which contribute in any way to the conduct of the farm, as such, as distinguished from any other enterprise in which the owner, tenant, or operator may be engaged. Since the gasoline must be used by the owner, tenant, or operator of the farm to which the operations relate, gasoline used in operations of the prescribed character by a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties is not to be taken into account in computing claims under this section.

Under paragraph (4) of the subsection, the term "gasoline" is given the same meaning as when used in section 4082 (b). That is to say, the term means all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline).

Subsection (d).—Subsection (d) provides two conditions which must be observed in determining the amount of any payment to be made under section 6420.

First, it prohibits payment of any amount with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4081 of the 1954 Code. Thus, gasoline purchased by a State tax-free by virtue of section 4224 of the 1954 Code and used on a State prison farm for a farming purpose cannot be included in determining any amount claimed under section 6420.

Secondly, it provides that any amount that would otherwise have been payable under section 6420 with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under section 6420 or is refundable under any other provision of the 1954 Code to any person with respect to such gasoline.

Subsection (e).—Paragraph (1) of subsection (e) provides that all provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with section 6420, apply in respect of the payments provided for in section 6420 to the same extent as if such payments constituted refunds of overpayments of the tax so imposed. Under this provision (to mention some, but not all, of the provisions which will apply) sections 6514 (relating to credits or refunds after period of limitations), 6532 (relating to periods of limitation on suits), 7405 (relating to action for recovery of erroneous refunds), and 7422 (relating to civil actions for refunds by taxpayers) of the 1954 Code apply.

However, by reason of subsection (e) (3), the Secretary or his delegate may not exercise his discretionary power under section 7504 of the 1954 Code to disregard a fractional part of a dollar.

For the purpose of determining the correctness of any claim made under this section, or of any payment made pursuant to such claim, subsection (e) (2) makes applicable paragraphs (1), (2), and (3) of section 7602 of the 1954 Code, relating to the examination of books and witnesses, as if the claimant were the person liable for tax.

Subsection (f).—Subsection (f) provides that the Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of section 6420, under which payments may be made under section 6420. Some of the conditions that might be appropriately prescribed by regulations are, for example:

- (1) The type of records that the farmer will be required to keep;
- (2) The form on which the claim must be filed;
- (3) The information to be contained in such claim; and
- (4) The evidence necessary to support such claim.

Subsection (g).—Subsection (g) provides that payments under section 6420 may be made only with respect to gasoline purchased by the ultimate purchaser after December 31, 1955. Thus, gasoline which was purchased by a farmer before January 1, 1956, but which he used on or after such date, may not be included in any claim under this section.

Subsection (h).—Subsection (h) provides appropriate cross references to other provisions of the 1954 Code.

SECTION 2. RELIEF FROM TAXES ON DIESEL FUEL AND SPECIAL MOTOR FUEL

Section 2 of both versions of the bill provides for an exemption from (or a credit or refund with respect to) the excise taxes on diesel fuel and special motor fuels, in cases involving the use of such liquids on a farm for farming purposes. Your committee made no changes in the House version of this section.

Subsection (a).—Paragraph (1) adds a new subsection (d) to section 4041 of the 1954 Code. Paragraph (1) of the new subsection (d) provides that no tax shall apply to diesel fuel or special motor fuel sold for use on a farm for farming purposes and that no tax shall apply to the use of such fuels on a farm for farming purposes. Under paragraph (2) of the new subsection (d), the test of whether diesel fuel or any special motor fuel is used on a farm for farming purposes is the same as the test set forth with respect to gasoline in section 6420 (c). Paragraph (2) of section 2 (a) of the bill provides that the amendment made by paragraph (1) of section 2 (a) of the bill shall take effect on the day after the date of enactment of the bill.

Subsection (b).—Subsection (b) of section 2 of the bill makes a corresponding amendment to section 6416 (b) (2) (C) of the 1954 Code to provide (in addition to the other situations in which a credit or refund may be claimed) that credit or refund shall be made if such diesel fuel or special motor fuel was (within the meaning of paragraphs (1), (2), and (3) of section 6420 (c)) used on a farm for farming purposes. This amendment will apply with respect to liquids sold after December 31, 1955.

SECTION 3. CIVIL PENALTY

Section 3 of both versions of the bill adds a new section 6675 to the 1954 Code which provides an assessable penalty for claiming an excessive amount under section 6420. Under section 6675 a person making a claim under section 6420 for an excessive amount is liable, unless it is shown that the claim for such excessive amount is due to reasonable cause, to a penalty equal to 2 times the excessive amount of \$10, whichever is greater. This penalty is in addition to any criminal penalty provided by law. Your committee made no changes in this section.

SECTION 4. TECHNICAL AMENDMENTS

Subsections (a), (b), (2), (c), (d), (e), (f), and (g) of section 4 of the bill make conforming changes in tables of sections and add appropriate cross references.

Subsection (b) (1) of section 4 of the bill adds a new section 6206 to the 1954 Code. Section 6206 provides that any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675 (b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 and as if the person who made the claim were liable for such tax. Section 6206 also provides that the period for assessing the excessive amount, and for assessing the penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6420 (that is, 3 years from September 30).

Subsections (h) and (i) of section 4 of the bill amend the provisions relating to service and enforcement of a summons to bring into the scope of such provisions a summons issued under the authority of subsection (e) (2) of section 6420. Your committee had made a clerical amendment to subsection (i) to correct a reference to section 6420 (e) (2).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954**CHAPTER 31—RETAILERS EXCISE TAXES****Subchapter E—Special Fuels**

Sec. 4041. Imposition of tax.
Sec. 4042. Cross reference

SEC. 4041. IMPOSITION OF TAX.

(a) **DIESEL FUEL.**—There is hereby imposed a tax of 2 cents a gallon upon any liquid (other than any product taxable under section 4081)—

(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

(b) **SPECIAL MOTOR FUELS.**—There is hereby imposed a tax of 2 cents a gallon upon benzol, benzene, naphtha, liquefied petroleum gas, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or subsection (a) of this section)—

(1) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or airplane for use as a fuel for the propulsion of such motor vehicle, motorboat, or airplane; or

(2) used by any person as a fuel for the propulsion of a motor vehicle, motorboat, or airplane unless there was a taxable sale of such liquid under paragraph (1).

(c) **RATE REDUCTION.**—On and after April 1, 1956, the taxes imposed by this section shall be 1½ cents a gallon in lieu of 2 cents a gallon.

(d) **EXEMPTION FOR FARM USE.**—

(1) **EXEMPTION.**—Under regulations prescribed by the Secretary or his delegate—

(A) no tax shall be imposed under subsection (a) (1) or (b) (1) on the sale of any liquid sold for use on a farm for farming purposes, and

(B) no tax shall be imposed under subsection (a) (2) or (b) (2) on the use of any liquid used on a farm for farming purposes.

(2) **USE ON A FARM FOR FARMING PURPOSES.**—For purposes of paragraph (1) of this subsection, use on a farm for farming purposes shall be determined in accordance with paragraphs (1), (2), and (3) of section 6420 (c).

CHAPTER 32—MANUFACTURERS EXCISE TAXES

PART III—PETROLEUM PRODUCTS

Subpart A—Gasoline

Sec. 4081. Imposition of tax.

Sec. 4082. Definitions.

Sec. 4083. Exemption of sales to producer.

Sec. 4084. Relief of farmers from tax in case of gasoline used on the farm.

SEC. 4081. IMPOSITION OF TAX.

There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 2 cents a gallon. On and after April 1, 1956, the tax imposed by this section shall be 1½ cents a gallon in lieu of 2 cents a gallon.

SEC. 4082. DEFINITIONS.

(a) **PRODUCER.**—As used in this subpart, the term “producer” includes a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer. Any person to whom gasoline is sold tax-free under this subpart shall be considered the producer of such gasoline.

(b) **GASOLINE.**—As used in this subpart, the term “gasoline” means all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline).

(c) **CERTAIN USES DEFINED AS SALES.**—If a producer or importer uses (otherwise than in the production of gasoline or of special motor fuels referred to in section 4041 (b)) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this chapter be considered a sale.

SEC. 4083. EXEMPTION OF SALES TO PRODUCER.

Under regulations prescribed by the Secretary or his delegate the tax imposed by section 4081 shall not apply in the case of sales of gasoline to a producer of gasoline.

SEC. 4084. RELIEF OF FARMERS FROM TAX IN CASE OF GASOLINE USED ON THE FARM.

For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

Subpart B—Lubricating Oil

SEC. 4001. IMPOSITION OF TAX.

There is hereby imposed upon the following articles sold in the United States by the manufacturer or producer a tax at the following rates, to be paid by the manufacturer or producer:

- (1) cutting oils, 3 cents a gallon; and
- (2) other lubricating oils, 6 cents a gallon.

SEC. 4092. DEFINITIONS.

(a) **CERTAIN VENDEES CONSIDERED AS MANUFACTURERS.**—For purposes of this subpart, a vendee who has purchased lubricating oils free of tax under section 4093 shall be considered the manufacturer or producer of such lubricating oils.

(b) **CUTTING OILS.**—For purposes of this subpart, the term "cutting oils" means oils sold for use in cutting and machining operation (including forging, drawing, rolling, shearing, punching, and stamping) on metals.

CHAPTER 63—ASSESSMENT

SUBCHAPTER A. In general.

SUBCHAPTER B. Deficiency procedures in the case of income, estate, and gift taxes.

Subchapter A—In General

- Sec. 6201. Assessment authority.
- Sec. 6202. Establishment by regulations of mode or time of assessment.
- Sec. 6203. Method of assessment.
- Sec. 6204. Supplemental assessments.
- Sec. 6205. Special rules applicable to certain employment taxes.
- [Sec. 6206. Cross references.]
- Sec. 6806. Special rules applicable to excessive claims under section 6420.
- Sec. 6807. Cross references.

SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE CLAIMS UNDER SECTION 6420.

Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6875 (b)), and any civil penalty provided by section 6875, may be assessed, and collected as if it were a tax imposed by section 4081 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 5 years from the last day prescribed for the filing of the claim under section 6420.

SEC. [6206] 6207. CROSS REFERENCES.

- (1) For prohibition of suits to restrain assessment of any tax, see section 7421.
- (2) For prohibition of assessment of taxes against insolvent banks, see section 7507.
- (3) For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.
- (4) For assessment in case of sale or removal of tobacco, snuff, cigars, and cigarettes without the use of proper stamps, see section 5703 (d).
- (5) For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006 (c).
- (6) For assessment in case of certain spirits subject to excessive leakage, see section 5006 (b).
- (7) For assessment of deficiencies in production of distilled spirits, see section 5007 (e) (1).
- (8) For period of limitation upon assessment, see chapter 66.
- (9) For assessment under the provisions of the Tariff Act of 1930 of the taxes imposed by section 4501 (b), and subchapters, A, B, C, D, and E of chapter 38, see sections 4504 and 4601, respectively.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter B—Rules of Special Application

- Sec. 6411. Tentative carryback adjustments.
- Sec. 6412. Floor stocks refunds.
- Sec. 6413. Special rules applicable to certain employment taxes.
- Sec. 6414. Income tax withheld.
- Sec. 6415. Credits or refunds to persons who collected certain taxes.
- Sec. 6416. Certain taxes on sales and services.
- Sec. 6417. Coconut and palm oil.
- Sec. 6418. Sugar.
- Sec. 6419. Excise tax on wagering.
- [Sec. 6420. Cross references.]
- Sec. 6480. Gasoline used on farms.
- Sec. 6481. Cross references.

SEC. 6416. CERTAIN TAXES ON SALES AND SERVICES.

(a) CONDITION TO ALLOWANCE.— * * *

(b) SPECIAL CASES IN WHICH TAX PAYMENTS CONSIDERED OVERPAYMENTS.— Under regulations prescribed by the Secretary or his delegate credit or refund, without interest, shall be made of the overpayments determined under the following paragraphs:

(1) PRICE READJUSTMENTS.— * * *

(2) SPECIFIED USES AND REALES.—The tax paid under subchapter E of chapter 31 or chapter 32 in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) * * *

(C) In the case of a liquid taxable under section 4041, sold for use as fuel in a diesel-powered highway vehicle or as fuel for the propulsion of a motor vehicle, motorboat, or airplane, if (i) the vendee used such liquid otherwise than as fuel in such a vehicle, motorboat, or airplane or resold such [liquid;] liquid, or (ii) such liquid was (within the meaning of paragraphs (1), (2), and (3) of section 6480 (c)) used on a farm for farming purposes;

SEC. 6420. GASOLINE USED ON FARMS.

(a) GASOLINE.—If gasoline is used on a farm for farming purposes, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) the number of gallons so used, by

(2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) TIME FOR FILING CLAIM; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this section with respect to any one-year period, unless filed on or before September 30 of the year in which such one-year period ends.

(c) MEANING OF TERMS.—For purposes of this section—

(1) USE ON A FARM FOR FARMING PURPOSES.—Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) FARM.—The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) FARM PURPOSES.—Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife—

(i) on a farm of which he is the owner, tenant, or operator, or

(A) on any other farm, but only if the gasoline used by him on other farms is less than one-half of all gasoline used by him on all farms for the purposes enumerated in this subparagraph during the period with respect to which claim is filed;

(B) by the owner, tenant, or operator of a farm in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—
 (i) the planting, cultivating, caring for, or cutting of trees, or
 (ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) GASOLINE.—The term "gasoline" has the meaning given to such term by section 4088 (b).

(d) EXEMPT SALES; OTHER PAYMENTS OR REFUNDS AVAILABLE.—No amount shall be paid under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) APPLICABLE LAWS.—

(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) FRACTIONAL PARTS OF A DOLLAR.—Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) REGULATIONS.—The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(g) EFFECTIVE DATE.—This section shall apply only with respect to gasoline purchased after December 31, 1955.

(h) CROSS REFERENCES.—

(1) For exemption from tax in case of diesel fuel and special motor fuels used on a farm for farming purposes, see section 4041 (d).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

SEC. [6420] 6421: CROSS REFERENCES.

(1) For limitations on credits and refunds, see subchapter B of chapter 66.

(2) For overpayment arising out of adjustments incident to involuntary liquidation of inventory, see section 1321.

(3) For overpayment in case of adjustments to accrued foreign taxes, see section 905 (c).

(4) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.

(5) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.

(6) For abatement or refund of tax on transfers to avoid income tax, see section 1494 (b).

(7) For abatement or refund in case of tax on silver bullion, see section 4894.

(8) For overpayment in certain renegotiations of war contracts, see section 1491.

(9) For refund or redemption of stamps, see chapter 69.

(10) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.

(11) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9 (b) (8) of the Merchant Ship Sales Act of 1946 (60 Stat. 48; 50 U. S. C. App. 1742).

(12) For restrictions on transfers and assignments of claims against the United States, see R. S. 3477 (31 U. S. C. 203).

(13) For set-off of claims against amounts due the United States, see the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (47 Stat. 1516; 31 U. S. C. 227).

(14) For special provisions relating to alcohol and tobacco taxes, see sections 5011, 5044, 5057, 5063, 5795, and 5797.

CHAPTER 66—LIMITATIONS

Subchapter A—Limitations on Assessment and Collection

SEC. 6504. CROSS REFERENCES.

For limitation period in case of—

(1) Adjustments incident to involuntary liquidation of inventory see section 1321.

(2) Adjustments to accrued foreign taxes, see section 905 (c).

(3) Change of election to take standard deduction where taxpayer and his spouse make separate returns, see section 144 (b).

(4) Involuntary conversion of property, see section 1033 (a) (3) (C) and (D).

(5) Gain upon sale or exchange of residence, see section 1034 (j).

(6) War loss recoveries where prior benefit rule is elected, see section 1335.

(7) Recovery of unconstitutional Federal taxes, see section 1346.

(8) Limitations on deductions allowable to individuals in certain cases, see section 270 (d).

(9) Application by executor for discharge from personal liability for estate tax, see section 2204.

(10) Insolvent banks and trust companies, see section 7507.

(11) Service in a combat zone, etc., see section 7508.

(12) Claims against transferees and fiduciaries, see chapter 71.

(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206.

Subchapter B—Limitations on Credit or Refund

SEC. 6511. LIMITATIONS ON CREDIT OR REFUND.

(f) CROSS REFERENCES.—

(1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2011 (c), 2014 (b), and 2015.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013 (b) (3).

(5) For limitations in case of payments under section 6420 (relating to gasoline used on farms), see section 6420 (b).

CHAPTER 67—INTEREST

Subchapter B—Interest on Overpayments

SEC. 6612. CROSS REFERENCES.

(c) OTHER RESTRICTIONS ON INTEREST.—

For other restrictions on interest, see section 2011 (c) (relating to refunds due to credit for State taxes), 2014 (e) (relating to refunds attributable to foreign tax credits), 6412 (relating to floor stock refunds), 6413 (d) (relating to taxes under the Federal Unemployment Tax Act), 6416 (relating to certain taxes on sales and services), [and] 6419 (relating to the excise tax on wagering), and 6420 (relating to payments in the case of gasoline used on the farm for farming purposes).

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter B—Assessable Penalties

- Sec. 6671. Rules for application of assessable penalties.
 Sec. 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
 Sec. 6673. Damages assessable for instituting proceedings before the Tax Court merely for delay.
 Sec. 6674. Fraudulent statement or failure to furnish statement to employee.
 Sec. 6675. Excessive claims for gasoline used on farms.

SEC. 6675. EXCESSIVE CLAIMS FOR GASOLINE USED ON FARMS.

(a) *CIVIL PENALTY.*—In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

- (1) Two times the excessive amount; or
- (2) \$10.

(b) *EXCESSIVE AMOUNT DEFINED.*—For purposes of this section, the term "excessive amount" means in the case of any person the amount by which—

- (1) the amount claimed under section 6420 for any period, exceeds
- (2) the amount allowable under such section for such period.

(c) *ASSESSMENT AND COLLECTION OF PENALTY.*—

For assessment and collection of penalty provided by subsection (a), see section 6208.

CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter A—Crimes

PART I—GENERAL PROVISIONS

SEC. 7210. FAILURE TO OBEY SUMMONS.

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under [sections 7602,] sections 6420 (e) (2), 7602, 7603, and 7604 (b), neglects to appear

or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year or both, together with costs of prosecution.

CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter A—Examination and Inspection

SEC. 7603. SERVICE OF SUMMONS.

A summons issued under [section 7602] section 6420 (e) (3) or 7603 shall be served by the Secretary or his delegate, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

SEC. 7604. ENFORCEMENT OF SUMMONS.

(a) JURISDICTION OF DISTRICT COURT.—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) ENFORCEMENT.—Whenever any person summoned under [section 7602] section 6420 (e) (3) or 7603 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary or his delegate may apply to the judge of the district court or to a United States commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(c) CROSS REFERENCES.—

(1) AUTHORITY TO ISSUE ORDERS, PROCEDESSES, AND JUDGMENTS.—

For authority of district courts generally to enforce the provisions of this title, see section 7402.

(2) PENALTIES.—

For penalties applicable to violation of [section 7602] section 6420 (e) (3) or 7603, see section 7210.

SEC. 7605. TIME AND PLACE OF EXAMINATION.

(a) TIME AND PLACE.—The time and place of examination pursuant to the provisions of [section 7602] section 6420 (e) (3) or 7603 shall be such time and place as may be fixed by the Secretary or his delegate and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of [section 7602] section 7603, or under the corresponding authority of section 6420 (e) (3), the date fixed for appearance before the Secretary or his delegate shall not be less than 10 days from the date of the summons.

(b) RESTRICTIONS ON EXAMINATION OF TAXPAYERS.—No taxpayer shall be subjected to unnecessary examination or investigations; and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Secretary or his delegate, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.