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91st Congress
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COMMITTEE PRINT

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

TAX RECOMMENDATIONS OF THE PRESIDENT

Letter from the Secretary of the Treasury, Draft Bills, and Other Material Relating to the President's Recommendations for (1) Extension of Excise Taxes on Automobiles and Communication Services; (2) Accelerated Payment of Gift and Estate Taxes; and (3) Imposition of a Tax on Lead Additives Used in Gasoline

SUBMITTED TO

THE CONGRESS OF THE UNITED STATES

ON

JULY 30, 1970

NOTE: This document has been printed for information purposes only, so as to make it generally available. It has not been considered or approved by the Committee on Ways and Means.

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THE SECRETARY OF THE TREASURY,
Washington, July 30, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House,
House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The President has recommended three tax measures on which we urge immediate action by Congress. These include a postponement of scheduled reductions in the automobile and communication services excise taxes for an additional year until January 1, 1972; an acceleration in the required time of payment of gift and estate taxes; and a tax on lead additives used in the refining of gasoline. The first two of these measures are designed to serve principally as short term revenue raising measures, although the acceleration in payment of estate and gift taxes is desirable for other reasons as well. This acceleration improves the operation of the estate and gift tax laws by giving the government, subject to reasonable limitations, a more current use of its tax revenues. The tax on lead additives in gasoline is necessary at this time to take an essential step forward in our battle against increasing air pollution. In order to facilitate early action on these three recommendations, I am enclosing draft bills for consideration by Congress. The following explanations should facilitate understanding of these proposals.

EXCISE TAX EXTENSION

The postponement of scheduled reductions in excise taxes on automobile and communication services will prevent a revenue loss of $650 million in the fiscal year 1971 and $1,250 million in the fiscal year 1972. This postponement has already been taken into account in the fiscal 1971 budget and is essential to maintain a fiscally responsible position.

ACCELERATION IN GIFT AND ESTATE TAX PAYMENTS

The proposed acceleration will result in approximately $1.5 billion in additional receipts for fiscal year 1971 and will assist in providing for the cost of the government-wide pay increase which accompanied the postal pay settlement. The Treasury Department has previously submitted to the Congress detailed recommendations for implementing the President's proposal. The enclosed draft bill carries out these recommendations.

Under this bill, the filing of the gift tax return and payment of the gift tax will be required on a quarterly basis, that is, on the last day of the month following the end of the calendar quarter in which the gift was made. Under present law it is possible to defer payment of gift taxes for as much as fifteen and one-half months after the gift is made. Quarterly returns and payment will not prove burdensome. The timing of gifts is at the donor's option, and gifts made during

any calendar quarter are readily identifiable. At the present time, a substantial majority of taxpayers making taxable gifts make all such gifts in a single calendar quarter of any taxable year. Thus, it is expected that few additional gift tax returns will be required under the quarterly system.

The bill also requires payment of an estimated estate tax seven months after death. This payment will consist of 80 percent of the estate tax which would be due if the gross estate were valued as of the date of death.

Every effort has been made to ease the impact of this proposal on those estates for which payment of an estimated estate tax might be difficult. The estimated estate tax return will be required only if the gross estate, based on date of death values, exceeds $150,000. As a result, the requirement will apply to only about 35,000 of the 100,000 estates for which estate tax returns are filed annually. In addition, the estimated tax payment required will be limited to the value of the "net liquid assets" six months after death. Net liquid assets would include cash, readily marketable securities, and other liquid assets in the gross estate less funeral and administration expenses, debts payable within fifteen months after death, and an allowance of $15,000 for a surviving spouse or minor child plus $5,000 for each additional surviving minor child. This limitation on the amount of estimated tax required to be paid will prevent hardship for those estates which consist of nonliquid assets. While the enclosed draft bill does not provide for it, further attention is being given to whether interest should be charged on the estimated tax payment which would be due but for the net liquid asset test, or but for an extension in time of payment of the tax under sections 6161, 6163, or 6166 of the Internal Revenue Code of 1954. This would avoid any discrimination in favor of nonliquid estates.

At the same time, we are re-examining the provisions of regulations governing extensions of time for payment in an effort to grant extensions on more liberal terms where the net liquid asset test is itself insufficient to prevent any hardship.

This bill provides that any property included in the gross estate which is sold within six months after death will be given long term capital gains treatment. This avoids taxing the executor too heavily on short term gain on appreciation in value occurring after the decedent's death where, for example, assets must be sold to make the estimated estate tax payment. The bill provides a quick refund procedure if the estimated estate tax payment exceeds the tax finally due as, for example, where the alternate valuation date is used. Interest would also be paid on such an overpayment.

This recommendation for an estimated estate tax payment has generated considerable interest and controversy. The American Bankers Association and the American Bar Association have proposed an alternative under which the time for filing the federal estate tax return and paying the tax would be changed from fifteen months to nine months after death. An accompanying change would reduce the alternate valuation date from one year to six months after death. This alternative also calls for a speedup in the audit of federal estate tax returns and the release of fiduciaries other than the executor from personal liability for the tax.

This appears to a number of taxpayer representative groups to be a preferable alternative, and the Treasury Department is intensively studying the proposal and may find it to be entirely acceptable. We will urge the Ways and Means Committee to consider carefully the comparative advantages and disadvantages of the two alternative approaches. If this second alternative proves to be a more efficient means of raising the $1.5 billion additional revenue for fiscal year 1971, the Administration will support it.

TAX ON LEAD ADDITIVES

The proposed tax of $4.25 per pound of lead on lead additives used in gasoline is a vital element in the Administration's priority program to reduce air pollution. It will create an immediate, effective incentive for the rapid conversion to gasoline with a low, and eventually lead free content. This conversion is necessary to provide assurance now that the development of emission control systems for automobiles, which is presently being undertaken by private industry, may go forward without delay. These systems will be required to meet federal emission standards, but development is impeded by the use of leaded gasoline in our automobiles. Under present technology, the devices will not operate satisfactorily with gasoline containing lead. Unless we provide assurance today that the lead content of gasoline will be drastically reduced and ultimately eliminated, private industry developing the systems has no assurance they will operate efficiently, and the speed with which they are developed will be adversely affected.

Furthermore, and equally important, lead levels in the environment, largely as a result of automobile emissions, have been increasing, and there is growing concern as to the effects of this change on human health. The amount of particulate emissions (solid materials) from engine exhausts can be significantly reduced by removing lead from gasoline. We must act promptly to reduce, and eventually eliminate, the lead content of gasoline to deal with this danger to our national health levels.

The Treasury Department has provided the Congress with the main features of the proposed tax. In order to place specific legislation implementing the President's recommendation before the Congress, a draft bill which would impose such a tax is enclosed. It seems desirable at this time, however, to speak further to the importance of adopting this proposal as a major step in dealing with our urgent problem of air pollution,

Probably the single greatest contributor to the pollution of our air is the automobile. It is estimated that automobiles, trucks and buses are responsible for 50 to 60 percent of air pollution in the United States. Important corrective steps are being taken to deal with the problem. Emission control systems are now being developed which will ultimately reduce the pollutants released by automobile exhausts to an acceptable level.

An essential element in the most effective type of device being developed for reduction of the amount of pollution in automotive exhaust, the catalytic reactor, is the reduction and ultimate elimination of lead additives in automobile fuel. Some of the catalytic devices now being developed could be destroyed by a single tankful of high leaded fuel. The rapid development of these devices, involving large

commitments of research and development expenditures by private industry, is obviously seriously hampered by uncertainty as to whether nonleaded or low lead gasoline will be generally available in the future.

Lead additives are used by refiners as the cheapest way to increase the octane rating of their gasoline. If the lead were to be removed from motor fuels, additional octane could be provided only by higher concentration of more expensive blending components. Thus, there is at present a clear economic disincentive to removing the lead additives from gasoline. This bill is designed to remove this present competitive price advantage of the less desirable fuel by imposing an additional tax on the leaded gasoline which will eliminate the cost advantage of using lead.

It would not suffice for this Congress to announce, even through legislation with a postponed effective date, that it will require or encourage manufacturers of gasoline to produce an unleaded fuel at that time in the future when advanced emission control devices are expected to be generally available. The automotive and petroleum industries must make final irrevocable decisions by early 1971 at the latest as to fuel and engine requirements for the 1975 model year (the Fall of 1974) when proposed national auto exhaust emission standards call for limits on emissions. There must be assurance now that unleaded gasoline will be available at that time so that the emission control systems will operate effectively and thus can be incorporated now in the automobile designs.

Thus, the conversion to unleaded gasoline must begin at once. Such conversion can be accomplished most effectively by a tax incentive which removes the cost advantage of using lead and thus encourages each gasoline refiner to accomplish the transition as quickly as possible without establishing absolute and inflexible requirements.

It is also important to have unleaded gasoline generally available in advance of the target dates for federal emission control requirements so that automobile designers have the option of using emission control devices to enable them to meet the developing state emission standards; and, probably more importantly, to enable them to test the performance of new emission control devices manufactured under actual high volume conditions. Simulated laboratory testing does not guarantee equivalent performance in the field.

Requirements which are only to take effect at some future date too often must be extended and re-extended as the affected parties find themselves unprepared to meet the requirements when that future date arrives. A tax incentive provision, made operative now, avoids this problem. It adequately reduces the cost advantage of using lead, so that each refiner will achieve the conversion on a basis suited to his particular needs. Competitive pressures will insure that a conversion is made at a reasonably early date, and these pressures will be a sufficient constraint to assure developers of the emission control systems that unleaded gasoline will be available in time so that their equipment may be put into operation as soon as development is completed.

The immediate beneficial effect to the environment of removing lead from gasoline is an equally important consideration. Hydrocarbon emission levels from cars presently on the road are directly related to the level of lead additives in the fuel. Estimates of the increment caused by leaded fuels vary from 7 to 20 percent. Further, at least 30 percent of the particulate emissions (solid materials) of engine

exhausts consists of lead. We must take account of the undeniable—although admittedly unmeasurable—adverse effects of this lead level on the health of our population. There are many recognized health authorities who argue that the possible health hazards of increased lead concentration in the atmosphere due to emissions of lead salts from cars, more than justifies, solely on the basis of information already available, any action which may be taken to encourage a switch to unleaded fuels. Evaluation of these data is continuing, but we cannot continue to tolerate this clear and present danger to our national health level.

For these reasons, the tax on lead in gasoline is an extremely important part of the Administration's program to improve the quality of our environment.

It is estimated that the proposed tax will result in a first year revenue gain of approximately $1.6 billion. This amount will diminish as the incentive takes effect and lead free or low level leaded gasoline is successfully developed.

The proposed tax would be imposed on the sale by the manufacturer or importer of lead additives which are used in motor fuels. In order to prevent possible circumvention of the tax, importer would be defined to include an importer of gasoline containing lead additives. The tax would apply to lead additives in gasoline used in all gasoline engines although its primary impact would be on automotive fuel. The tax would be imposed on the manufacturer's sale of lead additives after July 31, 1970. To bring the tax fully into play at that date and to discourage possible stockpiling of tax free lead additives, a floor stock tax would be imposed on all inventories of lead additives held by any person other than the manufacturer or importer on August 1, 1970. This floor stock tax would be in the same amount and measured in the same manner as the tax on the sale by the manufacturer of lead additives.

In order to prevent the tax from causing undue hardships on the part of smaller refiners of gasoline, it is proposed that each separate company (but only one for an affiliated group) engaged in the refining business be permitted to use, free of tax, additives containing up to 1,000,000 pounds of lead during the first year the tax is in effect. This amount would be decreased by 200,000 pounds annually until 1976 when all lead contained in such additives would be fully taxable. The figure of 1,000,000 pounds is based upon the average amount of lead in additives that is believed to be used by a typical independent refinery. This level is based on the criteria used by the Small Business Administration for distinguishing small refiners eligible for set-asides for contracts with the Department of Defense. Although each such refiner would be able to use additives containing up to 1,000,000 pounds of lead, the bill limits this allowance to the amount of additives containing no more lead than that contained in the additives actually used during the year preceding August 1, 1970. the effective date of the tax, or if greater, the average of the three years preceding that date. In this manner the possibility of small refiners profiting by selling unused tax free additives to other refiners will be avoided.

I urge the Congress to give each of these three important recommendations of the President your immediate attention.

Sincerely yours,

(S) David M. Kennedy.

48-466—70——2

A BILL To amend the Internal Revenue Code of 1954 to extend excise taxes on communication services and on automobiles

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "Excise Tax Extension Act of 1970".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. CONTINUATION OF EXCISE TAXES ON COMMUNICATION SERVICES AND ON AUTOMOBILES.

(a) Passenger Automobiles.—

(1) In general.—Section 4061(a)(2)(A) (relating to tax on passenger automobiles, etc.) is amended to read as follows:

"(A) Articles enumerated in subparagraph (B) are taxable at whichever of the following rates is applicable:

"If the article is sold—	The tax rate is—
Before January 1, 1972	7 percent
During 1972	5 percent
During 1973	3 percent
During 1974	1 percent

The tax imposed by this subsection shall not apply with respect to articles enumerated in subparagraph (B) which are sold by the manufacturer, producer, or importer, after December 31, 1974."

(2) Conforming Amendment.—Section 6412(a)(1) (relating to floor stocks refunds on passenger automobiles, etc.) is amended by striking out "January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974", and inserting in lieu thereof "January 1, 1972, January 1, 1973, January 1, 1974, or January 1, 1975".

(b) Communications Services.—

(1) Continuation of Tax.—Section 4251(a)(2) (relating to tax on certain communications services) is amended by striking out the table and inserting in lieu thereof the following table:

"Amounts paid pursuant to bills first rendered—	Percent—
Before January 1, 1972	10
During 1972	5
During 1973	3
During 1974	1".

(2) Conforming Amendment.—Section 4251(b) (relating to termination of tax) is amended by striking out "January 1, 1974", and inserting in lieu thereof "January 1, 1975".

(3) Repeal of Subchapter B of Chapter 33.—Section 105(b)(3) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266) is amended to read as follows:

"(3) Repeal of Subchapter B of Chapter 33.—Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1975, subchapter B of chapter 33 (relating to the tax on communications) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before November 1, 1974, for which a bill has not been rendered before January 1, 1975, a bill shall be treated as having been first rendered on December 31, 1974. Effective January 1, 1975, the table of subchapters for chapter 33 is amended by striking out the item relating to such subchapter B."

A BILL To amend the Internal Revenue Code of 1954 to accelerate the collection of estate and gift taxes, and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "Estate and Gift Tax Amendments Act of 1970."

(b) Wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. GIFT TAX.

(a) Amendments to Subchapter A of Chapter 12.—

(1) Section 2501.—

(A) Paragraph (1) of subsection (a) of section 2501 (relating to imposition of tax) is amended to read as follows:

"(1) General rule.—For the first calendar quarter of calendar year 1971 and each calendar quarter thereafter a tax, computed as provided in section 2502, is hereby imposed on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(B) Paragraph (4) of such subsection is amended by deleting "calendar year" and inserting in lieu thereof "calendar quarter".

(2) Section 2502.—

(A) All of subsection (a) of section 2502 before the rate schedule is amended to read as follows:

"(a) Computation of Tax.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tax, computed in accordance with the rate schedule set forth in this subsection, on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

"(2) a tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(B) Subsection (b) of section 2502 (relating to definition of calendar year) is amended to read as follows:

"(b) Calendar Quarter.—Wherever used in this title in connection with the gift tax imposed under Chapter 12, the term 'calendar quarter' includes only the first calendar quarter of the calendar year 1971 and succeeding calendar quarters."

(C) Subsection (c) of section 2502 (relating to definition of preceding calendar years) is amended to read as follows:

"(c) Preceding Calendar Years and Quarters.—

"(1) The term 'preceding calendar years' means calendar years 1932 and 1970 and all calendar years intervening between

calendar year 1932 and calendar year 1970. The term 'calendar year 1932' includes only the portion of such year after June 6, 1932.

"(2) The term 'preceding calendar quarters' means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed."

(3) Section 2503.—

(A) Subsection (a) of section 2503 (relating to taxable gifts) is amended to read as follows:

"(a) General Definition.—The term 'taxable gifts' means, in the case of gifts made after December 31, 1970, the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made before January 1, 1971, such term means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C."

(B) The heading and first sentence of subsection (b) of section 2503 (relating to taxable gifts) is amended to read as follows:

"(b) Exclusions From Gifts.—In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1971 and subsequent calendar years, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsection (a), be included in the total amount of gifts made during such quarter."

(4) Section 2504.—Section 2504 (relating to taxable gifts for preceding years) is amended to read as follows:

"SEC. 2504. TAXABLE GIFTS FOR PRECEDING YEARS.

"(a) In General.—In computing taxable gifts for preceding calendar years or calendar quarters for the purpose of computing the tax for any calendar quarter, there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the years or calendar quarters in which the transfers were made and there shall be allowed such deductions as were provided for under such laws, except that the specific exemption in the amount, if any, allowable under section 2521 shall be applied in all computations in respect of previous calendar years or calendar quarters for the purpose of computing the tax for any calendar year or calendar quarter.

"(b) Exclusions From Gifts for Preceding Years.—In the case of gifts made to any person by the donor during preceding calendar years and calendar quarters, the amount excluded, if any, by the provisions of gift tax laws applicable to the years and calendar quarters in which the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such years and calendar quarters.

"(c) Valuation of Certain Gifts for Preceding Calendar Years or Quarters.—If the time has expired within which a tax may be assessed under this chapter or under corresponding provisions of prior laws, on the transfer of property by gift made during a preceding calendar year or calendar quarter, as defined in section 2502 (c), and if a tax under this chapter or under corresponding provisions of prior laws has been

assessed or paid for such preceding calendar year or calendar quarter, the value of such gift made in such preceding calendar year or calendar quarter shall, for purposes of computing the tax under this chapter for any calendar quarter, be the value of such gift which was used in computing the tax for the last preceding calendar year or calendar quarter, for which a tax under this chapter or under corresponding provisions of prior laws was assessed or paid.

"(d) Net Gifts.—The term 'net gifts' as used in corresponding provisions of prior laws shall be read as 'taxable gifts' for purposes of this chapter."

(b) Amendments to Subchapter B of Chapter 12.—

(1) Section 2512.—Subsection (b) of section 2512 (relating to valuation of gifts) is amended by deleting "calendar year" and inserting in lieu thereof "calendar quarter".

(2) Section 2513.—

(A) Section 2513 (relating to gifts by husband or wife to third party) is amended by deleting "calendar year" each place it appears and inserting in lieu thereof "calendar quarter".

(B) Subparagraph (A) of subsection (b) (2) of section 2513 is amended to read as follows:

"(A) the consent may not be signified after the last day of the first month following the close of such calendar quarter, unless before such last day no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse;".

(C) Subparagraph (B) of subsection (b)(2) of section 2513 is amended by deleting "such year" and inserting in lieu thereof "such calendar quarter".

(D) Subsection (c) of section 2513 is amended—

(i) by deleting "15th day of April following the close of such year" and inserting in lieu thereof "last day of the first month following the close of such calendar quarter", and

(ii) by deleting "such 15th day" each place it appears and inserting in lieu thereof "such last day".

(E) Subsection (d) of section 2513 is amended by deleting "such year" and inserting in lieu thereof "such calendar quarter".

(3) Section 2515.—Subsection (c) of section 2515 (relating to tenancies by the entirety) is amended by deleting "calendar year" and inserting in lieu thereof "calendar quarter".

(c) Amendments to Subchapter C of Chapter 12.—

(1) Section 2521.—Section 2521 (relating to specific exemption) is amended to read as follows:

"SEC. 2521. SPECIFIC EXEMPTION.

"In computing taxable gifts for a calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident an exemption of $30,000, less the aggregate of the amounts claimed and allowed as a specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years and calendar quarters intervening between that calendar year and the calendar quarter for which the

tax is being computed under the laws applicable to such years or calendar quarters."

(2) Section 2522.—Section 2522 (relating to charitable and similar gifts) is amended by deleting "year" each place it appears and inserting in lieu thereof "quarter".

(3) Section 2523.—Subsection (a) of section 2523 (relating to gifts to a spouse) is amended by deleting "year" each place it appears and inserting in lieu thereof "quarter".

(d) Miscellaneous Amendments.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended—

(A) by deleting "calendar year" the first time it appears therein and inserting in lieu thereof "calendar quarter (or calendar year if the gift was made before January 1, 1971)", and

(B) by deleting "calendar year" every other place it appears therein and inserting in lieu thereof "calendar quarter or year".

(2) Section 2012.—

(A) Paragraph (1) of subsection (b) of section 2012 (relating to credit for gift tax) and paragraph (1) of subsection (d) of such section are each amended by deleting "the year" and inserting in lieu thereof "the calendar quarter (or calendar year if the gift was made before January 1, 1971)".

(B) Subsection (d) of section 2012 is amended by deleting "such year" each place it appears therein and inserting in lieu thereof "such quarter or year".

(3) Section 6019 (relating to gift tax returns) is amended by deleting "year" each place it appears and inserting in lieu thereof "quarter".

(4) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) Gift Tax Returns.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the last day of the first month following the close of the calendar quarter."

(5) Paragraph (1) of subsection (c) of section 6212 (relating to notice of deficiency) is amended by deleting "calendar year" and inserting in lieu thereof "calendar quarter".

(6) Subsection (b) of section 6214 (relating to determination by Tax Court) is amended to read as follows:

"(b) Jurisdiction Over Other Years or Quarters.—The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid."

(7) Subsection (b) of section 6324 (relating to lien for gift tax) is amended by deleting "calendar year" and inserting in lieu thereof "period for which the return was filed".

(8) Paragraph (2) of section 6501 (e) (relating to limitations on assessment and collection) is amended by deleting "during

the year" and inserting in lieu thereof "during the period for which the return was filed".

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by deleting "the same calendar year" each place it appears therein and inserting in lieu thereof "the same calendar year or calendar quarter".

(e) Effective Date.—The amendments made by this section shall be effective with regard to gifts made after December 31, 1970.

SEC. 3. ESTIMATED ESTATE TAX.

(a) Declaration of Estimated Estate Tax.—

(1) Subpart D of part II of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section:

"SEC. 6022. DECLARATION OF ESTIMATED ESTATE TAX.

"(a) Requirement of Declaration by Executor.—In all cases where the value of the gross estate, as defined in section 2031 or section 2103, at the death of every decedent, whether citizen, resident, or nonresident not a citizen of the United States exceeds $150,000, the executor as defined in section 2203, shall make a declaration of the estimated estate tax for the estate of the decedent.

"(b) Estimated Estate Tax.—For purposes of this title, the term "estimated estate tax" means the amount which the executor estimates as the amount of estate tax which would be imposed under chapter 11 on the transfer of the taxable estate of the decedent if section 2032 (relating to alternate valuation) had not been enacted.

"(c) Contents of Declaration.—The declaration shall contain such pertinent information as the Secretary or his delegate may by forms or regulations prescribe.

"(d) Requirement of Declaration by Beneficiaries.—If the executor is unable to make a complete declaration, as required by subparagraph (a), as to any part of the gross estate of the decedent, he shall include in his declaration a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the Secretary or his delegate such person shall in like manner make a declaration as to such part of the gross estate."

(2) The table of sections for subpart D of part II of subchapter A of chapter 61 is amended by adding at the end thereof the following: "Sec. 6022. Declaration of estimated estate tax."

(b) Time for Filing.—

(1) Part V of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6077. TIME FOR FILING DECLARATIONS OF ESTIMATED TAX.

"Declarations of estimated estate tax required by section 6022 shall be filed within 7 months after the date of the decedent's death if the estate tax return required under section 6018 has not been filed prior to such date."

(2) The table of sections for part V of subchapter A of chapter 16 is amended by adding at the end thereof the following:

"Sec. 6077. Time for filing declarations of estimated estate tax."

(c) Payment of Estimated Estate Tax.—

48-466—70——3

(1) Subchapter A of chapter 62 (relating to time and place for paying tax) is amended by adding at the end thereof the following new section:

"SEC. 6158. PAYMENT OF ESTIMATED ESTATE TAX.

"(a) General Rule.—There shall be paid with the declaration of estimated estate tax required under section 6022, 80 percent of the estimated estate tax as computed under that section or the value of the net liquid assets, if less.

"(b) Liability for Payment.—The payment required by subsection (a) shall be paid by the person required to file the declaration of estimated estate tax.

"(c) Net Liquid Assets.—For purposes of this section, the term 'value of the net liquid assets' means an amount equal to—

(1) the sum of the value of—

"(A) all liquid assets included in the gross estate of the decedent which are not distributed, sold, exchanged, or otherwise disposed of within 6 months after the decedent's death, valued as of the date 6 months after the decedent's death,

"(B) all liquid assets included in the gross estate of the decedent which are distributed, sold, exchanged, or otherwise disposed of within 6 months after the decedent's death, valued as of the date of distribution, sale, exchange, or other disposition, and

"(C) all liquid assets received within 6 months after the decedent's death as proceeds from the distribution, sale, exchange or other disposition of assets (other than liquid assets) which were included in the gross estate of the decedent valued as of the date of distribution, sale, exchange, or other disposition, less

"(2) the sum of the value of—

"(A) to the extent allowable as a deduction under section 2053, funeral and administration expenses, taxes and other claims against the estate which are paid as required by their terms within 7 months of the decedent's death or are reasonably expected to be paid as required by their terms within 15 months after the decedent's death, and

"(B) if a child (as defined in section 151(e)(3)) of the decedent, who has not attained the age of 21 at the time of the decedent's death, or the spouse of the decedent, survives him, an amount equal to $10,000 plus $5,000 for the surviving spouse, if any, and $5,000 for each surviving minor child.

"(d) Liquid Assets.—For purposes of this section, the term 'liquid assets' means—

"(1) cash, including proceeds from insurance and amounts on deposit with any bank, savings and loan, or other financial institution which are collectible within 6 months after the decedent's death,

"(2) obligations and other securities and commodities which are readily redeemable or are readily tradeable in an established market, and

"(3) other securities, claims and obligations (such as promissory notes, certificates of deposit, and accounts receivable) which are redeemable or otherwise collectible by their terms at the option of the holder within 6 months after the decedent's death.

"(e) Cross Reference.—For provisions relating to extension of time for payment of the amount required to be paid with the declaration of estimated estate tax, see section 6161(a)(1)."

(2) The table of sections for subchapter A of chapter 62 is amended by adding at the end thereof the following:

"Sec. 6158. Payment of estimated estate tax."

(3) Section 6161(a)(1) is amended by inserting after "not to exceed 6 months", "(8 months in the case of a declaration of estimated estate tax under section 6022)".

(d) Assessment.—Subsection (b) of section 6201 (relating to assessment authority) is amended by adding at the end thereof the following new paragraph:

"(3) Estimated estate tax.—No unpaid amount of estimated estate tax under section 6158 shall be assessed."

(e) Payments on Account of Estate Tax.—

(1) Subchapter B of chapter 64 (relating to receipt of payment) is amended by adding at the end thereof the following new section:

"SEC. 6318. ESTIMATED ESTATE TAX PAYMENTS.

"Payment of the estimated estate tax required to be paid under section 6158(a) or any portion thereof, shall be payment on account of the estate tax imposed by chapter 11."

(2) The table of sections for subchapter B of chapter 64 is amended by adding at the end thereof the following:

"Sec. 6318. Estimated estate tax payments."

(f) Failure to Pay.—

(1) Interest.—

(A) Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end thereof the following new section:

"SEC. 6603. INTEREST ON UNDERPAYMENT OR NONPAYMENT OF ESTIMATED ESTATE TAX.

"(a` General Rule.—If there is an underpayment of the estimated estate tax required to be paid under section 6158(a), as computed under section 6660 (e) and (f), interest on such amount at the rate of 6 percent per annum shall be paid for the period from the last date prescribed for payment (determined without regard to any extension of time for payment) of such tax to the earlier of—

"(1) the date paid, or

"(2) the date prescribed under section 6075 for filing the estate tax return.

"(b) Applicable Rules.—

"(1) Interest treated as tax.—Interest prescribed under this section on the estimated estate tax payment shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as the estate tax.

"(2) No interest on interest.—No interest under this section shall be imposed on the interest provided by this section.

"(3) Interest part of estate tax.—The interest imposed under subsection (a) shall be considered interest on the estate tax imposed under chapter 11 and shall not be considered part of the portion of the estimated estate tax required to be paid under section 6158(a)."

(B) The table of sections for subchapter A of chapter 67 is amended by adding at the end thereof the following:

"Sec. 6603. Interest on underpayment or nonpayment of estimated estate tax."

(2) Section 6601.—Section 6601 (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended by adding at the end thereof the following new subsection:

"(m) Exception as to Estimated Estate Tax.—This section shall not apply to any failure to pay estimated estate tax required by section 6158."

(3) Failure to pay or to file.—

(A) Subchapter A of chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6660. FAILURE TO PAY ESTIMATED ESTATE TAX OR TO FILE DECLARATION.

"(a) Addition to the Tax.—In the case of failure—

"(1) to file the declaration of estimated estate tax required by section 6022, on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the estate tax 5 percent of the underpayment if the failure is for not more than 1 month, with an additiontal 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

"(2) to pay the amount required by section 6158 (a) on or before the date prescribed for payment thereof (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the estate tax 0.5 percent of the underpayment if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

"(b) Additions Under More Than One Paragraph.—With respect to any declaration, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under subparagraph (2) of subsection (a) for any period to which an addition to tax applies under both paragraphs (1) and (2).

"(c) Negligence or Intentional Disregard of Rules and Regulations.—If any part of any underpayment (as defined in subsection (e)(1)) of the amount required to be paid under section 6158 (a) is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the estate tax an amount equal to 5 percent of the underpayment.

"(d) Fraud.—If any part of any underpayment (as defined in subsection (e)) of the amount required to be paid under section 6158(a) is due to fraud, there shall be added to the estate tax an amount equal to 50 percent of the underpayment.

"(e) Amount of Underpayment.—

"(1) In general.—Except as provided in paragraph (2) of this subsection, the amount of the underpayment shall be the excess of—

"(A) the amount of estimated estate tax required to be paid under section 6158, over

"(B) the amount, if any, of such estimated estate tax paid on or prior to the date prescribed under section 6077 for filing the declaration of estimated estate tax required under section 6022.

"(2) Exception.—There shall not be considered to be an underpayment of the estimated estate tax for purposes of this section—

"(A) if the amount paid under section 6158(a) on or before the date prescribed under section 6077 for filing the declaration of estimated estate tax equals or exceeds 80 percent of the estate tax determined by the executor as the tax imposed under chapter 11, or

"(B) if the only reason for the underpayment is because there is discovered, after the date prescribed for filing the declaration of estimated estate tax, property includable in the gross estate of the decedent, which was not known by the executor to be part of the gross estate of the decedent, despite reasonable search by him, until after such date; or

"(C) if the amount of estimated estate tax paid on or before the date prescribed under section 6077 for filing the declaration of estimated estate tax equals or exceeds 80 percent of—

"(i) the estate tax determined by the executor as the tax imposed by chapter 11, reduced by

"(ii) the amount of estate tax, the date for payment of which is postponed under the provisions of section 6161, 6163, or 6166.

"(f) Period of Underpayment.—The period of underpayment shall run from the date the declaration of estimated estate tax was required to be filed to whichever of the following dates is the earlier—

"(1) The date by which the estate tax return under section 6018 is required to be filed,

"(2) With respect to any portion of the underpayment, the date on which such portion is paid, or

"(3) The date on which is paid an amount which, had it been paid on the date prescribed in section 6077, would have qualified for the exception under subsection (e)(2)(B).

For purposes of this section, payments of the estate tax imposed by chapter 11 shall be considered to be payments of the estimated tax required to be paid under section 6158.

"(g) No Delinquency Penalty If Fraud Assessed.—If any penalty is assessed under subsection (d) (relating to fraud) for an underpayment of estimated estate tax, no penalty under subsection (a) shall be assessed with respect to the same underpayment.

"(h) Additions Not on Account.—Any amount imposed by this section shall not be on account of the estate tax imposed by chapter 11."

(4) Section 6651.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(e) Exception as to Estimated Estate Tax.—This section shall not apply to any failure to pay, or make a declaration of, estimated estate tax required by section 6158 or section 6022."

(g) Adjustment of Estimated Estate Tax.—

(1) Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6426. ADJUSTMENT OF ESTIMATED ESTATE TAX.

"(a) Application for Adjustment.—The executor of an estate may file an application for an adjustment of the estimated estate tax because of a lower amount of estate tax shown as due on the estate tax return than the amount of estimated estate tax actually paid. The application shall be verified in the manner prescribed by section 6065 in the case of a return by such executor, and shall be filed, on or after the filing of the estate tax return and within a period of 12 months from such date, in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth—

"(1) the amount of estimated estate tax paid,

"(2) the amount of estate tax shown as due on the return,

"(3) the amount of the adjustment, and

"(4) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

"(b) Allowances of Adjustments.—Within a period of 90 days from the date on which an application for an adjustment of the estimated estate tax is filed under subsection (a), the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the applications, declarations, and returns, to discover omissions and errors of computation therein, and shall determine the amount of the excess of the estimated estate tax paid over the estate tax shown as due on the estate tax return, except that the Secretary or his delegate may disallow, without further action, any application which he finds refers to returns or declarations which contain errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such excess shall, within the 90-day period, be refunded to the executor.

"(c) Amount Shown as Due.—For purposes of this section, the term 'amount of estate tax shown as due' means the amount of tax which would be due with the estate tax return after operation of sections 6161, 6163 and 6166.

"(d) Interest on Overpayment.—

"(1) Rate.—Interest shall be allowed and paid upon any amount refunded under this section at the rate of 6 percent per annum.

"(2) Period.—Such interest shall be allowed and paid from the date prescribed for filing the declaration of estimated estate tax, or from the date the overpayment was made, if later, to a date (to be determined by the Secretary or his delegate) preceding the date of the check for the refund under this section by not more than 30 days, whether or not such refund check is accepted by the executor after tender of such check to the executor."

(2) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following:

"Sec. 6424. Adjustment of estimated estate tax."

(h) Holding Period of Property.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (11) as paragraph (12) and inserting after paragraph (10) the following:

"(11) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)) if—

"(A) such property was included in such decedent's gross estate,

"(B) the basis of such property in the hands of such person is determined under section 1014, and

"(C) such property is sold or exchanged by such person within 6 months after the decedent's death,

such person shall be considered to have held such property for more than 6 months."

(i) Effective Date.—The amendments made by this section shall apply with respect to estates of decedents dying on or after the date of enactment of this section. These amendments shall also apply in the case of decedents dying after March 31, 1970, and on or before the date of enactment of this section, except that the reference in section 6077 to "7 months after the date of the decedent's death" shall be deemed to mean 7 months after the enactment of this section.

A BILL To amend the Internal Revenue Code of 1954 by imposing a tax upon the sale of lead additives used in the manufacture or production of gasoline, providing for payments to producers of gasoline for lead additives used during a transitional period, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "Clean Air Tax Act of 1970".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. TAX ON SALE OF LEAD ADDITIVES.

(a) Imposition of Tax.—Chapter 39 (relating to regulatory taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Lead Additives

"Sec. 4891. Lead Additives

"SEC. 4891. LEAD ADDITIVES.

"(a) Imposition of Tax.—There is hereby imposed upon the sale of lead additives by the manufacturer, producer, or importer thereof a tax of $4.25 per pound of the total lead therein.

"(b) Imported Gasoline.—In addition to any other tax or duty imposed by law, there is hereby imposed upon the importation of gasoline containing lead additives a tax of $4.25 per pound of the total lead therein.

"(c) Floor Stocks Tax.—

"(1) Imposition of Tax.—On lead additives subject to tax under subsection (a), which, on August 1, 1970, are held by any person other than the manufacturer, producer, or importer thereof, there is hereby imposed a floor stocks tax at the rate of $4.25 per pound of the total lead therein. The tax imposed by this subsection shall not apply to the lead content of gasoline stocks on August 1, 1970, whether finished or in process.

"(2) Due Date of Floor Stocks Taxes.—The tax imposed by this subsection shall be paid at such time after September 30, 1970, as may be prescribed by the Secretary or his delegate.

"(d) Use by Manufacturer, Producer, or Importer Considered Sale.—If any person manufactures, produces, or imports a lead additive and uses it, then he shall be liable for tax under this section in the same manner as if such additive were sold by him.

"(e) Import Tax Imposed as Tariff Duty.—The tax imposed by subsection (b) shall be levied, assessed, collected, and paid in the

same manner as a duty imposed by the Tariff Act of 1930 (46 Stat. 590; 19 U.S.C. chapter 4) and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such Act, except that for purposes of sections 336 and 350 of such Act (the so-called flexible tariff and trade agreements provisions; 46 Stat. 701; 19 U.S.C. 1336, 1351) such tax shall not be considered a duty or import restriction, and except that no preference with respect to such tax shall be accorded any gasoline imported or brought into the United States.

"(f) Exemption for Exports.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed on the sale by the manufacturer of lead additives for export, or for resale by the purchaser to a second purchaser for export. Where lead additives have been sold free of tax for export, or for resale by the purchaser to a second purchaser for export, the exemption shall cease to apply unless, within the 6-month period which begins on the date of the sale (or, if earlier, on the date of the shipment by him), the manufacturer receives proof that the article has been exported.

"(g) Definitions.—

"(1) Gasoline.—The term 'gasoline' has the same meaning given to such term by section 4082(b).

"(2) Lead Additive.—As used in this section, the term 'lead additive' means any compound containing lead which is used in the production, refining, compounding or blending of gasoline.

"(h) Cross References.—For penalties and other general and administrative provisions applicable to this subchapter, see subtitle F."

(b) Refund for Lead Additives Exported.—Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6428. REFUND FOR LEAD ADDITIVES EXPORTED.

"The tax paid under section 4891 (a) or (c) on lead additives shall be deemed to be an overpayment if such additives were exported by any person. No credit or refund of any overpayment to the person who paid the tax on the lead additives shall be made unless such person establishes, under regulations prescribed by the Secretary or his delegate, that he—

"(a) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article; or

"(b) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article; or

"(c) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund.

The tax paid on lead additives which have been exported may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount. Any person who paid the tax on lead additives who is entitled to refund of tax under this section may, instead of filing a claim for refund, take credit therefor against the tax imposed by section 4891 due on any subsequent return."

(c) Clerical Amendments, etc.—

(1) The table of subchapters for chapter 39 of subtitle D is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER F. LEAD ADDITIVES."

(2) The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following:

"Sec. 6428. Refund for Lead Additives Exported."

SEC. 3. PAYMENTS WITH RESPECT TO USE OF LEAD ADDITIVES.

(a) Payments With Respect to Lead Additives Used by Refiners.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding after section 6428 (as added by section 2(b) of this title) the following new section:

"SEC. 6429. LEAD ADDITIVES USED BY REFINERS.

"(a) Lead Additives.—If any person uses lead additives in the production of gasoline, the Secretary or his delegate shall, subject to the limitation contained in subsection (b), pay (without interest) to such person $4.25 for each pound of lead therein so used.

"(b) Pounds of Lead For Which Payment is To Be Made.—For purposes of subsection (a), the quantity of lead for which payment is to be made to any person for each twelve month period commencing on August 1 of each year (beginning with the twelve month period commencing August 1, 1970) shall be the lesser of:

"(1) The number of pounds of lead contained in a lead additive actually used by such person in production of gasoline during such twelve month period but not to exceed in any twelve month period the greater of (A) the pounds of lead actually used by such person in the production of gasoline in the twelve month period preceding August 1, 1970, or (B) the annual average use of lead by such person in the production of gasoline during the three years preceding August 1, 1970, or

"(2) For the twelve month period commencing on August 1 of—

	Pounds of lead
1970	1, 000, 000
1971	800, 000
1972	600, 000
1973	400, 000
1974	200, 000
1975 and thereafter	none

"(c) Controlled Group.—For purposes of subsection (b), a controlled group of corporations shall be treated as a single person, but only one component member of such group may claim a payment under this section for the lead additives used by all of the members of such controlled group. The controlled group shall designate, in accordance with regulations to be prescribed by the Secretary or his delegate, the member of such group which may claim such payment on behalf of the group. For purposes of this subsection, the term 'controlled group' has the same meaning assigned to such term by section 1563 (a) except that 50% shall be in lieu of 80% wherever such percentage appears therein.

"(d) Time for Filing Claims; Period Covered.—

"(1) In General.—Except as provided in paragraph (2), not more than one claim may be filed under this section by any person with respect to lead additives used during the twelve

month period ending on July 31 of any year. No claim shall be allowed under this paragraph with respect to any twelve month period unless filed on or before October 31 of the year in which such twelve month period ends.

"(2) Exception.—If $1,000 or more is payable under this section to any person with respect to lead additives used during any of the three month periods beginning August 1, November 1, February 1, and May 1 of each year, a claim may be filed under this section by such person with respect to lead additives used during such three month period. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the three month period immediately following the three month period for which the claim is filed.

No claim shall be allowed under this subsection for amounts allowed as a credit under subsection (e).

"(e) Credit Against Tax Imposed By Section 4081.—Notwithstanding the provisions of subsection (d), a credit may be allowed against the tax imposed by section 4081 for an amount equal to the payment authorized by subsection (a) in respect of lead additives used by the producer of gasoline during the period for which the return of tax under section 4081 is made.

"(f) Definitions.—

"(1) Gasoline.—As used in this section, the term 'gasoline' shall have the same meaning as set forth in section 4082 (b).

"(2) Production of Gasoline.—As used in this section, the term 'production of gasoline' includes the refining, compounding and blending of gasoline.

"(3) Lead Additives.—As used in this section, the term 'lead additive' shall have the same meaning as set forth in section 4891 (g)(2).

"(g) Applicable Laws.—

"(1) In General.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4891 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(2) Examination of Books and Witnesses.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(h) Cross References.—

"(1) For civil penalty for excessive claims under this section, see section 6675.

"(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

(b) Conforming, Clerical, and Technical Amendments, Etc.—

(1) Section 4227 (cross references to manufacturers excise taxes) is amended by adding at the end thereof the following new paragraph:

"(4) For credit for the payment for lead additives used in the production of gasoline, see section 6429."

(2) The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following:

"Sec. 6429. Lead additives used by refiners."

(3) Section 6206 is amended—

(A) By striking out "and 6427" in the heading of such section and inserting in lieu thereof "6427, and 6429";

(B) By striking out "or 6427" each place it appears in the text of such section and inserting in lieu thereof "6427, or 6429"; and

(C) By striking out "or 4041 (with respect to payments under section 6427" and inserting in lieu thereof "4041 (with respect to payments under section 6427), or 4891 (with respect to payments under section 6429)".

(4) Section 6504 (cross references to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(16) Assessments to recover excessive amounts paid under section 6429 (relating to lead additives used in the production of gasoline) and assessments of civil penalties under section 6675 for excessive claims under section 6429, see section 6206."

(5) Section 6511 (relating to limitations on credit or refund) is amended by adding at the end of subsection (g) the following new paragraph:

"(7) For limitation in case of payments under section 6429 (relating to lead additives used in refining gasoline), see section 6429(d)."

(6) Section 6675 is amended—

(A) By striking out "Fuels Or Lubricating Oil." in the heading of such section and inserting in lieu thereof "Fuels, Lubricating Oil, or Lead Additives.";

(B) By striking out "or" before "6427" in subsection (a), and by inserting after "taxable purposes)" in such subsection, "or 6429 (relating to lead additives used in the production of gasoline)"; and

(C) By striking out "or 6427" in subsection (b)(1) and inserting in lieu thereof "6427, or 6429".

(7) Sections 7210, 7603, and 7604, and the first sentence of section 7605(a) are each amended by inserting "6429(g)(2)", after "6427 (e)(2),". The second sentence of section 7605(a) is amended by striking out "or 6427(e)(2)" and inserting in lieu thereof "6427(e)(2), or 6429(g)(2)".

(8) The table of sections for subchapter A of chapter 63 is amended by striking out "and 6427" in the item relating to section 6206 and inserting in lieu thereof "6427, and 6429".

(9) The table of sections for subchapter B of chapter 68 is amended by striking out "Fuels or lubricating oil" in the item relating to section 6675 and inserting in lieu thereof "Fuels, lubricating oil, or lead additives".

SEC. 4. HIGHWAY TRUST FUND AMENDMENTS.

(a) Subsection (c) of section 209 of the Highway Revenue Act of 1956 (23 U.S.C., sec. 120 note) is amended by striking out "(tax on

gasoline)" in subparagraph (1)(A) and inserting in lieu thereof "(tax on gasoline without regard to the credit provided under section 6429(e))".

SEC. 5. EFFECTIVE DATES.

(a) Tax on Lead Additives.—The amendments made by section 2(a) of this Act shall apply to the sale of lead additives or importation of gasoline containing lead additives after July 31, 1970, except that the floor stocks tax shall apply with respect to inventories of lead additives as of August 1, 1970.

(b) Payments With Respect to Use of Lead Additives.—The amendments made by section 3(a) of this Act shall apply with respect to lead additives used in the production of gasoline after July 31, 1970.

Technical Explanation of Proposed Bill To Provide for a Tax Upon Lead Additives Used in Gasoline

SECTION 1. SHORT TITLE

Section 1 of the bill provides that it may be cited as the "Clean Air Tax Act of 1970".

SECTION 2. TAX ON LEAD ADDITIVES

Section 2 of the bill adds subchapter F of Chapter 39 of the Internal Revenue Code (relating to regulatory taxes) to provide:

(a) Section 4891 (a) imposes a tax upon the sale of lead additives by the manufacturer, producer, or importer of a lead additive which is, by definition, to be used in the manufacture or production of gasoline. The rate of tax is $4.25 per pound of lead contained in the additive,

(b) Section 4891 (b) imposes a tax upon the lead content of imported gasoline at the rate of $4.25 per pound of lead therein. This provision is to prevent circumvention of the tax imposed on lead additives by importing gasoline containing lead additives for domestic consumption.

(c) Section 4891(c) imposes a floor stocks tax on inventories of lead additives held, on August 1, 1970, by anyone other than a manufacturer, producer, or importer of lead additives. The rate of tax is $4.25 per pound of lead. This provision is intended to bring the lead additive tax into full effect on August 1, 1970. Since sales of lead additives by a manufacturer, producer, or importer of lead additives will be taxable after July 31, 1970, such persons are not subject to the floor stocks tax. The phrase "importer thereof" is intended to limit exclusion from the coverage of the floor stocks tax to the actual importer who would be taxable upon a subsequent sale under section 4891(a). The second sentence of (c)(1) excludes the lead content of gasoline inventories held on August 1, 1970, from the floor stocks tax whether held by a refiner, distributor, or dealer. Paragraph (2) provides that the floor stocks tax shall be paid at such time after September 30, 1970, as the Secretary or his delegate may prescribe.

(d) Section 4891(d) provides that the use of a lead additive by a person, who would be taxable upon a sale (manufacturer, producer, or importer of a lead additive) under 4891(a), shall be considered a sale. This provision would protect the revenue when an integrated refiner of gasoline also produces lead additives for use in his refining operations or when the refiner is the importer of lead additives.

(e) Section 4891(e) provides that the tax upon the lead content of imported gasoline shall be collected in the same manner as a tariff duty.

(f) Section 4891(f) provides an exemption from the tax imposed y section 4891(a) for lead additives exported.

(g) Section 4891(g)(1) provides that the term "gasoline" has the same meaning given to such term by section 4082(b). Section 4082(b) defines "gasoline" as "all products commonly or commercially known or sold as gasoline which are suitable for use as a motor fuel." Any future change in the meaning of the term "gasoline" under the manufacturers excise tax provisions would automatically affect the definition for purposes of this subchapter.

(h) Section 4891(g)(2) defines the term "lead additive" to include any compound containing lead which is used in the production of gasoline. The definition is intended to be broad enough to cover lead additives presently being used (lead tetraethyl) or other additives containing lead which might be developed in the future.

(i) Section 4891 (h) provides a cross reference to general and administrative provisions of the Code.

(j) Section 2 (b) of the bill provides for the refund of the lead additive tax in the case of exportation of such additives upon which a tax has been paid under section 4891. The provision would be operative when there is an exportation subsequent to acquisition in a taxable transaction by a person who is not the original manufacturer or importer of the lead additives.

(k) Section 2(c) of the bill provides the following clerical amendments:

(1) A clerical amendment is made to add Subchapter F to the table of subchapters for chapter 39 (regulatory taxes) of Subtitle D (excise taxes).

(2) A clerical amendment is made to the table of sections for subchapter B of chapter 65 to include section 6428.

SECTION 3. PAYMENTS WITH RESPECT TO USE OF LEAD ADDITIVES

Section 3 of the bill adds section 6429 to subchapter B of Chapter 65 (relating to rules of special application for abatements, credits, and refunds) to provide:

(a) Section 6429(a) provides for the payment to producers of gasoline an amount equal to $4.25 for each pound of lead used in the production of gasoline, subject to the limitations contained in section 6429(b). The rate of $4.25 is the same as the rate of tax imposed upon the sale of lead additives under section 4891(a).

(b) Section 6429(b) limits the quantity of lead for which payment under section 6429(a) is to be made. The number of pounds of lead for which payment would be made is the lesser of the number determined under paragraph (1) or paragraph (2). Paragraph (1) provides that the number of pounds for which payment shall be made shall be the actual pounds of lead used in the twelve month period commencing August 1, 1970, and during each succeeding twelve month period, except that actual usage may not exceed the greater of the actual pounds used in the twelve month period preceding August 1, 1970, or the annual average of the number of pounds used during each of the three years preceding August 1, 1970. Notwithstanding a

greater actual usage, the pounds of lead for which payment is to be made is limited under paragraph 2 to 1,000,000 pounds during the year ended July 31, 1971, and is decreased 200,000 pounds per year thereafter during the five year transitional period. No payments are to be made for usage after the twelve month period ended July 31, 1975.

(c) Section 6429 (c) provides that the limitations contained in section 6429 (b) (2), relating to the specific quantities eligible for payment during the transitional period, shall be applied to a controlled group of corporations as though such group were a single corporation. Only one member of a controlled group will be permitted to claim the payments under section 6429 (a). This provision would accord multiple-corporate groups the same treatment given a single corporate entity operating several refineries. For purposes of this subsection, the term "controlled group" has the same meaning as in section 1563 (a) except that 50% control is substituted for any 80% control test contained in section 1563 (a) Parent-subsidiary, brother-sister, or combined controlled groups would therefore be within the ambit of the poundage limitation of section 6429 (b) (2) as a single entity. By reference contained in section 1563 (a) to section 1563 (d), the constructive ownership rules of section 1563 (e) would be applicable.

(d) Section 6429 (d) provides that only one claim may be submitted with respect to lead additives used during any twelve month period. The second sentence imposes a period of limitations for filing claims which ends on October 31 of the year during which a twelve month period ends. Gasoline producers, who did not use all of their eligible poundage until the month of July during a particular twelve month period, would generally have a three month period in which to file claims. Quarterly refund claims also would be permitted when the claim for a quarter exceeded $1,000. No claim shall be allowed for amounts allowed as a credit against gasoline excise taxes as permitted under section 6429 (e).

(e) Section 6429(e) provides that the payment authorized by section 6429(a) to gasoline producers in respect of lead additives used by such producers may be claimed as a credit against payments due by the producer for the manufacturer's excise tax on gasoline imposed by section 4081. Credit for the lead additive payments under this provision would be taken during the reporting period for gasoline excise taxes as the lead additives are used and to the extent of the periodic liability for gasoline excise taxes. In the event the amount of authorized lead additive payments exceed periodic liabilities for gasoline excise tax, claim may be made under the terms of section 6429(d).

(f) Section 6429(f)(1) adopts the definition of gasoline contained in section 4082(b). Section 4082(b) defines "gasoline" as "all products commonly or commercially known or sold as gasoline which are suitable for use as a motor fuel".

(g) Section 6429 (f) (2) defines the term "production of gasoline" as including the refining, compounding and blending of gasoline. The definition borrows some of the language used in defining "producer" in section 4082 (a) for purposes of the manufacturer's

excise tax on gasoline. The definition is intended to encompass all operations during which a gasoline manufacturer or processor may add a lead additive.

(h) Section 6429 (f) (3) adopts the definition of "lead additive" contained in section 4891 (g) (2) (section 2 (a) of the bill).

(i) Section 6429 (g) (1) provides that all provisions of law, including penalties, applicable to section 4891, which imposes the tax on lead additives, shall also be applicable to payments under section 6429 insofar as those provisions are not inconsistent.

(j) Section 6429(g)(2) provides that the Secretary or his delegate shall have the authority granted under section 7602 to examine books and witnesses to ascertain the correctness of any claim made for payment on the use of lead additives under section 6429.

(k) Section 6429(h) provides cross references to the civil penalty under section 6675 and to criminal penalties under chapter 75.

(l) Section 3(b) of the bill provides the following conforming, clerical, and technical amendments:

(1) A technical amendment is made to the cross references to manufacturers excise taxes contained in section 4227 to provide a reference to credits available against gasoline excise taxes for the payment under section 6429 for the use of lead additives.

(2) A clerical amendment is made to the table of sections for subchapter B of chapter 65 to include section 6429.

(3) A conforming amendment is made to section 6206 to provide that excessive payments made under section 6429 may be assessed in the same manner as the tax on lead additives under section 4891.

(4) A technical amendment to section 6504 (relating to cross references to limitations on assessment and collection) is made to provide a cross reference to the assessment provisions under section 6206 which particularly relate to assessments to recover excessive payments under section 6429 and civil penalties under section 6675 for such excessive claims.

(5) A technical amendment is made to section 6511 (g) (relating to limitations on credit or refund) to provide a cross reference to the special limitation upon the period for filing claims for payment under section 6429 (d).

(6) A conforming amendment is made to section 6675 (relating to assessable penalties for excessive claims under various special payment provisions) to provide that the penalties contained in such section shall apply to excessive claims for the payment for the use of lead additives in the production of gasoline.

(7) Conforming amendments are made to section 7210 (relating to criminal penalties for failure to obey summons), section 7603 (relating to service of summons), section 7604 (relating to enforcement of summons), and section 7605 (relating to time and place of examination) to provide that these sections shall be applicable to section 6429.

(8) A clerical amendment is made to the table of sections for subchapter A of chapter 63 to reflect the change in the

heading of section 6206 (relating to special rules for assessment of excessive claims under sections 6420, 6421, 6424, 6427 and, under this bill, 6429).

(9) A clerical amendment is made to the table of sections for subchapter B of chapter 68 to reflect the change in the heading of section 6675 (relating to assessable penalties for excessive claims with respect to the use of fuels or lubricating oil and, under this bill, lead additives.)

SECTION 4. HIGHWAY TRUST FUND AMENDMENTS

Section 4 of the bill amends subsection (c) of section 209 of the Highway Revenue Act of 1956 to make it clear that the highway trust fund receipts consist of all of the manufacturer's gasoline excise tax without regard to credit taken against gasoline excise taxes for the credit for payment for lead additives used in the production of gasoline.

SECTION 5. EFFECTIVE DATES

Section 5 provides effective dates as follows:

(a) Tax on sale of lead additives. Sales of lead additives after July 31, 1970, are subject to the tax on lead additives.

(b) Tax on importation of gasoline containing lead additives. The lead content of gasoline imported after July 31, 1970, is subject to the tax on lead additives.

(c) Lead additives floor stocks tax. Lead additives held on August 1, 1970, by a person other than a manufacturer, producer, or the importer of lead additives are subject to the lead additives floor stocks tax.

(d) Payments with respect to the use of lead additives in the production of gasoline. Section 6429 applies with respect to the pounds of lead used after July 31, 1970, in the production of gasoline.

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