

104TH CONGRESS
2^D SESSION

S. 1739

To amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury.

IN THE SENATE OF THE UNITED STATES

MAY 8, 1996

Mr. DOLE (for himself, Mr. ROTH, Mr. GRAMM, Mr. GRASSLEY, Mr. SIMPSON, Mr. PRESSLER, Mr. NICKLES, Mr. BENNETT, Mr. BOND, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. KEMPTHORNE, Mr. KYL, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PURPOSE.**

4 The purpose of this Act is to repeal the 4.3-cent in-
5 crease in the transportation motor fuels excise tax rates

1 enacted by the Omnibus Budget Reconciliation Act of
 2 1993 and dedicated to the general fund of the Treasury.

3 **SEC. 2. REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES**
 4 **ENACTED BY THE OMNIBUS BUDGET REC-**
 5 **ONCILIATION ACT OF 1993 AND DEDICATED**
 6 **TO GENERAL FUND OF THE TREASURY.**

7 (a) IN GENERAL.—Section 4081 of the Internal Rev-
 8 enue Code of 1986 (relating to imposition of tax on gaso-
 9 line and diesel fuel) is amended by adding at the end the
 10 following new subsection:

11 “(f) REPEAL OF 4.3-CENT INCREASE IN FUEL TAX
 12 RATES ENACTED BY THE OMNIBUS BUDGET RECONCILI-
 13 ATION ACT OF 1993 AND DEDICATED TO GENERAL FUND
 14 OF THE TREASURY.—

15 “(1) IN GENERAL.—During the applicable pe-
 16 riod, each rate of tax referred to in paragraph (2)
 17 shall be reduced by 4.3 cents per gallon.

18 “(2) RATES OF TAX.—The rates of tax referred
 19 to in this paragraph are the rates of tax otherwise
 20 applicable under—

21 “(A) subsection (a)(2)(A) (relating to gaso-
 22 line and diesel fuel),

23 “(B) sections 4091(b)(3)(A) and
 24 4092(b)(2) (relating to aviation fuel),

1 “(C) section 4042(b)(2)(C) (relating to
2 fuel used on inland waterways),

3 “(D) paragraph (1) or (2) of section
4 4041(a) (relating to diesel fuel and special
5 fuels),

6 “(E) section 4041(c)(2) (relating to gaso-
7 line used in noncommercial aviation), and

8 “(F) section 4041(m)(1)(A)(i) (relating to
9 certain methanol or ethanol fuels).

10 “(3) COMPARABLE TREATMENT FOR COM-
11 PRESSED NATURAL GAS.—No tax shall be imposed
12 by section 4041(a)(3) on any sale or use during the
13 applicable period.

14 “(4) COMPARABLE TREATMENT UNDER CER-
15 TAIN REFUND RULES.—In the case of fuel on which
16 tax is imposed during the applicable period, each of
17 the rates specified in sections 6421(f)(2)(B),
18 6421(f)(3)(B)(ii), 6427(b)(2)(A), 6427(l)(3)(B)(ii),
19 and 6427(l)(4)(B) shall be reduced by 4.3 cents per
20 gallon.

21 “(5) COORDINATION WITH HIGHWAY TRUST
22 FUND DEPOSITS.—In the case of fuel on which tax
23 is imposed during the applicable period, each of the
24 rates specified in subparagraphs (A)(i) and (C)(i) of

1 section 9503(f)(3) shall be reduced by 4.3 cents per
2 gallon.

3 “(6) APPLICABLE PERIOD.—For purposes of
4 this subsection, the term ‘applicable period’ means
5 the period after the 6th day after the date of the en-
6 actment of this subsection and before January 1,
7 1997.”

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 3. FLOOR STOCK REFUNDS.**

12 (a) IN GENERAL.—If—

13 (1) before the tax repeal date, tax has been im-
14 posed under section 4081 or 4091 of the Internal
15 Revenue Code of 1986 on any liquid, and

16 (2) on such date such liquid is held by a dealer
17 and has not been used and is intended for sale,

18 there shall be credited or refunded (without interest) to
19 the person who paid such tax (hereafter in this section
20 referred to as the “taxpayer”) an amount equal to the ex-
21 cess of the tax paid by the taxpayer over the amount of
22 such tax which would be imposed on such liquid had the
23 taxable event occurred on such date.

24 (b) TIME FOR FILING CLAIMS.—No credit or refund
25 shall be allowed or made under this section unless—

1 (1) claim therefor is filed with the Secretary of
2 the Treasury before the date which is 6 months
3 after the tax repeal date, and

4 (2) in any case where liquid is held by a dealer
5 (other than the taxpayer) on the tax repeal date—

6 (A) the dealer submits a request for refund
7 or credit to the taxpayer before the date which
8 is 3 months after the tax repeal date, and

9 (B) the taxpayer has repaid or agreed to
10 repay the amount so claimed to such dealer or
11 has obtained the written consent of such dealer
12 to the allowance of the credit or the making of
13 the refund.

14 (c) EXCEPTION FOR FUEL HELD IN RETAIL
15 STOCKS.—No credit or refund shall be allowed under this
16 section with respect to any liquid in retail stocks held at
17 the place where intended to be sold at retail.

18 (d) DEFINITIONS.—For purposes of this section—

19 (1) the terms “dealer” and “held by a dealer”
20 have the respective meanings given to such terms by
21 section 6412 of such Code; except that the term
22 “dealer” includes a producer, and

23 (2) the term “tax repeal date” means the 7th
24 day after the date of the enactment of this Act.

1 (e) CERTAIN RULES TO APPLY.—Rules similar to the
2 rules of subsections (b) and (c) of section 6412 of such
3 Code shall apply for purposes of this section.

4 **SEC. 4. FLOOR STOCKS TAX.**

5 (a) IMPOSITION OF TAX.—In the case of any liquid
6 on which tax was imposed under section 4081 or 4091
7 of the Internal Revenue Code of 1986 before January 1,
8 1997, and which is held on such date by any person, there
9 is hereby imposed a floor stocks tax of 4.3 cents per gal-
10 lon.

11 (b) LIABILITY FOR TAX AND METHOD OF PAY-
12 MENT.—

13 (1) LIABILITY FOR TAX.—A person holding a
14 liquid on January 1, 1997, to which the tax imposed
15 by subsection (a) applies shall be liable for such tax.

16 (2) METHOD OF PAYMENT.—The tax imposed
17 by subsection (a) shall be paid in such manner as
18 the Secretary shall prescribe.

19 (3) TIME FOR PAYMENT.—The tax imposed by
20 subsection (a) shall be paid on or before June 30,
21 1997.

22 (c) DEFINITIONS.—For purposes of this section—

23 (1) HELD BY A PERSON.—A liquid shall be con-
24 sidered as “held by a person” if title thereto has

1 passed to such person (whether or not delivery to
2 the person has been made).

3 (2) GASOLINE AND DIESEL FUEL.—The terms
4 “gasoline” and “diesel fuel” have the respective
5 meanings given such terms by section 4083 of such
6 Code.

7 (3) AVIATION FUEL.—The term “aviation fuel”
8 has the meaning given such term by section 4093 of
9 such Code.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of the Treasury or his delegate.

12 (d) EXCEPTION FOR EXEMPT USES.—The tax im-
13 posed by subsection (a) shall not apply to gasoline, diesel
14 fuel, or aviation fuel held by any person exclusively for
15 any use to the extent a credit or refund of the tax imposed
16 by section 4081 or 4091 of such Code is allowable for such
17 use.

18 (e) EXCEPTION FOR FUEL HELD IN VEHICLE
19 TANK.—No tax shall be imposed by subsection (a) on gas-
20 oline or diesel fuel held in the tank of a motor vehicle or
21 motorboat.

22 (f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

23 (1) IN GENERAL.—No tax shall be imposed by
24 subsection (a)—

1 (A) on gasoline held on January 1, 1997,
2 by any person if the aggregate amount of gaso-
3 line held by such person on such date does not
4 exceed 4,000 gallons, and

5 (B) on diesel fuel or aviation fuel held on
6 such date by any person if the aggregate
7 amount of diesel fuel or aviation fuel held by
8 such person on such date does not exceed 2,000
9 gallons.

10 The preceding sentence shall apply only if such per-
11 son submits to the Secretary (at the time and in the
12 manner required by the Secretary) such information
13 as the Secretary shall require for purposes of this
14 paragraph.

15 (2) EXEMPT FUEL.—For purposes of para-
16 graph (1), there shall not be taken into account fuel
17 held by any person which is exempt from the tax im-
18 posed by subsection (a) by reason of subsection (d)
19 or (e).

20 (3) CONTROLLED GROUPS.—For purposes of
21 this subsection—

22 (A) CORPORATIONS.—

23 (i) IN GENERAL.—All persons treated
24 as a controlled group shall be treated as 1
25 person.

1 (ii) CONTROLLED GROUP.—The term
2 “controlled group” has the meaning given
3 to such term by subsection (a) of section
4 1563 of such Code; except that for such
5 purposes the phrase “more than 50 per-
6 cent” shall be substituted for the phrase
7 “at least 80 percent” each place it appears
8 in such subsection.

9 (B) NONINCORPORATED PERSONS UNDER
10 COMMON CONTROL.—Under regulations pre-
11 scribed by the Secretary, principles similar to
12 the principles of subparagraph (A) shall apply
13 to a group of persons under common control
14 where 1 or more of such persons is not a cor-
15 poration.

16 (g) OTHER LAW APPLICABLE.—All provisions of law,
17 including penalties, applicable with respect to the taxes
18 imposed by section 4081 of such Code in the case of gaso-
19 line and diesel fuel and section 4091 of such Code in the
20 case of aviation fuel shall, insofar as applicable and not
21 inconsistent with the provisions of this subsection, apply
22 with respect to the floor stock taxes imposed by subsection
23 (a) to the same extent as if such taxes were imposed by
24 such section 4081 or 4091.

1 **SEC. 5. BENEFITS OF TAX REPEAL SHOULD BE PASSED ON**
2 **TO CONSUMERS.**

3 (a) PASSTHROUGH TO CONSUMERS.—

4 (1) SENSE OF CONGRESS.—It is the sense of
5 Congress that—

6 (A) consumers immediately receive the
7 benefit of the repeal of the 4.3-cent increase in
8 the transportation motor fuels excise tax rates
9 enacted by the Omnibus Budget Reconciliation
10 Act of 1993, and

11 (B) transportation motor fuels producers
12 and other dealers take such actions as nec-
13 essary to reduce transportation motor fuels
14 prices to reflect the repeal of such tax increase,
15 including immediate credits to customer ac-
16 counts representing tax refunds allowed as
17 credits against excise tax deposit payments
18 under the floor stocks refund provisions of this
19 Act.

20 (2) STUDY.—

21 (A) IN GENERAL.—The Comptroller Gen-
22 eral of the United States shall conduct a study
23 of the repeal of the 4.3-cent increase in the fuel
24 tax imposed by the Omnibus Budget Reconcili-
25 ation of 1993 to determine whether there has
26 been a passthrough of such repeal.

1 (B) REPORT.—Not later than January 31,
 2 1997, the Comptroller General of the United
 3 States shall report to the Committee on Fi-
 4 nance of the Senate and the Committee on
 5 Ways and Means of the House of Representa-
 6 tives the results of the study conducted under
 7 subparagraph (A).

8 **SEC. ____ . AUTHORIZATION OF APPROPRIATIONS FOR EX-**
 9 **PENSES OF ADMINISTRATION OF THE DE-**
 10 **PARTMENT OF ENERGY.**

11 Section 660 of the Department of Energy Organiza-
 12 tion Act (42 U.S.C. 7270) is amended—

13 (1) by inserting “(a) IN GENERAL.—” before
 14 “APPROPRIATIONS”; and

15 (2) by adding at the end the following:

16 “(b) FISCAL YEARS 1997 THROUGH 2002.—There
 17 are authorized to be appropriated for salaries and ex-
 18 penses of the Department of Energy for departmental ad-
 19 ministration and other activities in carrying out the pur-
 20 poses of this Act—

21 “(1) \$104,000,000 for fiscal year 1997;

22 “(2) \$104,000,000 for fiscal year 1998;

23 “(3) \$100,000,000 for fiscal year 1999;

24 “(4) \$90,000,000 for fiscal year 2000;

25 “(5) \$90,000,000 for fiscal year 2001; and

1 “(6) \$90,000,000 for fiscal year 2002.”.

2 **SEC. ____ . SPECTRUM AUCTIONS.**

3 (a) **COMMISSION OBLIGATION TO MAKE ADDITIONAL**
4 **SPECTRUM AVAILABLE BY AUCTION.—**

5 (1) **IN GENERAL.—**The Federal Communica-
6 tions Commission shall complete all actions nec-
7 essary to permit the assignment, by March 31,
8 1998, by competitive bidding pursuant to section
9 309(j) of the Communications Act of 1934 (47
10 U.S.C. 309(j)) of licenses for the use of bands of
11 frequencies that—

12 (A) individually span not less than 12.5
13 megahertz, unless a combination of smaller
14 bands can, notwithstanding the provisions of
15 paragraph (7) of such section, reasonably be ex-
16 pected to produce greater receipts;

17 (B) in the aggregate span not less than 25
18 megahertz;

19 (C) are located below 3 gigahertz; and

20 (D) have not, as of the date of enactment
21 of this Act—

22 (i) been assigned or designated by
23 Commission regulation for assignment pur-
24 suant to such section;

1 (ii) been identified by the Secretary of
2 Commerce pursuant to section 113 of the
3 National Telecommunications and Infor-
4 mation Administration Organization Act
5 (47 U.S.C. 923); or

6 (iii) reserved for Federal Government
7 use pursuant to section 305 of the Com-
8 munications Act of 1934 (47 U.S.C. 305).

9 (2) CRITERIA FOR REASSIGNMENT.—In making
10 available bands of frequencies for competitive bid-
11 ding pursuant to paragraph (1), the Commission
12 shall—

13 (A) seek to promote the most efficient use
14 of the spectrum;

15 (B) take into account the cost to incum-
16 bent licensees of relocating existing uses to
17 other bands of frequencies or other means of
18 communication;

19 (C) take into account the needs of public
20 safety radio services;

21 (D) comply with the requirements of inter-
22 national agreements concerning spectrum allo-
23 cations; and

24 (E) take into account the costs to satellite
25 service providers that could result from multiple

1 auctions of like spectrum internationally for
2 global satellite systems.

3 (b) FEDERAL COMMUNICATIONS COMMISSION MAY
4 NOT TREAT THIS SECTION AS CONGRESSIONAL ACTION
5 FOR CERTAIN PURPOSES.—The Federal Communication
6 Commission may not treat the enactment of this Act or
7 the inclusion of this section in this Act as an expression
8 of the intent of Congress with respect to the award of ini-
9 tial licenses of construction permits for Advanced Tele-
10 vision Services, as described by the Commission in its let-
11 ter of February 1, 1996, to the Chairman of the Senate
12 Committee on Commerce, Science, and Transportation.

○