

Union Calendar No. 284

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3415**

[Report No. 104-576, Part I]

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## **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.

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MAY 15, 1996

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1996

Mrs. SEASTRAND (for herself, Mr. RIGGS, Mr. ROYCE, and Mr. ZIMMER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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

MAY 15, 1996

Reported from the Committee on Ways and Means

MAY 15, 1996

Referral to the Committee on Commerce extended for a period ending not later than May 15, 1996

MAY 15, 1996

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## 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  
 6 enacted by the Omnibus Budget Reconciliation Act of  
 7 1993 and dedicated to the general fund of the Treasury.

8 **SEC. 2. REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES**

9 **ENACTED BY THE OMNIBUS BUDGET REC-**  
 10 **ONCILIATION ACT OF 1993 AND DEDICATED**  
 11 **TO GENERAL FUND OF THE TREASURY.**

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

16 “(f) REPEAL OF 4.3-CENT INCREASE IN FUEL TAX  
 17 RATES ENACTED BY THE OMNIBUS BUDGET RECONCILI-  
 18 ATION ACT OF 1993 AND DEDICATED TO GENERAL FUND  
 19 OF THE TREASURY.—

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

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

4           “(A) subsection (a)(2)(A) (relating to gas-  
5 oline and diesel fuel),

6           “(B) sections 4091(b)(3)(A) and  
7 4092(b)(2) (relating to aviation fuel),

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

10          “(D) paragraph (1) or (2) of section  
11 4041(a) (relating to diesel fuel and special  
12 fuels),

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

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

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

21          “(4) COMPARABLE TREATMENT UNDER CER-  
22 TAIN REFUND RULES.—In the case of fuel on which  
23 tax is imposed during the applicable period, each of  
24 the rates specified in sections 6421(f)(2)(B),  
25 6421(f)(3)(B)(ii), 6427(b)(2)(A), 6427(l)(3)(B)(ii),

1 and 6427(1)(4)(B) shall be reduced by 4.3 cents per  
2 gallon.

3 “(5) COORDINATION WITH HIGHWAY TRUST  
4 FUND DEPOSITS.—In the case of fuel on which tax  
5 is imposed during the applicable period, each of the  
6 rates specified in subparagraphs (A)(i) and (C)(i) of  
7 section 9503(f)(3) shall be reduced by 4.3 cents per  
8 gallon.

9 “(6) APPLICABLE PERIOD.—For purposes of  
10 this subsection, the term ‘applicable period’ means  
11 the period after the 6th day after the date of the en-  
12 actment of this subsection and before January 1,  
13 1997.”

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **SEC. 3. FLOOR STOCK REFUNDS.**

18 (a) IN GENERAL.—If—

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

22 (2) on such date such liquid is held by a dealer  
23 and has not been used and is intended for sale,  
24 there shall be credited or refunded (without interest) to  
25 the person who paid such tax (hereafter in this section

1 referred to as the “taxpayer”) an amount equal to the ex-  
2 cess of the tax paid by the taxpayer over the amount of  
3 such tax which would be imposed on such liquid had the  
4 taxable event occurred on such date.

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

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

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

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

15 (B) the taxpayer has repaid or agreed to  
16 repay the amount so claimed to such dealer or  
17 has obtained the written consent of such dealer  
18 to the allowance of the credit or the making of  
19 the refund.

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

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

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

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

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

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

11           (a) IMPOSITION OF TAX.—In the case of any liquid  
12           on which tax was imposed under section 4081 or 4091  
13           of the Internal Revenue Code of 1986 before January 1,  
14           1997, and which is held on such date by any person, there  
15           is hereby imposed a floor stocks tax of 4.3 cents per gal-  
16           lon.

17           (b) LIABILITY FOR TAX AND METHOD OF PAY-  
18           MENT.—

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

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

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

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

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

9           (2) GASOLINE AND DIESEL FUEL.—The terms  
10          “gasoline” and “diesel fuel” have the respective  
11          meanings given such terms by section 4083 of such  
12          Code.

13          (3) AVIATION FUEL.—The term “aviation fuel”  
14          has the meaning given such term by section 4093 of  
15          such Code.

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

18          (d) EXCEPTION FOR EXEMPT USES.—The tax im-  
19          posed by subsection (a) shall not apply to gasoline, diesel  
20          fuel, or aviation fuel held by any person exclusively for  
21          any use to the extent a credit or refund of the tax imposed  
22          by section 4081 or 4091 of such Code is allowable for such  
23          use.

24          (e) EXCEPTION FOR FUEL HELD IN VEHICLE  
25          TANK.—No tax shall be imposed by subsection (a) on gas-

1 oline or diesel fuel held in the tank of a motor vehicle or  
2 motorboat.

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

4 (1) IN GENERAL.—No tax shall be imposed by  
5 subsection (a)—

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

10 (B) on diesel fuel or aviation fuel held on  
11 such date by any person if the aggregate  
12 amount of diesel fuel or aviation fuel held by  
13 such person on such date does not exceed 2,000  
14 gallons.

15 The preceding sentence shall apply only if such per-  
16 son submits to the Secretary (at the time and in the  
17 manner required by the Secretary) such information  
18 as the Secretary shall require for purposes of this  
19 paragraph.

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

1           (3) CONTROLLED GROUPS.—For purposes of  
2 this subsection—

3           (A) CORPORATIONS.—

4           (i) IN GENERAL.—All persons treated  
5 as a controlled group shall be treated as 1  
6 person.

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

15           (B) NONINCORPORATED PERSONS UNDER  
16 COMMON CONTROL.—Under regulations pre-  
17 scribed by the Secretary, principles similar to  
18 the principles of subparagraph (A) shall apply  
19 to a group of persons under common control  
20 where 1 or more of such persons is not a cor-  
21 poration.

22           (g) OTHER LAW APPLICABLE.—All provisions of law,  
23 including penalties, applicable with respect to the taxes  
24 imposed by section 4081 of such Code in the case of gaso-  
25 line and diesel fuel and section 4091 of such Code in the

1 case of aviation fuel shall, insofar as applicable and not  
2 inconsistent with the provisions of this subsection, apply  
3 with respect to the floor stock taxes imposed by subsection  
4 (a) to the same extent as if such taxes were imposed by  
5 such section 4081 or 4091.

6 **SEC. 5. BENEFITS OF TAX REPEAL SHOULD BE PASSED ON**  
7 **TO CONSUMERS.**

8 (a) PASSTHROUGH TO CONSUMERS.—

9 (1) SENSE OF CONGRESS.—It is the sense of  
10 Congress that—

11 (A) consumers immediately receive the  
12 benefit of the repeal of the 4.3-cent increase in  
13 the transportation motor fuels excise tax rates  
14 enacted by the Omnibus Budget Reconciliation  
15 Act of 1993, and

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

25 (2) STUDY.—

1 (A) IN GENERAL.—The Comptroller Gen-  
2 eral of the United States shall conduct a study  
3 of the repeal of the 4.3-cent increase in the fuel  
4 tax imposed by the Omnibus Budget Reconcili-  
5 ation of 1993 to determine whether there has  
6 been a passthrough of such repeal.

7 (B) REPORT.—Not later than January 31,  
8 1997, the Comptroller General of the United  
9 States shall report to the Committee on Fi-  
10 nance of the Senate and the Committee on  
11 Ways and Means of the House of Representa-  
12 tives the results of the study conducted under  
13 subparagraph (A).

14 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR EX-**  
15 **PENSES OF ADMINISTRATION OF THE DE-**  
16 **PARTMENT OF ENERGY.**

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

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

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

22 “(b) FISCAL YEARS 1997 THROUGH 2002.—There  
23 are authorized to be appropriated for salaries and ex-  
24 penses of the Department of Energy for departmental ad-

1 ministration and other activities in carrying out the pur-  
2 poses of this Act—

3 “(1) \$104,000,000 for fiscal year 1997;

4 “(2) \$104,000,000 for fiscal year 1998;

5 “(3) \$100,000,000 for fiscal year 1999;

6 “(4) \$90,000,000 for fiscal year 2000;

7 “(5) \$90,000,000 for fiscal year 2001; and

8 “(6) \$90,000,000 for fiscal year 2002.”.

9 **SEC. 7. SPECTRUM AUCTIONS.**

10 (a) COMMISSION OBLIGATION TO MAKE ADDITIONAL  
11 SPECTRUM AVAILABLE BY AUCTION.—

12 (1) IN GENERAL.—The Federal Communica-  
13 tions Commission shall complete all actions nec-  
14 essary to permit the assignment, by March 31,  
15 1998, by competitive bidding pursuant to section  
16 309(j) of the Communications Act of 1934 (47  
17 U.S.C. 309(j)) of licenses for the use of bands of  
18 frequencies that—

19 (A) individually span not less than 12.5  
20 megahertz, unless a combination of smaller  
21 bands can, notwithstanding the provisions of  
22 paragraph (7) of such section, reasonably be ex-  
23 pected to produce greater receipts;

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

1 (C) are located below 3 gigahertz; and

2 (D) have not, as of the date of enactment  
3 of this Act—

4 (i) been assigned or designated by  
5 Commission regulation for assignment pur-  
6 suant to such section;

7 (ii) been identified by the Secretary of  
8 Commerce pursuant to section 113 of the  
9 National Telecommunications and Infor-  
10 mation Administration Organization Act  
11 (47 U.S.C. 923); or

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

15 (2) CRITERIA FOR REASSIGNMENT.—In making  
16 available bands of frequencies for competitive bid-  
17 ding pursuant to paragraph (1), the Commission  
18 shall—

19 (A) seek to promote the most efficient use  
20 of the spectrum;

21 (B) take into account the cost to incum-  
22 bent licensees of relocating existing uses to  
23 other bands of frequencies or other means of  
24 communication;

1 (C) take into account the needs of public  
2 safety radio services;

3 (D) comply with the requirements of inter-  
4 national agreements concerning spectrum allo-  
5 cations; and

6 (E) take into account the costs to satellite  
7 service providers that could result from multiple  
8 auctions of like spectrum internationally for  
9 global satellite systems.

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