

**Calendar No. 14**

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 279**

[Report No. 105-4]

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**A BILL**

To amend the Internal Revenue Code of 1986 to reinstate the Airport and Airway Trust Fund excise taxes, and for other purposes.

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FEBRUARY 5, 1997

Read twice and placed on the calendar

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1ST SESSION**S. 279****[Report No. 105-4]**

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1997

Mr. ROTH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To amend the Internal Revenue Code of 1986 to reinstate the Airport and Airway Trust Fund excise 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Airport and Airway Trust Fund Tax Reinstatement Act  
6 of 1997”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 2 wise expressly provided, whenever in this Act an amend-  
 3 ment or repeal is expressed in terms of an amendment  
 4 to, or repeal of, a section or other provision, the reference  
 5 shall be considered to be made to a section or other provi-  
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. REINSTATEMENT OF AIRPORT AND AIRWAY TRUST**  
 8 **FUND EXCISE TAXES.**

9 (a) FUEL TAXES.—

10 (1) AVIATION FUEL.—Subparagraph (A) of sec-  
 11 tion 4091(b)(3) is amended to read as follows:

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

14 “(i) after December 31, 1996, and be-  
 15 fore the date which is 7 days after the date  
 16 of the enactment of the Airport and Air-  
 17 way Trust Fund Tax Reinstatement Act of  
 18 1997, and

19 “(ii) after September 30, 1997.”

20 (2) AVIATION GASOLINE.—Subsection (d) of  
 21 section 4081 is amended by striking the paragraph  
 22 (3) added by section 1609(a) of the Small Business  
 23 Job Protection Act of 1996 and by striking para-  
 24 graphs (1) and (2) and inserting the following new  
 25 paragraphs:

1           “(1) IN GENERAL.—The rates of tax specified  
2           in clauses (i) and (iii) of subsection (a)(2)(A) shall  
3           be 4.3 cents per gallon after September 30, 1999.

4           “(2) AVIATION GASOLINE.—The rate of tax  
5           specified in subsection (a)(2)(A)(ii) shall be 4.3  
6           cents per gallon—

7                   “(A) after December 31, 1996, and before  
8                   the date which is 7 days after the date of the  
9                   enactment of the Airport and Airway Trust  
10                  Fund Tax Reinstatement Act of 1997, and

11                   “(B) after September 30, 1997.”

12           (3) NONCOMMERCIAL AVIATION.—Paragraph  
13           (3) of section 4041(c) is amended to read as follows:

14                   “(3) TERMINATION.—The rate of the taxes im-  
15                   posed by paragraph (1) shall be 4.3 cents per gal-  
16                   lon—

17                   “(A) after December 31, 1996, and before  
18                   the date which is 7 days after the date of the  
19                   enactment of the Airport and Airway Trust  
20                   Fund Tax Reinstatement Act of 1997, and

21                   “(B) after September 30, 1997.”

22           (b) TICKET TAXES.—

23                   (1) PERSONS.—Subsection (g) of section 4261  
24                   is amended to read as follows:

25                   “(g) APPLICATION OF TAXES.—

1           “(1) IN GENERAL.—The taxes imposed by this  
2 section shall apply to—

3           “(A) transportation beginning during the  
4 period—

5           “(i) beginning on the 7th day after  
6 the date of the enactment of the Airport  
7 and Airway Trust Fund Tax Reinstatement  
8 Act of 1997, and

9           “(ii) ending on September 30, 1997,  
10 and

11           “(B) amounts paid during such period for  
12 transportation beginning after such period.

13           “(2) REFUNDS.—If, as of the date any trans-  
14 portation begins, the taxes imposed by this section  
15 would not have applied to such transportation if  
16 paid for on such date, any tax paid under paragraph  
17 (1)(B) with respect to such transportation shall be  
18 treated as an overpayment.”

19           (2) PROPERTY.—Subsection (d) of section 4271  
20 is amended to read as follows:

21           “(d) APPLICATION OF TAX.—

22           “(1) IN GENERAL.—The tax imposed by sub-  
23 section (a) shall apply to—

24           “(A) transportation beginning during the  
25 period—

1                   “(i) beginning on the 7th day after  
2                   the date of the enactment of the Airport  
3                   and Airway Trust Fund Tax Reinstatement  
4                   Act of 1997, and

5                   “(ii) ending on September 30, 1997,  
6                   and

7                   “(B) amounts paid during such period for  
8                   transportation beginning after such period.

9                   “(2) REFUNDS.—If, as of the date any trans-  
10                  portation begins, the taxes imposed by this section  
11                  would not have applied to such transportation if  
12                  paid for on such date, any tax paid under paragraph  
13                  (1)(B) with respect to such transportation shall be  
14                  treated as an overpayment.”

15                  (c) TRANSFERS TO AIRPORT AND AIRWAY TRUST  
16                  FUND.—

17                  (1) IN GENERAL.—Subsection (b) of section  
18                  9502 is amended to read as follows:

19                  “(b) TRANSFERS TO AIRPORT AND AIRWAY TRUST  
20                  FUND.—There are hereby appropriated to the Airport and  
21                  Airway Trust Fund amounts equivalent to—

22                  “(1) the taxes received in the Treasury under—

23                  “(A) subsections (c) and (e) of section  
24                  4041 (relating to aviation fuels),

1           “(B) sections 4261 and 4271 (relating to  
2           transportation by air),

3           “(C) section 4081 (relating to gasoline)  
4           with respect to aviation gasoline (to the extent  
5           that the rate of the tax on such gasoline ex-  
6           ceeds 4.3 cents per gallon), and

7           “(D) section 4091 (relating to aviation  
8           fuel) to the extent attributable to the Airport  
9           and Airway Trust Fund financing rate, and

10          “(2) the amounts determined by the Secretary  
11          of the Treasury to be equivalent to the amounts of  
12          civil penalties collected under section 47107(n) of  
13          title 49, United States Code.”

14          (2) TERMINATION OF FINANCING RATE.—Para-  
15          graph (3) of section 9502(f) is amended to read as  
16          follows:

17          “(3) TERMINATION.—Notwithstanding the pre-  
18          ceding provisions of this subsection, the Airport and  
19          Airway Trust Fund financing rate shall be zero with  
20          respect to taxes imposed during any period that the  
21          rate of the tax imposed by section 4091(b)(1) is 4.3  
22          cents per gallon.”

23          (d) FLOOR STOCKS TAXES ON AVIATION GASOLINE  
24          AND AVIATION FUEL.—

1           (1) IMPOSITION OF TAX.—In the case of any  
2           aviation liquid on which tax was imposed under sec-  
3           tion 4081 or 4091 of the Internal Revenue Code of  
4           1986 before the tax effective date and which is held  
5           on such date by any person, there is hereby imposed  
6           a floor stocks tax of—

7                   (A) 15 cents per gallon in the case of avia-  
8                   tion gasoline, and

9                   (B) 17.5 cents per gallon in the case of  
10                  aviation fuel.

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

13                   (A) LIABILITY FOR TAX.—A person hold-  
14                   ing, on the tax effective date, any aviation liq-  
15                   uid to which the tax imposed by paragraph (1)  
16                   applies shall be liable for such tax.

17                   (B) METHOD OF PAYMENT.—The tax im-  
18                   posed by paragraph (1) shall be paid in such  
19                   manner as the Secretary shall prescribe.

20                   (C) TIME FOR PAYMENT.—The tax im-  
21                   posed by paragraph (1) shall be paid on or be-  
22                   fore the first day of the 5th month beginning  
23                   after the tax effective date.

24           (3) DEFINITIONS.—For purposes of this sub-  
25           section—

1           (A) TAX EFFECTIVE DATE.—The term  
2 “tax effective date” means the date which is 7  
3 days after the date of the enactment of this  
4 Act.

5           (B) AVIATION LIQUID.—The term “avia-  
6 tion liquid” means aviation gasoline and avia-  
7 tion fuel.

8           (C) AVIATION GASOLINE.—The term  
9 “aviation gasoline” has the meaning given such  
10 term in section 4081 of such Code.

11           (D) AVIATION FUEL.—The term “aviation  
12 fuel” has the meaning given such term by sec-  
13 tion 4093 of such Code.

14           (E) HELD BY A PERSON.—Aviation liquid  
15 shall be considered as “held by a person” if  
16 title thereto has passed to such person (whether  
17 or not delivery to the person has been made).

18           (F) SECRETARY.—The term “Secretary”  
19 means the Secretary of the Treasury or the  
20 Secretary’s delegate.

21           (4) EXCEPTION FOR EXEMPT USES.—The tax  
22 imposed by paragraph (1) shall not apply to—

23           (A) aviation liquid held by any person on  
24 the tax effective date exclusively for any use for

1           which a credit or refund of the entire tax im-  
2           posed by section 4081 or 4091 of such Code (as  
3           the case may be) is allowable for such liquid  
4           purchased on or after such tax effective date for  
5           such use, or

6                   (B) aviation fuel held by any person on the  
7           tax effective date exclusively for any use de-  
8           scribed in section 4092(b) of such Code.

9           (5) EXCEPTION FOR CERTAIN AMOUNTS OF  
10          FUEL.—

11                   (A) IN GENERAL.—No tax shall be im-  
12          posed by paragraph (1) on any aviation liquid  
13          held on the tax effective date by any person if  
14          the aggregate amount of such liquid (deter-  
15          mined separately for aviation gasoline and avia-  
16          tion fuel) held by such person on such date does  
17          not exceed 2,000 gallons. The preceding sen-  
18          tence shall apply only if such person submits to  
19          the Secretary (at the time and in the manner  
20          required by the Secretary) such information as  
21          the Secretary shall require for purposes of this  
22          paragraph.

23                   (B) EXEMPT FUEL.—Any liquid to which  
24          the tax imposed by paragraph (1) does not

1 apply by reason of paragraph (4) shall not be  
2 taken into account under subparagraph (A).

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 person.

9 (II) CONTROLLED GROUP.—The  
10 term “controlled group” has the  
11 meaning given 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 clause (i)  
22 shall apply to a group of persons under  
23 common control where 1 or more of such  
24 persons is not a corporation.

1           (6) OTHER LAWS APPLICABLE.—All provisions  
2 of law, including penalties, applicable with respect to  
3 the taxes imposed by section 4081 or 4091 of such  
4 Code shall, insofar as applicable and not inconsistent  
5 with the provisions of this subsection, apply with re-  
6 spect to the floor stocks taxes imposed by paragraph  
7 (1) to the same extent as if such taxes were imposed  
8 by such section 4081 or 4091, as the case may be.  
9 (e) EFFECTIVE DATES.—

10           (1) FUEL TAXES.—The amendments made by  
11 subsection (a) shall apply to periods beginning on or  
12 after the 7th day after the date of the enactment of  
13 this Act.

14           (2) TICKET TAXES.—

15           (A) IN GENERAL.—The amendments made  
16 by subsection (b) shall apply to transportation  
17 beginning on or after such 7th day.

18           (B) EXCEPTION FOR CERTAIN PAY-  
19 MENTS.—Except as provided in subparagraph  
20 (C), the amendments made by subsection (b)  
21 shall not apply to any amount paid before such  
22 7th day.

23           (C) PAYMENTS OF PROPERTY TRANSPOR-  
24 TATION TAX WITHIN CONTROLLED GROUP.—In  
25 the case of the tax imposed by section 4271 of

1 the Internal Revenue Code of 1986, subpara-  
2 graph (B) shall not apply to any amount paid  
3 by 1 member of a controlled group for transpor-  
4 tation furnished by another member of such  
5 group. For purposes of the preceding sentence,  
6 all persons treated as a single employer under  
7 subsection (a) or (b) of section 52 of the Inter-  
8 nal Revenue Code of 1986 shall be treated as  
9 members of a controlled group.

10 (f) APPLICATION OF LOOK-BACK SAFE HARBOR FOR  
11 DEPOSITS.—Nothing in the look-back safe harbor pre-  
12 scribed in Treasury Regulation section 40.6302(c)–1(c)(2)  
13 shall be construed to permit such safe harbor to be used  
14 with respect to any tax unless such tax was imposed  
15 throughout the look-back period.