

Effective date.

(d) The amendments made by this section shall apply in respect of foreign expropriation losses sustained in taxable years ending after December 31, 1958.

Approved January 12, 1971.

Public Law 91-678

AN ACT

To provide floor stock refunds in the case of cement mixers.

January 12, 1971
[H. R. 17658]

Taxes.
Cement mixers,
floor stock
refunds.

Ante, pp. 1743,
1843.

Conditions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) where before January 1, 1970, and after June 30, 1968, any cement mixer subject to the tax imposed by section 4061 of the Internal Revenue Code of 1954 during such period, had been sold by the manufacturer, producer, or importer, and on January 1, 1970, was held by a dealer and had not been used and was intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by the manufacturer, producer, or importer on his sale of the cement mixer, if—

(1) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before the last day of the ninth calendar month beginning after the date of enactment of this Act, based upon a request submitted to the manufacturer, producer, or importer on or before the last day of the sixth calendar month beginning after the date of enactment of this Act, by the dealer who held the cement mixer in respect of which the credit or refund is claimed; and

(2) on or before the last day of the ninth calendar month beginning after the date of enactment of this Act, reimbursement has been made to the dealer by the manufacturer, producer, or importer for the tax on the cement mixer or written consent has been obtained from the dealer to allowance of the credit or refund.

Definitions.

(b) For the purposes of this section—

(1) The term "cement mixer" means—

(A) any article designed (i) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis and (ii) to be used to process or prepare concrete, and

(B) parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

(2) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(3) A cement mixer shall be considered as "held by a dealer" if title thereto has passed to the dealer (whether or not delivery to him has been made), and if for purposes of consumption title to the cement mixer or possession thereof had not at any time prior to January 1, 1970, been transferred to any person other than a dealer. For purposes of subsection (a) and notwithstanding the preceding sentence, a cement mixer shall be considered as "held by a dealer" and not to have been used, although possession of such cement mixer has been transferred to another person, if such cement mixer is returned to the dealer in a transaction under which any amount paid or deposited by the transferee for such cement mixer is refunded to him (other than amounts retained by the dealer to cover damage to the cement mixer). Moreover, such a cement mixer shall be considered as held by a dealer on January 1, 1970, even though it was in the possession of the transferee on such day, if it was returned to the dealer (in a transaction described in the preceding sentence) before January 31, 1970.

(c) No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

Inventory requirement.

(d) All provisions of law, including penalties, applicable in respect of the taxes imposed by section 4061 of such Code shall, insofar as applicable and not inconsistent with subsections (a), (b), and (c) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if the credits or refunds constituted overpayments of the taxes.

Applicability.
Ante, pp. 1743, 1843.

Approved January 12, 1971.

Public Law 91-679

AN ACT

To amend the Internal Revenue Code of 1954 to provide that in certain cases a spouse will be relieved of liability arising from a joint income tax return.

January 12, 1971
[H. R. 19774]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6013 of the Internal Revenue Code of 1954 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsection:

Taxes.
Joint returns,
liability.
68A Stat. 733;
83 Stat. 675.
26 USC 6013.

“(e) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

“(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, if—

“(A) a joint return has been made under this section for a taxable year and on such return there was omitted from gross income an amount properly includable therein which is attributable to one spouse and which is in excess of 25 percent of the amount of gross income stated in the return,

“(B) the other spouse establishes that in signing the return he or she did not know of, and had no reason to know of, such omission, and

“(C) taking into account whether or not the other spouse significantly benefited directly or indirectly from the items omitted from gross income and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such omission,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to such omission from gross income.

“(2) SPECIAL RULES.—For purposes of paragraph (1)—

“(A) the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws, and

“(B) the amount omitted from gross income shall be determined in the manner provided by section 6501(e)(1)(A).”

68A Stat. 803.
Failure to pay.

SEC. 2. Section 6653(b) of the Internal Revenue Code of 1954 (relating to failure to pay tax) is amended by adding at the end thereof the following new sentence: “In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of a spouse unless some part of the underpayment is due to the fraud of such spouse.”