

EXCISE TAXES

Action Needed to Improve Compliance for Sport Fishing and Archery Imports



Report to Ranking Member, Committee on Finance, U.S.
Senate

July 2024
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GAO Highlights

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July 2024

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Why GAO Did This Study

Federal excise taxes on sport fishing and archery equipment paid by manufacturers, producers, and importers help fund fish and wildlife conservation. However, the growth of electronic commerce has created situations where U.S. consumers may not know that they are importers responsible for paying excise taxes.

GAO was asked to review issues with collecting excise taxes on direct-to-consumer imports of sport fishing and archery equipment. This report examines (1) numbers and types of taxpayers liable for and paying these excise taxes, (2) compliance challenges for consumer importers, and (3) the extent to which IRS's and agencies' efforts to collect the taxes from consumer importers align with the criteria for a good tax system.

GAO analyzed federal laws, regulations, and IRS guidance and data on sport fishing and archery excise taxes. GAO interviewed federal agency officials and industry, state fish and wildlife, and other stakeholders. GAO reviewed agency documentation and assessed agencies' efforts against established GAO criteria for a good tax system.

What GAO Recommends

GAO is recommending that Congress consider making U.S. online marketplaces responsible for sport fishing and archery excise taxes on consumer import sales in which they are involved. GAO is also making two recommendations to IRS to consolidate and make existing excise tax guidance easily accessible and develop guidance for consumers to calculate and pay the taxes. IRS agreed with GAO's recommendations.

What GAO Found

The Internal Revenue Service (IRS) collects excise taxes from manufacturers, producers, and importers on the sale of sport fishing and archery equipment to help fund fish and wildlife conservation. For fiscal years 2007 through 2023, these excise taxes annually totaled, on average, about \$206 million paid by a total of about 2,500 unique taxpayers. IRS data indicate that at least 98 percent of taxpayers who paid these taxes were likely to be a business.

Depending on facts and circumstances, IRS and Department of the Treasury officials stated that a U.S. consumer could be the importer liable for excise tax if the consumer purchases sport fishing or archery equipment from a foreign seller—including through a U.S. online marketplace—and has it shipped to the U.S. However, according to IRS officials and stakeholders, such consumer importers may not be aware of their excise tax liability. GAO's analysis of IRS data shows that few consumer importers, if any, pay these excise taxes. Further, the number of consumers who may be liable for these taxes is unknown.

GAO found that if consumer importers are aware of their excise tax liability, they face challenges complying because IRS's guidance is scattered and does not include needed information. For example, IRS guidance does not address how consumer importers should calculate, file, and pay the taxes.

Agency efforts to collect excise taxes from consumer importers are not aligned with established GAO criteria for a good tax system. Although additional information from IRS could help consumer importers navigate their excise tax responsibilities, under current law collecting and enforcing the excise taxes at the consumer importer-level is burdensome and inefficient. For example:

- According to IRS officials, a U.S. consumer may need to contact a U.S. online marketplace to obtain facts about their purchase to determine if they are the liable importer. The consumer would then need to take several steps to calculate and pay the taxes, which could ultimately be less than \$10.
- IRS's efforts to collect and enforce the taxes at the consumer importer level have the potential to cost more than the taxes owed.

This inefficient process has some similar features to the challenges many states had collecting sales tax from consumers who purchased goods from out-of-state sellers. A 2018 Supreme Court decision allowed states to require out-of-state sellers to collect and remit sales taxes. In response, all but one of the 45 states with sales taxes adopted requirements that shifted tax collection obligations from sellers in online marketplaces to the company facilitating the sale.

Imposing the excise taxes higher up the distribution chain (if not purchasing directly from a foreign seller) would align with criteria for a good tax system, such as equity and efficiency. Under current law, U.S. online marketplaces can be involved in direct-to-consumer import sales and not owe the excise taxes. IRS and Treasury officials said legislation is needed to shift where the taxes are imposed. Without such legislation making U.S. online marketplaces responsible for the excise taxes on consumer import sales in which they are involved, IRS cannot readily collect excise tax revenue dedicated to conservation.

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Abbreviations

CBP	U.S. Customs and Border Protection
CCA	Chief Counsel Advice
E-commerce	electronic commerce
Form 720	<i>Quarterly Federal Excise Tax Return</i>
IRC	Internal Revenue Code
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed
TTB	Alcohol and Tobacco Tax and Trade Bureau

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July 29, 2024

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

Dear Mr. Crapo:

The Internal Revenue Code (IRC) imposes an excise tax on the sale or use of certain sport fishing and archery equipment by the manufacturer, producer, or importer of the equipment.¹ According to the Department of the Interior, U.S. Fish and Wildlife Service's *National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, an estimated 39.9 million people fished and 14.4 million hunted in 2022.² Revenue from sport fishing and archery excise taxes is dedicated to the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund, respectively (we refer to these together as the Wildlife and Sport Fish Restoration funds).³

The majority of these funds in turn are apportioned to states' and territories' fish and wildlife agencies to use for conservation projects, habitat restoration, hunter and aquatic education, fish hatchery and wildlife management, and other activities. The Department of the Treasury and Interior's U.S. Fish and Wildlife Service reported that sport fishing and archery excise taxes in fiscal year 2023 accounted for about 19 percent and 5 percent, respectively, of revenues into these accounts.⁴

Sport fishing and archery industry representatives and state fish and wildlife agencies have raised concerns resulting from growth in electronic commerce (e-commerce) sales. According to those entities, these sales have created situations where U.S. consumers who purchase and import taxable products from foreign sellers may be responsible for the excise taxes but are unlikely to file and pay them.

This has some similarities to the challenges that many states had collecting sales tax from consumers who purchased taxable goods from e-commerce and other businesses operating out of state (also known as remote

¹26 U.S.C. § 4161, 4218.

²Department of the Interior, U.S. Fish and Wildlife Service, *2022 National Survey of Fishing, Hunting, and Wildlife Associated Recreation*, (Sept. 2023). Estimates of hunting participation include people who hunted with firearms. Estimates for the number of anglers and hunters have 95 percent confidence intervals within about +/- 700,000.

³26 U.S.C. § 9504; 16 U.S.C. § 669b.

⁴The Sport Fish Restoration and Boating Trust Fund also receives revenue from import duties on fishing tackle, yachts, and pleasure craft; highway excise taxes collected on gasoline and other motor fuels used in motorboats; and excise taxes collected on small engine fuel (i.e., gasoline used as fuel in the non business use of small-engine outdoor power equipment, such as snow blowers and lawn mowers). The Federal Aid to Wildlife Restoration Fund also receives revenues from dedicated excise taxes on firearms and ammunition.

sellers).⁵ The Supreme Court's 2018 decision in *South Dakota v. Wayfair* allowed states to require remote sellers to collect and remit sales taxes.⁶ As we previously reported, following this decision, all but one of the 45 states that impose a sales tax plus the District of Columbia adopted requirements that shifted primary tax collection obligations from sellers in an online marketplace to the company facilitating the sale.⁷

You asked us to review issues with collecting sport fishing and archery excise taxes on direct-to-consumer imports.⁸ This report (1) describes numbers and types of taxpayers who are liable for and paying sport fishing and archery excise taxes, (2) assesses challenges consumer importers face in complying with these excise taxes and the extent to which such challenges may apply to consumers liable for other similar excise taxes, and (3) assesses the extent to which the Internal Revenue Service's (IRS) and federal agencies' efforts to collect these excise taxes from consumer importers align with criteria for a good tax system.

To describe numbers and types of taxpayers paying the excise taxes, we analyzed summary data from IRS from fiscal years 2007 through 2023 on the amounts of sport fishing and archery excise taxes paid by *Quarterly Federal Excise Tax Return* (Form 720) filers each year, and the number of unique filers.⁹ To obtain information on the types of taxpayers, we reviewed IRS summary data that matched the tax identification number of each Form 720 filer to a corresponding income tax return.¹⁰

To assess the reliability of the data, we reviewed documentation and interviewed knowledgeable IRS Small Business/Self-Employed (SB/SE) Research officials. We also compared IRS summary data to IRS Statistics of

⁵We have previously reported on remote sales tax issues. See GAO, *Remote Sales Tax: Federal Legislation Could Resolve Some Uncertainties and Improve Overall System*, [GAO-23-105359](#) (Washington, D.C.: Nov. 14, 2022); *Sales Taxes: States Could Gain Revenue from Expanded Authority, but Businesses Are Likely to Experience Compliance Costs*, [GAO-18-114](#) (Washington, D.C.: Nov. 16, 2017); *Update on State and Local Revenue Loss from Internet Sales*, [GAO-02-83R](#) (Washington, D.C.: Nov. 6, 2001); and *Sales Taxes: Electronic Commerce Growth Presents Challenges; Revenue Losses are Uncertain*, [GAO/GGD/OCE-00-165](#) (Washington, D.C.: June 30, 2000).

⁶Prior to *Wayfair*, the Supreme Court had interpreted the Commerce Clause of the U.S. Constitution as prohibiting states from taxing sellers without a physical presence in the state. See *Quill v. North Dakota*, 504 U.S. 298, 317–318 (1992). Instead, individual consumers were required to report their online and other remote purchases on annual state tax returns. In 2018, the Supreme Court held that states could require remote sellers to collect and remit sales taxes even in the absence of a physical presence in the state. *South Dakota v. Wayfair, Inc.*, 585 U.S. 162, 138 S. Ct. 2080 (2018).

⁷[GAO-23-105359](#).

⁸For the purposes of this report, we generally use the term “direct-to-consumer imports” to refer to both situations where U.S. consumers purchase and import products from a foreign seller either from the foreign seller’s website or in a transaction facilitated by an online marketplace. Later in this report, we use the term “consumer importer” to refer to U.S. consumers who, in certain import scenarios, may be considered the importer responsible for paying the excise taxes.

⁹Fiscal year 2007 is the earliest year for which complete and reliable annual data were available that reflected the current statutory excise tax rate structure. Fiscal year 2023 is the most recent year for which complete annual data were available.

¹⁰Form 720 filers paying sport fishing and archery excise taxes were matched with income tax returns such as IRS *Form 1040, U.S. Individual Income Tax Return*; *Form 1120, U.S. Corporation Income Tax Return*; and *Form 1065, U.S. Return of Partnership Income*.

Income data and excise tax amounts provided by U.S. Fish and Wildlife Service.¹¹ Based on this work, we determined the summary data were sufficiently reliable for our reporting purposes.

To describe what types of taxpayers are liable for paying the tax, we reviewed applicable federal law, including the IRC, Treasury regulations, and IRS revenue rulings. We also reviewed factors IRS considers when determining who is the importer for the purposes of paying the excise tax, as well as illustrative import scenarios developed and analyzed by IRS.

To develop additional hypothetical import scenarios involving U.S. online marketplaces, we reviewed publicly available information about the services offered by select U.S. online marketplaces. The scenarios are not intended to be comprehensive, and the services depicted in the scenarios are not intended to represent the practices of any one company.

To assess challenges consumer importers face in complying, we reviewed IRS guidance and other documents related to sport fishing and archery excise taxes. We also interviewed a nongeneralizable sample of six stakeholders, including trade associations that represent members of the sport fishing and archery industries, an association of state fish and wildlife agencies, and others knowledgeable about the federal excise taxes. We identified these groups through a combination of methods, including identifying participants on the Trust Fund Collection Working Group (the working group) initiated by an association of state fish and wildlife agencies, which consists of federal and nonfederal members involved in the payment, collection, and spending of the Wildlife and Sport Fish Restoration funds.¹²

To describe whether the compliance challenges for consumer importers are unique to these taxes, we reviewed the other manufacturers excise taxes imposed under chapter 32 of the IRC.¹³ We also reviewed IRS and other agency resources and information available to taxpayers liable for those other excise taxes.

To assess the extent to which IRS's and federal agencies' efforts to collect these excise taxes from consumer importers align with the criteria for a good tax system, we reviewed agency and working group documentation and interviewed agency officials and stakeholders. We also contacted three U.S. online marketplaces to discuss their experiences and perspectives. However, none of the online marketplaces agreed to meet with us. We assessed our findings against three long-standing and widely accepted criteria for a good tax system: equity, economic efficiency, and a combination of simplicity, transparency, and administrability.¹⁴

¹¹IRS summary data fiscal year totals report the quarterly Form 720 tax liability during the year beginning October 1 and ending September 30. Due to differences in the timing of payments, these totals differ from the certified tax collections reported by IRS to Interior's U.S. Fish and Wildlife Service for the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund.

¹²We did not interview all the participants of the working group. For example, the group consists of trade industry organizations representing manufacturers and retailers of firearms and ammunition. Excise taxes on these articles provide revenue for the Wildlife and Sport Fish Restoration funds but are outside the scope of this review.

¹³In addition to sport fishing and archery equipment, IRC chapter 32 imposes taxes on gas guzzler vehicles, tires, and motor and aviation fuels, among other items. 26 U.S.C. §§ 4064–4227.

¹⁴GAO, *Understanding the Tax Reform Debate: Background, Criteria, & Questions*, [GAO-05-1009SP](#) (Washington, D.C.: Sept. 1, 2005). This report describes how the criteria can be used to evaluate tax policy. In developing the report, we relied on government studies, academic articles, and the advice of tax experts to provide us with information on the issues surrounding the tax reform debate.

To address all three objectives, we interviewed IRS officials from the Office of Chief Counsel and the SB/SE division who work on excise taxes. We also interviewed officials from U.S. Customs and Border Protection (CBP) within the Department of Homeland Security, Treasury, and the U.S. Fish and Wildlife Service.

See appendix I for more information on our objectives, scope, and methodology.

We conducted this performance audit from January 2023 to July 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Manufacturers, Producers, and Importers Pay Federal Excise Taxes on Sport Fishing and Archery Equipment

The sport fishing and archery excise taxes are broadly referred to as manufacturers excise taxes. IRC chapter 32 imposes excise taxes on a U.S. manufacturer's sale of certain goods, including motor and aviation fuel, coal, gas guzzler vehicles, tires, firearms, ammunition, and certain vaccines.¹⁵ For purposes of most of these taxes, the term manufacturer includes both producers and importers.¹⁶

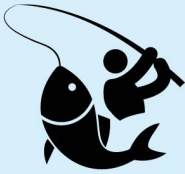
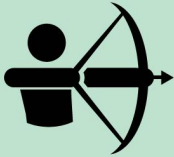
The manufacturer, producer, or importer who first sold the goods in the U.S is generally liable for paying the tax to IRS. The economic burden of the tax is typically reflected in the manufacturer, producer, or importer's subsequent sales price to wholesale distributors, retailers, and consumers.

The IRC imposes different tax rates on the sale of certain articles of sport fishing and archery equipment (see fig.1).

¹⁵26 U.S.C. §§ 4064–4182.

¹⁶Excise taxes on coal apply to coal mined in the U.S. and do not apply to imported coal.

Figure 1: Federal Excise Tax Rates on Sales of Sport Fishing and Archery Equipment

Category	Item	Tax rate
	Fishing rods and poles	10% of the sales price, not to exceed \$10 per article
	Sport fishing equipment other than fishing rods and fishing poles Examples: <ul style="list-style-type: none"> Fishing reels and fishing lines^a Fishing spears, spear guns, and spear tips Hooks, artificial baits, artificial flies, and artificial lures Fish stringers, creels, and landing nets 	10% of the sales price
	Tackle boxes	3% of the sales price
	Electric outboard motors	3% of the sales price
	Bows ^b	11% of the sales price
	Arrow shafts	\$0.62 per shaft, adjusted annually for inflation ^c
	Archery equipment <ul style="list-style-type: none"> Any part or accessory suitable for inclusion in or attachment to a taxable bow, such as bow strings, bow sights, and bow wrist slings Any quiver, broadhead, or point suitable for use with a taxable arrow shaft 	11% of the sales price

Sources: 26 U.S.C § 4161-4162 and GAO analysis of Internal Revenue Service (IRS) documents; GAO (icons). | GAO-24-106569

Accessible Data for Figure 1: Federal Excise Tax Rates on Sales of Sport Fishing and Archery Equipment

Category	Item	Tax rate
Sport fishing	Fishing rods and poles	10% of the sales price, not to exceed \$10 per article
Sport fishing	Sport fishing equipment other than fishing rods and fishing poles Examples: <ul style="list-style-type: none"> Fishing reels and fishing lines^a Fishing spears, spear guns, and spear tips Hooks, artificial baits, artificial flies, and artificial lures Fish stringers, creels, and landing nets 	10% of the sales price
Sport fishing	Tackle boxes	3% of the sales price
Sport fishing	Electric outboard motors	3% of the sales price
Archery	Bows ^b	11% of the sales price
Archery	Arrow shafts	\$0.59 per shaft, adjusted annually for inflation ^c

Category	Item	Tax rate
Archery	Archery equipment <ul style="list-style-type: none"> Any part or accessory suitable for inclusion in or attachment to a taxable bow, such as bow strings, bow sights, and bow wrist slings Any quiver, broadhead, or point suitable for use with a taxable arrow shaft 	11% of the sales price

Sources : 26 U.S.C § 4161-4162 and GAO analysis of Internal Revenue Service (IRS) documents ; GAO (icons) | GAO-24-106569

Notes:

^aFishing lines not over the 130 pounds test are taxable. 26 U.S.C. § 4162(a)(3). That is, fishing lines that can suspend more than 130 pounds of weight without breaking or stretching more than 5 percent of line length while suspending that weight are not taxable.

^bBows with a peak draw weight of at least 30 pounds are taxable. 26 U.S.C. § 4161(b)(1). IRS defines draw weight as the amount of power, usually measured in pounds, that is required to draw the bow to its maximum draw length.

^cThis is the tax per arrow shaft in calendar year 2024. Rev. Proc. 2023-34, 2023-48 I.R.B. 1287. An exemption exists for certain wooden arrow shafts. 26 U.S.C. § 4162(b)(2)(B).

Generally, the excise tax on sport fishing and archery equipment is based on the price for which an article is sold. The basic sale price rules are built on the model of a manufacturer, producer, or importer first selling equipment to a wholesale distributor, that then sells it to a retailer that resells to consumers. Thus, the manufacturer, producer, or importer computes the tax due based on the sale price to the wholesale distributor. However, if an article is sold other than to a wholesale distributor—such as to a retailer or end consumer—manufacturers, producers, and importers can use constructive sale price rules provided in the IRC and IRS guidance to re-construct what the wholesale selling price of an article would have been.

Taxpayers file the Form 720 to report their sport fishing and archery excise tax liability and pay the taxes (see appendix II for more information on the Form 720 and other information available to taxpayers).¹⁷

Multiple Agencies Have Roles Supporting the Wildlife and Sport Fish Restoration Funds

The 1937 Pittman-Robertson Wildlife Restoration Act, as amended, and the 1950 Dingell-Johnson Sport Fish Restoration Act allocated the revenue collected from federal excise taxes on archery and sport fishing equipment to the Wildlife and Sport Fish Restoration funds, respectively.¹⁸ Several federal agencies have roles in the collecting, administering, and spending of the excise tax revenue. For example, IRS collects the excise taxes, Treasury estimates the excise tax revenues to be deposited into the Wildlife and Sport Fish Restoration funds, and U.S. Fish and Wildlife Service apportions the funds to states’ and territories’ fish and wildlife agencies (see appendix III for more information on the roles of these federal agencies).

IRS, CBP, Treasury, and Interior coordinate with state fish and wildlife agencies and industry representatives through a working group. Established in 2005, the working group was formed to encourage cooperation and

¹⁷Taxpayers file the Form 720 if they are liable for, or responsible for collecting, any of the federal excise taxes listed on the form. Form 720 also includes environmental, communications, air transportation, retail, indoor tanning, and certain manufacturers excise taxes, among others.

¹⁸Pittman-Robertson Wildlife Restoration Act, Pub. L. No. 75-415, 50 Stat. 917 (1937), *codified as amended* at 16 U.S.C. §§ 669–669k; Dingell-Johnson Sport Fish Restoration Act, Pub. L. No. 81-681, 64 Stat. 430 (1950), *codified as amended* at 16 U.S.C. §§ 777–777m.

communication among federal agencies, industry representatives and manufacturers paying the taxes, and the states that administer and spend the Wildlife and Sport Fish Restoration funds.¹⁹ According to its charter, the working group is to help ensure consistent collection of taxes and equitable and fair application of the IRC to support fish and wildlife programs.

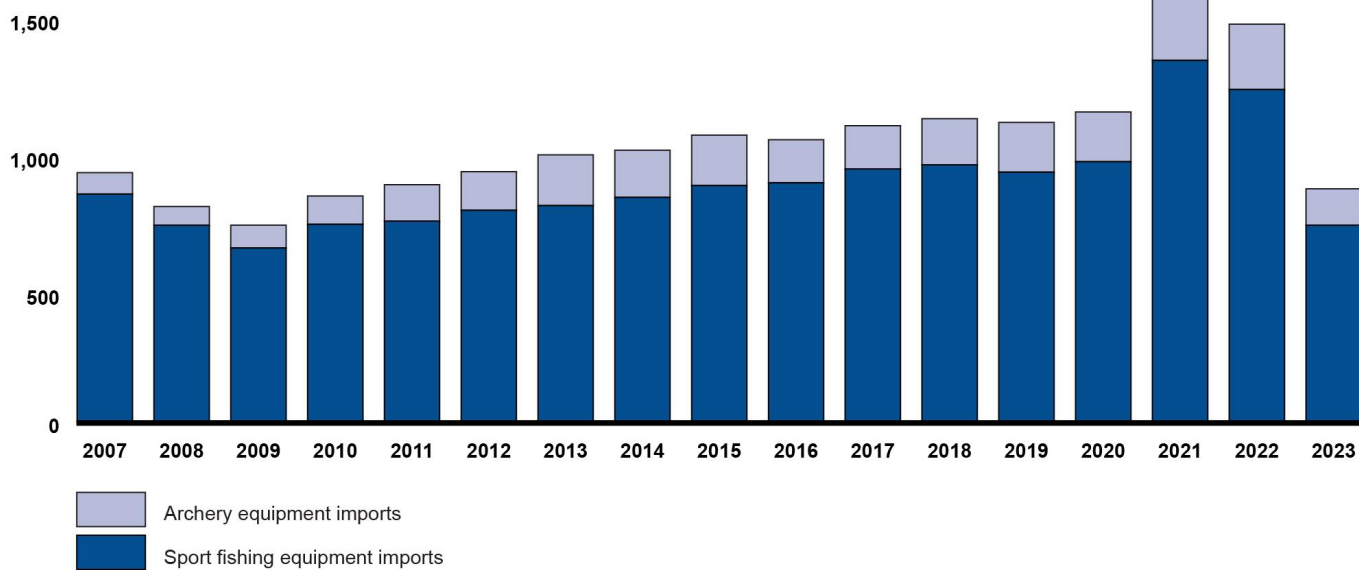
Sport Fishing and Archery Equipment Flows into the U.S. through a Process Overseen by CBP

The inflation-adjusted value of sport fishing and archery goods imported into the U.S. (i.e., import value) generally grew between 2009 and 2021, with import values increasing by 39 percent in 2021. Total sport fishing and archery equipment import value then fell by 8 percent in 2022. In 2023, the total import value of sport fishing and archery goods was approximately \$850 million (the latest year data were available), a 41 percent decrease from 2022 (see fig. 2).

Figure 2: Inflation-Adjusted Archery and Sport Fishing Equipment Import Value, 2007 to 2023

Calendar year 2023 dollars (in millions)

\$2,000



Source: GAO analysis of Census trade statistics. | GAO-24-106569

¹⁹The working group membership includes other federal agencies with roles related to the Wildlife and Sport Fish Restoration funds but are outside of the scope of our review. For example, Treasury's Alcohol and Tobacco Tax and Trade Bureau participates to provide updates on its role collecting firearms and ammunition excise taxes.

Accessible Data for Figure 2: Inflation-Adjusted Archery and Sport Fishing Equipment Import Value, 2007 to 2023

Calendar year 2023 dollars (in millions)

Year	Archery equipment imports	Sport fishing equipment imports
2007	\$78,429,480.63	\$833,343,897.12
2008	\$67,528,467.32	\$719,831,823.95
2009	82,983,357.25	\$637,247,407.79
2010	\$102,532,684.32	\$722,633,939.23
2011	\$131,578,599.14	\$734,711,574.80
2012	\$141,214,546.35	\$774,081,510.94
2013	\$185,448,025.15	\$791,258,863.70
2014	\$171,609,239.97	\$821,053,614.89
2015	\$183,972,319.29	\$863,836,490.28
2016	\$157,406,093.13	\$873,752,368.96
2017	\$157,179,027.59	\$924,585,669.85
2018	\$168,226,840.10	\$939,596,639.44
2019	\$181,124,010.12	\$913,308,172.26
2020	\$180,888,564.29	\$951,241,771.27
2021	\$258,821,876.73	\$1,320,435,148.94
2022	\$237,699,870.52	\$1,214,462,431.43

Source: GAO analysis of Census trade statistics. | GAO-24-106569

Notes: U.S. Census Bureau trade statistics is a widely used source of analysis of U.S. International trade. We estimated the import value for sport fishing and archery products using the Harmonized Tariff Schedule of the U.S. The specific codes we analyzed cover many of the products that may be subject to the excise tax, but they also cover products that are not subject to the tax. We also excluded certain codes from our analysis that may contain some products subject to the excise tax, but also likely contain many other products not subject to excise tax. The Census Bureau's import data contain information about the total value of imported shipments that cleared U.S. customs. Census uses statistical methodologies to account for imported shipments valued at less than \$2,000. We adjusted all import values for inflation using a gross domestic product price index.

CBP oversees and enforces the flow of all imported goods, including sport fishing and archery equipment, into the U.S. market. CBP uses formal import entry summary data (CBP Form 7501, or its electronic equivalent) to identify merchandise entering the U.S. and make an initial assessment of certain taxes, fees, and customs duties owed.²⁰ Importers or customs brokers are generally required to report all goods with an aggregate value above \$2,500.²¹ However, goods imported as informal entries and lower dollar value imports under the \$800 de minimis threshold generally do not require a formal import entry summary.²²

²⁰Customs duty is a tariff or tax imposed on goods when transported across international borders.

²¹Individuals or businesses importing a shipment can elect to pay for the services of a customs broker. Customs brokers are private individuals, partnerships, associations, or corporations that are licensed, regulated, and empowered by CBP to provide assistance in meeting federal requirements governing imports.

²²Informal entries are those with an aggregate value below \$2,500 and meeting various stipulations. In 2016, the Trade Facilitation and Trade Enforcement Act of 2015 increased the de minimis threshold from \$200 to \$800. Imports under the de minimis threshold are those that CBP may admit free of duty and any tax imposed on or by reason of importation for which the aggregate fair retail value in the country of shipment of articles imported by one person on one day does not exceed \$800. See 19 U.S.C. §1321(a)(2)(C); 19 C.F.R. § 10.151.

Direct-to-consumer imports are generally low-dollar value shipments under the de minimis threshold. In September 2022, we reported that the total number of de minimis import shipments had risen sharply. CBP officials attributed this to an increase in e-commerce activity as more consumers shopped from home during the COVID-19 pandemic.²³ At the time of our reporting, CBP officials said that e-commerce accounted for the vast majority of shipments entering the U.S.

Most Sport Fishing and Archery Excise Taxes Are Paid by Businesses, but Consumers Could Be Liable in Some Situations

Sport Fishing and Archery Excise Taxes Averaged About \$200 Million Annually

Total Payments

From fiscal years 2007 through 2023, sport fishing and archery excise taxes paid on quarterly Forms 720 averaged about \$206 million per year, after adjusting for inflation (measured in fiscal year 2023 dollars). In fiscal year 2023, the last year for which complete data were available, tax payments totaled approximately \$174 million.²⁴

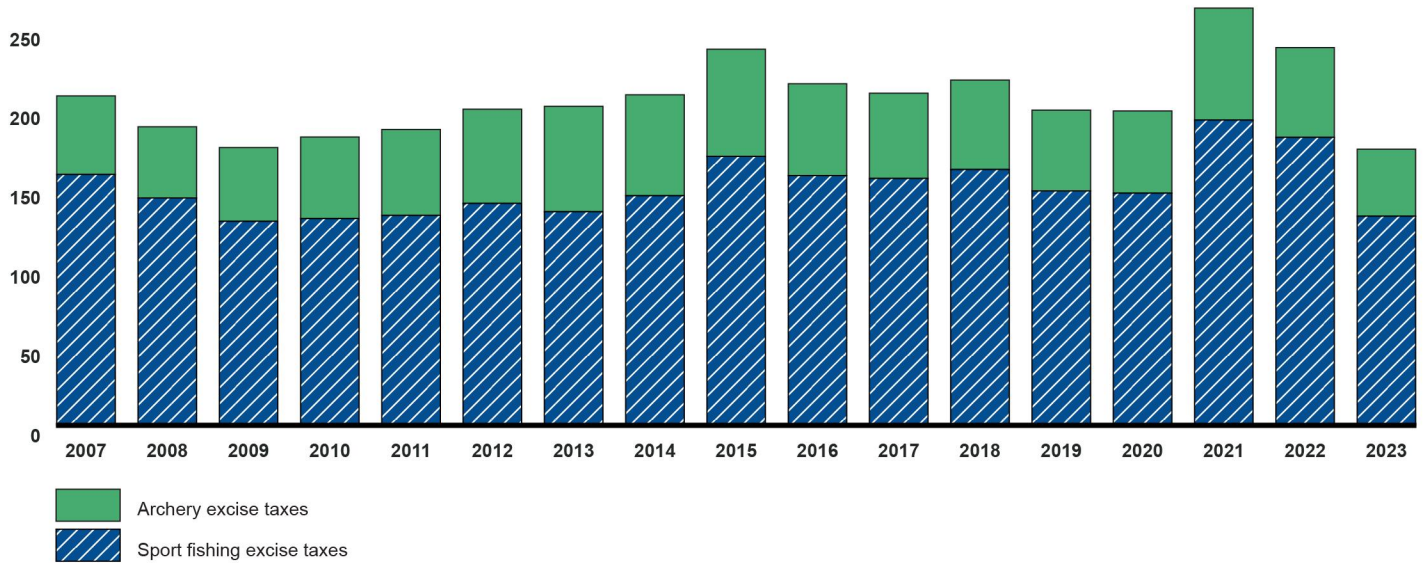
After declining between fiscal years 2015 and 2020, inflation-adjusted sport fishing and archery excise tax revenue increased by 33 percent in fiscal year 2021. Excise tax revenue subsequently fell by 9 percent in fiscal year 2022, and a further 27 percent in fiscal year 2023 (see fig. 3).

²³GAO, *COVID-19: CBP Acted to Mitigate Challenges Affecting its Trade Operations*, [GAO-22-105034](#) (Washington, D.C.: Sept. 19, 2022).

²⁴Fiscal year totals report the quarterly Form 720 tax liability during the year beginning October 1 and ending September 30. Due to differences in the timing of payments, these totals differ from certified tax collections reported by IRS to Interior's U.S. Fish and Wildlife Service for the Sportfish Restoration and Boating Trust Fund and Federal Aid to Wildlife Restoration Fund.

Figure 3: Inflation-Adjusted Federal Excise Tax Payments on Sport Fishing and Archery Equipment, Fiscal Years 2007 through 2023

Fiscal year 2023 dollars (in millions)
\$300



Source: GAO analysis of Internal Revenue Service data. | GAO-24-106569

Accessible Data for Figure 3: Inflation-Adjusted Federal Excise Tax Payments on Sport Fishing and Archery Equipment, Fiscal Years 2007 through 2023

Fiscal year 2023 dollars (in millions)

Year	Archery excise taxes	Sport fishing excise taxes
2007	49,522,964	158,458,018
2008	44,967,587	143,539,798
2009	46,557,058	128,858,752
2010	51,516,831	130,560,504
2011	54,258,746	132,545,428
2012	59,490,654	140,170,324
2013	66,557,291	134,867,538
2014	63,720,087	144,992,544
2015	67,596,946	169,882,079
2016	57,899,304	157,771,826
2017	53,768,588	155,914,288
2018	56,430,587	161,571,300
2019	50,937,331	148,042,011
2020	51,873,630	146,641,751
2021	70,695,924	192,790,429

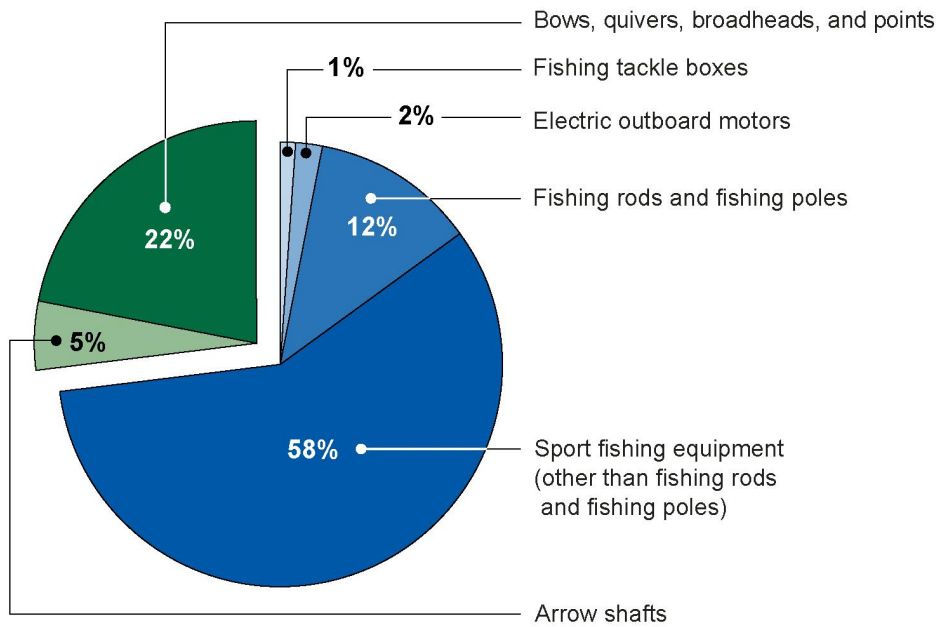
Year	Archery excise taxes	Sport fishing excise taxes
2022	56,682,140	181,873,122
2023	42,259,298	132,087,324

Source: GAO analysis of Internal Revenue Service data. | GAO-24-106569

Notes: Fiscal year totals report the quarterly Form 720 tax liability during the year beginning October 1 and ending September 30. Due to differences in the timing of payments, these totals differ from the certified tax collections reported by Internal Revenue Service to the Department of the Interior U.S. Fish and Wildlife Service for the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund. We adjusted excise tax payments for inflation using a gross domestic product price index.

Most of the excise taxes paid were on sales of sport fishing equipment, compared to archery equipment. For fiscal years 2007 through 2023, approximately 73 percent of excise tax payments on average were paid on sport fishing equipment, with approximately 27 percent on average paid on archery equipment (see fig. 4).

Figure 4: Average Shares of Federal Excise Tax Payments on Sport Fishing and Archery Equipment by Category of Taxable Article, Fiscal Years 2007 through 2023



Source: GAO analysis of Internal Revenue Service data. | GAO-24-106569

Accessible Data for Figure 4: Average Shares of Federal Excise Tax Payments on Sport Fishing and Archery Equipment by Category of Taxable Article, Fiscal Years 2007 through 2023

Category	Share of taxes for 2007-2022 overall
Fishing tackle boxes	1%
Electric outboard motors	2%
Fishing rods and fishing poles	12%
Sport fishing equipment (other than fishing rods and fishing poles)	58%
Arrow shafts	5%

Category	Share of taxes for 2007-2022 overall
Bows, quivers, broadheads, and points	22%

Source: GAO analysis of Internal Revenue Service data. | GAO-24-106569

For perspective, sport fishing and archery excise taxes account for less than 1 percent of all federal excise taxes. According to IRS Statistics of Income data for fiscal year 2022 (the latest available during our review), sport fishing and archery taxes comprised about 0.2 percent of all federal excise taxes collected by IRS, Treasury’s Alcohol and Tobacco Tax Trade Bureau (TTB), and CBP.²⁵

Number of Filers

A relatively small number of taxpayers pay sport fishing and archery excise taxes each year. From fiscal years 2007 through 2023, about 2,500 unique taxpayers on average each year paid sport fishing and archery excise taxes. In fiscal year 2023, sport fishing and archery excise taxpayers accounted for just 2 percent of all Form 720 filers.

In addition, a relatively small share of sport fishing and archery tax filers account for a large share of the total taxes paid. For example, in fiscal year 2023, the largest 10 percent of sport fishing and archery excise tax filers paid about 94 percent of the total taxes.

Types of Filers

Sport fishing and archery excise taxes are predominantly filed by businesses and individuals with business income. This is consistent with manufacturers, producers, and importers of equipment generally being liable for the tax. IRS data from fiscal years 2007 through 2023 indicate that about 98 percent of sport fishing and archery excise taxpayers also filed income tax returns that were likely to be associated with a business, such as corporation, partnership, or sole proprietorship.²⁶

The remaining 2 percent of taxpayers over this period were individuals with no business income, but we cannot be sure if any were consumers paying taxes on purchases of imported sport fishing and archery equipment. From fiscal years 2007 to 2023, fewer than 50 filers per year on average were taxpayers who also filed an individual income tax return with no associated business income.

IRS officials we discussed these observations with said that without reviewing each of these individual taxpayer’s filings, they could not definitively conclude whether any of them was a consumer who intended to pay excise taxes on a purchase of imported sport fishing or archery equipment. Officials said it is possible that these individuals were paying excise taxes in connection with prior or unreported business activity, rather than for a personal purchase of imported equipment. Some stakeholders we interviewed mentioned that they were

²⁵TTB collects excise taxes on alcohol, tobacco, firearms, and ammunition. CBP collects excise taxes on imported alcohol and tobacco.

²⁶Our analysis of IRS summary data found that 66 percent of sport fishing and archery excise taxpayers also filed income tax returns Form 1040 with Schedule C or Schedule F, Form 1120, Form 1120S, or Form 1065. A further 33 percent of sport fishing and archery excise taxpayers could not be matched with an income tax return, but IRS officials told us these were likely business taxpayers. For example, they were likely filing as a disregarded entity or part of a consolidated filing group, which means the taxpayer identification number listed on the Form 720 would not match to the one listed on the income tax return.

not aware of any situations where a consumer filed a Form 720 to pay sport fishing and archery excise taxes on a purchase of imported equipment.

Consumers Who Import Equipment Could Owe Tax

Statutory and Regulatory Provisions Related to Who Is an Importer

The IRC imposes federal excise taxes on importers of certain articles of sport fishing and archery equipment.²⁷ When such taxable equipment is imported, excise tax is generally due on the first sale that takes place inside the U.S. but is also due if the importer uses the equipment rather than selling it.²⁸

The term importer is not defined in the statute that establishes the excise tax, but Treasury regulations provide that an importer for the purposes of the tax is any person who brings taxable articles into the U.S. from a source outside the U.S. for sale or use in the U.S.²⁹ For example, if a U.S. importer purchases equipment from a foreign manufacturer, brings the equipment into the U.S., and re-sells it to a U.S. wholesale distributor, the U.S. importer would be considered an importer for the purposes of the tax. The U.S. importer would owe excise tax on its re-sale of the imported equipment (shown in fig. 5 scenario A).

Treasury regulations clarify that if the “nominal importer” of a taxable article is not its “beneficial owner,” then the beneficial owner is the importer for the purposes of the tax. For example, a customs broker engaged by the beneficial owner of taxable sport fishing and archery equipment would not owe excise tax because the broker is considered a nominal importer.³⁰

IRS Analysis of Who is an Importer As of 2011

In a 2011 IRS Chief Counsel Advice (CCA) memorandum, Chief Counsel concluded that generally the importer for the purposes of the excise tax is “the first purchaser resident in the U.S. who arranges, as principal and not as agent for, or is the inducing and efficient cause of, goods being brought into the U.S. for sale or use by [the purchaser].”³¹ Chief Counsel drew this conclusion from its analysis of various court rulings and revenue rulings on the topic, in addition to considering relevant laws and regulations. Chief Counsel issued the memorandum

²⁷26 U.S.C. § 4161(a) and (b).

²⁸For example, an importer could use the equipment for demonstrations. 26 U.S.C. § 4218(a).

²⁹26 C.F.R. § 48.0-2(a)(4)(i). The term importer also applies to a person who withdraws taxable articles from a customs bonded warehouse for sale or use in the U.S.

³⁰In a September 2023 court decision, *Texas Truck Parts & Tire Inc v. United States*, which involved the importation of tires subject to federal excise tax, the court ruled that foreign manufacturers that arranged for the importation of taxable tires into the U.S. were the importers for the purposes of the tax, rather than the U.S. wholesaler that ordered the tires. The foreign manufacturers had U.S.-based sales agents and affiliate companies that assisted with sales to U.S. customers. According to the court ruling, because the foreign manufacturers literally brought the tires into the U.S., they are importers under the plain meaning of the Treasury regulation. Docket. No. 4:21-cv-02055 (S.D. Tex., Oct. 16, 2023). On December 8, 2023, the U.S. filed a notice that it will appeal this ruling.

³¹Department of the Treasury, Internal Revenue Service, *Chief Counsel Advice Memorandum 201143019* (Oct. 28, 2011).

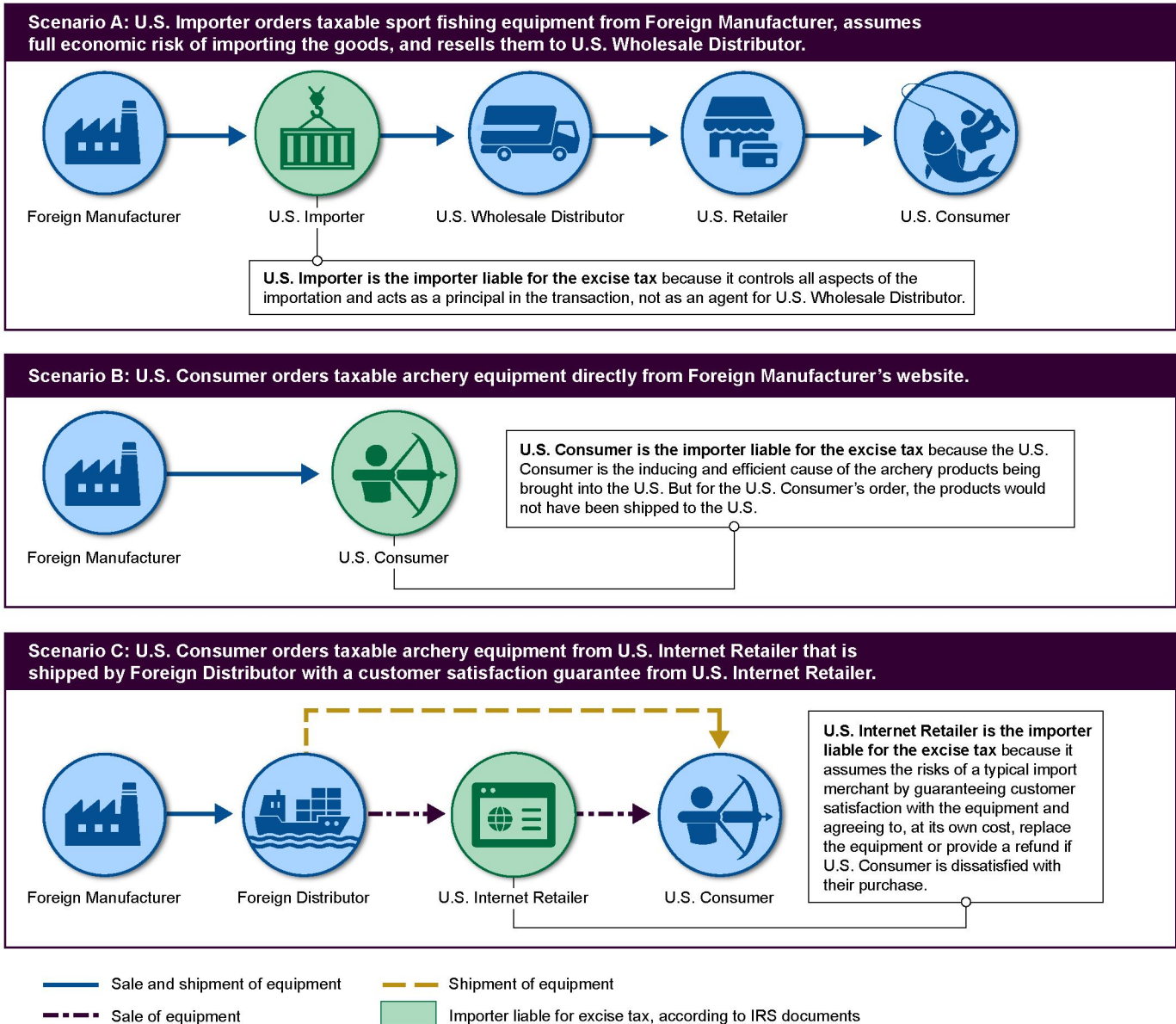
to address specific questions raised by IRS excise tax examination staff and it cannot be relied upon by taxpayers as authoritative or precedent for their own situation.

According to IRS Chief Counsel officials, determining who is the importer for the purposes of the tax depends on the specific facts and circumstances of the transaction. A 2006 IRS Field Directive for tax examiners and examiner training materials lay out some factors that IRS considers when determining who is the importer, such as who bears the economic risk of import costs, how the importer determines its sales price, and what name is used in import activities and documentation.³² In addition, IRS must evaluate the relationship between all parties in the transaction.

In the 2006 Field Directive and 2011 CCA memorandum, IRS documented its analysis of who is the importer liable for the excise tax in some illustrative scenarios on the importation of taxable sport fishing and archery equipment, including certain e-commerce transactions (see fig. 5).

³²Department of the Treasury, Internal Revenue Service, *Field Directive Federal Excise Tax on the Importation and Manufacture of Fishing and Archery Products* (July 2006).

Figure 5: Select Simplified Excise Tax Scenarios of Imported Sport Fishing and Archery Equipment Analyzed by the Internal Revenue Service



Sources: GAO analysis of IRS Field Directive on Federal Excise Tax on the Importation and Manufacture of Fishing and Archery Products, and IRS Chief Counsel Advice Memorandum 2011143019 on federal excise tax for imported archery products; GAO (icons). | GAO-24-106569

Note: These simplified scenarios include some, but not all, of the facts and circumstances set forth by the Internal Revenue Service (IRS) for the purposes of the scenarios. In addition, the figure above does not present all of the scenarios analyzed by IRS involving the manufacture and importation of taxable sport fishing and archery equipment. The scenarios we present were selected to describe a variety of importation scenarios, with a focus on electronic commerce transactions. A complete list of all scenarios analyzed by IRS accompanied by the related facts and circumstances set forth by IRS for the purposes of those scenarios can be found in the IRS documents listed on the source line of this figure. While the scenarios analyzed in IRS's 2011 Chief Counsel Advice Memorandum focus on imported archery equipment, IRS Chief Counsel told us the analysis also applies to sport fishing equipment.

In figure 5 scenario B above, IRS Chief Counsel concluded that a U.S. consumer would be the importer liable for the tax if the consumer ordered taxable equipment directly from a foreign manufacturer's website and had it shipped to the U.S. Chief Counsel said that because the U.S. consumer's order is the inducing and efficient cause of the goods being brought into the U.S., the U.S. consumer would owe excise tax on the use of the imported equipment.³³

Chief Counsel concluded that a U.S. consumer would be the importer for the same reasons if the consumer purchased equipment from a foreign internet retailer and had it shipped to the U.S. In contrast, for figure 5 scenario C above, a U.S. internet retailer that purchases equipment from a foreign distributor and re-sells it to a U.S. consumer with a customer satisfaction guarantee is the importer liable for the excise tax.

Increasing Direct-to-Consumer Import Scenarios Involving U.S. Online Marketplaces

Since IRS last analyzed e-commerce import scenarios in 2011, continued growth in e-commerce has created more opportunities for U.S. consumers to purchase taxable sport fishing and archery equipment on the internet from foreign sellers and have those goods shipped to them in the U.S. Sport fishing and archery trade industry representatives, fish and wildlife agencies, and other knowledgeable stakeholders expressed concerns that direct-to-consumer imports of sport fishing and archery equipment involving U.S. online marketplaces are increasing.

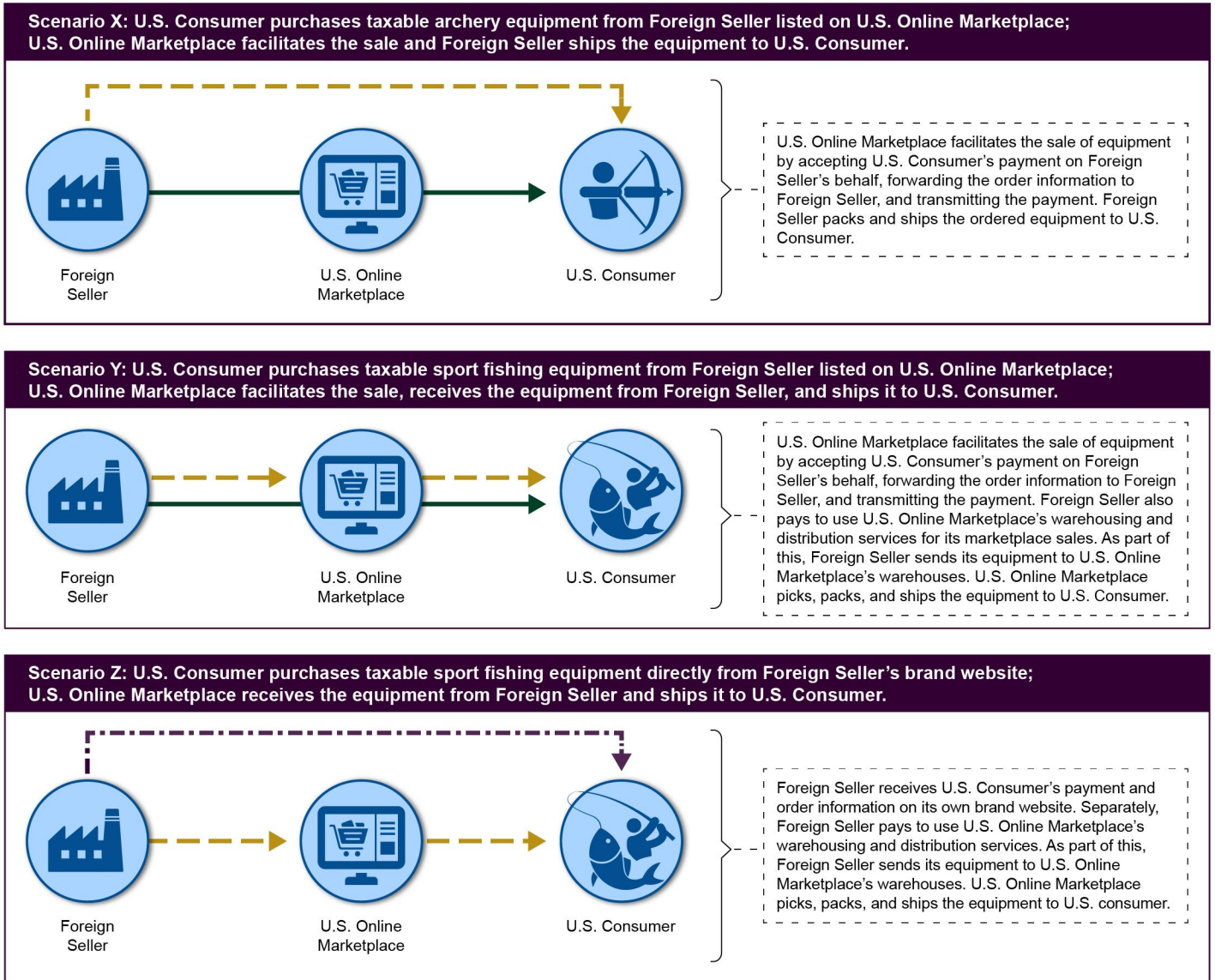
U.S. consumers can purchase taxable equipment from foreign sellers in transactions that involve U.S. online marketplaces. U.S. online marketplaces can facilitate sales of equipment between foreign sellers and U.S. consumers by listing foreign sellers' goods for sale on the marketplace, accepting payment for the equipment from a U.S. consumer on behalf of the foreign seller, and transmitting the payment and the U.S. consumer's order information to the foreign seller for shipment. U.S. online marketplaces can also offer warehousing and distribution services for foreign sellers' sales of equipment, either in addition to facilitating a sale, or as a separate service.

Figure 6 below presents hypothetical scenarios of how U.S. online marketplaces could facilitate sales and potentially provide warehousing and distribution for orders of taxable sport fishing and archery equipment between U.S. consumers and foreign sellers.³⁴

³³As we discuss later in this report, there would be legal and practical barriers to imposing and enforcing tax liability on foreign sellers in situations where U.S. consumers purchase taxable equipment directly from the foreign seller.

³⁴We developed these scenarios based on our review of publicly available information about the sale facilitation, warehousing, and distribution services offered by select U.S. online marketplaces that industry and other stakeholders we interviewed identified as being engaged in facilitating sales of or distributing taxable sport fishing and archery equipment.

Figure 6: Hypothetical Scenarios of Imported Sport Fishing and Archery Equipment Involving U.S. Online Marketplaces



- Facilitated sale of equipment
- - - Sale of equipment
- Shipment of equipment

Source: GAO analysis of U.S. online marketplace information. 4zevar/stock.adobe.com (U.S. online marketplace icon) and GAO (all other icons). | GAO-24-106569

Note: These scenarios are hypothetical and do not include all possible facts and circumstances that could be associated with similar transactions in the real world. According to the Internal Revenue Service, a determination of which party is the importer liable for federal excise tax would depend on all the facts and circumstances of a transaction. In addition, the scenarios are not intended to be comprehensive, and the services of the U.S. online marketplaces depicted above are not intended to represent the practices of any one company.

IRS Chief Counsel officials we reviewed these hypothetical scenarios with declined to comment on whether the U.S. online marketplace or the U.S. consumer would be the importer liable for the excise tax. They said their determination would depend on a review of the specific facts and circumstances of such transactions in the

real world. For example, officials said they would need to review invoices to see if the excise tax was stated at any point in the transaction, import entry forms, if available, to see which party was named as the importer of record, and any contracts or agreements between the parties, among other things.

While a case-by-case determination of who is the importer depends on the specific facts and circumstances of a transaction, IRS and Treasury officials stated that a U.S. consumer could be the importer liable for excise tax if the consumer purchased sport fishing or archery equipment on the internet from a foreign seller—including through a U.S. online marketplace—and had it shipped to the U.S. These consumer importers, as we refer to them in this report, would need to file a Form 720 to pay excise taxes on their use of the imported equipment.

IRS officials said they are aware of concerns about unpaid excise taxes on direct-to-consumer imports involving U.S. online marketplaces through their participation in the Trust Fund Collection Working Group. As of February 2024, IRS said it does not have plans to analyze other transaction scenarios in addition to those it addressed in the 2011 CCA memorandum. Chief Counsel explained that it issues legal advice to address questions posed by IRS staff—such as issues examiners are seeing in the field— and generally does not develop scenarios to analyze for its own purposes.

Business Taxpayers and Consumer Importers Face Challenges with IRS Sport Fishing and Archery Guidance

Consumer Importers Are Likely Unaware That They Owe Taxes on Sport Fishing and Archery Equipment

Sport fishing and archery trade representatives, fish and wildlife agencies, other knowledgeable stakeholders, and agency officials from IRS, Interior, and Treasury noted that excise taxes may not be paid on direct-to-consumer sales, in part, because U.S. consumers may not be aware of their excise tax obligations. These stakeholders and IRS officials agreed that the average consumer likely does not know that the excise taxes exist, or if the consumer knows the taxes exist, the consumer is unaware of possibly being responsible for paying them.

According to IRS officials, consumers face an information disadvantage complying with manufacturers excise taxes in terms of knowing when they are imposed and who pays them to IRS. Manufacturers excise taxes are normally paid by a party higher up in the distribution chain, which differs from other types of excise taxes that may be more visible to an end consumer. For example, retailers excise taxes for heavy trucks, trailers, and tractors are imposed on the first retail sale of these articles. Similarly, facilities and services excise taxes, such as those for air transportation, are imposed on the consumer and are collected and paid to IRS by the business receiving payment for the service, such as an airline. Unlike manufacturers excise taxes, air transportation excise taxes may be enumerated on the consumer's receipt, making it more apparent that they are imposed on the transaction.

Consumers Importing Other Taxable Goods May Have Access to Information about Their Tax Responsibilities

Consumers could be liable for other manufacturers excise taxes when they import items such as tires, gas guzzler vehicles, firearms, and ammunition. However, Treasury officials told us that consumers are less likely to directly import these items. For example, importing a vehicle or tires may pose complexities with shipping and delivery.³⁵ In addition, the importation of vehicles, firearms, and ammunition is regulated.

If consumers do import these items, they may be aware of their excise tax responsibilities. This is because agencies involved in the importation and regulation of these products provide information to help consumer importers understand importation requirements and other responsibilities, including what excise taxes they may owe and how to pay them. For example,

- **Gas guzzler vehicles.** U.S. Customs and Border Protection (CBP) maintains a webpage with information for U.S. residents importing motor vehicles into the U.S.³⁶ This page informs importers of various requirements, including that they may be liable for the gas guzzler excise tax. IRS's Form 6197, Gas Guzzler Tax states that vehicles imported for personal use are subject to the excise tax and includes instructions specific to individuals making a one-time filing of Form 720.³⁷ An individual eligible for a one-time filing is instructed to enter their Social Security number or individual taxpayer identification number and check the one-time filing box for the gas guzzler tax on Form 720.
- **Firearms and ammunition.** The Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives guidebook on the importation of firearms and ammunition assists importers with required forms, policies, and import procedures.³⁸ The guide includes information on the firearms and ammunition excise tax and refers importers to Treasury's Alcohol and Tobacco Trade Bureau (TTB), which administers these taxes. TTB's firearms and ammunition excise tax webpage states that consumers are liable for the excise taxes on articles imported for personal use and includes questions and answers to help individuals determine if they are liable for the excise taxes on a one-time or occasional importation.³⁹ The firearms and ammunition excise tax return and instructions state that an individual liable for the tax, but not engaged in the firearms and ammunition business, must file a one-time or occasional return, and may use their Social Security number, rather than an employer identification number, to do so.

³⁵Excise taxes on tires generally apply to those with a maximum rated load capacity over 3,500 pounds. 26 U.S.C. § 4071(a).

³⁶U.S. Customs and Border Protection, *Importing a Motor Vehicle* (Washington, D.C.), accessed May 8, 2024, <https://www.cbp.gov/trade/basic-import-export/importing-car>.

³⁷Taxpayers liable for the gas guzzler tax use Form 6197, *Gas Guzzler Tax* to calculate the tax owed.

³⁸Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), *ATF Guidebook – Importation & Verification of Firearms, Ammunition, and Implements of War* (Washington, D.C.: 2015), accessed May 8, 2024, <https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-ammunition-and-implements-war>.

³⁹Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau, *Firearms/Ammunition Excise Tax – Importers* (Washington, D.C.), accessed May 8, 2024, <https://www.ttb.gov/regulated-commodities/firearms/importers>.

IRS Guidance on Sport Fishing and Archery Excise Taxes Is Scattered and Lacks Information for Consumer Importers

IRS Guidance Is Scattered and Difficult to Find

IRS has a number of resources aimed at helping sport fishing and archery industry taxpayers understand and meet excise tax obligations (see appendix II for more information on IRS guidance addressing the excise taxes). However, the guidance is scattered across several sources and in some cases hard to find.

For example, multiple sources either address aspects of who is liable for the excise taxes or how to apply constructive sale price rules, and these sources often do not reference one another (see sidebar).

Constructive sale price rules

If a manufacturer, producer, or importer of taxable sport fishing or archery equipment sells an article other than to a wholesale distributor, the tax calculation can be made on a constructive sale price, rather than the actual sale price.

The Internal Revenue Code (IRC) and Internal Revenue Service (IRS) guidance provide constructive sale price rules that aim to reconstruct what the wholesale selling price would have been.

For example, the IRC provides that if a manufacturer regularly sells a taxable article to retailers or at retail to end consumers, also regularly sells such articles to independent wholesale distributors, and the retail transaction at hand is conducted with a non-related party at fair market value, the tax can be computed on whichever of the following prices is lower:

- the actual sale price, or
- the highest price that the manufacturer sells such articles to independent wholesale distributors.

Source: 26 U.S.C § 4216; 26 C.F.R. § 48.4216 and GAO analysis of IRS documents. | GAO-24-106569

- **2006 Field Directive.** The 2006 Field Directive is likely the first resource that sport fishing and archery taxpayers would find using key word searches on IRS.gov. The 2006 Field Directive provides general information on constructive sales pricing. It also documents IRS's analysis of who is the importer liable for the tax in some importation scenarios but does not include the e-commerce import scenarios IRS analyzed in its 2011 CCA memorandum. However, the original purpose of the 2006 Field Directive was to provide guidance for IRS field examiners, rather than for taxpayers. According to IRS officials, IRS no longer uses field directives to issue examiner guidance, and they do not plan to update the directive nor develop another vehicle to maintain its content. The 2006 Field Directive neither cites nor directs taxpayers to the Publication 510 or the Form 720 and instructions, which IRS officials said are the primary sources of guidance for excise taxpayers. As a result, taxpayers may mistakenly rely on outdated information from the 2006 Field Directive when attempting to learn about and comply with their excise tax obligations.
- **Publication 510, *Excise Taxes*.** According to IRS officials, Publication 510 is the primary plain language guidance for sport fishing and archery excise taxpayers.⁴⁰ The guidance covers all excise taxes for which taxpayers may be liable and which are reported on Form 720. Publication 510 mentions constructive sale price rules in the context of the resale of certain sport fishing equipment, but it does not otherwise discuss general constructive sale price rules or when they may apply.

⁴⁰Department of the Treasury, Internal Revenue Service, *Publication 510, Excise Taxes* (Washington, D.C.: Mar. 14, 2023).

- **Form 720 and Instructions.** IRS provides instructions for completing Form 720.⁴¹ These instructions explain how to use the Form 720 to report the tax owed and when to file, but also do not include information on constructive sale price rules that may be needed to calculate the tax.

Further, none of the information and resources discussed above direct taxpayers to IRS Notice 2012-77 and Revenue Rulings 80-273 and 81-226.⁴² These documents provide additional guidance to manufacturers, producers, and importers of sport fishing and archery equipment on how to calculate their excise taxes in situations not covered in the IRC.⁴³ For example, Revenue Rulings 80-273 and 81-226 provide industry-specific guidance on what price manufacturers should use to calculate their tax due when they sell equipment at retail to end consumers and do not sell similar equipment to wholesale distributors (see appendix II for a description of the different constructive price rules guidance).

To help their members understand and comply with their excise tax obligations, sport fishing and archery trade associations developed their own guides to paying the taxes. These guides include an overview of how the tax is calculated, including the industry-specific constructive sale price rules that are not explicitly referenced in other IRS resources. However, businesses that do not belong to these associations would need to pay for the industry tax guides or would have to rely on constructive sale price rules scattered across several IRS sources to learn about how to comply with their obligations.

All of the stakeholders we interviewed told us that they view manufacturers and traditional wholesale importers to be generally compliant with their excise tax obligations. However, a trade industry representative and a stakeholder knowledgeable about IRS outreach noted that business taxpayers typically face challenges with applying constructive sale price rules and calculating their tax liability.

Federal standards for internal control state that management should use quality information to achieve the agency's objectives.⁴⁴ As part of this, management should ensure that the information is current, complete, accurate, and accessible.

Regarding the guidance, IRS publishes its tax regulations and other guidance in its weekly Internal Revenue Bulletin. The Internal Revenue Bulletin is generally organized by rulings and decisions, tax legislation, and other items rather than by subject matter. In addition to guidance published in the Internal Revenue Bulletin, IRS's website contains thousands of other documents that provide information to taxpayers. IRS officials told us that sport fishing and archery taxpayers can search for and find relevant revenue rulings and notices on

⁴¹Department of the Treasury, Internal Revenue Service, *Instructions for Form 720, Quarterly Federal Excise Tax Return* (Washington, D.C.: Mar. 7, 2023).

⁴²Department of the Treasury, Internal Revenue Service, *Revenue Ruling 80-273, Constructive sale price; Retail sales; No sales to wholesalers* (Washington, D.C.: Oct. 14, 1980); *Revenue Ruling 81-226* (Washington, D.C., Jan. 1, 1981); and *Notice 2012-77, Interim Guidance and Request for Comments; Medical Device Excise Tax; Manufacturers Excise Taxes; Constructive Sale Price; Deposit Penalties* (Washington, D.C.: Jan. 1, 2013).

⁴³IRS publishes guidance, such as revenue rulings and notices, in the weekly Internal Revenue Bulletin. Taxpayers can rely on Internal Revenue Bulletin guidance as authoritative and as precedent because IRS is bound by it.

⁴⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

IRS.gov. IRS officials also told us that they conduct outreach with trade associations to help raise awareness of legal responsibilities and requirements.

Without IRS centrally locating and ensuring completeness of its existing guidance, manufacturers, producers, and importers who are trying to comply with tax law may continue to rely on guidance scattered across several sources. IRS is missing an opportunity to assist taxpayers currently struggling to understand how to calculate the tax and accurately meet their tax obligations, and to improve future compliance.

IRS Guidance Lacks Information for Consumer Importers

None of the existing forms of guidance discussed above mention when a U.S. consumer may be liable for the taxes or provide instructions for consumer importers to calculate, file, and pay them.

- **When consumer importers may be liable.** The 2011 CCA memorandum—the only source of information that addresses when a U.S. consumer may be liable for the excise taxes—is not mentioned within Publication 510, the Form 720 instructions, or the 2006 Field Directive. Consumers looking for information on IRS.gov to determine whether they might have excise tax liability would likely need to search IRS’s Freedom of Information Act Library and would need specific search terms, such as the memorandum number, to do so.
- **How consumer importers should calculate the amount of tax due.** Existing guidance does not explicitly address what price consumer importers should use to calculate the tax due on imports of equipment for personal use. Consumers might calculate the excise tax by applying the tax rate for the equipment to their purchase price, similar to a sales tax calculation. However, this could lead to their paying more excise tax than a traditional domestic manufacturer, producer, or importer that sold the same product and paid tax based on a lower wholesale selling price.⁴⁵ According to IRS officials, the excise tax has traditionally been based on wholesale transactions. Officials told us that constructive sale price rules would technically apply to scenarios where consumer importers purchase taxable sport fishing or archery equipment imported for their own use. However, IRS has not yet specified how consumer importers should apply the rules and calculate the tax.
- **How consumer importers should file and pay the taxes.** IRS guidance does not clarify how consumer importers liable for a one-time filing for sport fishing and archery excise taxes should complete the Form 720. Specifically, the Form 720 asks for an employer identification number to file, which individuals generally would not have. According to IRS officials, if a taxpayer filed a Form 720 with either a Social Security number or individual taxpayer identification number, that taxpayer would be assigned an employer identification number and the Form 720 would still be processed.

None of the stakeholders we interviewed were aware of any information or resources to inform consumer importers of their excise tax obligations or how to pay the sport fishing and archery excise taxes on equipment imported for personal use.

IRS’s stated mission is to “provide America’s taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.” The first article in IRS’s

⁴⁵Alternatively, a manufacturer, producer, or importer that sold the same product directly to a retailer or to a consumer could apply constructive sale price rules and compute the tax due based on a price that approximates what the wholesale selling price would have been, as described above.

Taxpayer Bill of Rights—“The Right to Be Informed”—states that taxpayers have the right to know what they need to do to comply with tax laws. The article further states that taxpayers are entitled to clear explanations of the laws and IRS procedures in all forms, instructions, publications, notices, and correspondence.⁴⁶

Regarding guidance for consumer importers, according to IRS officials, Chief Counsel considers publishing new guidance when a tax issue is brought to IRS’s attention, such as an issue identified by IRS examiners working in the field, or via a request from the public. As of February 2024, Chief Counsel had not received a request to develop guidance for consumers liable for the sport fishing and archery excise taxes. Small Business/Self-Employed (SB/SE) excise tax officials told us that IRS could explore options to provide information to consumers about sport fishing and archery excise taxes and other excise tax obligations that may apply to them, such as developing frequently asked questions or consulting with tax software companies to inform taxpayers. However, given the lack of consumer awareness that the taxes exist, IRS officials told us they are uncertain that consumer importers would file and pay the taxes, even with guidance on how to do so.

As previously discussed, our analysis of IRS data suggests that few individual taxpayers with no business income pay the sport fishing and archery excise taxes. Without clear guidance on when they might be liable and how they should calculate and pay the taxes, consumer importers attempting to comply with their excise tax obligations under current law will not have the information needed to do so.

Collecting These Taxes from Consumer Importers Is Burdensome and Inefficient

Consumer Importers Face Substantial Compliance Burden

Although additional information could help consumers navigate their excise tax responsibilities, the compliance burden for consumers could still exceed the amount of excise tax that they owe. A consumer purchasing low-value archery or sport fishing equipment online could owe a tax liability of \$10 or less (see appendix IV for two illustrative examples).

U.S. consumers who purchased sport fishing and archery equipment in a transaction facilitated by a U.S. online marketplace would face difficulties determining if they are the importer for the purposes of the tax. IRS officials told us the consumer may need to work directly with the U.S. online marketplace to obtain certain facts and circumstances about the purchase. For example, a consumer may need the help of the marketplace to determine if the seller is foreign and the equipment is being imported to the U.S. and if they—the consumer—are listed on any import documentation. This would be burdensome for both the consumer and the U.S. online marketplace. The consumer would then need to apply their knowledge of the law to determine if they are the liable importer.

Additionally, consumer importers may not have all the information needed to calculate their tax liability, even with improved guidance from IRS. For example, consumer importers who purchase combined items of equipment with different tax rates, or taxable equipment bundled with nontaxable equipment, would face challenges separating out the underlying value of the individual goods to calculate the tax due. For example,

⁴⁶Department of the Treasury, Internal Revenue Service, *Your Rights as a Taxpayer, Publication 1* (Sept. 2017). This publication explains 10 rights of taxpayers.

for a fishing tackle box and tackle combination kit, the tackle box is subject to a 3 percent tax, while the tackle is subject to a 10 percent tax. IRS officials told us that while traditional manufacturers and importers should have information to substantiate the separate wholesale selling price of each item and correctly calculate the tax due on the combined sale, consumers would not have ready access to this information.

If a consumer importer were able to determine they were liable and calculate any tax due, the consumer would still need to take the same steps as a business taxpayer to report any liability and pay the excise taxes to IRS. For example, the consumer would need to:

- go to IRS's website and learn about the requirements;
- potentially apply for an employer identification number by going online or completing a paper Form SS-4, *Application for Employer Identification Number*;
- print a paper Form 720, calculate the excise tax owed, and fill out the form; and
- stamp and mail the completed Form 720 and payment voucher to IRS.⁴⁷

Agencies' Outreach and IRS Compliance Efforts Would Not Be Cost Effective for Consumers and Low-Value Imports

IRS officials told us that collecting the excise taxes from consumer importers would generally be expensive and resource intensive for IRS to enforce. For example, IRS officials told us the average cost for a sport fishing and archery excise tax examination exceeded \$1,000 in fiscal years 2018 to 2022, the only years available. IRS officials also told us that efforts to raise awareness among consumer importers would be unlikely to increase voluntary compliance enough to justify the cost.

Increasing consumer importer compliance could also increase Form 720 processing costs for IRS, potentially in excess of the revenue collected. According to officials, IRS estimated it cost \$3.94 in fiscal year 2022 to process a Form 720 return. Processing costs for a Form 720 could, in some cases, exceed the excise tax revenue for consumers who import a small number of small value archery or sport fishing items (see appendix IV for illustrative examples).

With enforcement efforts for consumer importers unlikely to be cost effective, IRS officials told us that agencies' outreach and IRS enforcement efforts focus on manufacturers and traditional importers.

- **IRS and Interior collaborate on outreach and education to traditional industry excise taxpayers.** For example, IRS and Interior officials have attended large industry trade shows to raise awareness about the excise taxes and responsibilities and communicate the benefits of increased compliance for industry and fish and wildlife conservation. IRS officials told us that their outreach efforts focus on improving voluntary compliance at the trade association level because the sport fishing and archery excise taxes were designed to be paid by manufacturers. Through the Partner with a Payer initiative, Interior works with

⁴⁷Alternatively, consumer importers could electronically file Form 720 but would face additional costs that could still exceed their amount of tax due. Generally, taxpayers who choose to electronically file must use an IRS-approved provider and pay a service fee.

industry representatives and state fish and wildlife agencies to increase awareness among manufacturers about the fish and wildlife conservation projects funded with excise tax revenue.

- **IRS leverages import data collected by U.S. Customs and Border Protection to identify potential excise tax noncompliance.** As part of its sport fishing and archery audit selection process, IRS matches formal import entry summary data on imported goods from U.S. Customs and Border Protection (CBP) Form 7501 and its electronic equivalent to Form 720 filing data to identify potential nonfilers.⁴⁸ However, the strategy does not provide IRS information on low-value imports. As previously discussed, CBP Form 7501, or its electronic equivalent, is generally not required for informal entries and low-value imported goods below the \$800 de minimis threshold. Consumer purchases likely fall under the de minimis amount, so IRS does not have data to identify instances where consumers are importing taxable products. According to IRS officials, excise tax examiners are trained on issues that examiners are likely to encounter in the field, which generally involve businesses and not consumer importers.

Noncompliance Reduces Conservation Revenue and Disadvantages Compliant Manufacturers and Importers

Treasury and IRS officials told us that direct-to-consumer import sales are a growing compliance challenge. According to IRS officials, IRS has not estimated the potential amount of unpaid excise taxes associated with direct-to-consumer imports. Because the number of consumers who may be liable for but not paying these taxes is unknown, we cannot precisely estimate the amount of forgone revenue.⁴⁹ However, given the average annual amount of tax collected from 2007 to 2023 approximates \$200 million, a loss of even one-half of 1 percent could represent \$1 million or more in revenue lost on untaxed direct-to-consumer imports.⁵⁰ Although many direct-to-consumer imports may be of low dollar value, a large volume of untaxed sales can add up in terms of revenue forgone for conservation funding each year.

IRS and Interior officials, trade industry representatives, state fish and wildlife agencies, and other knowledgeable stakeholders all said that the sport fishing and archery excise taxes form an important funding base for conservation because they provide a dedicated revenue stream for states' and territories' fish and wildlife agencies. However, the industry, state fish and wildlife agencies, and other stakeholders we interviewed told us that issues with unpaid taxes on direct-to-consumer import sales are growing and could reduce revenue for conservation funding.

In addition to these revenue considerations, all stakeholders we interviewed told us that when consumer importers do not pay excise taxes, it puts compliant U.S. manufacturers and importers at a competitive disadvantage compared to foreign sellers. Compliant manufacturers and importers may pass some or all of the cost of the excise tax on to the next purchaser in the form of higher sales prices. U.S. consumers may then

⁴⁸In 2014, IRS and CBP signed a memorandum of understanding that established the current procedures and guidelines for CBP to exchange import data with IRS to assist in administering applicable federal taxes on imported products.

⁴⁹In March 2022 and February 2024, a market research and economics firm attempted to estimate the amount of unpaid sport fishing and archery excise taxes on direct-to-consumer import sales. See Southwick Associates, *Estimating Unpaid WSFR Tax Revenues Associated with Direct-to-Consumer Imports* (Fernandina Beach, FL: Mar. 2022); and *Unpaid WSFR Tax Revenues Associated with Direct-to-Consumer Imports: Baseline Estimates* (Fernandina Beach, FL: Feb. 2024).

⁵⁰This is based on our analysis of the about \$206 million of average inflation-adjusted annual sportfishing and archery excise taxes paid annually between fiscal years 2007 through 2023.

face choices between products that have the excise tax included in their final retail prices and similar products sold by foreign sellers with no taxes reflected in their retail prices.

When faced with these options, U.S. consumers may change their behavior in ways that reduce economic efficiency and disadvantage compliant manufacturers and importers. For example, U.S. consumers may choose to purchase lower-priced products available from foreign sellers over otherwise preferable products with higher prices reflecting the tax already paid by a manufacturer or importer.⁵¹

Direct-to-Consumer Import Transactions Bypass the Traditional Framework for Excise Tax Collection

As we have established in our prior work, criteria for a good tax system include the equity, or fairness, of the system; the economic efficiency, or neutrality, of the system; and the simplicity, transparency, and administrability of the system (see text box).⁵² These criteria can sometimes conflict with one another, and as a result there are usually trade-offs to consider. Under current law, collecting small-dollar excise taxes from consumer importers is not simple, transparent, or administrable. Evidence suggests that few, if any, consumer importers are paying these taxes, and IRS faces challenges in enforcing these taxes among such taxpayers. This, in turn, creates inequity and inefficiency.

⁵¹Though the consumer importer is liable for the tax themselves, our analysis of IRS data suggests few, if any, are paying the tax.

⁵²[GAO-05-1009SP](#).

Criteria for a Good Tax System

Three criteria of a good tax system are typically used to evaluate the advantages and disadvantages of a particular tax system:

- **Equity** is a subjective criterion and opinions vary widely about what constitutes an equitable tax system. Equitable tax systems ensure, among other things, that taxpayers who are similarly situated receive similar tax treatment.
- **Economically efficient** tax systems aim to ensure that resources are used to provide the greatest possible benefit or well-being to society. Taxes can impose efficiency costs by altering tax system participants' behavior, inducing them to shift resources to reduce tax liability.
- **Simplicity, transparency, and administrability** are interrelated but distinct features. Simple tax systems impose less compliance burden on participants than more complex systems. Transparent systems make it easy for taxpayers to calculate their liabilities and grasp the logic behind tax laws and tax rates. Administrable tax systems allow governments to collect taxes as cost effectively as possible.

Source: [GAO-05-1009SP](#). | [GAO-24-106569](#)

IRS and Treasury officials told us that collecting taxes from a party higher in the retail distribution chain would generally be simpler and more administrable than collecting from each consumer importer. Manufacturers excise tax collection is based on a traditional distribution chain where the entity responsible for paying the tax on its first sale of the equipment—typically a U.S. manufacturer or business importer—is situated higher up the distribution chain. According to IRS and Treasury officials, because there is no longer one of these entities between a foreign seller and the U.S. consumer importer, the traditional party in the excise tax collection system is bypassed.

IRS officials stated it would be useful to consider more efficient ways in which to impose or collect the excise taxes on consumer imports. In situations where a U.S. consumer orders equipment directly from a foreign seller, as shown in figure 5 scenario B, there are significant legal and practical barriers to imposing and enforcing tax liability on the foreign seller. However, when U.S. online marketplaces are involved in sales of imported equipment between foreign sellers and U.S. consumers, they represent a U.S.-based entity that is higher on the retail distribution chain than the U.S. consumer, as shown in the hypothetical scenarios in figure 6.

IRS Chief Counsel officials told us that under current law, a U.S. online marketplace would only be required to pay excise taxes if they were the legal importer of the equipment based on the facts and circumstances of the transaction. IRS and Treasury officials stated that legislation would be needed to shift where the taxes are imposed on the distribution chain.

Imposing the taxes higher up the distribution chain has the potential to improve alignment with the criteria for a good tax system.⁵³ Collecting taxes from U.S. online marketplaces—compared to collecting from each consumer importer—would generally improve administrability by:

- lowering the number of taxpayers with direct obligations and increasing the average dollar amount per tax filing, which would improve the cost-effectiveness of IRS's return processing; and

⁵³We previously applied the criteria for a good tax system to the remote sales tax system. The challenges with collecting and enforcing the sport fishing and archery excise taxes at the consumer-importer level share some similar features to the challenges that many states previously had collecting sales tax from consumers who purchased taxable goods from businesses operating out-of-state, including electronic commerce businesses. See [GAO-23-105359](#).

- increasing the average amount of unpaid taxes that may be collected during a taxpayer examination, which would improve the efficiency of IRS's enforcement efforts.⁵⁴

Any change shifting where in the distribution chain excise taxes are imposed for consumer imports has inherent tradeoffs, including those related to improved excise tax collection versus added burdens for U.S. online marketplaces. However, the overall burden for U.S. online marketplaces would likely be lower than if every individual consumer importer attempted to pay the tax.

A change in the law could improve excise tax collection on consumer imports in some or all of the figure 6 hypothetical scenarios depicting a U.S. online marketplace that provides a combination of sale facilitation, warehousing, and distribution services. In practice, a range of U.S. electronic commerce companies may be involved in providing one or several of these services for a transaction. The design and details of any legislative change may affect which specific scenarios are addressed and which company involved in the transaction collects and pays the excise tax. We contacted three major U.S. online marketplaces to discuss these topics. All three declined to meet with us.

A U.S. consumer may still purchase and import equipment directly from a foreign seller's website, as illustrated in figure 5 scenario B. For these types of sales, the consumer would remain liable for the taxes and compliance would likely remain low. IRS and Treasury officials raised concerns that imposing the taxes on U.S. online marketplaces could lead to some consumers choosing to purchase equipment directly from foreign sellers' websites. As we discuss above, consumer importers would benefit from additional guidance from IRS telling them when they are liable and how to calculate, file, and pay the taxes for direct import purchases.

Without legislation making U.S. online marketplaces responsible for the excise taxes on consumer import sales in which they are involved, collecting revenue on these sales will remain neither simple, transparent, nor administrable, and issues with inequity and inefficiency will persist. Shifting responsibility to the U.S. online marketplaces involved in direct-to-consumer import sales would not address all challenges but would bring tax collection of consumer imports closer into alignment with the criteria of a good tax system.

Conclusions

Excise taxes on sportfishing and archery equipment provide dedicated funding for fish and wildlife conservation. The taxes are imposed on U.S. manufacturers, producers, and importers first sale of equipment. However, under current law, U.S. consumers who purchase products directly from foreign sellers—such as through a U.S. online marketplace or from a foreign website—may not know that they are importers responsible for paying the excise taxes.

IRS provides information to help taxpayers understand and meet their sport fishing and archery excise tax obligations. However, existing guidance is scattered across several sources and, in some cases, difficult to find. Without consolidated guidance, taxpayers will likely find it difficult to get the information they need to comply with their obligations.

⁵⁴According to Treasury officials, IRS may need to consider what, if any, information gathered by U.S. online marketplaces could be useful reporting for IRS enforcement purposes.

IRS's guidance also lacks information that liable consumer importers need to comply with these taxes. Without information on when they owe taxes, how to calculate their liability, and how to file a return, consumer importers who try to pay these excise taxes to IRS will not know how to do so.

However, even with additional guidance from IRS, agency efforts to collect and enforce these taxes from each consumer importer would create substantial compliance burden for consumers and would be inefficient for IRS to administer in all cases.

Without legislation making U.S. online marketplaces responsible for the excise taxes on consumer import sales in which they are involved, IRS will not be able to collect excise tax revenue dedicated for conservation efforts on these sales. Shifting responsibility to the U.S. online marketplaces could bring these taxes closer into alignment with the criteria for a good tax system. For those U.S. consumers who purchase taxable items directly from foreign sellers' websites, additional guidance from IRS could help improve compliance.

Matter for Congressional Consideration

We are recommending the following matter for congressional consideration:

Congress should consider making U.S. online marketplaces responsible for excise taxes on sales of imported sport fishing and archery equipment that they are involved in between foreign sellers and U.S. consumers. (Matter for Congressional Consideration 1)

Recommendations for Executive Action

We are making the following two recommendations to IRS:

The Commissioner of Internal Revenue, in coordination with the Secretary of the Treasury, should consolidate existing guidance on federal sport fishing and archery excise taxes and ensure that it is made easily accessible to taxpayers. (Recommendation 1)

The Commissioner of Internal Revenue, in coordination with the Secretary of the Treasury, should develop guidance for consumers on when they may be liable for and how to calculate, file, and pay the sport fishing and archery excise taxes. (Recommendation 2)

Agency Comments

We provided a draft of this report for review and comment to the Department of the Treasury, the Internal Revenue Service (IRS), the Department of Homeland Security's U.S. Customs and Border Protection (CBP), and the Department of the Interior.

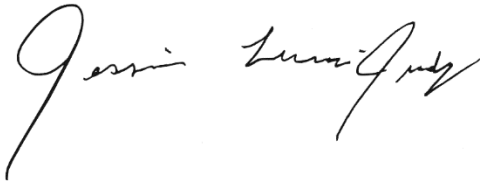
In its comments, reproduced in appendix V, IRS agreed with recommendation 1 and said it will explore opportunities to consolidate and ensure existing guidance on sport fishing and archery excise taxes is made easily accessible. IRS also agreed with recommendation 2 and said it will consider developing informational sources to assist consumers liable for the taxes.

IRS, CBP, and Interior provided technical comments, which we incorporated as appropriate. Treasury had no comments on the draft report.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Treasury, the Commissioner of IRS, the Secretary of Homeland Security, and the Secretary of the Interior, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-6806 or lucasjudyj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to the report are listed in appendix VI.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Lucas-Judy". The signature is written in a cursive style with a large initial "J".

Jessica Lucas-Judy
Director, Tax Policy and Administration
Strategic Issues

Appendix I: Objectives, Scope, and Methodology

The objectives of this report were to (1) describe numbers and types of taxpayers who are liable for and paying sport fishing and archery excise taxes, (2) assess challenges consumer importers face in complying with these excise taxes and the extent to which such challenges may apply to consumers liable for other similar excise taxes, and (3) assess the extent to which the Internal Revenue Service's (IRS) and federal agencies' efforts to collect these excise taxes align with the criteria for a good tax system.

To describe the numbers and types of taxpayers paying the excise taxes, we reviewed IRS guidance for the sport fishing and archery excise taxes, such as *IRS Publication 510, Excise Taxes* and *Form 720, Quarterly Federal Excise Tax Return* (Form 720) and its instructions. We analyzed summary data from IRS on the amounts of sport fishing and archery excise taxes paid by Form 720 filers each year, and the number of unique filers. We analyzed data from fiscal years 2007 through 2023.¹ To obtain information on the types of filers paying these taxes, we reviewed IRS summary data on the distribution of taxes paid, which was broken into deciles according to the size of filers' liabilities. We also asked IRS to match the tax identification number of each Form 720 filer to a corresponding income tax return and provide us the matching results.²

To assess the reliability of the IRS summary data, we reviewed related documentation and interviewed IRS Small Business/Self-Employed (SB/SE) Research officials knowledgeable about the data. We also compared IRS summary totals of sport fishing and archery excise taxes paid on quarterly Forms 720 to IRS Statistics of Income data and certified and uncertified excise tax amounts provided by the Department of the Interior's U.S. Fish and Wildlife Service.³ Based on this work, we determined the summary data were sufficiently reliable for our reporting purposes.

To describe what types of taxpayers are liable for paying the tax, we reviewed applicable laws, including the Internal Revenue Code (IRC), Department of the Treasury regulations, and IRS revenue rulings related to sport fishing and archery excise taxes. We also reviewed IRS documents that discuss factors IRS considers when determining who is the importer for the purposes of paying the excise tax, as well as illustrative import scenarios developed and analyzed by IRS to determine who is liable for the excise taxes.

Also, we developed additional hypothetical import scenarios involving U.S. online marketplaces. We developed these scenarios based on our review of publicly available information about the sale facilitation, warehousing, and distribution services offered by select U.S. online marketplaces that our interviewees identified as being engaged in facilitating sales of, or distributing, taxable sport fishing and archery equipment. The scenarios are

¹Fiscal year 2007 is the earliest year for which complete and reliable annual data were available that reflected the current statutory excise tax rate structure. Fiscal year 2023 is the most recent year for which complete annual data were available.

²Form 720 filers paying sport fishing and archery excise taxes were matched with income tax returns such as *IRS Form 1040, U.S. Individual Income Tax Return*, *Form 1120, U.S. Corporation Income Tax Return*, and *Form 1065, U.S. Return of Partnership Income*.

³IRS summary data fiscal year totals report the quarterly Form 720 tax liability during the year beginning October 1 and ending September 30. Due to differences in the timing of payments, these totals differ from the certified tax collections reported by IRS to Interior's U.S. Fish and Wildlife Service for the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund.

not intended to be comprehensive, and the services provided by the U.S. online marketplaces depicted in the scenarios are meant to be generic and are not intended to represent the practices of any one company.

To assess challenges consumer importers face in complying with the excise taxes on direct-to-consumer imports, we reviewed IRS guidance available for helping taxpayers understand how to calculate, file, and pay the sport fishing and archery excise taxes. We also interviewed a nongeneralizable sample of six stakeholders from a trade association representing members of the sport fishing industry, a trade association representing members of the archery industry, an association of state fish and wildlife agencies, and others knowledgeable about the federal excise taxes, including an economist and a consultant. We identified these groups through a combination of methods, including identifying industry and fish and wildlife participants on the Trust Fund Collection Working Group (the working group), a group consisting of federal agency, industry, and state fish and wildlife agency members involved in the payment, collection, administration, and spending of the Wildlife and Sport Fish Restoration funds.⁴

We asked IRS, U.S. Customs and Border Protection (CBP), Treasury, and Interior officials to identify other organizations and individuals with knowledge about the excise taxes. We also conducted a literature search for other articles, reports, and papers, among other publications, describing compliance challenges with the excise taxes to identify potential stakeholders knowledgeable about the topic. We contacted three major U.S. online marketplaces to discuss their experiences with the federal excise taxes and perspectives on actions and strategies for collecting the taxes on direct-to-consumer imports of sport fishing and archery equipment. However, none of these online marketplaces agreed to meet with us.

To describe whether the consumer importer compliance challenges with sport fishing and archery excise taxes apply to consumers liable for other similar excise taxes, we reviewed the other manufacturers excise taxes imposed under chapter 32 of the IRC.⁵ We focused our review on these other excise taxes because, like the sport fishing and archery taxes, they are generally imposed on manufacturers, producers, or importers of certain articles, attach upon the sale of the taxable article, and are based on the sales price of the items. We reviewed IRS and other agency resources and information available to taxpayers to comply with these excise taxes and interviewed IRS and Treasury officials.

To assess the extent to which IRS's and other federal agencies' efforts to collect these taxes align with the criteria for a good tax system, we reviewed agency and working group documentation. We interviewed IRS, Interior, and CBP officials about outreach and enforcement efforts related to sport fishing and archery excise taxes. We also interviewed stakeholders to obtain their input on actions and strategies to address taxpayer compliance challenges. We assessed our findings obtained through the methodologies above against three

⁴We did not interview all the trade industry organizations that participate on the working group. For example, we excluded industry organizations representing manufacturers and retailers of firearms and ammunition, which provide revenue for the Wildlife and Sport Fish Restoration funds but are outside the scope of this review.

⁵In addition to sport fishing and archery equipment, IRC chapter 32 imposes taxes on gas guzzler vehicles, tires, and motor and aviation fuels, among other items. 26 U.S.C. §§ 4064–4227.

long-standing and widely accepted criteria for a good tax system: equity, economic efficiency, and a combination of simplicity, transparency, and administrability.⁶

To address all three objectives, we interviewed IRS officials from the Office of Chief Counsel and the SB/SE division who work on excise taxes. We also interviewed officials from CBP within the Department of Homeland Security, Treasury, and Interior's U.S. Fish and Wildlife Service.

We conducted this performance audit from January 2023 to July 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁶GAO, *Understanding the Tax Reform Debate: Background, Criteria, & Questions*, [GAO-05-1009SP](#) (Washington, D.C.: Sept. 1, 2005). This report describes how the criteria can be used to evaluate tax policy. In developing the report, we relied on government studies, academic articles, and the advice of tax experts to provide us with information on the issues surrounding the tax reform debate.

Appendix II: Internal Revenue Service Guidance Addressing Federal Excise Taxes on Sport Fishing and Archery Equipment

The Internal Revenue Service (IRS) has a number of resources aimed at helping sport fishing and archery industry taxpayers understand and meet excise tax obligations.

Table 1: Internal Revenue Service Guidance Addressing Federal Excise Taxes on Sport Fishing and Archery Equipment

Guidance	Description
Publication 510, Excise Taxes	<ul style="list-style-type: none">Communicates the requirements of the tax law.Provides information on when the sport fishing and archery excise taxes are imposed, taxable equipment, and the method for reporting and paying the excise taxes using <i>Quarterly Federal Excise Tax Return</i> (Form 720).
<i>Quarterly Federal Excise Tax Return</i> (Form 720) and Form 720 Instructions	<ul style="list-style-type: none">The Form 720 contains the current tax rates.The instructions inform taxpayers how to use Form 720 to report their excise tax liability and pay the taxes listed on the form.
<i>2006 Field Directive Federal Excise Tax on the Importation and Manufacture of Fishing and Archery Products</i>	<ul style="list-style-type: none">Communicates information from various laws, regulations, and Internal Revenue Service (IRS) documents, including:<ul style="list-style-type: none">Who is liable for the excise taxes;General constructive sale price rules for manufacturers; andTaxable sport fishing and archery equipment.Walks through multiple scenarios to help taxpayers understand whether the manufacturer or the importer is liable for the tax.

Appendix II: Internal Revenue Service Guidance Addressing Federal Excise Taxes on Sport Fishing and Archery Equipment

Guidance	Description
Sport Fishing and Archery Constructive Sale Price Rulings and Notice	<ul style="list-style-type: none"> • Two revenue rulings provide further industry-specific guidance for manufacturers computing the tax on the sale at retail in situations where the manufacturer does not make comparative sales to wholesaler distributors. Specifically: <ul style="list-style-type: none"> ○ Revenue Ruling 80-273 states the tax is computed on 75 percent of the actual retail sale price in the case of archery equipment. ○ Revenue Ruling 81-226 states the tax is computed on 60 percent of the actual retail sale price in the case of sport fishing equipment. • <u>Notice 2012-77</u> provides interim guidance that when a manufacturer or importer sells a taxable article directly to an unrelated retailer and does not regularly make comparative sales to independent wholesale distributors, the constructive sale price is 90 percent of the lowest price for which the articles are sold to unrelated retailers.
2011 Chief Counsel Advice Memorandum Number 201143019	<ul style="list-style-type: none"> • Describes scenarios involving imported archery equipment, including some electronic commerce import scenarios where an individual U.S. consumer could be considered the importer of the goods for the purposes of the tax.

Source: GAO analysis of IRS documentation. | GAO-24-106569

Note: This table is not intended to be an exhaustive catalogue of all related IRS guidance.

^aIRS publishes guidance, such as revenue rulings and notices, in the weekly Internal Revenue Bulletin. Taxpayers can rely on Internal Revenue Bulletin guidance as authoritative and as precedent because IRS is bound by it.

Taxpayers use *IRS Quarterly Federal Excise Tax Return* (Form 720) to report their sport fishing and archery tax liabilities by line number and to pay the excise taxes listed on the form (see fig. 7).¹

¹Taxpayers file the Form 720 if they are liable for, or responsible for collecting, any of the federal excise taxes listed on the form. Form 720 also includes environmental, communications, air transportation, retail, and indoor tanning taxes, among others.

Appendix II: Internal Revenue Service Guidance Addressing Federal Excise Taxes on Sport Fishing and Archery Equipment

Figure 7: Internal Revenue Service Quarterly Federal Excise Tax Return Lines for Reporting Sport Fishing and Archery Excise Taxes

Form 720
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

Quarterly Federal Excise Tax Return

See the Instructions for Form 720.
Go to www.irs.gov/Form720 for instructions and the latest information.

OMB No. 1545-0023

Check here if:

Final return

Address change

Name: _____ Quarter ending: _____

Number, street, and room or suite no. _____ Employer identification number _____
(if you have a P.O. box, see the instructions.)

City or town, state or province, country, and ZIP or foreign postal code _____

FOR IRS USE ONLY

T	
FF	
FD	
FP	
I	
T	

1 Total. Add all amounts in Part I. Complete Schedule A unless one-time filing \$

Part II

IRS No.	Patient-Centered Outcomes Research Fee (see instructions)	(a) Avg. number of lives covered (see inst.)	(b) Rate for avg. covered life	(c) Fee (see instructions)	Tax	IRS No.
	Specified health insurance policies					
	(a) With a policy year ending before October 1, 2022		\$2.79			
	(b) With a policy year ending on or after October 1, 2022, and before October 1, 2023		\$3.00			
133	Applicable self-insured health plans					133
	(c) With a plan year ending before October 1, 2022		\$2.79			
	(d) With a plan year ending on or after October 1, 2022, and before October 1, 2023		\$3.00			
			Rate		Tax	
41	Sport fishing equipment (other than fishing rods and fishing poles)		10% of sales price			41
110	Fishing rods and fishing poles (limits apply, see instructions)		10% of sales price			110
42	Electric outboard motors		3% of sales price			42
114	Fishing tackle boxes		3% of sales price			114
44	Bows, quivers, broadheads, and points		11% of sales price			44
106	Arrow shafts		\$.62 per shaft			106
140	Indoor tanning services		10% of amount paid			140
		Number of gallons	Rate		Tax	
64	Inland waterways fuel use tax		\$.29			64
125	LUST tax on inland waterways fuel use (see instructions)		.001			125
51	Section 40 fuels (see instructions)					51
117	Biodiesel sold as but not used as fuel					117
20	Floor stocks tax—Ozone-depleting chemicals. Attach Form 6627.					20
150	Repurchase of corporate stock. Attach Form 7208.					150
142	Sales of designated drugs during statutory periods.					142
2	Total. Add all amounts in Part II				\$	

Form 720 (Rev. 3-2024)

Source: GAO analysis of Internal Revenue Service Quarterly Federal Excise Tax Return. | GAO-24-106569

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Appendix III: Federal Agency Roles in the Collection, Administration, and Spending of Sport Fishing and Archery Excise Taxes

Several federal agencies have roles in the collecting, administering, and spending of federal excise tax revenue from sport fishing and archery equipment.

Table 2: Federal Agency Roles and Responsibilities in the Collection, Administration, and Spending of Federal Excise Taxes on Sport Fishing and Archery Equipment

Federal Agency	Roles and Responsibilities in Collection, Administration, and Spending
Internal Revenue Service (IRS)	<ul style="list-style-type: none"> Collects excise taxes from the manufacturers, producers, or importers of sport fishing and archery equipment. Certifies quarterly the amounts of tax that should be transferred to the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund. Within IRS, the Small Business/Self-Employed division administers the taxes and takes enforcement actions to detect and pursue noncompliance. Publishes official tax guidance, including revenue rulings and notices, and other publications and information, such as Publication 510, Excise Taxes, for sport fishing and archery excise taxpayers. Conducts outreach and education activities to manufacturers and other industry members.
U.S. Customs and Border Protection	<ul style="list-style-type: none"> Monitors the movement of imported goods through U.S. ports of entry. Collects import duties, including duties on certain sport fishing equipment, dedicated to the Sport Fish Restoration and Boating Trust Fund.
Department of the Treasury	<ul style="list-style-type: none"> Office of Tax Policy works with IRS in issuing tax regulations and other guidance documents, including those for manufacturers, producers, and importers of sport fishing and archery equipment, to comply with the Internal Revenue Code. Office of Tax Analysis estimates the tax revenues each month and provides the estimates to the Bureau of the Fiscal Service to calculate amounts to be deposited into the funds.
Department of the Interior U.S. Fish and Wildlife Service	<ul style="list-style-type: none"> The Office of Conservation Investment administers grant programs funded from the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund. These accounts are funded, in part, by dedicated excise taxes and apportioned to states and territories to support their fish and wildlife conservation programs. Coordinates with IRS on outreach and education among sport fishing and archery industry members. Runs the Partner with a Payer initiative which forms educational partnerships between the U.S. Fish and Wildlife Service, manufacturers, and importers responsible for paying the excise taxes, and state and fish and wildlife agencies that receive funds from the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund.

Source: GAO analysis of agency documentation. | GAO-24-106569

Note: This table is focused on the federal agencies with roles in the collection, administration, and enforcement of the sport fishing and archery excise taxes. Other federal agencies and offices have roles related to the Sport Fish Restoration and Boating Trust Fund and the Federal Aid to Wildlife Restoration Fund but are outside of the scope of this review.

Appendix IV: Illustrative Examples of Excise Taxes Owed on a U.S. Consumer's Purchase of Imported Archery and Sport Fishing Equipment

The following tables illustrate how a consumer importer purchasing select taxable archery and sport fishing equipment would apply the appropriate tax rates to determine how much excise tax is owed.

Table 3: Example of Excise Taxes Owed on a U.S. Consumer's Purchase of Imported Archery Equipment

Category	Subcategory	Data
Arrow Shaft	Quantity of consumer electronic commerce purchase of arrow shafts	12
Arrow Shaft	Rate applicable to item	62 cents per shaft, adjusted annually for inflation ^a
Arrow Shaft	Excise Tax (0.62 cents x 12 arrow shafts)	\$7.44
Broadhead or arrow point	Sale price of consumer electronic commerce purchase of 12 broadheads ^b	\$22
Broadhead or arrow point	Rate applicable to item	11 percent
Broadhead or arrow point	Excise Tax (11% tax rate x sale price) ^c	\$2.42
na	Total Excise Tax Liability for 12 arrow shafts and 12 broadheads	\$9.86

Source: GAO Analysis of 26 U.S. Code § 4161 and Internal Revenue Service documentation. | GAO-24-106569

Notes: This example illustrates how a consumer would apply the appropriate tax rates to arrow shafts and broadheads sold separately. These tax rates would apply whether the consumer purchased finished arrows or purchased the arrow components separately. However, it may be difficult for a consumer purchasing a finished arrow to determine how to apply the appropriate tax rates. For example, according to Internal Revenue Service (IRS) officials, a consumer purchasing a finished arrow would need to separate the price of the broadhead from the price of the finished arrow to apply the 11 percent tax to only the portion of the price associated with the broadhead.

^aThis is the tax per arrow shaft in calendar year 2024.

^bExample price approximates average prices for the top selling items based on the keyword 'broadhead' across popular online marketplaces in February 2024.

^cIRS guidance does not address how consumers should calculate the amount of sport fishing and archery excise tax due on taxable equipment imported for personal use. In this example, a consumer bases the excise tax calculation on the retail sales price and pays more than a traditional domestic manufacturer, producer, or importer would pay—if they sold the same product—based on the wholesale selling price, or a constructive sale price.

Table 4: Example of Excise Taxes Owed on a U.S. Consumer's Purchase of Imported Sport Fishing Equipment

Category	Subcategory	Example one	Example two
Fishing Rod	Sale price of consumer electronic commerce purchase of a fishing rod ^a	\$30	\$105
Fishing Rod	Rate applicable to item		10 percent
Fishing Rod	10 percent tax rate x sale price ^b	\$3	\$10.50
Fishing Rod	Excise Tax (10 percent of the sales price, not to exceed \$10)	\$3	\$10
Fishing Tackle Box	Sale price of consumer electronic commerce purchase of a fishing tackle box ^c		\$5

Appendix IV: Illustrative Examples of Excise Taxes Owed on a U.S. Consumer's Purchase of Imported Archery and Sport Fishing Equipment

Category	Subcategory	Example one	Example two
Fishing Tackle Box	Rate applicable to item	na	3 percent
Fishing Tackle Box	Excise Tax (3 percent tax rate x sale price) ^b	na	\$0.15

Source: GAO Analysis of 26 U.S. Code § 4161 and Internal Revenue Service documentation. | GAO-24-106569

^aExample prices approximate average prices for the top selling items based on the keyword 'fishing rod' across popular online marketplaces in February 2024. To develop a hypothetical sale price that would trigger the \$10 excise tax limitation, we performed the same searches with additional filters by sale price.

^bInternal Revenue Service (IRS) guidance does not address how consumers should calculate the amount of sport fishing and archery excise tax due on taxable equipment imported for personal use. In this example, a consumer bases the excise tax calculation on the retail sales price, and pays more than a traditional domestic manufacturer, producer, or importer would pay—if they sold the same product—based on the wholesale selling price, or a constructive sale price.

^cExample price approximates average prices for the top selling items based on the keyword 'fishing tackle box' across popular online marketplaces in February 2024.

Appendix V: Comments from the Internal Revenue Service



CHIEF TAX COMPLIANCE OFFICER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 9, 2024

Jessica Lucas - Judy
Director, Tax Policy and Administration, Strategic Issues
United States Government Accountability Office
Washington, DC 20548

Dear Ms. Lucas-Judy:

Thank you for the opportunity to review your draft report entitled, *EXCISE TAXES: Actions Needed to Improve Compliance for Sport Fishing and Archery Imports* (GAO-24-106569.)

The mission of the IRS Small Business/Self-Employed (SB/SE) operating division is to help small business and self-employed taxpayers understand and meet their tax obligations, while applying the tax law with integrity and fairness to all.

We are committed to continuously improving excise tax compliance. Our compliance efforts for sport fishing and archery excise taxes include leveraging data sources for imported products and partnering with other governmental and industry stakeholders on outreach and educational efforts. However, changes in business models and the growth of direct-to-consumer small-dollar sales through online marketplaces have created many challenges in administering these taxes. We appreciate your acknowledgement that under current law, collecting small-dollar excise taxes from consumer imports is not simple, transparent or administrable.

Your report recommends IRS consolidate existing guidance on federal sportfishing and archery excise taxes, ensure it is easily accessible to taxpayers, and develop informational sources for consumers regarding their filing and payment responsibilities for sport fishing and archery taxes. However, your report acknowledges that even with additional guidance from the IRS, collection and enforcement efforts would create substantial burden for consumers and would also be inefficient for the IRS to administer. Thank you for highlighting the compliance challenges under the current law and noting that a legislative change could potentially better align the point of taxation with current and future business models and distribution chains to improve the administrability of the sport fishing and archery excise taxes.

The IRS strives to serve taxpayers and uphold the nation's tax laws. We face tough choices each year regarding where to deploy resources given the breadth of our

2

responsibilities and our choices are guided by fairness, impartiality, and effective stewardship of public funds. We appreciate GAO's suggestions and will explore opportunities to develop guidance easier for consumers to understand, more relevant and readily accessible.

Responses to your specific recommendations is enclosed. If you have any questions, please contact me or Director Rich Tierney, Examination, Small Business/Self-Employed Division.

Sincerely,

Heather C. Maloy  Digitally signed by
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Date: 2024.07.09
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Heather C. Maloy

Enclosure

Enclosure

GAO Recommendations and IRS Responses to GAO Draft Report
Excise Taxes: Actions Needed to Improve Compliance for Sport Fishing and Archery Imports (GAO-24-106569)

RECOMMENDATION #1:

The Commissioner of the Internal Revenue Service, in coordination with the Secretary of the Treasury should consolidate existing guidance on federal sport fishing and archery excise taxes and ensure that it is made easily accessible to taxpayers.

COMMENT:

We agree with this recommendation. We will explore opportunities to consolidate existing guidance on federal sport fishing and archery excise taxes and ensure that it is made easily accessible to taxpayers.

RECOMMENDATION #2:

The Commissioner of the Internal Revenue Service, in coordination with the Secretary of the Treasury should develop guidance for consumers on when they may be liable for and how to calculate, file and pay sport fishing and archery excise taxes.

COMMENT:

We agree with this recommendation. Taking resource constraints into consideration, the IRS will consider developing informational sources to assist consumers on when they may be liable for and how to calculate, file and pay the sport fishing and archery excise taxes.

Accessible Text for Appendix V: Comments from the Internal Revenue Service

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The IRS strives to serve taxpayers and uphold the nation's tax laws. We face tough choices each year regarding where to deploy resources given the breadth of our responsibilities and our choices are guided by fairness, impartiality, and effective stewardship of public funds. We appreciate GAO's suggestions and will explore opportunities to develop guidance easier for consumers to understand, more relevant and readily accessible.

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Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Jessica Lucas-Judy (202) 512-6806, lucasjudyj@gao.gov

Staff Acknowledgments

In addition to the contact named above, MaryLynn Sergent (Assistant Director); Mackenzie D. Verniero (Analyst-in-Charge); Michael Bechetti; Jacqueline Chapin; Kate Hu; Dan Luo; Daniel Mahoney; Steven Putansu; Bryan Sakakeeny; and Andrew J. Stephens made significant contributions to this report. Adam Cowles; Elizabeth Erdmann; Scott Heacock; and Krista Loose also contributed to this report.

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