

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Rex Crowell at
Chairperson

1:30 ~~am~~ p.m. on April 3, 1984 in room 519-S of the Capitol.

All members were present except:

Representatives Justice, Fuller and Sutter

Committee staff present:

Fred Carman, Office of the Revisor of Statutes
Hank Avila, Legislative Research Department
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Harley Duncan, Department of Revenue
Mr. Larry Morlan, Kansas Department of Transportation
Ms. Mary Turkington, Kansas Motor Carriers

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-864 concerning requiring proof of payment of federal use tax prior to registration for certain vehicles.

Mr. Harley Duncan of the Kansas Department of Revenue testified favorably on SB-864, and distributed copies of federal requirements for the states to monitor payment of the federal use tax. (See Attachment 1 and 2)

Mr. Duncan referred to the heavy vehicle use tax enacted by the Congress last year which becomes effective July 1, 1984. He stated there is a provision of that bill which says that the Secretary of the U. S. Department of Transportation shall withhold up to 25% of the federal highway money due the state for any state in which trucks subject to this tax may lawfully be registered without presenting proof of payment of the tax. Mr. Duncan related that to effectively implement that requirement in Kansas, the counties and the Department need the authority to deny registration to such heavy vehicles where they do not present proof of payment. He added that is the purpose of SB-864, to give that authority.

Mr. Larry Morlan of the Kansas Department of Transportation testified in favor of SB-864 and told the committee this legislation is needed because of the verification requirements included in the heavy vehicle use tax.

Representative Schmidt asked Mr. Morlan if this replaces the federal excise tax and he answered it does not.

Ms. Mary Turkington of the Kansas Motor Carriers Association testified in support of SB-864, and explained that currently this use tax is based at a rate of \$3 per thousand with a maximum of \$240 annually for the heaviest weight vehicles of 80,000 lbs. She also said that in order to determine how those taxes are paid up to the \$240, the Treasury Department developed a set of rules and regulations, as well as a report form which they require truck owners to complete in order to determine what share of that \$240 a particular vehicle must pay.

CONTINUATION SHEET

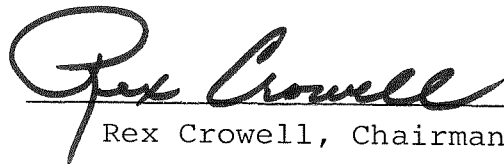
MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xx~~/p.m. on April 3, 19 84

Mr. Fred Carman asked how small of a vehicle does this use tax apply to and the answer was that after July 1, 1984 it applies to vehicles over 55,000 lbs.

This ended the hearing on SB-864.

A motion was made by Representative Webb to recommend SB-864 favorable for passage. The motion was seconded by Representative Dillon. Motion passed.

The meeting was adjourned at 12:25.


Rex Crowell, Chairman

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1 90-495
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Added Pub.L. 90-495, § 22(a), Aug. 23, 1968, 82 Stat. 826, amended Pub.L. 91-605, Title I, § 110, Dec. 31, 1970, 84 Stat. 1719; Pub.L. 93-87, Title I, § 120, Aug. 13, 1973, 87 Stat. 259; Pub.L. 94-280, Title I, § 126, May 5, 1976, 90 Stat. 440; Pub.L. 97-424, Title I, § 119, Jan. 6, 1983, 96 Stat. 2110.

References in Text. Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), referred to in subsections (b) and (c), is classified to section 5 of Title 41, Public Contracts.

Section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)), referred to in subsec. (c), is section 302(e) of Act June 30, 1949, c. 288, 63 Stat. 378, which is classified to section 252(e) of Title 41. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables volume.

1976 Amendment. Subsec. (b), Pub.L. 94-280 substituted a second sentence reading "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and not to exceed \$10,000,000 per fiscal year, for the administration of this subsection." for prior second sentence reading: "Whenever an apportionment is made under subsections 104(b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972, 1973, 1974, 1975, and 1976, the Secretary shall deduct such sums as he may deem necessary not to exceed \$5,000,000 per fiscal year for the fiscal years 1972 and 1973, and \$10,000,000 per fiscal year for the fiscal years 1974, 1975, and 1976, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems."

1973 Amendment. Subsec. (b), Pub.L. 93-87 included apportionment of appropriated moneys for administration of subsec. (b) provisions for fiscal years 1974, 1975, and 1976, and substituted provisions which made available for such administration \$5,000,000 per fiscal year for fiscal years 1972, and 1973, and \$10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976, for prior provision making available \$5,000,000 per fiscal year for such administration.

1970 Amendment. Subsec. (a), Pub.L. 91-605 designated existing provisions as subsec. (a).

Subsec. (b), Pub.L. 91-605 added subsec. (b).

§ 141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

(c) (1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

Effective Date. Section effective Aug. 23, 1968, see section 37 of Pub.L. 90-495, set out as a note under section 502 of this title.

Legislative History. For legislative history and purpose of Pub.L. 90-495, see 1968 U.S. Code Cong. and Adm. News, p. 3482. See, also, Pub.L. 91-605, 1970 U.S. Code Cong. and Adm. News, p. 5392; Pub.L. 93-87, 1973 U.S. Code Cong. and Adm. News, p. 1850; Pub.L. 94-280, 1976 U.S. Code Cong. and Adm. News, p. 798; Pub.L. 97-424, 1982 U.S. Code Cong. and Adm. News, p. 3639.

Library References.
Civil Rights \Rightarrow 9.5.
C.J.S. Civil Rights §§ 56 to 59.

Index to Notes

Generally 1
Construction with other laws $\frac{1}{2}$
Power of states 2

$\frac{1}{2}$. Construction with other laws
Section 2000d-1 of Title 42 neither empowers state officials to take action nor limits their right to do so pursuant to affirmative action programs authorized and developed pursuant to valid statutes or regulations issued pursuant thereto, and action of state officials in closing down highway projects for failure to have required number of minority trainees on job was not unlawful for failure to comply with conditions set forth in section 2000d-1 of Title 42. *Schlafly v. Volpe*, C. A. III. 1974, 495 F.2d 273.

1. Generally
Obligation imposed by executive order upon contractors to take "affirmative action" in regard to equal opportunity employment if they desire to participate in federal-aid programs imports more than negative obligation not to discriminate. *Southern Illinois Builders Ass'n v. Ogilvie*, C.A. III. 1972, 471 F.2d 680.

2. Power of states
State officials were authorized to prescribe number of minority trainees to be employed by contractor in connection with highway construction projects. *Schlafly v. Volpe*, C.A. III. 1974, 495 F.2d 273.

Attach 1

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

(d) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(5) of this title in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States. Added Pub.L. 93-643, § 107(a), Jan. 4, 1975, 88 Stat. 2284, and amended Pub.L. 95-599, Title I, § 123(d), Nov. 6, 1978, 92 Stat. 2702; Pub.L. 97-424, Title I, § 143, Jan. 6, 1983, 96 Stat. 2129.

References in Text. Section 4481 of the Internal Revenue Code of 1954, referred to in subsec. (d), is section 4481 of Title 26, Internal Revenue Code.

Prior Provisions. A prior section 141, Pub.L. 90-405, § 35(a), Aug. 23, 1968, 82 Stat. 836, providing for real property acquisition policies, was repealed by Pub.L. 91-646, Title III, § 308, Jan. 2, 1971, 84 Stat. 1907, and is now covered by sections 4651(1), (3), and (5) and 4655 (1) of Title 42, The Public Health and Welfare.

1978 Amendment. Pub.L. 95-599 redesignated existing provisions as subsecs. (a) and (b) and added subsec. (c).

Effective Date of 1978 Amendment. Section 123(c) of Pub.L. 95-599, formerly set out as a note under this section, providing that subsec. (c)(2) and (3) of this section be applicable to certifications required by this section to be filed on or after Jan. 1, 1980, was repealed by Pub.L. 96-106, § 12, Nov. 9, 1979, 93 Stat. 798.

Enforcement of Vehicle Weight Limitations. Section 123(a) to (c) of Pub.L. 95-599 provided that:

"(a) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary of Transportation, hereunder referred to as the 'Secretary', in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

"(b)(1) Not later than the one-hundred-eightieth day after the date of en-

actment of this section [Nov. 6, 1978], the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

"(2) For purposes of this subsection, the term 'special permit' means a license or permit issued pursuant to State law, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

"(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section [Nov. 6, 1978] and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code [subsec. (b) of this section]."

Legislative History. For legislative history and purpose of Pub.L. 93-643, see 1974 U.S. Code Cong. and Adm. News, p. 8011. See, also, Pub.L. 95-599, 1978 U.S. Code Cong. and Adm. News, p. 6375; Pub.L. 97-424, 1982 U.S. Code Cong. and Adm. News, p. 3039.

§ 142. Public transportation

(a) (1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on

required monthly wagering tax has not been filed and the tax is not been paid. Id.

is subject to forfeiture when used to haul contraband, narcotics, a violation of the customs laws, or an "organized" crime business, by a bookie in his business when not registered and paid his speculation tax. Id.

Seizures and seizure

Anonymous informant's information adequately corroborated by subsequent surveillance of law enforcement moreover, independent of the subsequent surveillance, adequate-subsequent probable cause to search directly named defendant's apartment vehicles, as being used as a means in which to accept wagers on a game and in pursuance of another in a unregistered gambling business. U.S. v. Hirschhorn, C.A.Tex. 1981, 633 F.2d 360.

Immunity from prosecution

Occupation tax stamp required to be engaged in business of accepting wagers, even if paid, and the registration, if made, does not immunize the business from the reach of local laws including local forfeiture laws; local officials may arrest and prosecute who would violate local laws, whether or not they are registered with the federal government. U.S. v. Cadillac El Dorado 2-Door Red In Color with White Vinyl Interior No. 614758Q134633, Utah 11-10-81, 711K388, D.C.Utah 1980, 489 F.2d 132.

OTHER PROVISIONS

Const. Amend. 5, where defendant argued with violating this chapter, 4403 of this title, which required to keep records and this section that books of account for any period for tax may be examined and as frequently as necessary to the enforcement of the tax on the property, and what was seized was no more than what the law required defendant to maintain. U.S. v. Haydel, C.A.La. 1980, 649 F.2d 1152, rehearing denied 604 U.S.Ct. 1721.

Information

Index to Notes

- Constitutionality 1
- Section 11
- Records within section 2
- Documents in criminal proceedings

1. Constitutionality

The post-Marchetti amendments to wagering tax provisions, including deletion of requirement that registrants conspicuously display their tax stamp or produce it on demand, repeal of requirement that internal revenue officers provide prosecuting officers a list of those who have paid the occupational tax and enactment of provision barring disclosure, except in connection with enforcement of internal revenue taxes, of documents, etc., supplied by a taxpayer in connection with wagering tax, and ban on use of related documents in criminal proceeding except to enforce wagering tax provisions, are constitutional. U.S. v. Jeffers, C.A.Tex. 1980, 621 F.2d 221.

Government, which compelled bookmaker to prepare and maintain records showing his gross wages, could not, consistent with U.S.C.A. Const. Amend. 5, use such wagering records to convict him of illegal gambling, even though the bookmaker was not compelled to disclose existence or location of the records, and even though the records were discovered by Federal Bureau of Investigation through surveillance and investigation and not through any activity of the Internal Revenue Service. U.S. v. Haydel, D.C.La. 1980, 486 F.Supp. 109, affirmed 649 F.2d 1152, rehearing denied 604 F.2d 81.

1a. Construction

This section strictly limiting use to which bookkeeper's resulting material, i.e., daily records detailing volume of his betting business as required by section 4403 of this title, can be put, would be construed so as to forbid the Internal Revenue Service from revealing such in-

formation to other arms of government in any context except tax prosecution. U.S. v. Brian, D.C.R.I. 1981, 507 F.Supp. 761.

2. Records within section

This section forbidding an officer or employee of the Treasury Department to divulge wagering tax information compelled by the tax statute and declaring that the government may not use certain information in any criminal proceeding, applies only to wagering taxes but does not apply to the occupational tax on coin-operated gaming devices and hence, the hazards of self-incrimination inherent in taxing activities which may be illegal under other statutes is not cured. U.S. v. One Coin-Operated Gaming Device, C.A.N.M. 1981, 648 F.2d 1297.

This section limiting disclosure by Treasury Department of wagering tax information did not apply to records required for making wagering tax return where the records were found by Federal Bureau of Investigation independently and no disclosure was made by any Treasury Department agent. U.S. v. Haydel, D.C.La. 1980, 486 F.Supp. 109, affirmed 649 F.2d 1152, rehearing denied 604 F.2d 84, certiorari denied 102 S.Ct. 1721.

3. Use of documents in criminal proceedings

Fact that only suspected offenses listed in search warrant were gambling, not tax related, did not preclude admission of gambling records in prosecution for violating this chapter. U.S. v. Haydel, C.A.La. 1981, 649 F.2d 1152, rehearing denied 604 F.2d 84, certiorari denied 102 S.Ct. 1721.

CHAPTER 36—CERTAIN OTHER EXCISE TAXES

Subchapter

[E. Repealed.]

E. Tax on removal of hard mineral resources from deep seabed.

1982 Amendment. Pub.L. 97-248, Title II, § 280(c)(2)(A), Sept. 3, 1982, 96 Stat.

564, struck out item relating to subchapter E.

1980 Amendment. Pub.L. 96-283, Title IV, § 402(b), June 28, 1980, 94 Stat. 581, added subchapter E.

SUBCHAPTER D TAX ON USE OF CERTAIN VEHICLES

See 4481. Cross references.

§ 4481. Imposition of tax

[See main volume for text of (a) to (d)]

(e) **Period tax in effect.**—The tax imposed by this section shall apply only to use before October 1, 1988.

As amended Jan. 6, 1983, Pub.L. 97-424, Title V, § 516(a)(4), 96 Stat. 2182.

Amendment of Section

Pub.L. 97-424, Title V, § 513(a), (d), (f), Jan. 6, 1983, 96 Stat. 2177, 2179, provided that, except as otherwise provided in section 513(f) of Pub.L. 97-424, set out as a note under this section, subsecs. (a) and (c) of this section will read as follows, effective on July 1, 1983:

"(a) **Imposition of Tax.**—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles

26 § 4481 MISCELLANEOUS EXCISE TAXES

of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

"(1) In General.—

"Taxable gross weight		Rate of tax
At least	But less than	
33,000 pounds	55,000 pounds	\$50 a year, plus \$25 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	\$600 a year, plus the applicable rate for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more		The maximum tax a year."

"(2) Definitions.—For purposes of paragraph (1)—

"In the case of the taxable period beginning on July 1 of:	The applicable rate is:	The maximum tar is:
1984	\$40	\$1,600
1985	40	1,600
1986	44	1,700
1987	48	1,800
1988 or thereafter	52	1,900."

"(c) Proration of Tax.—

"(1) Where first use occurs after first month.—If in any taxable period the first use of the highway motor vehicle is after the first month in such period, the tax shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such taxable period.

"(2) Where vehicle destroyed or stolen.—

"(A) In general. If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

"(B) Destroyed.—For purpose of subparagraph (A), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild."

Effective Date of 1983 Amendment. Section 513(f) of Pub.L. 97-424 provided that:

"(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 4482 and 4483 of this title] shall take effect on July 1, 1984.

"(2) Special rule in the case of certain owner-operators.—

"(A) In general.—In the case of a small owner-operator, paragraph (1) of this subsection and paragraph (2) of section 4481(a) of the Internal Revenue

Code of 1954 [subsec. (a) of this section] (as added by this section) shall be applied by substituting for each date contained in such paragraphs a date which is 1 year after the date so contained.

"(B) Small owner-operator.—For purposes of this paragraph, the term "small owner-operator" means any person who owns and operates at any time during the taxable period no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481 [this section] of such Code for such taxable period.

[No subpar. (C) has been enacted]

MISCELLANEOUS

"(D) Aggregation of vehicle ownership.—For purposes of subparagraph (B), all highway motor vehicles with respect to which a tax is imposed by section 4481 [this section] of such Code which are owned by:

"(i) any trade or business (whether or not incorporated) which is under common control with the taxpayer (within the meaning of section 52(b) [section 52(b) of this title]), or

"(ii) any members of any controlled groups of corporations of which the taxpayer is a member, for any taxable period shall be treated as being owned by the taxpayer during such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who own highway motor vehicles through partnerships, joint ventures, and corporations.

"(E) Controlled groups of corporations.—For purposes of this paragraph, the term "controlled group of corporations" has the meaning given to such term by section 1563(a) [section 1563(a) of this title], except that—

"(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1) [section 1563(a)(1) of this title] and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563 [section 1563 of this title].

"(F) Highway motor vehicles.—For purposes of this paragraph, the term "highway motor vehicle" has the meaning given to such term by section 4482(a) of such Code [section 4482(a) of this title]."

Study of Alternatives to Tax on Use of Heavy Trucks. Section 513(g) of Pub.L. 97-424 provided that:

"(1) In general.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of—

"(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954 [subsec. (a) of this section], and

"(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

"(2) Alternatives included.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to

§ 4482. Definitions

[See main volume for text]

(c) Other definitions.—For purposes

[See main volume for text]

(4) Taxable period.—The term beginning before July 1, 1988, and 1, 1988, and ends at the close of Sep-

As amended Jan. 6, 1983, Pub.L. 97-424, 2182.

Amendment of

Pub.L. 97-424, Title V, § 513(c), (c), provided that, except as otherwise provided

has a taxable gross
ified in the following:

Rate of tax
0 a year, plus \$25 for
each 1,000 pounds or
fraction thereof in ex-
cess of 33,000 pounds.
500 a year, plus the ap-
plicable rate for each
1,000 pounds or frac-
tion thereof in excess
of 55,000 pounds.

The maximum tax a
year."

(1)--

The maximum able rate is:	tax is:
.....	\$1,600
.....	1,600
.....	1,700
.....	1,800
.....	1,900."

If in any taxable period
is after the first month
proportionately from the
occurs to and including

od a highway motor vehi-
irst day of the last month
used during such taxable
portionately from the first
which the first use of such
including the last day of
otor vehicle was destroyed

paragraph (A), a highway
hicle is damaged by reason
uch an extent that it is not

of 1964 [subsec. (a) of this section]
dded by this section) shall be ap-
by substituting for each date
ined in such paragraphs a date
is 1 year after the date so con-
d.
(5) Small owner-operator.—For pur-
of this paragraph, the term
owner-operator means any per-
who owns and operates at any time
ng the taxable period no more than
ghway motor vehicles with respect
hich a tax is imposed by section
[this section] of such Code for such
ble period.
ubpar. (C) has been enacted)

"(D) Aggregation of vehicle owner-
ships.—For purposes of subparagraph
(B), all highway motor vehicles with
respect to which a tax is imposed by
section 4481 [this section] of such
Code which are owned by

"(i) any trade or business (whether
or not incorporated) which is under
common control with the taxpayer
(within the meaning of section 52(b)
[section 52(b) of this title], or

"(ii) any members of any controlled
groups of corporations of which the
taxpayer is a member, for any tax-
able period shall be treated as being
owned by the taxpayer during such
period. The Secretary shall prescribe
regulations which provide attribution
rules that take into account, in ad-
dition to the persons and entities de-
scribed in the preceding sentence, tax-
payers who own highway motor ve-
hicles through partnerships, joint ven-
tures, and corporations.

"(E) Controlled groups of corpora-
tions.—For purposes of this paragraph,
the term 'controlled group of corpora-
tions' has the meaning given to such
term by section 1563(a) [section 1563(a)
of this title], except that—

"(i) more than 50 percent' shall be
substituted for 'at least 80 percent'
each place it appears in section 1563
(a)(1) [section 1563(a)(1) of this title]
and

"(ii) the determination shall be
made without regard to subsections
(a)(4) and (c)(3)(C) of section 1563
[section 1563 of this title].

"(F) Highway motor vehicles.—For
purposes of this paragraph, the term
'highway motor vehicle' has the meaning
given to such term by section 4482(a) of
such Code [section 4482(a) of this title]."

Study of Alternatives to Tax on Use of
Heavy Trucks. Section 513(g) of Pub.L.
97-424 provided that:

"(1) In general.—The Secretary of
Transportation (in consultation with the
Secretary of the Treasury) shall conduct
a study of—

"(A) alternatives to the tax on heavy
vehicles imposed by section 4481(a) of
the Internal Revenue Code of 1954
[subsec. (a) of this section], and

"(B) plans for improving the collect-
ing and enforcement of such tax and
alternatives to such tax.

"(2) Alternatives included.—The alter-
natives studied under paragraph (1) shall
include taxes based either singly or in
suitable combinations on vehicle size or
configuration; vehicle weight, both reg-
istered and actual operating weight; and
distance traveled. Plans for improving
tax collection and enforcement shall, to

the extent practical, provide for Federal
and State co-operation in such activities.

"(3) Consultation with state officials
and other affected parties.—The study
required under subsection (a) shall be
conducted in consultation with State of-
ficials, motor carriers, and other affect-
ed parties.

"(4) Report. Not later than January
1, 1985, the Secretary of Transportation
shall submit to the Committee on Ways
and Means of the House of Representa-
tives and the Committee on Finance of the
Senate a report on the study conducted
under paragraph (1) together with such
recommendations as he may deem ad-
visable."

Legislative History. For legislative
history and purpose of Pub.L. 97-424, see
1982 U.S.Code Cong. and Adm.News, p.
3639.

Library References
Internal Revenue 4305, 4300, 4311,
4313, 4319.
C.J.S. Internal Revenue §§ 1012, 1015,
1016, 1021.

Supplementary Index to Notes

Customary use ?

2. Rules and regulations

Interpretation of this section or regula-
tions which permitted the Internal Re-
venue Service to classify a vehicle as a
'truck trailer' combination merely be-
cause vehicle was equipped for use in
combination with trailers, such as
equipped with a pintle hook, without
first determining that such trailer or
semitrailer was the type customarily used
in combination with such vehicle was er-
roneous and regulation permitting the
same was contrary to this section and
therefore invalid and of no effect. *Pacific
Gas and Elec. Co. v. U. S.*, C.A.Cal.
1981, 604 F.2d 1133.

5. Persons liable

Baca v. U. S., 576 F.2d 359 [main vol-
ume], 217 Ct.Cl. 218.

7. Customary use

Internal Revenue Service properly
taxed utility's trucks, which were
equipped with pintle hooks suitable for
towing trailers, as trucktrailer combina-
tions, rather than single units, without
making a factual showing that trucks
were customarily used in combination
with utility's trailers. *Northern States
Power Co. v. U. S.*, D.C.Minn.1981, 503 F.
Supp. 1182, affirmed 663 F.2d 65.

§ 4482. Definitions

[See main volume for text of (a) and (b)]

(c) Other definitions.—For purposes of this subchapter—

[See main volume for text of (1) to (3)]

(4) Taxable period.—The term "taxable period" means any year
beginning before July 1, 1988, and the period which begins on July
1, 1983, and ends at the close of September 30, 1988.

As amended Jan. 6, 1983, Pub.L. 97-424, Title V, § 516(a)(4), 96 Stat.
2182.

Amendment of Section

Pub.L. 97-424, Title V, § 513(c), (c), (f), Jan. 6, 1983, 96 Stat. 2179,
provided that, except as otherwise provided in section 513(f) of Pub.L.

Repealed

ed from such special tax devices commonly known as claws, cranes, or digger machines.

Section 4462, Acts Aug. 16, 1954, c. 736, 68A Stat. 531; Sept. 2, 1958, Pub.L. 85-859, Title I, § 152(a), 72 Stat. 1304; June 21, 1965, Pub.L. 89-44, Title IV, § 403(b), 79 Stat. 149; Oct. 4, 1976, Pub.L. 94-455, Title XII, § 1208(b), 90 Stat. 1709, defined the term "coin-operated gaming device" including exclusions therefrom.

Section 4463, Act Aug. 16, 1954, c. 736, 68A Stat. 531, provided administrative provisions covering engagement in trade or business and cross references.

Section 4464, added Pub.L. 92-178, Title IV, § 402(a), Dec. 10, 1971, 85 Stat. 534, and amended Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub.L. 95-600, Title V, § 521(a), Nov. 6, 1978, 92 Stat. 2884, provided credit for state-imposed taxes, stating the general rule, certain limitations, and special provisions for payment of the tax.

Effective Date of Repeal. Repeal of sections applicable with respect to years beginning after June 30, 1980, see section 521(d)(2) of Pub.L. 95-600, set out as a note under section 4901 of this title.

[SUBCHAPTER C—REPEALED]

§§ 4471 to 4474. Repealed. Pub.L. 89-44, Title IV, § 404, June 21, 1965, 79 Stat. 149**Historical Note**

Section 4471, Act Aug. 16, 1954, c. 736, 68A Stat. 532, imposed a \$20 annual tax upon bowling alleys, billiard tables, and pool tables to be paid by operators of bowling alleys, billiard rooms, and pool rooms.

Section 4472, Act Aug. 16, 1954, c. 736, 68A Stat. 532, defined bowling alley, billiard room, and pool room.

Section 4473, Acts Aug. 16, 1954, c. 736, 68A Stat. 532; Sept. 2, 1958, Pub.L. 85-859, Title I, § 153(a), 72 Stat. 1305, grant-

ed exemptions for hospitals, the armed forces, and certain non-profit and governmental organizations.

Section 4474, Act Aug. 16, 1954, c. 736, 68A Stat. 532, made cross references to chapter 40 and subtitle F for penalties and administrative provisions.

Effective Date of Repeal. Repeal of sections applicable on and after July 1, 1965, see section 701(c)(2) of Pub.L. 89-44, set out in part under section 4901 of this title.

SUBCHAPTER D—TAX ON USE OF CERTAIN VEHICLES**Sec.**

- 4481. Imposition of tax.
- 4482. Definitions.
- 4483. Exemptions.
- 4484. Cross reference.

Historical Note

1956 Amendment. Act June 29, 1956, c. 462, Title II, § 206(a), 70 Stat. 389 added subchapter D.

§ 4481. Imposition of tax

(a) **Imposition of tax.**—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of more than 26,000 pounds, at the rate of \$3.00 a year for each 1,000 pounds of taxable gross weight or fraction thereof.

mon- Section 4464, added Pub.L. 92-178, Title
ma- IV, § 402(a), Dec. 10, 1971, 85 Stat. 534,
and amended Pub.L. 94-455, Title XIX, §
1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834;
736. Pub.L. 95-600, Title V, § 521(a), Nov. 6,
85- 1978, 92 Stat. 2884, provided credit for
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sections applicable with respect to years
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note under section 4901 of this title.

TER C—REPEALED]

Repealed. Pub.L. 89-44, Title IV,
§ 404, June 21, 1965, 79 Stat. 149

Historical Note

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and administrative provisions.

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sections applicable on and after July 1,
1965, see section 701(c)(2) of Pub.L. 89-44,
L. 85- set out in part under section 4901 of this
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ON USE OF CERTAIN VEHICLES

Historical Note

1956, c.
added

tax

tax is hereby imposed on the use of any
ch (together with the semitrailers and
connection with highway motor vehicles
highway motor vehicle) has a taxable
26,000 pounds, at the rate of \$3.00 a year
taxable gross weight or fraction thereof.

In the case of the taxable period beginning on July 1, 1984, and end-
ing on September 30, 1984, the tax shall be at the rate of 75 cents
for such period for each 1,000 pounds of taxable gross weight or
fraction thereof.

(b) **By whom paid.**—The tax imposed by this section shall be paid
by the person in whose name the highway motor vehicle is, or is re-
quired to be, registered under the law of the State in which such
vehicle is, or is required to be, registered, or, in case the highway
motor vehicle is owned by the United States, by the agency or in-
strumentality of the United States operating such vehicle.

(c) **Proration of tax.**—If in any taxable period the first use of the
highway motor vehicle is after the first month in such period, the
tax shall be reckoned proportionately from the first day of the month
in which such use occurs to and including the last day in such taxa-
ble period.

(d) **One tax liability per period.**—

(1) **In general.**—To the extent that the tax imposed by this
section is paid with respect to any highway motor vehicle for
any taxable period, no further tax shall be imposed by this sec-
tion for such taxable period with respect to such vehicle.

(2) **Cross reference.**—

For privilege of paying tax imposed by this section in
installments, see section 6156.

(e) **Period tax in effect.**—The tax imposed by this section shall
apply only to use before October 1, 1984.

Added June 29, 1956, c. 462, Title II, § 206(a), 70 Stat. 390, and
amended June 29, 1961, Pub.L. 87-61, Title II, § 203(a), (b)(1),
(2)(A), (B), 75 Stat. 124; Dec. 31, 1970, Pub.L. 91-605, Title III, §
303(a)(7), (8), 84 Stat. 1744; May 5, 1976, Pub.L. 94-280, Title III,
§ 303(a)(7), (8), 90 Stat. 456; Nov. 6, 1978, Pub.L. 95-599, Title V,
§ 502(a)(6), (7), 92 Stat. 2756.

Historical Note

1978 Amendment. Subsec. (a). Pub.L.
95-599, § 502(a)(6), substituted "1984" for
"1979" in two places.

Subsec. (e). Pub.L. 95-599, § 502(a)(7),
substituted "1984" for "1979".

1976 Amendment. Subsec. (a). Pub.L.
94-280, § 303(a)(7), substituted "1979" for
"1977" in two places.

Subsec. (e). Pub.L. 94-280, § 303(a)(8),
substituted "1979" for "1977".

1970 Amendment. Subsec. (a). Pub.L.
91-605, § 303(a)(7), substituted "1977" for
"1972" in two places.

Subsec. (e). Pub.L. 91-605, § 303(a)(8),
substituted "1977" for "1972".

1961 Amendment. Subsec. (a). Pub.L.
87-61, § 203(a), (b)(2)(A), increased the
rate of tax from \$1.50 to \$3.00 a year,
and provided for a tax at the rate of 75
cents for each 1,000 pounds during the
period beginning on July 1, 1972, and
ending on Sept. 30, 1972.

Subsec. (c). Pub.L. 87-61, §
203(b)(2)(B), substituted "any taxable
period" for "any year", "after the first
month in such period" for "after July
31", and "the last day in such taxable
period" for "the last day of June follow-
ing".

Subsec. (d). Pub.L. 87-61, §
203(b)(2)(B), made conforming changes

MISCELLANEOUS EXCISE TAXES 26 § 4481

1. Constitutionality

The post-Marchetti amendments to wagering tax provisions, including deletion of requirement that registrants conspicuously display their tax stamp or produce it on demand, repeal of requirement that internal revenue officers provide prosecuting officers a list of those who have paid the occupational tax and enactment of provision barring disclosure, except in connection with enforcement of internal revenue taxes, of documents, etc., supplied by a taxpayer in connection with wagering tax, and ban on use of related documents in criminal proceeding except to enforce wagering tax provisions, are constitutional. *U. S. v. Jeffers*, C.A.Tex. 1980, 621 F.2d 221.

Government, which compelled bookmaker to prepare and maintain records showing his gross wages, could not, consistent with U.S.C.A.Const. Amend. 5, use such wagering records to convict him of illegal gambling, even though the bookmaker was not compelled to disclose existence or location of the records, and even though the records were discovered by Federal Bureau of Investigation through surveillance and investigation and not through any activity of the Internal Revenue Service. *U. S. v. Haydel*, D.C.La. 1980, 486 F.Supp. 109, affirmed 649 F.2d 1152, rehearing denied 664 F.2d 84.

1a. Construction

This section strictly limiting use to which bookkeeper's resulting material, i. e., daily records detailing volume of his betting business as required by section 4403 of this title, can be put, would be construed so as to forbid the Internal Revenue Service from revealing such in-

formation to other arms of government in any context except tax prosecution. *U. S. v. Brian*, D.C.R.I.1981, 507 F.Supp. 761.

2. Records within section

This section forbidding an officer or employee of the Treasury Department to divulge wagering tax information compelled by the tax statute and declaring that the government may not use certain information in any criminal proceeding, applies only to wagering taxes but does not apply to the occupational tax on coin-operated gaming devices and hence, the hazards of self-incrimination inherent in taxing activities which may be illegal under other statutes is not cured. *U. S. v. One Coin-Operated Gaming Device*, C. A.N.M.1981, 648 F.2d 1297.

This section limiting disclosure by Treasury Department of wagering tax information did not apply to records required for making wagering tax return where the records were found by Federal Bureau of Investigation independently and no disclosure was made by any Treasury Department agent. *U. S. v. Haydel*, D.C.La.1980, 486 F.Supp. 109, affirmed 649 F.2d 1152, rehearing denied 664 F.2d 84, certiorari denied 102 S.Ct. 1721.

3. Use of documents in criminal proceedings

Fact that only suspected offenses listed in search warrant were gambling, not tax related, did not preclude admission of gambling records in prosecution for violating this chapter. *U. S. v. Haydel*, C.A.La.1981, 649 F.2d 1152, rehearing denied 664 F.2d 84, certiorari denied 102 S.Ct. 1721.

CHAPTER 36—CERTAIN OTHER EXCISE TAXES

Subchapter

[E. Repealed.]

F. Tax on removal of hard mineral resources from deep seabed.

1982 Amendment. Pub.L. 97-248, Title II, § 280(c)(2)(A), Sept. 3, 1982, 96 Stat.

564, struck out item relating to subchapter E.

1980 Amendment. Pub.L. 96-283, Title IV, § 402(b), June 28, 1980, 94 Stat. 584, added subchapter F.

SUBCHAPTER D—TAX ON USE OF CERTAIN VEHICLES

Sec.

4484. Cross references.

§ 4481. Imposition of tax

[See main volume for text of (a) to (d)]

(e) **Period tax in effect.**—The tax imposed by this section shall apply only to use before October 1, 1988.

As amended Jan. 6, 1983, Pub.L. 97-424, Title V, § 516(a)(4), 96 Stat. 2182.

Amendment of Section

Pub.L. 97-424, Title V, § 513(a), (d), (f), Jan. 6, 1983, 96 Stat. 2177, 2179, provided that, except as otherwise provided in section 513(f) of Pub.L. 97-424, set out as a note under this section, subsections (a) and (c) of this section will read as follows, effective on July 1, 1984:

“(a) **Imposition of Tax.**—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles

26 § 4481 MISCELLANEOUS EXCISE TAXES

of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

“(1) In General.—

At least	“Taxable gross weight		Rate of tax
	But less than		
33,000 pounds	55,000 pounds	\$50 a year, plus \$25 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	\$600 a year, plus the applicable rate for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more	The maximum tax a year.”

“(2) Definitions.—For purposes of paragraph (1)—

In the case of the taxable period beginning on July 1 of:	The maximum tax is:	
	The applicable rate is:	
1984	\$40	\$1,600
1985	40	1,600
1986	44	1,700
1987	48	1,800
1988 or thereafter	52	1,900.”

“(c) Proration of Tax.—

“(1) Where first use occurs after first month.—If in any taxable period the first use of the highway motor vehicle is after the first month in such period, the tax shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such taxable period.

“(2) Where vehicle destroyed or stolen.—

“(A) In general.—If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

“(B) Destroyed.—For purpose of subparagraph (A), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.”

Effective Date of 1983 Amendment. Section 513(f) of Pub.L. 97-424 provided that:

“(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 4482 and 4483 of this title] shall take effect on July 1, 1984.

“(2) Special rule in the case of certain owner-operators.—

“(A) In general.—In the case of a small owner-operator, paragraph (1) of this subsection and paragraph (2) of section 4481(a) of the Internal Revenue

Code of 1954 [subsec. (a) of this section] (as added by this section) shall be applied by substituting for each date contained in such paragraphs a date which is 1 year after the date so contained.

“(B) Small owner-operator.—For purposes of this paragraph, the term ‘small owner-operator’ means any person who owns and operates at any time during the taxable period no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481 [this section] of such Code for such taxable period.

[No subpar. (C) has been enacted]