

110TH CONGRESS
1ST SESSION

H. R. 3539

To amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2007

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Airport and Airway
5 Trust Fund Financing Act of 2007”.

1 **SEC. 2. EXTENSION AND MODIFICATION OF TAXES FUND-**
2 **ING AIRPORT AND AIRWAY TRUST FUND.**

3 (a) RATE OF TAX ON AVIATION-GRADE KEROSENE
4 AND AVIATION GASOLINE.—

5 (1) AVIATION-GRADE KEROSENE.—Subpara-
6 graph (A) of section 4081(a)(2) of the Internal Rev-
7 enue Code of 1986 (relating to rates of tax) is
8 amended by striking “and” at the end of clause (ii),
9 by striking the period at the end of clause (iii) and
10 inserting “, and”, and by adding at the end the fol-
11 lowing new clause:

12 “(iv) in the case of aviation-grade ker-
13 osene, 35.9 cents per gallon.”.

14 (2) AVIATION GASOLINE.—Clause (ii) of section
15 4081(a)(2)(A) of such Code is amended by striking
16 “19.3 cents” in subparagraph (A)(ii) and inserting
17 “24.1 cents”.

18 (3) FUEL REMOVED DIRECTLY INTO FUEL
19 TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIA-
20 TION.—Subparagraph (C) of section 4081(a)(2) of
21 such Code is amended to read as follows:

22 “(C) TAXES IMPOSED ON FUEL USED IN
23 COMMERCIAL AVIATION.—In the case of avia-
24 tion-grade kerosene which is removed from any
25 refinery or terminal directly into the fuel tank
26 of an aircraft for use in commercial aviation by

1 a person registered for such use under section
2 4101, the rate of tax under subparagraph
3 (A)(iv) shall be 4.3 cents per gallon.”.

4 (4) CONFORMING AMENDMENTS.—

5 (A) Clause (iii) of section 4081(a)(2)(A) of
6 such Code is amended by inserting “other than
7 aviation-grade kerosene” after “kerosene”.

8 (B) The following provisions of such Code
9 are each amended by striking “kerosene” and
10 inserting “aviation-grade kerosene”:

11 (i) Section 4081(a)(3)(A)(ii).

12 (ii) Section 4081(a)(3)(A)(iv).

13 (iii) Section 4081(a)(3)(D).

14 (C) Section 4081(a)(3)(D) of such Code is
15 amended—

16 (i) by striking “paragraph (2)(C)(i)”
17 in clause (i) and inserting “paragraph
18 (2)(C)”, and

19 (ii) by striking “paragraph (2)(C)(ii)”
20 in clause (ii) and inserting “paragraph
21 (2)(A)(iv)”.

22 (D) Section 4081(a)(4) of such Code is
23 amended in the heading by striking “KER-
24 OSENE” and inserting “AVIATION-GRADE KER-
25 OSENE”.

1 (E) Section 4081(d)(2) of such Code is
2 amended by inserting “, (a)(2)(A)(iv),” after
3 “subsections (a)(2)(A)(ii)”.

4 (b) EXTENSION.—

5 (1) FUELS TAXES.—Paragraph (2) of section
6 4081(d) of such Code is amended by striking “gal-
7 lon—” and all that follows and inserting “gallon
8 after September 30, 2011”.

9 (2) TAXES ON TRANSPORTATION OF PERSONS
10 AND PROPERTY.—

11 (A) PERSONS.—Clause (ii) of section
12 4261(j)(1)(A) of such Code is amended by
13 striking “September 30, 2007” and inserting
14 “September 30, 2011”.

15 (B) PROPERTY.—Clause (ii) of section
16 4271(d)(1)(A) of such Code is amended by
17 striking “September 30, 2007” and inserting
18 “September 30, 2011”.

19 (c) EXEMPTION FOR AVIATION-GRADE KEROSENE
20 REMOVED INTO AN AIRCRAFT.—Subsection (e) of section
21 4082 of such Code is amended—

22 (1) by striking “kerosene” and inserting “avia-
23 tion-grade kerosene”,

24 (2) by striking “section 4081(a)(2)(A)(iii)” and
25 inserting “section 4081(a)(2)(A)(iv)”, and

1 (3) by striking “KEROSENE” in the heading
2 and inserting “AVIATION-GRADE KEROSENE”.

3 (d) RETAIL TAX ON AVIATION FUEL.—

4 (1) EXEMPTION FOR PREVIOUSLY TAXED
5 FUEL.—Paragraph (2) of section 4041(e) of such
6 Code is amended by inserting “at the rate specified
7 in subsection (a)(2)(A)(iv) thereof” after “section
8 4081”.

9 (2) RATE OF TAX.—Paragraph (3) of section
10 4041(e) of such Code is amended to read as follows:

11 “(3) RATE OF TAX.—The rate of tax imposed
12 by this subsection shall be the rate of tax in effect
13 under section 4081(a)(2)(A)(iv) (4.3 cents per gallon
14 with respect to any sale or use for commercial avia-
15 tion).”.

16 (e) REFUNDS RELATING TO AVIATION-GRADE KER-
17 ROSENE.—

18 (1) KEROSENE USED IN COMMERCIAL AVIA-
19 TION.—Clause (ii) of section 6427(l)(4)(A) of such
20 Code is amended by striking “specified in section
21 4041(e) or 4081(a)(2)(A)(iii), as the case may be,”
22 and inserting “so imposed”.

23 (2) KEROSENE USED IN AVIATION.—Paragraph
24 (4) of section 6427(l) of such Code is amended—

1 (A) by striking subparagraph (B) and re-
2 designating subparagraph (C) as subparagraph
3 (B), and

4 (B) by amending subparagraph (B), as re-
5 designated by subparagraph (A), to read as fol-
6 lows:

7 “(B) PAYMENTS TO ULTIMATE, REG-
8 ISTERED VENDOR.—With respect to any ker-
9 osene used in aviation (other than kerosene to
10 which paragraph (6) applies), if the ultimate
11 purchaser of such kerosene waives (at such time
12 and in such form and manner as the Secretary
13 shall prescribe) the right to payment under
14 paragraph (1) and assigns such right to the ul-
15 timate vendor, then the Secretary shall pay
16 (without interest) the amount which would be
17 paid under paragraph (1) to such ultimate ven-
18 dor, but only if such ultimate vendor—

19 “(i) is registered under section 4101,
20 and

21 “(ii) meets the requirements of sub-
22 paragraph (A), (B), or (D) of section
23 6416(a)(1).”.

24 (3) AVIATION-GRADE KEROSENE NOT USED IN
25 AVIATION.—Subsection (l) of section 6427 of such

1 Code is amended by redesignating paragraph (5) as
2 paragraph (6) and by inserting after paragraph (4)
3 the following new paragraph:

4 “(5) REFUNDS FOR AVIATION-GRADE KER-
5 OSENE NOT USED IN AVIATION.—If tax has been im-
6 posed under section 4081 at the rate specified in
7 section 4081(a)(2)(A)(iv) and the fuel is used other
8 than in an aircraft, the Secretary shall pay (without
9 interest) to the ultimate purchaser of such fuel an
10 amount equal to the amount of tax imposed on such
11 fuel reduced by the amount of tax that would be im-
12 posed under section 4041 if no tax under section
13 4081 had been imposed.”.

14 (4) CONFORMING AMENDMENTS.—

15 (A) Section 6427(i)(4) of such Code is
16 amended—

17 (i) by striking “(4)(C)” the first two
18 places it occurs and inserting “(4)(B)”,
19 and

20 (ii) by striking “, (l)(4)(C)(ii), and”
21 and inserting “and”.

22 (B) Section 4082(d)(2)(B) of such Code is
23 amended by striking “6427(l)(5)(B)” and in-
24 serting “6427(l)(6)(B)”.

25 (f) AIRPORT AND AIRWAY TRUST FUND.—

1 (1) EXTENSION OF TRUST FUND AUTHORI-
2 TIES.—

3 (A) EXPENDITURES FROM TRUST FUND.—

4 Paragraph (1) of section 9502(d) of such Code
5 is amended—

6 (i) in the matter preceding subpara-
7 graph (A) by striking “October 1, 2007”
8 and inserting “October 1, 2011”, and

9 (ii) in subparagraph (A) by inserting
10 “or the FAA Reauthorization Act of 2007”
11 before the semicolon at the end.

12 (B) LIMITATION ON TRANSFERS TO TRUST
13 FUND.—Paragraph (2) of section 9502(f) of
14 such Code is amended by striking “October 1,
15 2007” and inserting “October 1, 2011”.

16 (2) TRANSFERS TO TRUST FUND.—Subpara-
17 graph (C) of section 9502(b)(1) of such Code is
18 amended to read as follows:

19 “(C) section 4081 with respect to aviation
20 gasoline and aviation-grade kerosene, and”.

21 (3) TRANSFERS ON ACCOUNT OF CERTAIN RE-
22 FUNDS.—

23 (A) IN GENERAL.—Subsection (d) of sec-
24 tion 9502 of such Code is amended—

1 (i) in paragraph (2) by striking
2 “(other than subsection (l)(4) thereof)”,
3 and

4 (ii) in paragraph (3) by striking
5 “(other than payments made by reason of
6 paragraph (4) of section 6427(l))”.

7 (B) CONFORMING AMENDMENTS.—

8 (i) Section 9503(b)(4) of such Code is
9 amended by striking “or” at the end of
10 subparagraph (C), by striking the period
11 at the end of subparagraph (D) and insert-
12 ing a comma, and by inserting after sub-
13 paragraph (D) the following:

14 “(E) section 4081 to the extent attrib-
15 utable to the rate specified in clause (ii) or (iv)
16 of section 4081(a)(2)(A), or

17 “(F) section 4041(c).”.

18 (ii) Section 9503(c) of such Code is
19 amended by striking the last paragraph
20 (relating to transfers from the Trust Fund
21 for certain aviation fuel taxes).

22 (iii) Section 9502(a) of such Code is
23 amended by striking “, section
24 9503(c)(7),”.

1 (4) TRANSFERS ON ACCOUNT OF AVIATION-
2 GRADE KEROSENE NOT USED IN AVIATION.—Section
3 9502(d) of such Code is amended by adding at the
4 end the following new paragraph:

5 “(7) TRANSFERS FROM AIRPORT AND AIRWAY
6 TRUST FUND ON ACCOUNT OF AVIATION-GRADE
7 KEROSENE NOT USED IN AVIATION.—The Secretary
8 of the Treasury shall pay from time to time from the
9 Airport and Airway Trust Fund into the Highway
10 Trust Fund amounts as determined by the Secretary
11 of the Treasury equivalent to amounts transferred to
12 the Airport and Airway Trust Fund with respect to
13 aviation-grade kerosene not used in aviation.”.

14 (5) EXPENDITURES FOR AIR TRAFFIC CONTROL
15 MODERNIZATION.—Section 9502(d) of such Code, as
16 amended by this Act, is amended by adding at the
17 end the following new paragraph:

18 “(8) EXPENDITURES FOR AIR TRAFFIC CON-
19 TROL MODERNIZATION.—The following amounts
20 may be used only for making expenditures to carry
21 out air traffic control modernization:

22 “(A) So much of the amounts appropriated
23 under subsection (b)(1)(C) as the Secretary es-
24 timates are attributable to—

1 “(i) 14.1 cents per gallon of the tax
2 imposed at the rate specified in section
3 4081(a)(2)(A)(iv) in the case of aviation-
4 grade kerosene used other than in commer-
5 cial aviation (as defined in section
6 4083(b)), and

7 “(ii) 4.8 cents per gallon of the tax
8 imposed at the rate specified in section
9 4081(a)(2)(A)(ii) in the case of aviation
10 gasoline used other than in commercial
11 aviation (as so defined).

12 “(B) Any amounts credited to the Airport
13 and Airway Trust Fund under section 9602(b)
14 with respect to amounts described in this para-
15 graph.”.

16 (g) EFFECTIVE DATE.—

17 (1) MODIFICATIONS.—Except as provided in
18 paragraph (2), the amendments made by this section
19 shall apply to fuels removed, entered, or sold after
20 September 30, 2007.

21 (2) EXTENSIONS.—The amendments made by
22 subsections (b) and (f)(1) shall take effect on the
23 date of the enactment of this Act.

24 (h) FLOOR STOCKS TAX.—

1 (1) IMPOSITION OF TAX.—In the case of avia-
2 tion fuel which is held on October 1, 2007, by any
3 person, there is hereby imposed a floor stocks tax on
4 aviation fuel equal to—

5 (A) the tax which would have been imposed
6 before such date on such fuel had the amend-
7 ments made by this section been in effect at all
8 times before such date, reduced by

9 (B) the sum of—

10 (i) the tax imposed before such date
11 on such fuel under section 4081 of the In-
12 ternal Revenue Code of 1986, as in effect
13 on such date, and

14 (ii) in the case of kerosene held exclu-
15 sively for such person's own use, the
16 amount which such person would (but for
17 this clause) reasonably expect (as of such
18 date) to be paid as a refund under section
19 6427(l) of such Code with respect to such
20 kerosene.

21 (2) LIABILITY FOR TAX AND METHOD OF PAY-
22 MENT.—

23 (A) LIABILITY FOR TAX.—A person hold-
24 ing aviation fuel on October 1, 2007, shall be
25 liable for such tax.

1 (B) TIME AND METHOD OF PAYMENT.—

2 The tax imposed by paragraph (1) shall be paid
3 on January 31, 2008, and in such manner as
4 the Secretary of the Treasury shall prescribe.

5 (3) TRANSFER OF FLOOR STOCK TAX REVE-
6 NUES TO TRUST FUNDS.—For purposes of deter-
7 mining the amount transferred to the Airport and
8 Airway Trust Fund, the tax imposed by this sub-
9 section shall be treated as imposed by the provision
10 of section 4081 of the Internal Revenue Code of
11 1986 which applies with respect to the aviation fuel
12 involved.

13 (4) DEFINITIONS.—For purposes of this sub-
14 section—

15 (A) AVIATION FUEL.—The term “aviation
16 fuel” means aviation-grade kerosene and avia-
17 tion gasoline, as such terms are used within the
18 meaning of section 4081 of the Internal Rev-
19 enue Code of 1986.

20 (B) HELD BY A PERSON.—Aviation fuel
21 shall be considered as held by a person if title
22 thereto has passed to such person (whether or
23 not delivery to the person has been made).

1 (C) SECRETARY.—The term “Secretary”
2 means the Secretary of the Treasury or the
3 Secretary’s delegate.

4 (5) EXCEPTION FOR EXEMPT USES.—The tax
5 imposed by paragraph (1) shall not apply to any
6 aviation fuel held by any person exclusively for any
7 use to the extent a credit or refund of the tax is al-
8 lowable under the Internal Revenue Code of 1986
9 for such use.

10 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
11 FUEL.—

12 (A) IN GENERAL.—No tax shall be im-
13 posed by paragraph (1) on any aviation fuel
14 held on October 1, 2007, by any person if the
15 aggregate amount of such aviation fuel held by
16 such person on such date does not exceed 2,000
17 gallons. The preceding sentence shall apply only
18 if such person submits to the Secretary (at the
19 time and in the manner required by the Sec-
20 retary) such information as the Secretary shall
21 require for purposes of this subparagraph.

22 (B) EXEMPT FUEL.—For purposes of sub-
23 paragraph (A), there shall not be taken into ac-
24 count any aviation fuel held by any person

1 which is exempt from the tax imposed by para-
2 graph (1) by reason of paragraph (6).

3 (C) CONTROLLED GROUPS.—For purposes
4 of this subsection—

5 (i) CORPORATIONS.—

6 (I) IN GENERAL.—All persons
7 treated as a controlled group shall be
8 treated as 1 person.

9 (II) CONTROLLED GROUP.—The
10 term “controlled group” has the
11 meaning given to such term by sub-
12 section (a) of section 1563 of such
13 Code; except that for such purposes
14 the phrase “more than 50 percent”
15 shall be substituted for the phrase “at
16 least 80 percent” each place it ap-
17 pears in such subsection.

18 (ii) NONINCORPORATED PERSONS
19 UNDER COMMON CONTROL.—Under regula-
20 tions prescribed by the Secretary, prin-
21 ciples similar to the principles of subpara-
22 graph (A) shall apply to a group of per-
23 sons under common control if 1 or more of
24 such persons is not a corporation.

1 (7) OTHER LAWS APPLICABLE.—All provisions
2 of law, including penalties, applicable with respect to
3 the taxes imposed by section 4081 of such Code on
4 the aviation fuel involved shall, insofar as applicable
5 and not inconsistent with the provisions of this sub-
6 section, apply with respect to the floor stock taxes
7 imposed by paragraph (1) to the same extent as if
8 such taxes were imposed by such section.

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