

108TH CONGRESS
2D SESSION

H. R. 3971

To amend the Internal Revenue Code of 1986 to credit the Highway Trust Fund with the full amount of fuel taxes, to combat fuel tax evasion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2004

Mr. THOMAS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to credit the Highway Trust Fund with the full amount of fuel taxes, to combat fuel tax evasion, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Highway Reauthorization Tax Act of 2004”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents of
 4 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—RESTRUCTURING OF INCENTIVES FOR ALCOHOL
 FUELS, ETC.

Sec. 101. Reduced rates of tax on gasohol replaced with excise tax credit; re-
 peal of other alcohol-based fuel incentives; etc.

Sec. 102. Alcohol fuel subsidies borne by general fund.

TITLE II—REDUCTION OF FUEL TAX EVASION

Sec. 201. Exemption from certain excise taxes for mobile machinery.

Sec. 202. Taxation of aviation-grade kerosene.

Sec. 203. Dye injection equipment.

Sec. 204. Authority to inspect on-site records.

Sec. 205. Registration of pipeline or vessel operators required for exemption of
 bulk transfers to registered terminals or refineries.

Sec. 206. Display of registration.

Sec. 207. Penalties for failure to register and failure to report.

Sec. 208. Collection from Customs bond where importer not registered.

Sec. 209. Modifications of tax on use of certain vehicles.

Sec. 210. Modification of ultimate vendor refund claims with respect to farm-
 ing.

Sec. 211. Dedication of revenues from certain penalties to the Highway Trust
 Fund.

TITLE III—OTHER EXCISE TAX PROVISIONS

Sec. 301. Taxable fuel refunds for certain ultimate vendors.

Sec. 302. Two-party exchanges.

Sec. 303. Simplification of tax on tires.

1 **TITLE I—RESTRUCTURING OF**
 2 **INCENTIVES FOR ALCOHOL**
 3 **FUELS, ETC.**

4 **SEC. 101. REDUCED RATES OF TAX ON GASOHOL REPLACED**
 5 **WITH EXCISE TAX CREDIT; REPEAL OF**
 6 **OTHER ALCOHOL-BASED FUEL INCENTIVES;**
 7 **ETC.**

8 (a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIX-
 9 TURES.—

10 (1) IN GENERAL.—Subsection (f) of section
 11 6427 is amended to read as follows:

12 “(f) ALCOHOL FUEL MIXTURES.—

13 “(1) IN GENERAL.—The amount of credit
 14 which would (but for section 40(c)) be determined
 15 under section 40(a)(1) for any period—

16 “(A) shall, with respect to taxable events
 17 occurring during such period, be treated—

18 “(i) as a payment of the taxpayer’s li-
 19 ability for tax imposed by section 4081,
 20 and

21 “(ii) as received at the time of the
 22 taxable event, and

23 “(B) to the extent such amount of credit
 24 exceeds such liability for such period, shall (ex-
 25 cept as provided in subsection (k)) be paid sub-

1 ject to subsection (i)(3) by the Secretary with-
2 out interest.

3 “(2) SPECIAL RULES.—

4 “(A) ONLY CERTAIN ALCOHOL TAKEN
5 INTO ACCOUNT.—For purposes of paragraph
6 (1), section 40 shall be applied—

7 “(i) by not taking into account alcohol
8 with a proof of less than 190, and

9 “(ii) by treating as alcohol the alcohol
10 gallon equivalent of ethyl tertiary butyl
11 ether or other ethers produced from such
12 alcohol.

13 “(B) TREATMENT OF REFINERS.—For
14 purposes of paragraph (1), in the case of a mix-
15 ture—

16 “(i) the alcohol in which is described
17 in subparagraph (A)(ii), and

18 “(ii) which is produced by any person
19 at a refinery prior to any taxable event,
20 section 40 shall be applied by treating such per-
21 son as having sold such mixture at the time of
22 its removal from the refinery (and only at such
23 time) to another person for use as a fuel.

24 “(3) MIXTURES NOT USED AS FUEL.—Rules
25 similar to the rules of subparagraphs (A) and (D)

1 of section 40(d)(3) shall apply for purposes of this
2 subsection.

3 “(4) TERMINATION.—This section shall apply
4 only to periods to which section 40 applies, deter-
5 mined by substituting in section 40(e)—

6 “(A) ‘September 30, 2007’ for ‘December
7 31, 2007’, and

8 “(B) ‘October 1, 2007’ for ‘January 1,
9 2008’.”.

10 (2) REVISION OF RULES FOR PAYMENT OF
11 CREDIT.—Paragraph (3) of section 6427(i) is
12 amended to read as follows:

13 “(3) SPECIAL RULE FOR ALCOHOL MIXTURE
14 CREDIT.—

15 “(A) IN GENERAL.—A claim may be filed
16 under subsection (f)(1)(B) by any person for
17 any period—

18 “(i) for which \$200 or more is pay-
19 able under such subsection (f)(1)(B), and

20 “(ii) which is not less than 1 week.

21 In the case of an electronic claim, this subpara-
22 graph shall be applied without regard to clause
23 (i).

24 “(B) PAYMENT OF CLAIM.—Notwith-
25 standing subsection (f)(1)(B), if the Secretary

1 has not paid pursuant to a claim filed under
2 this section within 45 days of the date of the
3 filing of such claim (20 days in the case of an
4 electronic claim), the claim shall be paid with
5 interest from such date determined by using the
6 overpayment rate and method under section
7 6621.

8 “(C) TIME FOR FILING CLAIM.—No claim
9 filed under this paragraph shall be allowed un-
10 less filed on or before the last day of the first
11 quarter following the earliest quarter included
12 in the claim.”.

13 (b) REPEAL OF OTHER INCENTIVES FOR FUEL MIX-
14 TURES.—

15 (1) Subsection (b) of section 4041 is amended
16 to read as follows:

17 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
18 USE.—

19 “(1) IN GENERAL.—No tax shall be imposed by
20 subsection (a) or (d)(1) on liquids sold for use or
21 used in an off-highway business use.

22 “(2) TAX WHERE OTHER USE.—If a liquid on
23 which no tax was imposed by reason of paragraph
24 (1) is used otherwise than in an off-highway busi-
25 ness use, a tax shall be imposed by paragraph

1 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
2 (whichever is appropriate) and by the corresponding
3 provision of subsection (d)(1) (if any).

4 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—
5 For purposes of this subsection, the term ‘off-high-
6 way business use’ has the meaning given to such
7 term by section 6421(e)(2); except that such term
8 shall not, for purposes of subsection (a)(1), include
9 use in a diesel-powered train.”.

10 (2) Section 4041(k) is hereby repealed.

11 (3) Section 4081(c) is hereby repealed.

12 (4) Section 4091(c) is hereby repealed.

13 (c) TRANSFERS TO HIGHWAY TRUST FUND.—Para-
14 graph (4) of section 9503(b) is amended by adding “or”
15 at the end of subparagraph (B), by striking the comma
16 at the end of subparagraph (C) and inserting a period,
17 and by striking subparagraphs (D), (E), and (F).

18 (d) CONFORMING AMENDMENTS.—

19 (1) Subsection (c) of section 40 is amended to
20 read as follows:

21 “(c) COORDINATION WITH EXCISE TAX BENE-
22 FITS.—The amount of the credit determined under this
23 section with respect to any alcohol shall, under regulations
24 prescribed by the Secretary, be properly reduced to take

1 into account the benefit provided with respect to such alco-
2 hol under section 6427(f).”.

3 (2) Subparagraph (B) of section 40(d)(4) is
4 amended by striking “under section 4041(k) or
5 4081(e)” and inserting “under section 6427(f)”.

6 (e) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided by para-
8 graph (2), the amendments made by this section
9 shall apply to fuel sold or used after September 30,
10 2004.

11 (2) SUBSECTION (c).—The amendments made
12 by subsection (c) shall apply to taxes imposed after
13 September 30, 2003.

14 **SEC. 102. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL**
15 **FUND.**

16 (a) TRANSFERS TO FUND.—Section 9503(b)(1) is
17 amended by adding at the end the following new flush sen-
18 tence:

19 “For purposes of this paragraph, the amount of
20 taxes received under section 4081 shall include any
21 amount treated as a payment under section
22 6427(f)(1)(A) and shall not be reduced by the
23 amount paid under section 6427(f)(1)(B).”.

24 (b) TRANSFERS FROM FUND.—Subparagraph (A) of
25 section 9503(c)(2) is amended by adding at the end the

1 following new sentence: “Clauses (i)(III) and (ii) shall not
2 apply to claims under section 6427(f)(1)(B).”

3 (c) EFFECTIVE DATE.—

4 (1) SUBSECTION (a).—The amendment made
5 by subsection (a) shall apply to taxes received after
6 September 30, 2004.

7 (2) SUBSECTION (b).—The amendment made
8 by subsection (b) shall apply to amounts paid after
9 September 30, 2004, and (to the extent related to
10 section 34 of the Internal Revenue Code of 1986) to
11 fuel used after such date.

12 **TITLE II—REDUCTION OF FUEL** 13 **TAX EVASION**

14 **SEC. 201. EXEMPTION FROM CERTAIN EXCISE TAXES FOR** 15 **MOBILE MACHINERY.**

16 (a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND
17 TRAILERS SOLD AT RETAIL.—

18 (1) IN GENERAL.—Section 4053 (relating to ex-
19 emptions) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(8) MOBILE MACHINERY.—Any vehicle which
22 consists of a chassis—

23 “(A) to which there has been permanently
24 mounted (by welding, bolting, riveting, or other
25 means) machinery or equipment to perform a

1 construction, manufacturing, processing, farm-
2 ing, mining, drilling, timbering, or similar oper-
3 ation if the operation of the machinery or
4 equipment is unrelated to transportation on or
5 off the public highways,

6 “(B) which has been specially designed to
7 serve only as a mobile carriage and mount (and
8 a power source, where applicable) for the par-
9 ticular machinery or equipment involved, wheth-
10 er or not such machinery or equipment is in op-
11 eration, and

12 “(C) which, by reason of such special de-
13 sign, could not, without substantial structural
14 modification, be used as a component of a vehi-
15 cle designed to perform a function of trans-
16 porting any load other than that particular ma-
17 chinery or equipment or similar machinery or
18 equipment requiring such a specially designed
19 chassis.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall take effect on the day after
22 the date of the enactment of this Act.

23 (b) EXEMPTION FROM TAX ON USE OF CERTAIN VE-
24 HICLES.—

1 (1) IN GENERAL.—Section 4483 (relating to ex-
2 emptions) is amended by redesignating subsection
3 (g) as subsection (h) and by inserting after sub-
4 section (f) the following new subsection:

5 “(g) EXEMPTION FOR MOBILE MACHINERY.—No tax
6 shall be imposed by section 4481 on the use of any vehicle
7 described in section 4053(8).”.

8 (2) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect on the day after
10 the date of the enactment of this Act.

11 (c) REFUND OF FUEL TAXES.—

12 (1) IN GENERAL.—Section 6421(e)(2) (defining
13 off-highway business use) is amended by adding at
14 the end the following new subparagraph:

15 “(C) USES IN MOBILE MACHINERY.—

16 “(i) IN GENERAL.—The term ‘off-
17 highway business use’ shall include any use
18 in a vehicle which meets the requirements
19 described in clause (ii).

20 “(ii) REQUIREMENTS FOR MOBILE
21 MACHINERY.—The requirements described
22 in this clause are—

23 “(I) the design-based test, and

24 “(II) the use-based test.

1 “(iii) DESIGN-BASED TEST.—For pur-
2 poses of clause (ii)(I), the design-based
3 test is met if the vehicle consists of a chas-
4 sis—

5 “(I) to which there has been per-
6 manently mounted (by welding, bolt-
7 ing, riveting, or other means) machin-
8 ery or equipment to perform a con-
9 struction, manufacturing, processing,
10 farming, mining, drilling, timbering,
11 or similar operation if the operation of
12 the machinery or equipment is unre-
13 lated to transportation on or off the
14 public highways,

15 “(II) which has been specially de-
16 signed to serve only as a mobile car-
17 riage and mount (and a power source,
18 where applicable) for the particular
19 machinery or equipment involved,
20 whether or not such machinery or
21 equipment is in operation, and

22 “(III) which, by reason of such
23 special design, could not, without sub-
24 stantial structural modification, be
25 used as a component of a vehicle de-

1 signed to perform a function of trans-
2 porting any load other than that par-
3 ticular machinery or equipment or
4 similar machinery or equipment re-
5 quiring such a specially designed chas-
6 sis.

7 “(iv) USE-BASED TEST.—For pur-
8 poses of clause (ii)(II), the use-based test
9 is met if the use of the vehicle on public
10 highways was less than 5,000 miles during
11 the taxpayer’s taxable year.”

12 (2) NO TAX-FREE SALES.—Subsection (b) of
13 section 4082, as amended by section 202, is amend-
14 ed by inserting before the period at the end “and
15 such term shall not include any use described in sec-
16 tion 6421(e)(2)(C).”

17 (3) ANNUAL REFUND OF TAX PAID.—Section
18 6427(i)(2) (relating to exceptions) is amended by
19 adding at the end the following new subparagraph:

20 “(C) NONAPPLICATION OF PARAGRAPH.—
21 This paragraph shall not apply to any fuel used
22 solely in any off-highway business use described
23 in section 6421(e)(2)(C).”

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years begin-
3 ning after the date of the enactment of this Act.

4 **SEC. 202. TAXATION OF AVIATION-GRADE KEROSENE.**

5 (a) RATE OF TAX.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 4081(a)(2) is amended by striking “and” at the end
8 of clause (ii), by striking the period at the end of
9 clause (iii) and inserting “, and”, and by adding at
10 the end the following new clause:

11 “(iv) in the case of aviation-grade ker-
12 osene, 21.8 cents per gallon.”.

13 (2) COMMERCIAL AVIATION.—Paragraph (2) of
14 section 4081(a) is amended by adding at the end the
15 following new subparagraph:

16 “(C) TAXES IMPOSED ON FUEL USED IN
17 COMMERCIAL AVIATION.—In the case of avia-
18 tion-grade kerosene which is removed from any
19 refinery or terminal directly into the fuel tank
20 of an aircraft for use in commercial aviation,
21 the rate of tax under subparagraph (A)(iv) shall
22 be 4.3 cents per gallon.”.

23 (3) CERTAIN REFUELER TRUCKS, TANKERS,
24 AND TANK WAGONS TREATED AS TERMINAL.—Sub-

1 section (a) of section 4081 is amended by adding at
2 the end the following new paragraph:

3 “(3) CERTAIN REFUELER TRUCKS, TANKERS,
4 AND TANK WAGONS TREATED AS TERMINAL.—

5 “(A) IN GENERAL.—A refueler truck,
6 tanker, or tank wagon shall be treated as part
7 of the terminal referred to in paragraph (2)(C)
8 if—

9 “(i) such truck, tanker, or wagon
10 meets the requirements of subparagraph
11 (B) with respect to an airport, and

12 “(ii) no vehicle registered for highway
13 use is loaded with aviation-grade kerosene
14 at such terminal.

15 “(B) REQUIREMENTS.—A refueler truck,
16 tanker, or tank wagon meets the requirements
17 of this subparagraph with respect to an airport
18 if such truck, tanker, or wagon—

19 “(i) is loaded with aviation-grade ker-
20 osene at such terminal located within such
21 airport and delivers such kerosene only
22 into aircraft at such airport for use in
23 commercial aviation,

1 “(ii) has storage tanks, hose, and cou-
2 pling equipment designed and used for the
3 purposes of fueling aircraft,

4 “(iii) is not registered for highway
5 use, and

6 “(iv) is operated by—

7 “(I) the terminal operator of
8 such terminal, or

9 “(II) a person that makes a daily
10 accounting to such terminal operator
11 of each delivery of fuel from such
12 truck, tanker, or wagon.

13 “(C) REPORTING.—The Secretary shall re-
14 quire under section 4101(d) reporting by such
15 terminal operator of—

16 “(i) any information obtained under
17 subparagraph (B)(iv)(II), and

18 “(ii) any similar information main-
19 tained by such terminal operator with re-
20 spect to deliveries of fuel made by trucks,
21 tankers, or wagons operated by such ter-
22 minal operator.”.

23 (4) LIABILITY FOR TAX ON AVIATION-GRADE
24 KEROSENE USED IN COMMERCIAL AVIATION.—Sub-

1 section (a) of section 4081 is amended by adding at
2 the end the following new paragraph:

3 “(4) LIABILITY FOR TAX.—For purposes of
4 paragraph (2)(C), the person who uses the fuel for
5 commercial aviation shall pay the tax imposed under
6 such paragraph. For purposes of the preceding sen-
7 tence, fuel shall be treated as used when such fuel
8 is removed into the fuel tank.”.

9 (5) NONTAXABLE USES.—

10 (A) IN GENERAL.—Section 4082 is amend-
11 ed by redesignating subsections (e) and (f) as
12 subsections (f) and (g), respectively, and by in-
13 serting after subsection (d) the following new
14 subsection:

15 “(e) AVIATION-GRADE KEROSENE.—In the case of
16 aviation-grade kerosene which is exempt from the tax im-
17 posed by section 4041(c) (other than by reason of a prior
18 imposition of tax) and which is removed from any refinery
19 or terminal directly into the fuel tank of an aircraft, the
20 rate of tax under section 4081(a)(2)(A)(iv) shall be zero.
21 For purposes of the preceding sentence, rules similar to
22 the rules of section 4081(a)(3) shall apply.”.

23 (B) CONFORMING AMENDMENTS.—

1 (i) Subsection (b) of section 4082 is
2 amended by adding at the end the fol-
3 lowing new flush sentence:

4 “The term ‘nontaxable use’ does not include the use of
5 aviation-grade kerosene in an aircraft.”.

6 (ii) Section 4082(d) is amended by
7 striking paragraph (1) and by redesignig-
8 nating paragraphs (2) and (3) as para-
9 graphs (1) and (2), respectively.

10 (6) NONAIRCRAFT USE OF AVIATION-GRADE
11 KEROSENE.—

12 (A) IN GENERAL.—Subparagraph (B) of
13 section 4041(a)(1) is amended by adding at the
14 end the following new sentence: “This subpara-
15 graph shall not apply to aviation-grade ker-
16 osene.”.

17 (B) CONFORMING AMENDMENT.—The
18 heading for paragraph (1) of section 4041(a) is
19 amended by inserting “AND KEROSENE” after
20 “DIESEL FUEL”.

21 (b) COMMERCIAL AVIATION.—Section 4083 is
22 amended by redesignating subsections (b) and (c) as sub-
23 sections (c) and (d), respectively, and by inserting after
24 subsection (a) the following new subsection:

1 “(b) COMMERCIAL AVIATION.—For purposes of this
2 subpart, the term ‘commercial aviation’ means any use of
3 an aircraft in a business of transporting persons or prop-
4 erty for compensation or hire by air, unless properly allo-
5 cable to any transportation exempt from the taxes imposed
6 by sections 4261 and 4271 by reason of section 4281 or
7 4282 or by reason of section 4261(h).”.

8 (c) REFUNDS.—

9 (1) IN GENERAL.—Paragraph (4) of section
10 6427(l) is amended to read as follows:

11 “(4) REFUNDS FOR AVIATION-GRADE KER-
12 OSENE.—

13 “(A) NO REFUND OF CERTAIN TAXES ON
14 FUEL USED IN COMMERCIAL AVIATION.—In the
15 case of aviation-grade kerosene used in com-
16 mercial aviation (as defined in section 4083(b))
17 (other than supplies for vessels or aircraft with-
18 in the meaning of section 4221(d)(3)), para-
19 graph (1) shall not apply to so much of the tax
20 imposed by section 4081 as is attributable to—

21 “(i) the Leaking Underground Stor-
22 age Tank Trust Fund financing rate im-
23 posed by such section, and

1 “(ii) so much of the rate of tax speci-
2 fied in section 4081(a)(2)(A)(iv) as does
3 not exceed 4.3 cents per gallon.

4 “(B) PAYMENT TO ULTIMATE, REG-
5 ISTERED VENDOR.—With respect to aviation-
6 grade kerosene, if the ultimate purchaser of
7 such kerosene waives (at such time and in such
8 form and manner as the Secretary shall pre-
9 scribe) the right to payment under paragraph
10 (1) and assigns such right to the ultimate ven-
11 dor, then the Secretary shall pay the amount
12 which would be paid under paragraph (1) to
13 such ultimate vendor, but only if such ultimate
14 vendor—

15 “(i) is registered under section 4101,
16 and

17 “(ii) meets the requirements of sub-
18 paragraph (A), (B), or (D) of section
19 6416(a)(1).”.

20 (2) TIME FOR FILING CLAIMS.—Paragraph (4)
21 of section 6427(i) is amended by striking “sub-
22 section (l)(5)” and inserting “paragraph (4)(B) or
23 (5) of subsection (l)”.

1 (3) CONFORMING AMENDMENT.—Subparagraph
2 (B) of section 6427(l)(2) is amended to read as fol-
3 lows:

4 “(B) in the case of aviation-grade ker-
5 osene—

6 “(i) any use which is exempt from the
7 tax imposed by section 4041(c) other than
8 by reason of a prior imposition of tax, or

9 “(ii) any use in commercial aviation
10 (within the meaning of section 4083(b)).”.

11 (d) REPEAL OF PRIOR TAXATION OF AVIATION
12 FUEL.—

13 (1) IN GENERAL.—Part III of subchapter A of
14 chapter 32 is amended by striking subpart B and by
15 redesignating subpart C as subpart B.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 4041(c) is amended to read as
18 follows:

19 “(c) AVIATION-GRADE KEROSENE.—

20 “(1) IN GENERAL.—There is hereby imposed a
21 tax upon aviation-grade kerosene—

22 “(A) sold by any person to an owner, les-
23 see, or other operator of an aircraft for use in
24 such aircraft, or

1 “(B) used by any person in an aircraft un-
2 less there was a taxable sale of such fuel under
3 subparagraph (A).

4 “(2) EXEMPTION FOR PREVIOUSLY TAXED
5 FUEL.—No tax shall be imposed by this subsection
6 on the sale or use of any aviation-grade kerosene if
7 tax was imposed on such liquid under section 4081
8 and the tax thereon was not credited or refunded.

9 “(3) RATE OF TAX.—The rate of tax imposed
10 by this subsection shall be the rate of tax specified
11 in section 4081(a)(2)(A)(iv) which is in effect at the
12 time of such sale or use.”.

13 (B) Section 4041(d)(2) is amended by
14 striking “section 4091” and inserting “section
15 4081”.

16 (C) Section 4041 is amended by striking
17 subsection (e).

18 (D) Section 4041 is amended by striking
19 subsection (i).

20 (E) Sections 4101(a), 4103, 4221(a), and
21 6206 are each amended by striking “, 4081, or
22 4091” and inserting “or 4081”.

23 (F) Section 6416(b)(2) is amended by
24 striking “4091 or”.

1 (G) Section 6416(b)(3) is amended by
2 striking “or 4091” each place it appears.

3 (H) Section 6416(d) is amended by strik-
4 ing “or to the tax imposed by section 4091 in
5 the case of refunds described in section
6 4091(d)”.

7 (I) Section 6427(j)(1) is amended by strik-
8 ing “, 4081, and 4091” and inserting “and
9 4081”.

10 (J)(i) Section 6427(l)(1) is amended to
11 read as follows:

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection and in subsection (k), if any
14 diesel fuel or kerosene on which tax has been im-
15 posed by section 4041 or 4081 is used by any person
16 in a nontaxable use, the Secretary shall pay (without
17 interest) to the ultimate purchaser of such fuel an
18 amount equal to the aggregate amount of tax im-
19 posed on such fuel under section 4041 or 4081, as
20 the case may be, reduced by any payment made to
21 the ultimate vendor under paragraph (4)(B).”.

22 (ii) Paragraph (5)(B) of section 6427(l) is
23 amended by striking “Paragraph (1)(A) shall
24 not apply to kerosene” and inserting “Para-

1 graph (1) shall not apply to kerosene (other
2 than aviation-grade kerosene)”.

3 (K) Subparagraph (B) of section
4 6724(d)(1) is amended by striking clause (xv)
5 and by redesignating the succeeding clauses ac-
6 cordingly.

7 (L) Paragraph (2) of section 6724(d) is
8 amended by striking subparagraph (W) and by
9 redesignating the succeeding subparagraphs ac-
10 cordingly.

11 (M) Paragraph (1) of section 9502(b) is
12 amended by adding “and” at the end of sub-
13 paragraph (B) and by striking subparagraphs
14 (C) and (D) and inserting the following new
15 subparagraph:

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

18 (N) The last sentence of section 9502(b) is
19 amended to read as follows:

20 “There shall not be taken into account under paragraph
21 (1) so much of the taxes imposed by section 4081 as are
22 determined at the rate specified in section
23 4081(a)(2)(B).”.

24 (O) Subsection (b) of section 9508 is
25 amended by striking paragraph (3) and by re-

1 designating paragraphs (4) and (5) as para-
2 graphs (3) and (4), respectively.

3 (P) Section 9508(c)(2)(A) is amended by
4 striking “sections 4081 and 4091” and insert-
5 ing “section 4081”.

6 (Q) The table of subparts for part III of
7 subchapter A of chapter 32 is amended to read
8 as follows:

“Subpart A. Motor and aviation fuels.

“Subpart B. Special provisions applicable to fuels tax.”.

9 (R) The heading for subpart A of part III
10 of subchapter A of chapter 32 is amended to
11 read as follows:

12 **“Subpart A—Motor and Aviation Fuels”.**

13 (S) The heading for subpart B of part III
14 of subchapter A of chapter 32 is amended to
15 read as follows:

16 **“Subpart B—Special Provisions Applicable to Fuels**
17 **Tax”.**

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to aviation-grade kerosene re-
20 moved, entered, or sold after September 30, 2004.

21 (f) FLOOR STOCKS TAX.—

22 (1) IN GENERAL.—There is hereby imposed on
23 aviation-grade kerosene held on October 1, 2004, by
24 any person a tax equal to—

1 (A) the tax which would have been imposed
2 before such date on such kerosene had the
3 amendments made by this section been in effect
4 at all times before such date, reduced by

5 (B) the tax imposed before such date
6 under section 4091 of the Internal Revenue
7 Code of 1986, as in effect on the day before the
8 date of the enactment of this Act.

9 (2) LIABILITY FOR TAX AND METHOD OF PAY-
10 MENT.—

11 (A) LIABILITY FOR TAX.—The person
12 holding the kerosene on October 1, 2004, to
13 which the tax imposed by paragraph (1) applies
14 shall be liable for such tax.

15 (B) METHOD AND TIME FOR PAYMENT.—
16 The tax imposed by paragraph (1) shall be paid
17 at such time and in such manner as the Sec-
18 retary of the Treasury (or the Secretary's dele-
19 gate) shall prescribe, including the nonapplica-
20 tion of such tax on de minimis amounts of ker-
21 osene.

22 (3) TRANSFER OF FLOOR STOCK TAX REVE-
23 NUES TO TRUST FUNDS.—For purposes of deter-
24 mining the amount transferred to any trust fund,
25 the tax imposed by this subsection shall be treated

1 as imposed by section 4081 of the Internal Revenue
2 Code of 1986—

3 (A) at the Leaking Underground Storage
4 Tank Trust Fund financing rate under such
5 section to the extent of 0.1 cents per gallon,
6 and

7 (B) at the rate under section
8 4081(a)(2)(A)(iv) to the extent of the remain-
9 der.

10 (4) HELD BY A PERSON.—For purposes of this
11 section, kerosene shall be considered as held by a
12 person if title thereto has passed to such person
13 (whether or not delivery to the person has been
14 made).

15 (5) OTHER LAWS APPLICABLE.—All provisions
16 of law, including penalties, applicable with respect to
17 the tax imposed by section 4081 of such Code shall,
18 insofar as applicable and not inconsistent with the
19 provisions of this subsection, apply with respect to
20 the floor stock tax imposed by paragraph (1) to the
21 same extent as if such tax were imposed by such
22 section.

1 **SEC. 203. DYE INJECTION EQUIPMENT.**

2 (a) IN GENERAL.—Section 4082(a)(2) (relating to
3 exemptions for diesel fuel and kerosene) is amended by
4 inserting “by mechanical injection” after “indelibly dyed”.

5 (b) DYE INJECTOR SECURITY.—Not later than 180
6 days after the date of the enactment of this Act, the Sec-
7 retary of the Treasury shall issue regulations regarding
8 mechanical dye injection systems described in the amend-
9 ment made by subsection (a), and such regulations shall
10 include standards for making such systems tamper resist-
11 ant.

12 (c) PENALTY FOR TAMPERING WITH OR FAILING TO
13 MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL
14 DYE INJECTION SYSTEMS.—

15 (1) IN GENERAL.—Part I of subchapter B of
16 chapter 68 (relating to assessable penalties) is
17 amended by adding after section 6715 the following
18 new section:

19 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
20 **SECURITY REQUIREMENTS FOR MECHAN-**
21 **ICAL DYE INJECTION SYSTEMS.**

22 “(a) IMPOSITION OF PENALTY—

23 “(1) TAMPERING.—If any person tampers with
24 a mechanical dye injection system used to indelibly
25 dye fuel for purposes of section 4082, such person
26 shall pay a penalty in addition to the tax (if any).

1 “(2) FAILURE TO MAINTAIN SECURITY RE-
2 QUIREMENTS.—If any operator of a mechanical dye
3 injection system used to indelibly dye fuel for pur-
4 poses of section 4082 fails to maintain the security
5 standards for such system as established by the Sec-
6 retary, then such operator shall pay a penalty in ad-
7 dition to the tax (if any).

8 “(b) AMOUNT OF PENALTY.—The amount of the
9 penalty under subsection (a) shall be—

10 “(1) for each violation described in paragraph
11 (1), the greater of—

12 “(A) \$25,000, or

13 “(B) \$10 for each gallon of fuel involved,
14 and

15 “(2) for each—

16 “(A) failure to maintain security standards
17 described in paragraph (2), \$1,000, and

18 “(B) failure to correct a violation described
19 in paragraph (2), \$1,000 per day for each day
20 after which such violation was discovered or
21 such person should have reasonably known of
22 such violation.

23 “(c) JOINT AND SEVERAL LIABILITY.—

24 “(1) IN GENERAL.—If a penalty is imposed
25 under this section on any business entity, each offi-

1 cer, employee, or agent of such entity or other con-
 2 tracting party who willfully participated in any act
 3 giving rise to such penalty shall be jointly and sever-
 4 ally liable with such entity for such penalty.

5 “(2) AFFILIATED GROUPS.—If a business entity
 6 described in paragraph (1) is part of an affiliated
 7 group (as defined in section 1504(a)), the parent
 8 corporation of such entity shall be jointly and sever-
 9 ally liable with such entity for the penalty imposed
 10 under this section.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
 12 tions for part I of subchapter B of chapter 68 is
 13 amended by adding after the item related to section
 14 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security re-
 quirements for mechanical dye injection systems.”.

15 (d) EFFECTIVE DATE.—The amendments made by
 16 subsections (a) and (c) shall take effect on the 180th day
 17 after the date on which the Secretary issues the regula-
 18 tions described in subsection (b).

19 **SEC. 204. AUTHORITY TO INSPECT ON-SITE RECORDS.**

20 (a) IN GENERAL.—Section 4083(d)(1)(A) (relating
 21 to administrative authority), as previously amended by
 22 this Act, is amended by striking “and” at the end of clause
 23 (i) and by inserting after clause (ii) the following new
 24 clause:

1 “(iii) inspecting any books and
2 records and any shipping papers pertaining
3 to such fuel, and”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

7 **SEC. 205. REGISTRATION OF PIPELINE OR VESSEL OPERA-**
8 **TORS REQUIRED FOR EXEMPTION OF BULK**
9 **TRANSFERS TO REGISTERED TERMINALS OR**
10 **REFINERIES.**

11 (a) IN GENERAL.—Section 4081(a)(1)(B) (relating
12 to exemption for bulk transfers to registered terminals or
13 refineries) is amended—

14 (1) by inserting “by pipeline or vessel” after
15 “transferred in bulk”, and

16 (2) by inserting “, the operator of such pipeline
17 or vessel,” after “the taxable fuel”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on October 1, 2004.

20 (c) PUBLICATION OF REGISTERED PERSONS.—Be-
21 ginning on July 1, 2004, the Secretary of the Treasury
22 (or the Secretary’s delegate) shall periodically publish a
23 current list of persons registered under section 4101 of
24 the Internal Revenue Code of 1986 who are required to
25 register under such section.

1 **SEC. 206. DISPLAY OF REGISTRATION.**

2 (a) IN GENERAL.—Subsection (a) of section 4101
3 (relating to registration) is amended—

4 (1) by striking “Every” and inserting the fol-
5 lowing:

6 “(1) IN GENERAL.—Every”, and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) DISPLAY OF REGISTRATION.—Every oper-
10 ator of a vessel required by the Secretary to register
11 under this section shall display proof of registration
12 through an electronic identification device prescribed
13 by the Secretary on each vessel used by such oper-
14 ator to transport any taxable fuel.”.

15 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY REG-
16 ISTRATION.—

17 (1) IN GENERAL.—Part I of subchapter B of
18 chapter 68 (relating to assessable penalties) is
19 amended by inserting after section 6716 the fol-
20 lowing new section:

21 **“SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON**
22 **VESSELS.**

23 “(a) FAILURE TO DISPLAY REGISTRATION.—Every
24 operator of a vessel who fails to display proof of registra-
25 tion pursuant to section 4101(a)(2) shall pay a penalty
26 of \$500 for each such failure. With respect to any vessel,

1 only one penalty shall be imposed by this section during
2 any calendar month.

3 “(b) MULTIPLE VIOLATIONS.—In determining the
4 penalty under subsection (a) on any person, subsection (a)
5 shall be applied by increasing the amount in subsection
6 (a) by the product of such amount and the aggregate num-
7 ber of penalties (if any) imposed with respect to prior
8 months by this section on such person (or a related person
9 or any predecessor of such person or related person).

10 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
11 shall be imposed under this section with respect to any
12 failure if it is shown that such failure is due to reasonable
13 cause.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions for part I of subchapter B of chapter 68 is
16 amended by inserting after the item relating to sec-
17 tion 6716 the following new item:

“Sec. 6717. Failure to display tax registration on vessels.”.

18 (c) EFFECTIVE DATES.—

19 (1) SUBSECTION (a).—The amendments made
20 by subsection (a) shall take effect on October 1,
21 2004.

22 (2) SUBSECTION (b).—The amendments made
23 by subsection (b) shall apply to penalties imposed
24 after September 30, 2004.

1 **SEC. 207. PENALTIES FOR FAILURE TO REGISTER AND**
 2 **FAILURE TO REPORT.**

3 (a) INCREASED PENALTY.—Subsection (a) of section
 4 7272 (relating to penalty for failure to register) is amend-
 5 ed by inserting “(\$10,000 in the case of a failure to reg-
 6 ister under section 4101)” after “\$50”.

7 (b) INCREASED CRIMINAL PENALTY.—Section 7232
 8 (relating to failure to register under section 4101, false
 9 representations of registration status, etc.) is amended by
 10 striking “\$5,000” and inserting “\$10,000”.

11 (c) ASSESSABLE PENALTY FOR FAILURE TO REG-
 12 ISTER.—

13 (1) IN GENERAL.—Part I of subchapter B of
 14 chapter 68 (relating to assessable penalties) is
 15 amended by inserting after section 6717 the fol-
 16 lowing new section:

17 **“SEC. 6718. FAILURE TO REGISTER.**

18 “(a) FAILURE TO REGISTER.—Every person who is
 19 required to register under section 4101 and fails to do
 20 so shall pay a penalty in addition to the tax (if any).

21 “(b) AMOUNT OF PENALTY.—The amount of the
 22 penalty under subsection (a) shall be—

23 “(1) \$10,000 for each initial failure to register,
 24 and

25 “(2) \$1,000 for each day thereafter such person
 26 fails to register.

1 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
2 shall be imposed under this section with respect to any
3 failure if it is shown that such failure is due to reasonable
4 cause.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions for part I of subchapter B of chapter 68 is
7 amended by inserting after the item relating to sec-
8 tion 6717 the following new item:

 “Sec. 6718. Failure to register.”.

9 (d) ASSESSABLE PENALTY FOR FAILURE TO RE-
10 PORT.—

11 (1) IN GENERAL.—Part II of subchapter B of
12 chapter 68 (relating to assessable penalties) is
13 amended by adding at the end the following new sec-
14 tion:

15 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
16 **SECTION 4101.**

17 “(a) IN GENERAL.—In the case of each failure de-
18 scribed in subsection (b) by any person with respect to
19 a vessel or facility, such person shall pay a penalty of
20 \$10,000 in addition to the tax (if any).

21 “(b) FAILURES SUBJECT TO PENALTY.—For pur-
22 poses of subsection (a), the failures described in this sub-
23 section are—

1 **“SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IM-**
2 **PORTER NOT REGISTERED.**

3 “(a) IN GENERAL.—The importer of record shall be
4 jointly and severally liable for the tax imposed by section
5 4081(a)(1)(A)(iii) if, under regulations prescribed by the
6 Secretary, any other person that is not a person who is
7 registered under section 4101 is liable for such tax.

8 “(b) COLLECTION FROM CUSTOMS BOND.—If any
9 tax for which any importer of record is liable under sub-
10 section (a), or for which any importer of record that is
11 not a person registered under section 4101 is otherwise
12 liable, is not paid on or before the last date prescribed
13 for payment, the Secretary may collect such tax from the
14 Customs bond posted with respect to the importation of
15 the taxable fuel to which the tax relates. For purposes of
16 determining the jurisdiction of any court of the United
17 States or any agency of the United States, any action by
18 the Secretary described in the preceding sentence shall be
19 treated as an action to collect the tax from a bond de-
20 scribed in section 4101(b)(1) and not as an action to col-
21 lect from a bond relating to the importation of merchan-
22 dise.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-
24 tions for subpart C of part III of subchapter A of chapter
25 31 is amended by adding after the item related to section
26 4103 the following new item:

“Sec. 4104. Collection from Customs bond where importer not registered.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to fuel entered after
3 September 30, 2004.

4 **SEC. 209. MODIFICATIONS OF TAX ON USE OF CERTAIN VE-**
5 **HICLES.**

6 (a) PRORATION OF TAX WHERE VEHICLE SOLD.—

7 (1) IN GENERAL.—Paragraph (2) of section
8 4481(c) (relating to where vehicle destroyed or sto-
9 len) is amended by striking “destroyed or stolen”
10 both places it appears and inserting “sold, de-
11 stroyed, or stolen”.

12 (2) CONFORMING AMENDMENT.—The heading
13 for section 4481(c)(2) is amended by striking “DE-
14 STROYED OR STOLEN” and inserting “SOLD, DE-
15 STROYED, OR STOLEN”.

16 (b) REPEAL OF INSTALLMENT PAYMENT.—

17 (1) Section 6156 (relating to installment pay-
18 ment of tax on use of highway motor vehicles) is re-
19 pealed.

20 (2) The table of sections for subchapter A of
21 chapter 62 is amended by striking the item relating
22 to section 6156.

1 (c) ELECTRONIC FILING.—Section 4481 is amended
 2 by redesignating subsection (e) as subsection (f) and by
 3 inserting after subsection (d) the following new subsection:

4 “(e) ELECTRONIC FILING.—Any taxpayer who files
 5 a return under this section with respect to 25 or more
 6 vehicles for any taxable period shall file such return elec-
 7 tronically.”.

8 (d) REPEAL OF REDUCTION IN TAX FOR CERTAIN
 9 TRUCKS.—Section 4483 is amended by striking subsection
 10 (f).

11 (e) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable periods beginning after
 13 the date of the enactment of this Act.

14 **SEC. 210. MODIFICATION OF ULTIMATE VENDOR REFUND**
 15 **CLAIMS WITH RESPECT TO FARMING.**

16 (a) IN GENERAL.—

17 (1) REFUNDS.—Section 6427(l) is amended by
 18 adding at the end the following new paragraph:

19 “(6) REGISTERED VENDORS PERMITTED TO AD-
 20 MINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL
 21 FUEL AND KEROSENE SOLD TO FARMERS.—

22 “(A) IN GENERAL.—In the case of diesel
 23 fuel or kerosene used on a farm for farming
 24 purposes (within the meaning of section
 25 6420(c)), paragraph (1) shall not apply to the

1 aggregate amount of such diesel fuel or ker-
2 osene if such amount does not exceed 250 gal-
3 lons (as determined under subsection
4 (i)(5)(A)(iii)).

5 “(B) PAYMENT TO ULTIMATE VENDOR.—
6 The amount which would (but for subparagraph
7 (A)) have been paid under paragraph (1) with
8 respect to any fuel shall be paid to the ultimate
9 vendor of such fuel, if such vendor—

10 “(i) is registered under section 4101,

11 and

12 “(ii) meets the requirements of sub-
13 paragraph (A), (B), or (D) of section
14 6416(a)(1).”.

15 (2) FILING OF CLAIMS.—Section 6427(i) is
16 amended by inserting at the end the following new
17 paragraph:

18 “(5) SPECIAL RULE FOR VENDOR REFUNDS
19 WITH RESPECT TO FARMERS.—

20 “(A) IN GENERAL.—A claim may be filed
21 under subsection (1)(6) by any person with re-
22 spect to fuel sold by such person for any pe-
23 riod—

1 “(i) for which \$200 or more (\$100 or
2 more in the case of kerosene) is payable
3 under subsection (l)(6),

4 “(ii) which is not less than 1 week,
5 and

6 “(iii) which is for not more than 250
7 gallons for each farmer for which there is
8 a claim.

9 Notwithstanding subsection (l)(1), paragraph
10 (3)(B) shall apply to claims filed under the pre-
11 ceding sentence.

12 “(B) TIME FOR FILING CLAIM.—No claim
13 filed under this paragraph shall be allowed un-
14 less filed on or before the last day of the first
15 quarter following the earliest quarter included
16 in the claim.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) Section 6427(l)(5)(A) is amended to
19 read as follows:

20 “(A) IN GENERAL.—Paragraph (1) shall
21 not apply to diesel fuel or kerosene used by a
22 State or local government.”.

23 (B) The heading for section 6427(l)(5) is
24 amended by striking “FARMERS AND”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to fuels sold for nontaxable use
3 after the date of the enactment of this Act.

4 **SEC. 211. DEDICATION OF REVENUES FROM CERTAIN PEN-**
5 **ALTIES TO THE HIGHWAY TRUST FUND.**

6 (a) IN GENERAL.—Subsection (b) of section 9503
7 (relating to transfer to Highway Trust Fund of amounts
8 equivalent to certain taxes) is amended by redesignating
9 paragraph (5) as paragraph (6) and inserting after para-
10 graph (4) the following new paragraph:

11 “(5) CERTAIN PENALTIES.—There are hereby
12 appropriated to the Highway Trust Fund amounts
13 equivalent to the penalties paid under sections 6715,
14 6715A, 6717, 6718, 6725, 7232, and 7272 (but only
15 with regard to penalties under such section related
16 to failure to register under section 4101).”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) The heading of subsection (b) of section
19 9503 is amended by inserting “AND PENALTIES”
20 after “TAXES”.

21 (2) The heading of paragraph (1) of section
22 9503(b) is amended by striking “IN GENERAL” and
23 inserting “CERTAIN TAXES”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to penalties assessed after October
3 1, 2004.

4 **TITLE III—OTHER EXCISE TAX**
5 **PROVISIONS**

6 **SEC. 301. TAXABLE FUEL REFUNDS FOR CERTAIN ULTI-**
7 **MATE VENDORS.**

8 (a) IN GENERAL.—Paragraph (4) of section 6416(a)
9 (relating to abatements, credits, and refunds) is amended
10 to read as follows:

11 “(4) REGISTERED ULTIMATE VENDOR TO AD-
12 MINISTER CREDITS AND REFUNDS OF GASOLINE
13 TAX.—

14 “(A) IN GENERAL.—For purposes of this
15 subsection, if an ultimate vendor purchases any
16 gasoline on which tax imposed by section 4081
17 has been paid and sells such gasoline to an ul-
18 timate purchaser described in subparagraph (C)
19 or (D) of subsection (b)(2) (and such gasoline
20 is for a use described in such subparagraph),
21 such ultimate vendor shall be treated as the
22 person (and the only person) who paid such tax,
23 but only if such ultimate vendor is registered
24 under section 4101. For purposes of this sub-
25 paragraph, if the sale of gasoline is made by

1 means of a credit card, the person extending
2 the credit to the ultimate purchaser shall be
3 deemed to be the ultimate vendor.

4 “(B) TIMING OF CLAIMS.—The procedure
5 and timing of any claim under subparagraph
6 (A) shall be the same as for claims under sec-
7 tion 6427(i)(4), except that the rules of section
8 6427(i)(3)(B) regarding electronic claims shall
9 not apply unless the ultimate vendor has cer-
10 tified to the Secretary for the most recent quar-
11 ter of the taxable year that all ultimate pur-
12 chasers of the vendor covered by such claim are
13 certified and entitled to a refund under sub-
14 paragraph (C) or (D) of subsection (b)(2).”.

15 (b) CREDIT CARD PURCHASES OF DIESEL FUEL OR
16 KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Sec-
17 tion 6427(l)(5)(C) (relating to nontaxable uses of diesel
18 fuel, kerosene, and aviation fuel) is amended by adding
19 at the end the following new sentence: “For purposes of
20 this subparagraph, if the sale of diesel fuel or kerosene
21 is made by means of a credit card, the person extending
22 the credit to the ultimate purchaser shall be deemed to
23 be the ultimate vendor.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on October 1, 2004.

1 **SEC. 302. TWO-PARTY EXCHANGES.**

2 (a) IN GENERAL.—Subpart C of part III of sub-
3 chapter A of chapter 32 is amended by adding after sec-
4 tion 4104 the following new section:

5 **“SEC. 4105. TWO-PARTY EXCHANGES.**

6 “(a) IN GENERAL.—In a two-party exchange, the de-
7 livering person shall not be liable for the tax imposed
8 under section 4081(a)(1)(A)(ii).

9 “(b) TWO-PARTY EXCHANGE.—The term ‘two-party
10 exchange’ means a transaction, other than a sale, in which
11 taxable fuel is transferred from a delivering person reg-
12 istered under section 4101 as a taxable fuel registrant fuel
13 to a receiving person who is so registered where all of the
14 following occur:

15 “(1) The transaction includes a transfer from
16 the delivering person, who holds the inventory posi-
17 tion for taxable fuel in the terminal as reflected in
18 the records of the terminal operator.

19 “(2) The exchange transaction occurs before or
20 contemporaneous with completion of removal across
21 the rack from the terminal by the receiving person.

22 “(3) The terminal operator in its books and
23 records treats the receiving person as the person
24 that removes the taxable fuel across the terminal
25 rack for purposes of reporting the transaction to the
26 Secretary.

1 “(4) The transaction is the subject of a written
2 contract.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tions for subpart C of part III of subchapter A of chapter
5 32 is amended by adding after the item relating to section
6 4104 the following new item:

 “Sec. 4105. Two-party exchanges.”.

7 (c) EFFECTIVE DATE.—The amendment made by
8 this section shall take effect on the date of the enactment
9 of this Act.

10 **SEC. 303. SIMPLIFICATION OF TAX ON TIRES.**

11 (a) IN GENERAL.—Subsection (a) of section 4071 is
12 amended to read as follows:

13 “(a) IMPOSITION AND RATE OF TAX.—There is here-
14 by imposed on taxable tires sold by the manufacturer, pro-
15 ducer, or importer thereof a tax at the rate of 9.4 cents
16 (4.7 cents in the case of a biasply tire) for each 10 pounds
17 so much of the maximum rated load capacity thereof as
18 exceeds 3,500 pounds.”.

19 (b) TAXABLE TIRE.—Section 4072 is amended by re-
20 designating subsections (a) and (b) as subsections (b) and
21 (c), respectively, and by inserting before subsection (b) (as
22 so redesignated) the following new subsection:

23 “(a) TAXABLE TIRE.—For purposes of this chapter,
24 the term ‘taxable tire’ means any tire of the type used
25 on highway vehicles if wholly or in part made of rubber

1 and if marked pursuant to Federal regulations for high-
2 way use.”.

3 (c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT
4 OF DEFENSE.—Section 4073 is amended to read as fol-
5 lows:

6 **“SEC. 4073. EXEMPTIONS.**

7 “The tax imposed by section 4071 shall not apply to
8 tires sold for the exclusive use of the Department of De-
9 fense or the Coast Guard.”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) Section 4071 is amended by striking sub-
12 section (c) and by moving subsection (e) after sub-
13 section (b) and redesignating subsection (e) as sub-
14 section (c).

15 (2) The item relating to section 4073 in the
16 table of sections for part II of subchapter A of chap-
17 ter 32 is amended to read as follows:

“Sec. 4073. Exemptions.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to sales in calendar years begin-
20 ning more than 30 days after the date of the enactment
21 of this Act.

○