

104TH CONGRESS  
2D SESSION

# H. R. 3457

To amend the Internal Revenue Code of 1986 to suspend the 4.3-cent general revenue portion of the fuel excise taxes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1996

Ms. JACKSON-LEE of Texas (for herself, Mr. RANGEL, Mr. PAYNE of New Jersey, Ms. WATERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP, Mr. ACKERMAN, Ms. BROWN of Florida, Ms. NORTON, Mr. JEFFERSON, Mr. STOKES, Mr. WATT of North Carolina, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. CONYERS, Mr. OWENS, Mr. FATTAH, Mr. HILLIARD, Mr. RICHARDSON, Mr. COLLINS of Georgia, Mr. JACKSON of Illinois, Mr. DELLUMS, Mr. ANDREWS, Mr. ORTIZ, Mr. RUSH, Ms. SLAUGHTER, Mr. GIBBONS, Mr. CLAY, Ms. VELÁZQUEZ, Mr. GUTIERREZ, Mrs. MINK of Hawaii, Mr. BROWN of California, and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on National Security, 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

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## A BILL

To amend the Internal Revenue Code of 1986 to suspend the 4.3-cent general revenue portion of the fuel excise taxes.

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

1 **SECTION 1. TEMPORARY SUSPENSION OF 4.3 CENTS OF**  
2 **FUEL TAX RATES.**

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

7 “(f) TEMPORARY SUSPENSION OF 4.3 CENTS OF  
8 FUEL TAX RATES.—

9 “(1) IN GENERAL.—During the temporary rate  
10 reduction period, each rate of tax referred to in  
11 paragraph (2) shall be reduced by 4.3 cents per gal-  
12 lon.

13 “(2) RATES OF TAX.—The rates of tax referred  
14 to in this paragraph are the rates of tax otherwise  
15 applicable under—

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

18 “(B) sections 4091(b)(3)(A) and  
19 4092(b)(2) (relating to aviation fuel),

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

22 “(D) paragraph (1) or (2) of section  
23 4041(a) (relating to diesel fuel and special  
24 fuels),

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

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

3           “(3) COMPARABLE TREATMENT FOR COM-  
4           PRESSED NATURAL GAS.—No tax shall be imposed  
5           by section 4041(a)(3) on any sale or use during the  
6           temporary rate reduction period.

7           “(4) COMPARABLE TREATMENT UNDER CER-  
8           TAIN REFUND RULES.—In the case of fuel on which  
9           tax is imposed during the temporary rate reduction  
10          period, each of the rates specified in sections  
11          6421(f)(2)(B), 6421(f)(3)(B)(ii), 6427(b)(2)(A),  
12          6427(l)(3)(B)(ii), and 6427(l)(4)(B) shall be re-  
13          duced by 4.3 cents per gallon.

14          “(5) COORDINATION WITH HIGHWAY TRUST  
15          FUND DEPOSITS.—In the case of fuel on which tax  
16          is imposed during the temporary rate reduction pe-  
17          riod, each of the rates specified in subparagraphs  
18          (A)(i) and (C)(i) of section 9503(f)(3) shall be re-  
19          duced by 4.3 cents per gallon.

20          “(6) TEMPORARY RATE REDUCTION PERIOD.—  
21          For purposes of this subsection, the term ‘temporary  
22          rate reduction period’ means the period after the  
23          date of the enactment of this subsection and before  
24          January 1, 1997.”

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 2. FLOOR STOCK REFUNDS.**

5 (a) IN GENERAL.—If—

6 (1) before the date of the enactment of this  
7 Act, tax has been imposed under section 4081 or  
8 4091 of the Internal Revenue Code of 1986 on any  
9 liquid, and

10 (2) on such date such liquid is held by a dealer  
11 and has not been used and is intended for sale,  
12 there shall be credited or refunded (without interest) to  
13 the person who paid such tax (hereafter in this section  
14 referred to as the “taxpayer”) an amount equal to the ex-  
15 cess of the tax paid by the taxpayer over the amount of  
16 such tax which would be imposed on such liquid had the  
17 taxable event occurred on such date.

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

20 (1) claim therefor is filed with the Secretary of  
21 the Treasury before the date which is 6 months  
22 after the date of the enactment of this Act, based  
23 on a request submitted to the taxpayer before the  
24 date which is 3 months after such date of enact-

1       ment, by the dealer who held the liquid on such date  
2       of enactment, and

3           (2) the taxpayer has repaid or agreed to repay  
4       the amount so claimed to such dealer or has ob-  
5       tained the written consent of such dealer to the al-  
6       lowance of the credit or the making of the refund.

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

11      (d) DEFINITIONS.—For purposes of this section, the  
12      terms “dealer” and “held by a dealer” have the respective  
13      meanings given to such terms by section 6412 of such  
14      Code.

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

18      **SEC. 3. FLOOR STOCKS TAX.**

19      (a) IMPOSITION OF TAX.—In the case of any liquid  
20      on which tax was imposed under section 4081 or 4091  
21      of the Internal Revenue Code of 1986 before January 1,  
22      1997, and which is held on such date by any person, there  
23      is hereby imposed a floor stocks tax of 4.3 cents per gal-  
24      lon.

1 (b) LIABILITY FOR TAX AND METHOD OF PAY-  
2 MENT.—

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

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

9 (3) TIME FOR PAYMENT.—The tax imposed by  
10 subsection (a) shall be paid on or before June 30,  
11 1997.

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

13 (1) HELD BY A PERSON.—A liquid shall be con-  
14 sidered as “held by a person” if title thereto has  
15 passed to such person (whether or not delivery to  
16 the person has been made).

17 (2) GASOLINE AND DIESEL FUEL.—The terms  
18 “gasoline” and “diesel fuel” have the respective  
19 meanings given such terms by section 4083 of such  
20 Code.

21 (3) AVIATION FUEL.—The term “aviation fuel”  
22 has the meaning given such term by section 4093 of  
23 such Code.

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

1 (d) EXCEPTION FOR EXEMPT USES.—The tax im-  
2 posed by subsection (a) shall not apply to gasoline, diesel  
3 fuel, or aviation fuel held by any person exclusively for  
4 any use to the extent a credit or refund of the tax imposed  
5 by section 4081 or 4091 of such Code is allowable for such  
6 use.

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

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

12 (1) IN GENERAL.—No tax shall be imposed by  
13 subsection (a)—

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

18 (B) on diesel fuel or aviation fuel held on  
19 such date by any person if the aggregate  
20 amount of diesel fuel or aviation fuel held by  
21 such person on such date does not exceed 2,000  
22 gallons.

23 The preceding sentence shall apply only if such per-  
24 son submits to the Secretary (at the time and in the  
25 manner required by the Secretary) such information

1 as the Secretary shall require for purposes of this  
2 paragraph.

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

8 (3) CONTROLLED GROUPS.—For purposes of  
9 this subsection—

10 (A) CORPORATIONS.—

11 (i) IN GENERAL.—All persons treated  
12 as a controlled group shall be treated as 1  
13 person.

14 (ii) CONTROLLED GROUP.—The term  
15 “controlled group” has the meaning given  
16 to such term by subsection (a) of section  
17 1563 of such Code; except that for such  
18 purposes the phrase “more than 50 per-  
19 cent” shall be substituted for the phrase  
20 “at least 80 percent” each place it appears  
21 in such subsection.

22 (B) NONINCORPORATED PERSONS UNDER  
23 COMMON CONTROL.—Under regulations pre-  
24 scribed by the Secretary, principles similar to  
25 the principles of subparagraph (A) shall apply

1 to a group of persons under common control  
2 where 1 or more of such persons is not a cor-  
3 poration.

4 (g) OTHER LAW APPLICABLE.—All provisions of law,  
5 including penalties, applicable with respect to the taxes  
6 imposed by section 4081 of such Code in the case of gaso-  
7 line and diesel fuel and section 4091 of such Code in the  
8 case of aviation fuel shall, insofar as applicable and not  
9 inconsistent with the provisions of this subsection, apply  
10 with respect to the floor stock taxes imposed by subsection  
11 (a) to the same extent as if such taxes were imposed by  
12 such section 4081 or 4091.

13 **SEC. 4. REIMPOSITION OF TAX IF NOT PASSED THROUGH**  
14 **TO CONSUMERS.**

15 (a) GAS TAX REDUCTION ONLY TO BENEFIT CON-  
16 SUMERS.—It shall be unlawful for any person selling or  
17 importing any taxable fuel to fail to fully pass on (through  
18 a price reduction) the reduction in tax on such fuel under  
19 this Act.

20 (b) ENFORCEMENT PROVISIONS APPLICABLE TO  
21 LARGE REFINERS.—

22 (1) CERTIFICATION AND PRODUCTION OF EVI-  
23 DENCE.—Each large refiner shall provide to the Sec-  
24 retary of the Treasury or his delegate (hereinafter  
25 referred to as the “Secretary”) each calendar year—

1 (A) a certification, under penalty of per-  
2 jury, as to whether the refiner met the require-  
3 ments of subsection (a), and

4 (B) such evidence as the Secretary deter-  
5 mines necessary under the regulations under  
6 subsection (c).

7 (2) REIMPOSITION OF TAXES.—

8 (A) IN GENERAL.—If the requirement of  
9 subsection (a) that the tax reduction be fully  
10 passed on to the consumer is not met with re-  
11 spect to any taxable fuel, the person otherwise  
12 liable for payment of taxes imposed on such  
13 fuel shall be liable for such taxes as if this Act  
14 had not been enacted.

15 (B) WAIVER.—In the case of a failure  
16 which is due to reasonable cause and not to  
17 willful neglect, the Secretary may waive part or  
18 all of the taxes imposed by subparagraph (A) to  
19 the extent that payment of the taxes would be  
20 excessive relative to the failure involved.

21 (c) REGULATIONS.—The Secretary, after consulta-  
22 tion with the Secretary of Energy and the Attorney Gen-  
23 eral of the United States, shall prescribe regulations which  
24 set forth the evidence required to be submitted under sub-  
25 section (b)(1). Such evidence shall be the evidence the Sec-

1 retary deems necessary to determine whether the require-  
2 ments of subsection (a) are met, including evidence of in-  
3 creases or decreases in profit margins, changes in costs  
4 or revenues, and increases in earnings.

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

6 (1) LARGE REFINER.—

7 (A) IN GENERAL.—The term “large re-  
8 finer” means, with respect to a calendar year,  
9 any person which refined or imported  
10 800,000,000 gallons or more of taxable fuel  
11 during the preceding calendar year.

12 (B) RELATED PERSONS.—All persons  
13 treated as a single employer under section 52 of  
14 the Internal Revenue Code of 1986 shall be  
15 treated as 1 person for purposes of this section.

16 (2) TAXABLE FUEL.—The term “taxable fuel”  
17 has the meaning given such term by section 4083(a)  
18 of such Code.

19 **SEC. 5. OFFSETTING REDUCTIONS IN DEFENSE BUDGET**  
20 **AUTHORITY.**

21 (a) REQUIRED REDUCTION.—Not later than 20 days  
22 after the date of the enactment of this Act, the Secretary  
23 of Defense shall cancel available budget authority in cur-  
24 rent defense procurement accounts in such amounts as  
25 may be necessary to achieve a reduction in the amount

1 of \$2,900,000,000 in outlays by the Department of De-  
2 fense from such accounts during the period beginning on  
3 the date of the enactment of this Act and ending at the  
4 close of December 31, 1996.

5 (b) IDENTIFICATION OF PROGRAMS TO BE CUT.—

6 The Secretary of Defense shall submit to Congress a re-  
7 port specifying the programs, projects, and activities of  
8 the Department of Defense from which cancellations of  
9 budget authority are made for the purposes of subsection  
10 (a). Such report shall show the specific dollar amount of  
11 budget authority cancelled from each such program,  
12 project, or activity.

13 (c) EFFECT OF CANCELLATIONS.—Amounts can-  
14 celled under this section shall not be available for obliga-  
15 tion for any purpose.

16 (d) DEFINITIONS.—For purposes of this section:

17 (1) AVAILABLE BUDGET AUTHORITY.—The  
18 term “available budget authority” means amounts  
19 appropriated before the date of the enactment of  
20 this Act for the Department of Defense that remain  
21 available for obligation as of such date.

22 (2) CURRENT PROCUREMENT ACCOUNTS.—The  
23 term “current defense procurement accounts” means  
24 appropriation accounts provided under the major  
25 heading “PROCUREMENT” in any Act making ap-

1        appropriations for the Department of Defense that was  
2        enacted before the date of the enactment of this Act  
3        and for which, with respect to any such account, the  
4        period of availability for obligation has not expired  
5        as of such date.

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