

108TH CONGRESS
1ST SESSION

H. R. 497

To amend the Internal Revenue Code of 1986 to suspend all motor fuel taxes for six months, and to permanently repeal the 4.3-cent per gallon increases in motor fuel taxes enacted in 1993.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. SENSENBRENNER (for himself and Mr. SMITH of Michigan) 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 suspend all motor fuel taxes for six months, and to permanently repeal the 4.3-cent per gallon increases in motor fuel taxes enacted in 1993.

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 “Freedom from Unfair
5 Energy Levy Act”.

6 **SEC. 2. SIX-MONTH SUSPENSION OF FUEL TAXES.**

7 (a) SIX-MONTH SUSPENSION OF FUEL TAXES.—Sec-
8 tion 4081 of the Internal Revenue Code of 1986 (relating

1 to imposition of tax on gasoline, diesel fuel, and kerosene)
2 is amended by adding at the end the following new sub-
3 section:

4 “(f) TEMPORARY SUSPENSION OF FUEL TAXES.—

5 “(1) IN GENERAL.—During the suspension pe-
6 riod, each rate of tax referred to in paragraph (2)
7 shall be reduced to zero.

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

11 “(A) subsection (a)(2)(A) (relating to gas-
12 oline, diesel fuel, and kerosene),

13 “(B) sections 4091(b)(3)(A) (relating to
14 aviation fuel),

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

17 “(D) paragraph (1), (2), or (3) of section
18 4041(a) (relating to diesel fuel, special fuels,
19 and compressed natural gas), and

20 “(E) section 4041(m)(1)(A)(i) (relating to
21 certain methanol or ethanol fuels).

22 “(3) SUSPENSION PERIOD.—For purposes of
23 this subsection, the term ‘suspension period’ means
24 the 180-day period beginning on the 30th day after
25 the date of the enactment of this subsection.”

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. 3. REPEAL OF 1993 INCREASES IN MOTOR FUEL**
5 **TAXES.**

6 (a) HIGHWAY GASOLINE.—Clause (i) of section
7 4081(a)(2)(A) of the Internal Revenue Code of 1986 is
8 amended by striking “18.3 cents” and inserting “14
9 cents”.

10 (b) AVIATION GASOLINE.—Clause (ii) of section
11 4081(a)(2)(A) of such Code is amended by striking “19.3
12 cents” and inserting “15 cents”.

13 (c) DIESEL FUEL AND KEROSENE.—Clause (iii) of
14 section 4081(a)(2)(A) of such Code is amended by striking
15 “24.3 cents” and inserting “20 cents”.

16 (d) AVIATION FUEL.—Paragraph (1) of section
17 4091(b) of such Code is amended by striking “21.8 cents”
18 and inserting “17.5 cents”.

19 (e) FUEL USED ON INLAND WATERWAYS.—

20 (1) Paragraph (1) of section 4042(b) of such
21 Code is amended by adding “and” at the end of sub-
22 paragraph (A), by striking “, and” at the end of
23 subparagraph (B) and inserting a period, and by
24 striking subparagraph (C).

1 (2) Paragraph (2) of section 4042(b) of such
2 Code is amended by striking subparagraph (C).

3 (f) TECHNICAL AMENDMENTS.—

4 (1) Subparagraph (B) of section 40(e)(1) of
5 such Code is amended by striking “during which the
6 rates of tax under section 4081(a)(2)(A) are 4.3
7 cents per gallon” and inserting “during which the
8 rate of tax under section 4081(a)(2)(A)(i) does not
9 apply”.

10 (2) Subparagraph (A) of section 4041(a)(1) of
11 such Code is amended by striking “or a diesel-pow-
12 ered train” each place it appears and by striking “or
13 train”.

14 (3) Subparagraph (C) of section 4041(a)(1) of
15 such Code is amended by striking clause (ii) and by
16 redesignating clause (iii) as clause (ii).

17 (4) Subclause (I) of section 4041(a)(1)(C)(ii) of
18 such Code, as redesignated by paragraph (3), is
19 amended by striking “7.3 cents” and inserting “3
20 cents” and by striking “4.3 cents per gallon” and
21 inserting “zero”.

22 (5) Subsection (a) of section 4041 of such Code
23 is amended by striking paragraph (3).

1 (6) Subparagraph (C) of section 4041(b)(1) of
2 such Code is amended by striking all that follows
3 “section 6421(e)(2)” and inserting a period.

4 (7) Subparagraph (B) of section 4041(a)(2) of
5 such Code is amended by striking all that follows
6 clause (i) and inserting the following new clauses:

7 “(ii) 10.4 cents per gallon in the case
8 of liquefied petroleum gas, and

9 “(iii) 9.1 cents per gallon in the case
10 of liquefied natural gas.”

11 (8) Paragraph (3) of section 4041(c) of such
12 Code is amended to read as follows:

13 “(3) TERMINATION.—The rate of the taxes im-
14 posed by paragraph (1) shall be zero after Sep-
15 tember 30, 2007.”

16 (9) Subsection (d) of section 4041 of such Code
17 is amended by redesignating paragraph (3) as para-
18 graph (4) and by inserting after paragraph (2) the
19 following new paragraph:

20 “(3) DIESEL FUEL USED IN TRAINS.—There is
21 hereby imposed a tax of 0.1 cent per gallon on any
22 liquid other than gasoline (as defined in section
23 4083)—

1 “(A) sold by any person to an owner, les-
2 see, or other operator of a diesel-powered train
3 for use as a fuel in such train, or

4 “(B) used by any person as a fuel in a die-
5 sel-powered train unless there was a taxable
6 sale of such fuel under subparagraph (A).

7 No tax shall be imposed by this paragraph on the
8 sale or use of any liquid if tax was imposed on such
9 liquid under section 4081.”

10 (10) Clauses (i) and (ii) of section
11 4041(m)(1)(A) of such Code are amended to read as
12 follows:

13 “(i) 7 cents per gallon on and after
14 the date of the enactment of this clause
15 and before October 1, 2005, and

16 “(ii) zero after September 30, 2005,
17 and”.

18 (11) Subsection (c) of section 4081 of such
19 Code is amended by striking paragraph (6) and by
20 redesignating paragraphs (7) and (8) as paragraphs
21 (6) and (7), respectively.

22 (12) Paragraphs (1) and (2) of section 4081(d)
23 of such Code are amended to read as follows:

1 “(1) IN GENERAL.—The rates of tax specified
2 in clauses (i) and (iii) of subsection (a)(2)(A) shall
3 be zero after September 30, 2005.

4 “(2) AVIATION GASOLINE.—The rate of tax
5 specified in subsection (a)(2)(A)(ii) shall be zero
6 after September 30, 2007.”

7 (13) Subsection (f) of section 4082 of such
8 Code is amended by striking “section 4041(a)(1)”
9 and inserting “subsections (d)(3) and (a)(1) of sec-
10 tion 4041, respectively”.

11 (14) Paragraph (3) of section 4083(a) of such
12 Code is amended by striking “or a diesel-powered
13 train”.

14 (15) Subparagraph (A) of section 4091(b)(3) of
15 such Code is amended to read as follows:

16 “(A) The rate of tax specified in para-
17 graph (1) shall be zero after September 30,
18 2007.”

19 (16) Paragraph (1) of section 4091(c) of such
20 Code is amended—

21 (A) by striking “14 cents” and inserting
22 “9.7 cents”,

23 (B) by striking “13.3 cents” and inserting
24 “9 cents”,

1 (C) by striking “13.2 cents” and inserting
2 “8.9 cents”,

3 (D) by striking “13.1 cents” and inserting
4 “8.8 cents”, and

5 (E) by striking “13.4 cents” and inserting
6 “9.1 cents”.

7 (17) Subsection (c) of section 4091 of such
8 Code is amended by striking paragraph (4), and by
9 redesignating paragraph (5) as paragraph (4).

10 (18) Subsection (b) of section 4092 of such
11 Code is amended by striking “attributable to” and
12 all that follows and inserting “attributable to the
13 Leaking Underground Storage Tank Trust Fund fi-
14 nancing rate imposed by such section. For purposes
15 of the preceding sentence, the term ‘commercial
16 aviation’ means any use of an aircraft other than in
17 noncommercial aviation (as defined in section
18 4041(c)(2)).”

19 (19) Subparagraph (B) of section 6421(f)(2) of
20 such Code is amended by striking “and,” and all
21 that follows and inserting a period.

22 (20) Paragraph (3) of section 6421(f) of such
23 Code is amended to read as follows:

24 “(3) GASOLINE USED IN TRAINS.—In the case
25 of gasoline used as a fuel in a train, this section

1 shall not apply with respect to the Leaking Under-
2 ground Storage Tank Trust Fund financing rate
3 under section 4081.”

4 (21) Subparagraph (A) of section 6427(b)(2) of
5 such Code is amended by striking “7.4 cents” and
6 inserting “3.1 cents”.

7 (22) Paragraph (3) of section 6427(l) of such
8 Code is amended to read as follows:

9 “(3) REFUND OF CERTAIN TAXES ON FUEL
10 USED IN DIESEL-POWERED TRAINS.—For purposes
11 of this subsection, the term ‘nontaxable use’ includes
12 fuel used in a diesel-powered train. The preceding
13 sentence shall not apply to the tax imposed by sec-
14 tion 4041(d) and the Leaking Underground Storage
15 Tank Trust Fund financing rate under section 4081
16 except with respect to fuel sold for exclusive use by
17 a State or any political subdivision thereof.”

18 (23) Paragraph (4) of section 6427(l) of such
19 Code is amended by striking “attributable to” and
20 all that follows through the period and inserting “at-
21 tributable to the Leaking Underground Storage
22 Tank Trust Fund financing rate imposed by such
23 section.”

24 (g) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the day after the suspen-

1 sion period ends under section 4081(f) of the Internal
2 Revenue Code of 1986 (as added by section 2).

3 **SEC. 4. FLOOR STOCK REFUNDS.**

4 (a) IN GENERAL.—If—

5 (1) before the tax suspension date, tax has been
6 imposed under section 4081 or 4091 of the Internal
7 Revenue Code of 1986 on any liquid, and

8 (2) on such date such liquid is held by a dealer
9 and has not been used and is intended for sale,

10 there shall be credited or refunded (without interest) to
11 the person who paid such tax (hereafter in this section
12 referred to as the “taxpayer”) an amount equal to the ex-
13 cess of the tax paid by the taxpayer over the amount of
14 such tax which would be imposed on such liquid had the
15 taxable event occurred on such date.

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

18 (1) claim therefor is filed with the Secretary of
19 the Treasury before the date which is 6 months
20 after the tax suspension date, and

21 (2) in any case where liquid is held by a dealer
22 (other than the taxpayer) on the tax suspension
23 date—

1 (A) the dealer submits a request for refund
2 or credit to the taxpayer before the date which
3 is 3 months after the tax suspension date, and

4 (B) the taxpayer has repaid or agreed to
5 repay the amount so claimed to such dealer or
6 has obtained the written consent of such dealer
7 to the allowance of the credit or the making of
8 the refund.

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

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

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

18 (2) the term “tax suspension date” means the
19 date on which the suspension period begins under
20 section 4081(f) of the Internal Revenue Code of
21 1986 (as added by section 2).

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

1 **SEC. 5. FLOOR STOCKS TAX.**

2 (a) IMPOSITION OF TAX.—In the case of any taxable
3 liquid which is held on the floor stocks tax date by any
4 person, there is hereby imposed a floor stocks tax equal
5 to the excess of the tax which would be imposed under
6 section 4041, 4081, or 4091 of the Internal Revenue Code
7 of 1986 on such liquid had the taxable event occurred on
8 the floor stocks tax date over the tax paid under such sec-
9 tions on such liquid.

10 (b) LIABILITY FOR TAX AND METHOD OF PAY-
11 MENT.—

12 (1) LIABILITY FOR TAX.—A person holding a
13 liquid on the floor stocks tax date to which the tax
14 imposed by subsection (a) applies shall be liable for
15 such tax.

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

19 (3) TIME FOR PAYMENT.—The tax imposed by
20 subsection (a) shall be paid on or before the date
21 which is 6 months after the floor stocks tax date.

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

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

1 (2) TAXABLE LIQUID.—The term “taxable liq-
2 uid” means any liquid on which tax is imposed
3 under section 4041, 4081, or 4091 of the Internal
4 Revenue Code of 1986 on the floor stocks tax date.

5 (3) GASOLINE AND DIESEL FUEL.—The terms
6 “gasoline” and “diesel fuel” have the respective
7 meanings given such terms by section 4083 of such
8 Code.

9 (4) AVIATION FUEL.—The term “aviation fuel”
10 has the meaning given such term by section 4093 of
11 such Code.

12 (5) FLOOR STOCKS TAX DATE.—The term
13 “floor stocks tax date” means the day after the end
14 of the suspension period under section 4081(f) of
15 such Code (as added by section 2).

16 (6) SECRETARY.—The term “Secretary” means
17 the Secretary of the Treasury or the Secretary’s del-
18 egate.

19 (d) EXCEPTION FOR EXEMPT USES.—The tax im-
20 posed by subsection (a) shall not apply to taxable liquid
21 held by any person exclusively for any use to the extent
22 a credit or refund of the tax imposed by section 4041,
23 4081, or 4091 of such Code is allowable for such use.

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

1 able liquid held in the tank of a motor vehicle or motor-
2 boat.

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 the floor stocks tax
7 date by any person if the aggregate amount of
8 gasoline held by such person on such date does
9 not exceed 4,000 gallons, and

10 (B) on diesel fuel, kerosene, or aviation
11 fuel held on such date by any person if the ag-
12 gregate amount of diesel fuel, kerosene, or avia-
13 tion fuel held by such person on such date does
14 not exceed 2,000 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 4041(a)(2) of such Code in the case
25 of special fuels; by section 4081 of such Code in the case

1 of gasoline, diesel fuel, and kerosene; and by section 4091
2 of such Code in the case of aviation fuel shall, insofar as
3 applicable and not inconsistent with the provisions of this
4 subsection, apply with respect to the floor stock taxes im-
5 posed by subsection (a) to the same extent as if such taxes
6 were imposed by such section 4041, 4081, or 4091.

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