

105TH CONGRESS  
1ST SESSION

# H. R. 161

To amend the Internal Revenue Code of 1986 to terminate the tax subsidies  
for large producers of ethanol used as a fuel.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. ENGLISH of Pennsylvania (for himself, Mr. FRANK of Massachusetts, and  
Mr. McDERMOTT) introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to terminate  
the tax subsidies for large producers of ethanol used  
as a fuel.

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. TERMINATION AFTER 1998 OF TAX SUBSIDIES**

4 **FOR LARGE PRODUCERS OF ETHANOL USED**

5 **AS A FUEL.**

6 (a) GENERAL RULE.—Subsection (e) of section 40 of  
7 the Internal Revenue Code of 1986 is amended by adding  
8 at the end the following flush sentence:

1 “Except in the case of the credit determined under  
 2 subsection (a)(3), the preceding sentence shall be  
 3 applied by substituting ‘1998’ for ‘2000’ and ‘1999’  
 4 for ‘2001’.”

5 (b) DENIAL OF CREDIT FOR ALCOHOL USED TO  
 6 PRODUCE ETHER.—Subsection (b) of section 40 of such  
 7 Code is amended by adding at the end the following new  
 8 paragraph:

9 “(6) DENIAL OF CREDIT FOR ALCOHOL USED  
 10 TO PRODUCE ETHER.—No credit shall be allowed  
 11 under this section for alcohol used to produce any  
 12 ether.”

13 (c) CONFORMING REDUCTIONS OF OTHER INCEN-  
 14 TIVES FOR ETHANOL FUEL.—

15 (1) REPEAL OF REDUCED RATE ON ETHANOL  
 16 FUEL PRODUCED OTHER THAN FROM PETROLEUM  
 17 OR NATURAL GAS.—Subsection (b) of section 4041  
 18 of such Code is amended to read as follows:

19 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS  
 20 USE.—

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

24 “(2) TAX WHERE OTHER USE.—If a liquid on  
 25 which no tax was imposed by reason of paragraph

1 (1) is used otherwise than in an off-highway busi-  
 2 ness use, a tax shall be imposed by paragraph  
 3 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)  
 4 (whichever is appropriate) and by the corresponding  
 5 provision of subsection (d)(1) (if any).

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

12 (2) REPEAL OF REDUCED RATE ON ETHANOL  
 13 FUEL PRODUCED FROM NATURAL GAS.—Subsection  
 14 (m) of section 4041 of such Code is amended—

15 (A) by striking “or ethanol” each place it  
 16 appears (including the heading of paragraph  
 17 (2)), and

18 (B) by striking “, ethanol, or other alco-  
 19 hol” in paragraph (2) and inserting “or other  
 20 alcohol (other than ethanol)”.

21 (d) CONFORMING AMENDMENTS TO EXCISE TAXES;  
 22 FUEL ALCOHOL TAXED IN SAME MANNER AS OTHER  
 23 MOTOR FUELS.—

24 (1) IN GENERAL.—Paragraph (1) of section  
 25 4083(a) of such Code (defining taxable fuel) is

1 amended by striking “and” at the end of subpara-  
 2 graph (A), by striking the period at the end of sub-  
 3 paragraph (B) and inserting “, and”, and by adding  
 4 at the end the following:

5 “(C) fuel alcohol.”

6 (2) FUEL ALCOHOL.—Subsection (a) of section  
 7 4083 of such Code is amended by adding at the end  
 8 the following new paragraph:

9 “(4) FUEL ALCOHOL.—The term ‘fuel alcohol’  
 10 means any alcohol (including ethanol and meth-  
 11 anol)—

12 “(A) which is produced other than from  
 13 petroleum, natural gas, or coal (including peat),  
 14 and

15 “(B) which is withdrawn from the distillery  
 16 where produced free of tax under chapter 51 by  
 17 reason of section 5181 or so much of section  
 18 5214(a)(1) as relates to fuel use.”

19 (3) RATE OF TAX.—Clause (i) of section  
 20 4081(a)(2)(A) of such Code is amended by inserting  
 21 “and in the case of fuel alcohol” after “aviation gas-  
 22 oline”.

23 (4) SPECIAL RULES FOR IMPOSITION OF TAX.—  
 24 Paragraph (1) of section 4081(a) of such Code is

1 amended by adding at the end the following new  
2 subparagraph:

3 “(C) SPECIAL RULES FOR FUEL ALCO-  
4 HOL.—In the case of fuel alcohol—

5 “(i) the distillery where produced shall  
6 be treated as a refinery, and

7 “(ii) subparagraph (B) shall be ap-  
8 plied by including transfers by truck or rail  
9 in excess of such minimum quantities as  
10 the Secretary shall prescribe.”

11 (5) REPEAL OF REDUCED RATES ON ALCOHOL  
12 FUELS.—

13 (A) Section 4041 of such Code is amended  
14 by striking subsection (k).

15 (B) Section 4081 of such Code is amended  
16 by striking subsection (c).

17 (C) Section 4091 of such Code is amended  
18 by striking subsection (c).

19 (6) CONFORMING AMENDMENTS.—

20 (A) Section 40 of such Code is amended by  
21 striking subsection (c).

22 (B) Paragraph (4) of section 40(d) of such  
23 Code is amended to read as follows:

1           “(4) VOLUME OF ALCOHOL.—For purposes of  
2           determining under subsection (a) the number of gal-  
3           lons of alcohol with respect to which a credit is al-  
4           lowable under subsection (a), the volume of alcohol  
5           shall include the volume of any denaturant (includ-  
6           ing gasoline) which is added under any formulas ap-  
7           proved by the Secretary to the extent that such de-  
8           naturants do not exceed 5 percent of the volume of  
9           such alcohol (including denaturants).”

10           (C) Paragraph (2) of section 4041(a) of  
11           such Code is amended by adding at the end the  
12           following: “No tax shall be imposed by this  
13           paragraph on the sale or use of any liquid if tax  
14           was imposed on such liquid under section 4081  
15           and the tax thereon was not credited or re-  
16           funded.”

17           (D) Section 6427 of such Code is amended  
18           by striking subsection (f).

19           (E) Subsection (i) of section 6427 of such  
20           Code is amended by striking paragraph (3).

21           (F) Paragraph (2) of section 6427(k) of  
22           such Code is amended by striking “(3)”.

23           (G)(i) Paragraph (1) of section 6427(l) of  
24           such Code is amended by striking “or” at the

1 end of subparagraph (A), by redesignating sub-  
2 paragraph (B) as subparagraph (C), and by in-  
3 serting after subparagraph (A) the following  
4 new subparagraph:

5 “(B) any fuel alcohol (as defined in section  
6 4083) on which tax has been imposed by sec-  
7 tion 4081, or”.

8 (ii) Paragraph (2) of section 6427(l) of  
9 such Code is amended by striking “and” at the  
10 end of subparagraph (A), by redesignating sub-  
11 paragraph (B) as subparagraph (C), and by in-  
12 serting after subparagraph (A) the following  
13 new subparagraph:

14 “(B) in the case of fuel alcohol (as so de-  
15 fined), any use which is exempt from the tax  
16 imposed by section 4041(a)(2) other than by  
17 reason of a prior imposition of tax, and”.

18 (iii) The heading of subsection (l) of sec-  
19 tion 6427 of such Code is amended by inserting  
20 “, FUEL ALCOHOL,” after “DIESEL FUEL”.

21 (H) Sections 9503(b)(1)(E) and  
22 9508(b)(2) of such Code are each amended by  
23 striking “and diesel fuel” and inserting “diesel  
24 fuel, and fuel alcohol”.

1 (I) Section 9502 of such Code is amended  
 2 by striking subsection (e) and by redesignating  
 3 subsection (f) as subsection (e).

4 (J) Subsection (e) of section 9502 of such  
 5 Code (as redesignated by subparagraph (I)) is  
 6 amended by striking paragraph (2) and by re-  
 7 designating paragraph (3) as paragraph (2).

8 (K) Subsection (b) of section 9503 of such  
 9 Code is amended by striking paragraph (5).

10 (L) Paragraph (3) of section 9503(f) of  
 11 such Code is amended to read as follows:

12 “(3) PARTIALLY EXEMPT METHANOL OR ETHA-  
 13 NOL FUEL.—In the case of a rate of tax determined  
 14 under section 4041(m), the Highway Trust Fund fi-  
 15 nancing rate is the excess (if any) of the rate so de-  
 16 termined over—

17 “(A) 5.55 cents per gallon after September  
 18 30, 1993, and before October 1, 1995, and

19 “(B) 4.3 cents per gallon after September  
 20 30, 1995.”

21 (e) EFFECTIVE DATE.—The amendments made by  
 22 this section shall take effect on January 1, 1999.

23 (f) FLOOR STOCK TAXES.—



1           (1) IMPOSITION OF TAX.—In the case of fuel al-  
2       cohol which is held on January 1, 1999, by any per-  
3       son, there is hereby imposed a floor stocks tax of  
4       18.4 cents per gallon.

5           (2) LIABILITY FOR TAX AND METHOD OF PAY-  
6       MENT.—

7           (A) LIABILITY FOR TAX.—A person hold-  
8       ing fuel alcohol on January 1, 1999, to which  
9       the tax imposed by paragraph (1) applies shall  
10      be liable for such tax.

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

14          (C) TIME FOR PAYMENT.—The tax im-  
15      posed by paragraph (1) shall be paid on or be-  
16      fore June 30, 1999.

17          (3) DEFINITIONS.—For purposes of this sub-  
18      section—

19          (A) FUEL ALCOHOL.—The term “fuel alco-  
20      hol” has the meaning given such term by sec-  
21      tion 4083 of the Internal Revenue Code of  
22      1986, as amended by this section.

23          (B) HELD BY A PERSON.—Fuel alcohol  
24      shall be considered as “held by a person” if

1 title thereto has passed to such person (whether  
2 or not delivery to the person has been made).

3 (C) SECRETARY.—The term “Secretary”  
4 means the Secretary of the Treasury or his del-  
5 egate.

6 (4) EXCEPTION FOR EXEMPT USES.—The tax  
7 imposed by paragraph (1) shall not apply to fuel al-  
8 cohol held by any person exclusively for any use to  
9 the extent a credit or refund of the tax imposed by  
10 section 4081 of the Internal Revenue Code of 1986  
11 is allowable for such use.

12 (5) EXCEPTION FOR FUEL HELD IN VEHICLE  
13 TANK.—No tax shall be imposed by paragraph (1)  
14 on fuel alcohol held in the tank of a motor vehicle  
15 or motorboat.

16 (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
17 FUEL.—

18 (A) IN GENERAL.—No tax shall be im-  
19 posed by paragraph (1) on fuel alcohol held on  
20 January 1, 1999, by any person if the aggre-  
21 gate amount of fuel alcohol held by such person  
22 on such date does not exceed 2,000 gallons.  
23 The preceding sentence shall apply only if such  
24 person submits to the Secretary (at the time  
25 and in the manner required by the Secretary)

1           such information as the Secretary shall require  
2           for purposes of this paragraph.

3           (B) EXEMPT FUEL.—For purposes of sub-  
4           paragraph (A), there shall not be taken into ac-  
5           count fuel held by any person which is exempt  
6           from the tax imposed by paragraph (1) by rea-  
7           son of paragraph (4) or (5).

8           (C) CONTROLLED GROUPS.—For purposes  
9           of this paragraph—

10           (i) CORPORATIONS.—

11           (I) IN GENERAL.—All persons  
12           treated as a controlled group shall be  
13           treated as 1 person.

14           (II) CONTROLLED GROUP.—The  
15           term “controlled group” has the  
16           meaning given to such term by sub-  
17           section (a) of section 1563 of such  
18           Code; except that for such purposes  
19           the phrase “more than 50 percent”  
20           shall be substituted for the phrase “at  
21           least 80 percent” each place it ap-  
22           pears in such subsection.

1                   (ii)   NONINCORPORATED   PERSONS  
2                   UNDER COMMON CONTROL.—Under regula-  
3                   tions prescribed by the Secretary, prin-  
4                   ciples similar to the principles of clause (i)  
5                   shall apply to a group of persons under  
6                   common control where 1 or more of such  
7                   persons is not a corporation.

8                   (7) OTHER LAWS APPLICABLE.—All provisions  
9                   of law, including penalties, applicable with respect to  
10                  the taxes imposed by section 4081 of such Code  
11                  shall, insofar as applicable and not inconsistent with  
12                  the provisions of this subsection, apply with respect  
13                  to the floor stock taxes imposed by paragraph (1) to  
14                  the same extent as if such taxes were imposed by  
15                  such section 4081.

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