

105TH CONGRESS  
1ST SESSION

# S. 243

To provide for a short term reinstatement of expired Airport and Airway Trust Fund taxes, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 30, 1997

Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. FORD, and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for a short term reinstatement of expired Airport and Airway Trust Fund taxes, 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 Taxes Short Term Reinstatement Act”.

6 **SEC. 2. TEMPORARY REINSTATEMENT OF AIRPORT AND**  
7 **AIRWAY TRUST FUND TAXES.**

8 (a) FUEL TAX.—

1           (1) Subparagraph (A) of section 4091(b)(3) of  
2 the Internal Revenue Code of 1986 is amended to  
3 read as follows:

4           “(A) The rate of tax specified in para-  
5 graph (1) shall be 4.3 cents per gallon—

6           “(i) after December 31, 1996, and be-  
7 fore the date which is 7 calendar days  
8 after the date of the enactment of the Air-  
9 port and Airway Trust Fund Taxes Short  
10 Term Reinstatement Act; and

11           “(ii) after September 29, 1997.”

12           (2) Paragraph (2) of section 4081(d) of such  
13 Code is amended to read as follows:

14           “(2) AVIATION GASOLINE.—The rate of tax  
15 specified in clause (i) of subsection (a)(2)(A) shall  
16 be 4.3 cents per gallon—

17           “(A) after December 31, 1996, and before  
18 the date which is 7 calendar days after the date  
19 of the enactment of the Airport and Airway  
20 Trust Fund Taxes Short Term Reinstatement  
21 Act; and

22           “(B) after September 29, 1997.”

23           (3) The second paragraph (3) of section  
24 4081(d) of such Code is repealed.

1           (4) Section 4041(c)(5) of such Code is amended  
2 to read as follows:

3           “(5) TERMINATION.—The taxes imposed by  
4 paragraphs (1) and (2) shall apply during the fol-  
5 lowing periods:

6           “(A) The period beginning on August 27,  
7 1996, and ending on December 31, 1996.

8           “(B) The period beginning on the date  
9 which is 7 calendar days after the date of the  
10 enactment of the Airport and Airway Trust  
11 Fund Taxes Short Term Reinstatement Act  
12 and ending on September 29, 1997.”.

13       (b) TICKET TAXES.—Sections 4261(g) and 4271(d)  
14 are each amended by striking “1997.” and inserting  
15 “1997, and to transportation beginning on or after the  
16 date which is 7 days after the date of enactment of the  
17 Airport and Airway Trust Fund Taxes Short Term Rein-  
18 statement Act, and before September 30, 1997.”;

19       (c) TRANSFER TO AIRPORT AND AIRWAY TRUST  
20 FUND.—

21           (1) Subsection (b) of section 9502 is amended  
22 by striking “January 1, 1997,” each place it ap-  
23 pears and inserting “September 30, 1997,”.

24           (2) Paragraph (3) of section 9502(f) is amend-  
25 ed to read as follows:

1           “(3) TERMINATION.—Notwithstanding the pre-  
 2           ceding provisions of this subsection, the Airport and  
 3           Airway Trust Fund financing rate shall be zero with  
 4           respect to—

5                   “(A) taxes imposed after December 31,  
 6                   1996, and before the date which is 7 calendar  
 7                   days after the date of the enactment of the Air-  
 8                   port and Airway Trust Fund Taxes Short Term  
 9                   Reinstatement Act; and

10                   “(B) taxes imposed after September 29,  
 11                   1997.”

12           (d) FLOOR STOCKS TAXES ON AVIATION FUEL.—

13                   (1) IMPOSITION OF TAX.—In the case of avia-  
 14                   tion fuel on which tax was imposed under section  
 15                   4091 of the Internal Revenue Code of 1986 before  
 16                   the tax-increase date described in paragraph  
 17                   (3)(A)(i) and which is held on that date by any per-  
 18                   son, there is hereby imposed a floor stocks tax of  
 19                   17.5 cents per gallon.

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

22                           (A) LIABILITY FOR TAX.—A person hold-  
 23                   ing aviation fuel on a tax-increase date to which  
 24                   the tax imposed by paragraph (1) applies shall  
 25                   be liable for that tax.

1           (B) METHOD OF PAYMENT.—The tax im-  
2 posed by paragraph (1) shall be paid in the  
3 manner the Secretary prescribes.

4           (C) TIME FOR PAYMENT.—The tax im-  
5 posed by paragraph (1) with respect to any tax-  
6 increase date shall be paid on or before the first  
7 day of the 7th month beginning after that tax-  
8 increase date.

9           (3) DEFINITIONS.—For purposes of this sub-  
10 section—

11           (A) THE CODE.—The term “the Code”  
12 means the Internal Revenue Code of 1986.

13           (B) TAX INCREASE DATE.—The term “tax-  
14 increase date” means the date which is 7 cal-  
15 endar days after the date of enactment of this  
16 Act.

17           (C) AVIATION FUEL.—The term “aviation  
18 fuel” has the meaning given that term by sec-  
19 tion 4093 of the Code.

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

1           (E) SECRETARY.—The term “Secretary”  
2           means the Secretary of the Treasury or his del-  
3           egate.

4           (4) EXCEPTION FOR CERTAIN USES.—The tax  
5           imposed by paragraph (1) shall not apply to aviation  
6           fuel held by any person on the tax-increase date ex-  
7           clusively for any use for which a credit or refund of  
8           the entire tax imposed by section 4091 of the Code  
9           is allowable for aviation fuel purchased on or after  
10          the tax-increase date for that use.

11          (5) EXCEPTION FOR CERTAIN AMOUNTS OF  
12          FUEL.—

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

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

1 from the tax imposed by paragraph (1) by rea-  
2 son of paragraph (4).

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

5 (i) CORPORATIONS.—

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

9 (II) CONTROLLED GROUP.—The  
10 term “controlled group” has the  
11 meaning given to that term by sub-  
12 section (a) of section 1563 of the  
13 Code; except that for these 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 that 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 clause (i)  
22 shall apply to a group of persons under  
23 common control where 1 or more of those  
24 persons is not a corporation.

1           (6) OTHER LAW APPLICABLE.—All provisions of  
2 law, including penalties, applicable with respect to  
3 the taxes imposed by section 4091 of the Code shall,  
4 insofar as applicable and not inconsistent with the  
5 provisions of this subsection, apply with respect to  
6 the floor stock taxes imposed by paragraph (1) to  
7 the same extent as if those taxes were imposed by  
8 section 4091 of the Code.

9           (d) EFFECTIVE DATE.—

10           (1) IN GENERAL.—The amendments made by  
11 this section take effect 7 days after the date of en-  
12 actment of this Act.

13           (2) TRANSPORTATION USING TICKETS PUR-  
14 CHASED DURING LAPSE PERIOD.—The taxes im-  
15 posed by sections 4261 and 4271 of the Internal  
16 Revenue Code of 1986 do not apply to amounts paid  
17 for taxable transportation (as defined in section  
18 4262 and 4272 of the Code, respectively) after De-  
19 cember 31, 1996, and before the effective date of the  
20 amendments made by this section.

21 **SEC. 3. TAXES COLLECTED DURING TAXABLE PERIOD TO**  
22 **BE TRANSFERRED REGARDLESS OF WHEN**  
23 **PAID.**

24           (a) IN GENERAL.—Section 9502(b) of the Code is  
25 amended by adding at the end thereof the following:

1 “Any amount received in the Treasury after the later of  
2 the 2 dates set forth in paragraphs (1), (2), and (4), and  
3 on or after the date set forth in paragraph (3), shall be  
4 treated as received on the day before such date (regardless  
5 of when received) if the amount relates to a tax that de-  
6 scribed in this subsection that was in effect on the day  
7 before such date.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) applies with respect to amounts received  
10 after December 31, 1995.

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