the EPA does not require a highway fuel economy test on them. A separate highway fuel economy test would be required to devise a fuel economy rating (otherwise the automobile is presumed to fall within the lowest fuel economy rating category).

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

Exemptions. No one is exempt from the gas guzzler tax, including the federal government, state and local governments, qualified blood collector organizations, and nonprofit educational organizations. However, see *Vehicles not subject to tax,* earlier.

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

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

Vaccines

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

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

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

Taxable use. Any manufacturer (including a governmental entity) that uses a taxable vaccine

before it is sold will be liable for the tax in the same manner as if the vaccine was sold by the manufacturer.

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

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

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

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

<mark>6.</mark>

Retail Tax on Heavy Trucks, Trailers, and Tractors

When this publication was prepared for printing, the tax on heavy trucks, trailers and tractors was scheduled to expire on September 30, 2011. To find out if the tax is extended, monitor the news media or go to www.irs.gov, click on Forms and Publications, and then click on Changes to Current Tax Products..

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

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

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

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

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

The seller is liable for the tax.

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

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

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

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles are not considered highway vehicles for purposes of the retail tax.

- 1. Specially designed mobile machinery for nontransportation functions. A self-propelled vehicle is not a highway vehicle if all the following apply.
 - a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.
 - b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.
 - c. The chassis could not, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
- Vehicles specially designed for off-highway transportation. A vehicle is not treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicles's capability to transport a load over a public highway is substantially limited or impaired.

To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It does not matter that the vehicle can carry heavier loads off highway than it is allowed to carry over the highway.

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

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

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

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

For more information on these classifications, see Revenue Procedure 2005-19, which is on page 832 of Internal Revenue Bulletin 2005-14 at *www.irs.gov/pub/irs-irbs/irb05-14.pdf*.

The gross vehicle weight means the maximum total weight of a loaded vehicle. Generally, this maximum total weight is the gross vehicle weight rating provided by the manufacturer or determined by the seller of the completed article. The seller's gross vehicle weight rating is determined solely on the basis of the strength of the chassis frame and the axle capacity and placement. The seller may not take into account any readily attachable components (such as tires or rim assemblies) in determining the gross vehicle weight. See Regulations section 145.4051-1(e)(3) for more information.

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

If the retailer sells a taxable chassis, body, or tractor without parts or accessories considered essential for the operation or appearance of the taxable article, the sale of the parts or accessories by the retailer to the purchaser is considered made in connection with the sale of the taxable article even though they are shipped separately, at the same time, or on a different date. The tax applies unless there is evidence to the contrary. For example, if a retailer sells to any person a chassis and the bumpers for the chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to the parts or accessories regardless of the method of billing or the time at which the shipments were made. The tax does not apply to parts and accessories that are spares or replacements.

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

Idling reduction device. An idling reduction device is any device or system of devices that provide the tractor with services, such as heat, air conditioning, and electricity, without the use of the main drive engine while the tractor is temporarily parked or stationary. The device must be affixed to the tractor and determined by the Administrator of the EPA, in consultation with the Secretary of Energy and Secretary of Transportation, to reduce idling while parked or stationary. The EPA maintains a list of approved idling reduction devices on its website at <u>www. epa.gov/smartway/transport/what-smartway/</u> *idling-reduction-fet.htm*.

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

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

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

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

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

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

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

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

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

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

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

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

Use treated as sale. If any person uses a taxable article before the first retail sale of the article, that person is liable for the tax as if the article had been sold at retail by that person. Figure the tax on the price at which similar articles are sold in the ordinary course of trade by retailers. The tax attaches when the use begins.

If the seller of an article regularly sells the articles at retail in arm's-length transactions, figure the tax on its use on the lowest established retail price for the articles in effect at the time of the taxable use.

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

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

Presumptive retail sales price. There are rules to ensure that the tax base of transactions considered to be taxable sales includes either an actual or presumed markup percentage. If the person liable for tax is the vehicle's manufacturer, producer, or importer, the following discussions show how you figure the presumptive retail sales price depending on the type of transaction. Table 6-1 outlines the appropriate tax base calculation for various transactions.

The **presumed markup percentage** to be used for trucks and truck-tractors is 4%. But for truck trailers and semitrailers and remanufactured trucks and tractors, the presumed markup percentage is zero.

Sale. For a taxable sale by a manufacturer, producer, importer, or related person, you generally figure the tax on a tax base of the sales price plus an amount equal to the presumed markup percentage times that sales price.

Long-term lease. In the case of a long-term lease by a manufacturer, producer, importer, or related person, figure the tax on a tax base of the constructive sales price plus an amount equal to the presumed markup percentage times the constructive sales price.

Short-term lease. When a manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a constructive sales price at which those or similar articles generally are sold in the ordinary course of trade by retailers.

But if the lessor in this situation regularly sells articles at retail in arm's-length transactions, figure the tax on the lowest established retail price in effect at the time of the taxable use.

If a person other than the manufacturer, producer, importer, or related person leases an article in a short-term lease considered a taxable use, figure the tax on a tax base of the price for which the article was sold to the lessor plus the cost of parts and accessories installed by the lessor and a presumed markup percentage.

Related person. A related person is any member of the same controlled group as the manufacturer, producer, or importer. Do not treat as a related person a person that sells the articles through a permanent retail establishment in the normal course of being a retailer if that person has records to prove the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

General rule for sales by dealers to the consumer. For a taxable sale, other than a long-term lease, by a person other than a manufacturer, producer, importer, or related person,

Table 6-1. Tax Base

IF the transaction is a	THEN figuring the base by using the
Sale by the manufacturer, producer, importer, or related person	Sales price <u>plus</u> (presumed markup percentage \times sales price)
Sale by the dealer	Total consideration paid for the item including any charges incident to placing it in a condition ready for use
Long-term lease by the manufacturer, producer, importer, or related person	Constructive sales price <u>plus</u> (presumed markup percentage × constructive sales price)
Short-term lease by the manufacturer, producer, importer, or related person	Constructive sales price at which such or similar articles are sold
Short-term lease by a lessor other than the manufacturer, producer, importer, or related person	Price for which the article was sold to the lessor <u>plus</u> the cost of parts and accessories installed by the lessor <u>plus</u> a presumed markup percentage
Short-term lease where the articles are regularly sold at arm's length	Lowest established retail price in effect at the time of the taxable use

your tax base is the retail sales price as discussed next under *Determination of tax base.*

When you sell an article to the consumer, generally you do not add a presumed markup to the tax base. However, you do add a markup if all the following apply.

- You do not perform any significant activities relating to the processing of the sale of a taxable article.
- The main reason for processing the sale through you is to avoid or evade the presumed markup.
- You do not have records proving that the article was sold for a price that included a markup equal to or greater than the presumed markup percentage.

In these situations, your tax base is the sales price plus an amount equal to the presumed markup percentage times that selling price.

Determination of tax base. These rules apply to both normal retail sales price and presumptive retail sales price computations. To arrive at the tax base, the price is the total consideration paid (including trade-in allowance) for the item and includes any charge incident to placing the article in a condition ready for use. However, see *Presumptive retail sales price*, earlier.

Exclusions from tax base. Exclude from the tax base the retail excise tax imposed on the sale. Exclude any state or local retail sales tax if stated as a separate charge from the price whether the sales tax is imposed on the seller or purchaser. Also exclude the value of any used component of the article furnished by the first user of the article.

Exclude charges for transportation, delivery, insurance, and installation (other than installation charges for parts and accessories, discussed earlier) and other expenses incurred in connection with the delivery of an article to a purchaser. These expenses are those incurred in delivery from the retail dealer to the customer. In the case of delivery directly from the manufacturer to the dealer's customer, include the transportation and delivery charges to the extent the charges do not exceed what it would have cost to ship the article to the dealer. Exclude amounts charged for machinery or equipment that does not contribute to the highway transportation function of the vehicle, provided those charges are supported by adequate records. For example, for an industrial vacuum loader vehicle, exclude amounts charged for the vacuum pump and hose, filter system, material separator, silencer or muffler, control cabinet, and ladder. Similarly, for a sewer cleaning vehicle, exclude amounts charged for the high pressure water pump, hose components, and the vacuum pipe.

Sales not at arm's length. For any taxable article sold (not at arm's length) at less than the fair market price, figure the excise tax on the price for which similar articles are sold at retail in the ordinary course of trade.

A sale is not at arm's length if either of the following apply.

- One of the parties is controlled (in law or in fact) by the other or there is common control, whether or not the control is actually exercised to influence the sales price.
- The sale is made under special arrangements between a seller and a purchaser.

Installment sales. If the first retail sale is an installment sale, or other form of sale in which the sales price is paid in installments, tax liability arises at the time of the sale. The tax is figured on the entire sales price. No part of the tax is deferred because the sales price is paid in installments.

Repairs and modifications. The tax does not apply to the sale or use of an article that has been repaired or modified unless the cost of the repairs and modifications is more than 75% of the retail price of a comparable new article. This includes modifications that change the transportation function of an article or restore a wrecked article to a functional condition. However, this exception generally does not apply to an article that was not subject to the tax when it was new.

Further manufacture. The tax does not apply to the use by a person of a taxable article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by that person. Do not treat a person as engaged in the manufacture of any article merely because that person combines the article with a:

- Coupling device (including any fifth wheel);
- Wrecker crane;
- Loading and unloading equipment (including any crane, hoist, winch, or power liftgate);
- Aerial ladder or tower;
- Ice and snow control equipment;
- Earth moving, excavation, and construction equipment;
- Spreader;
- Sleeper cab;
- · Cab shield; or
- Wood or metal floor.

Combining an article with an item in this list does not give rise to taxability. However, see *Parts or accessories*, discussed earlier.

Articles exempt from tax. The tax on heavy trucks, trailers, and tractors does not apply to sales of the articles described in the following discussions.

Rail trailers and rail vans. This is any chassis or body of a trailer or semitrailer designed for use both as a highway vehicle and a railroad car (including any parts and accessories designed primarily for use on and in connection with it). Do not treat a piggyback trailer or semitrailer as designed for use as a railroad car.

Parts and accessories. This is any part or accessory sold separately from the truck or trailer, except as described earlier under *Parts or accessories* and *Separate purchase.*

Trash containers. This is any box, container, receptacle, bin, or similar article that meets all the following conditions.

- It is designed to be used as a trash container.
- It is not designed to carry freight other than trash.
- It is not designed to be permanently mounted on or affixed to a truck chassis or body.

House trailers. This is any house trailer (regardless of size) suitable for use in connection with either passenger automobiles or trucks.

Camper coaches or bodies for self-propelled mobile homes. This is any article designed to be mounted or placed on trucks, truck chassis, or automobile chassis and to be used primarily as living quarters or camping accommodations. Further, the tax does not apply to chassis specifically designed and constructed to accommodate and transport self-propelled mobile home bodies.

Farm feed, seed, and fertilizer equipment. This is any body primarily designed to process or prepare, haul, spread, load, or unload feed, seed, or fertilizer to or on farms. This exemption applies only to the farm equipment body (and parts and accessories) and not to the chassis upon which the farm equipment is mounted.

Ambulances and hearses. This is any ambulance, hearse, or combination ambulance-hearse.

Truck-tractors. This is any truck-tractor specifically designed for use in shifting semitrailers in and around freight yards and freight terminals.

Concrete mixers. This is any article designed to be placed or mounted on a truck, truck trailer, or semitrailer chassis to be used to process or prepare concrete. This exemption does not apply to the chassis on which the article is mounted.

Sales exempt from tax. The following sales are ordinarily exempt from tax.

• Sales to a state or local government for its exclusive use.

- Sales to Indian tribal governments, but only if the transaction involves the exercise of an essential tribal government function.
- Sales to a nonprofit educational organization for its exclusive use.
- Sales to a qualified blood collector organization (as defined under *Communications Tax* in chapter 4) for its exclusive use in the collection, storage, or transportation of blood.
- Sales for use by the purchaser for further manufacture of other taxable articles (see below).
- Sales for export or for resale by the purchaser to a second purchaser for export.
- Sales to the United Nations for official use.

Registration requirement. In general, the seller and buyer must be registered for a sale to be tax free. See the Form 637 instructions for more information. Certain registration exceptions apply in the case of sales to state and local governments, sales to foreign purchasers for export, and sales for resale or long term leasing.

Further manufacture. If you buy articles tax free and resell or use them other than in the manufacture of another article, you are liable for the tax on their resale or use just as if you had manufactured and made the first retail sale of them.

Credits or refunds. A credit or refund (without interest) of the retail tax on the taxable articles described earlier may be allowable if the tax has been paid with respect to an article and, before any other use, such article is used by any person as a component part of another taxable article manufactured or produced. The person using the article as a component part is eligible for the credit or refund.

A credit or refund is allowable if, before any other use, an article is, by any person:

- Exported,
- Used or sold for use as supplies for vessels,
- Sold to a state or local government for its exclusive use,
- Sold to a nonprofit educational organization for its exclusive use, or
- Sold to a qualified blood collector organization (as defined under *Communications Tax* in chapter 4) for its exclusive use in the collection, storage, or transportation of blood.

A credit or refund is also allowable if there is a price readjustment by reason of the return or repossession of an article or by reason of a bona fide discount, rebate, or allowance.

See also *Conditions to allowance* under *Manufacturers Taxes*, in chapter 5.

Tire credit. A credit is allowed against the retail tax on the taxable articles described earlier if taxable tires are sold on or in connection with the sale of the article. The credit is equal to the manufacturers excise tax imposed on the taxable tires (discussed earlier). This is the section 4051(d) taxable tire credit and is claimed on

Schedule C (Form 720) for the same quarter for which the tax on the heavy vehicle is reported.

7.

Ship Passenger Tax

A tax of \$3 per passenger is imposed on certain ship voyages, as explained later under *Taxable situations*. The tax is imposed only once for each passenger, either at the time of first embarkation or disembarkation in the United States.

The person providing the voyage (the operator of the vessel) is liable for the tax.

Voyage. A voyage is the vessel's journey that includes the outward and homeward trips or passages. The voyage starts when the vessel begins to load passengers and continues until the vessel has completed at least one outward and one homeward passage. The tax may be imposed even if a passenger does not make both an outward and a homeward passage as long as the voyage begins or ends in the United States.

Passenger. A passenger is an individual carried on the vessel other than the Master or a crew member or other individual engaged in the business of the vessel or its owners.

Example 1. John Smith works as a guest lecturer. The cruise line hired him for the benefit of the passengers. Therefore, he is engaged in the business of the vessel and is not a passenger.

Example 2. Marian Green is a travel agent. She is taking the cruise as a promotional trip to determine if she wants to offer it to her clients. She is a passenger.

Taxable situations. There are two taxable situations. The first situation involves voyages on commercial passenger vessels extending over one or more nights. A voyage extends over one or more nights if it extends for more than 24 hours. A passenger vessel is any vessel with stateroom or berth accommodations for more than 16 passengers.

The second situation involves voyages on a commercial vessel transporting passengers engaged in gambling on the vessel beyond the territorial waters of the United States. Territorial waters of the United States are those waters within the international boundary line between the United States and any contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. If passengers participate as players in any policy game or other lottery, or any other game of chance for money or other thing of value that the owner or operator of the vessel (or their employee, agent, or franchisee) conducts, sponsors, or operates, the voyage is subject to the ship passenger tax. The tax applies regardless of the duration of the voyage. A casual, friendly game of chance with