

Union Calendar No. 257

108TH CONGRESS
2^D SESSION

H. R. 3971

[Report No. 108–444]

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2004

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

MARCH 23, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 16, 2004]

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE, ETC.**

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

4 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 5 *expressly provided, whenever in this Act an amendment or*
 6 *repeal is expressed in terms of an amendment to, or repeal*
 7 *of, a section or other provision, the reference shall be consid-*
 8 *ered to be made to a section or other provision of the Inter-*
 9 *nal Revenue Code of 1986.*

10 (c) *TABLE OF CONTENTS.*—*The table of contents of this*
 11 *Act is as follows:*

Sec. 1. Short title, etc.

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

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

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

TITLE II—REDUCTION OF FUEL TAX EVASION

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

Sec. 202. Taxation of aviation-grade kerosene.

Sec. 203. Dye injection equipment.

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

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

Sec. 206. Display of registration.

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

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

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

Sec. 210. Modification of ultimate vendor refund claims with respect to farming.

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

TITLE III—OTHER EXCISE TAX PROVISIONS

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

Sec. 302. Two-party exchanges.

Sec. 303. Simplification of tax on tires.

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

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

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

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

11 *“(f) ALCOHOL FUEL MIXTURES.—*

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

15 *“(A) shall, with respect to taxable events oc-*
 16 *curring during such period, be treated—*

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

19 *“(ii) as received at the time of the tax-*
 20 *able event, and*

21 *“(B) to the extent such amount of credit ex-*
 22 *ceeds such liability for such period, shall (except*
 23 *as provided in subsection (k)) be paid subject to*
 24 *subsection (i)(3) by the Secretary without inter-*
 25 *est.*

1 “(2) *SPECIAL RULES.*—

2 “(A) *ONLY CERTAIN ALCOHOL TAKEN INTO*
 3 *ACCOUNT.*—*For purposes of paragraph (1), sec-*
 4 *tion 40 shall be applied—*

5 “(i) *by not taking into account alcohol*
 6 *with a proof of less than 190, and*

7 “(ii) *by treating as alcohol the alcohol*
 8 *gallon equivalent of ethyl tertiary butyl*
 9 *ether or other ethers produced from such al-*
 10 *cohol.*

11 “(B) *TREATMENT OF REFINERS.*—*For pur-*
 12 *poses of paragraph (1), in the case of a mix-*
 13 *ture—*

14 “(i) *the alcohol in which is described*
 15 *in subparagraph (A)(ii), and*

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

22 “(3) *MIXTURES NOT USED AS FUEL.*—*Rules*
 23 *similar to the rules of subparagraphs (A) and (D) of*
 24 *section 40(d)(3) shall apply for purposes of this sub-*
 25 *section.*

“(4) *TERMINATION.*—*This section shall apply only to periods to which section 40 applies, determined by substituting in section 40(e)—*

“(A) ‘December 31, 2010’ for ‘December 31, 2007’, and

“(B) ‘January 1, 2011’ for ‘January 1, 2008’.”

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

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

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

“(i) *for which \$200 or more is payable under such subsection (f)(1)(B), and*

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

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

“(B) *PAYMENT OF CLAIM.*—*Notwithstanding subsection (f)(1)(B), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the fil-*

ing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

“(C) *TIME FOR FILING CLAIM.*—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.”

(b) *REPEAL OF OTHER INCENTIVES FOR FUEL MIXTURES.*—

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

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

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

“(2) *TAX WHERE OTHER USE.*—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

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

7 (2) *Section 4041(k) is hereby repealed.*

8 (3) *Section 4081(c) is hereby repealed.*

9 (4) *Section 4091(c) is hereby repealed.*

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

15 (d) *CONFORMING AMENDMENTS.*—

16 (1) *Subsection (c) of section 40 is amended to*
 17 *read as follows:*

18 “(c) *COORDINATION WITH EXCISE TAX BENEFITS.*—
 19 *The amount of the credit determined under this section with*
 20 *respect to any alcohol shall, under regulations prescribed*
 21 *by the Secretary, be properly reduced to take into account*
 22 *the benefit provided with respect to such alcohol under sec-*
 23 *tion 6427(f).”*

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

4 *(e) EFFECTIVE DATES.—*

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

8 (2) *SUBSECTION (c).—The amendments made by*
 9 *subsection (c) shall apply to taxes imposed after Sep-*
 10 *tember 30, 2003.*

11 **SEC. 102. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL**
 12 **FUND.**

13 (a) *TRANSFERS TO FUND.—Section 9503(b)(1) is*
 14 *amended by adding at the end the following new flush sen-*
 15 *tence:*

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

21 (b) *TRANSFERS FROM FUND.—Subparagraph (A) of*
 22 *section 9503(c)(2) is amended by adding at the end the fol-*
 23 *lowing new sentence: “Clauses (i)(III) and (ii) shall not*
 24 *apply to claims under section 6427(f)(1)(B).”*

25 (c) *EFFECTIVE DATE.—*

1 (1) *SUBSECTION (a).*—*The amendment made by*
 2 *subsection (a) shall apply to taxes received after Sep-*
 3 *tember 30, 2004.*

4 (2) *SUBSECTION (b).*—*The amendment made by*
 5 *subsection (b) shall apply to amounts paid after Sep-*
 6 *tember 30, 2004, and (to the extent related to section*
 7 *34 of the Internal Revenue Code of 1986) to fuel used*
 8 *after such date.*

9 ***TITLE II—REDUCTION OF FUEL*** 10 ***TAX EVASION***

11 ***SEC. 201. EXEMPTION FROM CERTAIN EXCISE TAXES FOR*** 12 ***MOBILE MACHINERY.***

13 (a) *EXEMPTION FROM TAX ON HEAVY TRUCKS AND*
 14 *TRAILERS SOLD AT RETAIL.*—

15 (1) *IN GENERAL.*—*Section 4053 (relating to ex-*
 16 *emptions) is amended by adding at the end the fol-*
 17 *lowing new paragraph:*

18 “(8) *MOBILE MACHINERY.*—*Any vehicle which*
 19 *consists of a chassis—*

20 “(A) *to which there has been permanently*
 21 *mounted (by welding, bolting, riveting, or other*
 22 *means) machinery or equipment to perform a*
 23 *construction, manufacturing, processing, farm-*
 24 *ing, mining, drilling, timbering, or similar oper-*
 25 *ation if the operation of the machinery or equip-*

1 *ment is unrelated to transportation on or off the*
 2 *public highways,*

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

9 “(C) *which, by reason of such special de-*
 10 *sign, could not, without substantial structural*
 11 *modification, be used as a component of a vehicle*
 12 *designed to perform a function of transporting*
 13 *any load other than that particular machinery*
 14 *or equipment or similar machinery or equipment*
 15 *requiring such a specially designed chassis.”.*

16 (2) *EFFECTIVE DATE.*—*The amendment made by*
 17 *this subsection shall take effect on the day after the*
 18 *date of the enactment of this Act.*

19 (b) *EXEMPTION FROM TAX ON USE OF CERTAIN VEHI-*
 20 *CLES.*—

21 (1) *IN GENERAL.*—*Section 4483 (relating to ex-*
 22 *emptions) is amended by redesignating subsection (g)*
 23 *as subsection (h) and by inserting after subsection (f)*
 24 *the following new subsection:*

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

4 (2) *EFFECTIVE DATE.*—The amendments made
5 by this subsection shall take effect on the day after the
6 date of the enactment of this Act.

7 (c) *EXEMPTION FROM TAX ON TIRES.*—

8 (1) *IN GENERAL.*—Section 4072(b)(2) is amend-
9 ed by adding at the end the following flush sentence:
10 “Such term shall not include tires of a type used ex-
11 clusively on vehicles described in section 4053(8).”.

12 (2) *EFFECTIVE DATE.*—The amendment made by
13 this subsection shall take effect on the day after the
14 date of the enactment of this Act.

15 (d) *REFUND OF FUEL TAXES.*—

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

19 “(C) *USES IN MOBILE MACHINERY.*—

20 “(i) *IN GENERAL.*—The term ‘off-high-
21 way business use’ shall include any use in
22 a vehicle which meets the requirements de-
23 scribed in clause (ii).

1 “(ii) *REQUIREMENTS FOR MOBILE MA-*
2 *CHINERY.—The requirements described in*
3 *this clause are—*

4 “(I) *the design-based test, and*

5 “(II) *the use-based test.*

6 “(iii) *DESIGN-BASED TEST.—For pur-*
7 *poses of clause (ii)(I), the design-based test*
8 *is met if the vehicle consists of a chassis—*

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

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

1 “(III) which, by reason of such
 2 special design, could not, without sub-
 3 stantial structural modification, be
 4 used as a component of a vehicle de-
 5 signed to perform a function of trans-
 6 porting any load other than that par-
 7 ticular machinery or equipment or
 8 similar machinery or equipment re-
 9 quiring such a specially designed chas-
 10 sis.

11 “(iv) *USE-BASED TEST*.—For purposes
 12 of clause (ii)(II), the use-based test is met if
 13 the use of the vehicle on public highways
 14 was less than 7,500 miles during the tax-
 15 payer’s taxable year.”.

16 (2) *NO TAX-FREE SALES*.—Subsection (b) of sec-
 17 tion 4082, as amended by section 202, is amended by
 18 inserting before the period at the end “and such term
 19 shall not include any use described in section
 20 6421(e)(2)(C)”.

21 (3) *ANNUAL REFUND OF TAX PAID*.—Section
 22 6427(i)(2) (relating to exceptions) is amended by add-
 23 ing at the end the following new subparagraph:

24 “(C) *NONAPPLICATION OF PARAGRAPH*.—

25 *This paragraph shall not apply to any fuel used*

1 *solely in any off-highway business use described*
 2 *in section 6421(e)(2)(C).”.*

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

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

7 (a) *RATE OF TAX.*—

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

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

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

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

1 (3) *CERTAIN REFUELER TRUCKS, TANKERS, AND*
 2 *TANK WAGONS TREATED AS TERMINAL.*—Subsection
 3 *(a) of section 4081 is amended by adding at the end*
 4 *the following new paragraph:*

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

7 “(A) *IN GENERAL.*—In the case of aviation-
 8 *grade kerosene which is removed from any ter-*
 9 *minal directly into the fuel tank of an aircraft*
 10 *(determined without regard to any refueler truck,*
 11 *tanker, or tank wagon which meets the require-*
 12 *ments of subparagraph (B)), a refueler truck,*
 13 *tanker, or tank wagon shall be treated as part of*
 14 *such terminal if—*

15 “(i) *such truck, tanker, or wagon meets*
 16 *the requirements of subparagraph (B) with*
 17 *respect to an airport, and*

18 “(ii) *except in the case of exigent cir-*
 19 *cumstances identified by the Secretary in*
 20 *regulations, no vehicle registered for high-*
 21 *way use is loaded with aviation-grade ker-*
 22 *osene at such terminal.*

23 “(B) *REQUIREMENTS.*—A *refueler truck,*
 24 *tanker, or tank wagon meets the requirements of*

1 *this subparagraph with respect to an airport if*
2 *such truck, tanker, or wagon—*

3 *“(i) is loaded with aviation-grade ker-*
4 *osene at such terminal located within such*
5 *airport and delivers such kerosene only into*
6 *aircraft at such airport,*

7 *“(ii) has storage tanks, hose, and cou-*
8 *pling equipment designed and used for the*
9 *purposes of fueling aircraft,*

10 *“(iii) is not registered for highway use,*
11 *and*

12 *“(iv) is operated by—*

13 *“(I) the terminal operator of such*
14 *terminal, or*

15 *“(II) a person that makes a daily*
16 *accounting to such terminal operator*
17 *of each delivery of fuel from such truck,*
18 *tanker, or wagon.*

19 *“(C) REPORTING.—The Secretary shall re-*
20 *quire under section 4101(d) reporting by such*
21 *terminal operator of—*

22 *“(i) any information obtained under*
23 *subparagraph (B)(iv)(II), and*

24 *“(ii) any similar information main-*
25 *tained by such terminal operator with re-*

1 *spect to deliveries of fuel made by trucks,*
 2 *tankers, or wagons operated by such ter-*
 3 *minal operator.”.*

4 (4) *LIABILITY FOR TAX ON AVIATION-GRADE*
 5 *KEROSENE USED IN COMMERCIAL AVIATION.—Sub-*
 6 *section (a) of section 4081 is amended by adding at*
 7 *the end the following new paragraph:*

8 “*(4) LIABILITY FOR TAX ON AVIATION-GRADE*
 9 *KEROSENE USED IN COMMERCIAL AVIATION.—For*
 10 *purposes of paragraph (2)(C), the person who uses the*
 11 *fuel for commercial aviation shall pay the tax im-*
 12 *posed under such paragraph. For purposes of the pre-*
 13 *ceding sentence, fuel shall be treated as used when*
 14 *such fuel is removed into the fuel tank.”.*

15 (5) *NONTAXABLE USES.—*

16 (A) *IN GENERAL.—Section 4082 is amended*
 17 *by redesignating subsections (e) and (f) as sub-*
 18 *sections (f) and (g), respectively, and by insert-*
 19 *ing after subsection (d) the following new sub-*
 20 *section:*

21 “*(e) AVIATION-GRADE KEROSENE.—In the case of*
 22 *aviation-grade kerosene which is exempt from the tax im-*
 23 *posed by section 4041(c) (other than by reason of a prior*
 24 *imposition of tax) and which is removed from any refinery*

1 *or terminal directly into the fuel tank of an aircraft, the*
 2 *rate of tax under section 4081(a)(2)(A)(iv) shall be zero.”.*

3 *(B) CONFORMING AMENDMENTS.—*

4 *(i) Subsection (b) of section 4082 is*
 5 *amended by adding at the end the following*
 6 *new flush sentence:*

7 *“The term ‘nontaxable use’ does not include the use of avia-*
 8 *tion-grade kerosene in an aircraft.”.*

9 *(ii) Section 4082(d) is amended by*
 10 *striking paragraph (1) and by redesign-*
 11 *ating paragraphs (2) and (3) as para-*
 12 *graphs (1) and (2), respectively.*

13 *(6) NONAIRCRAFT USE OF AVIATION-GRADE KER-*
 14 *OSENE.—*

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

20 *(B) CONFORMING AMENDMENT.—The head-*
 21 *ing for paragraph (1) of section 4041(a) is*
 22 *amended by inserting “AND KEROSENE” after*
 23 *“DIESEL FUEL”.*

24 *(b) COMMERCIAL AVIATION.—Section 4083 is amended*
 25 *by redesignating subsections (b) and (c) as subsections (c)*

1 *and (d), respectively, and by inserting after subsection (a)*
 2 *the following new subsection:*

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

10 (c) *REFUNDS.*—

11 (1) *IN GENERAL.*—*Paragraph (4) of section*
 12 *6427(l) is amended to read as follows:*

13 “(4) *REFUNDS FOR AVIATION-GRADE KER-*
 14 *OSENE.*—

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

23 “(i) *the Leaking Underground Storage*
 24 *Tank Trust Fund financing rate imposed*
 25 *by such section, and*

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

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

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

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

19 (2) TIME FOR FILING CLAIMS.—Subparagraph
 20 (A) of section 6427(i)(4) is amended—

21 (A) by striking “subsection (l)(5)” both
 22 places it appears and inserting “paragraph
 23 (4)(B) or (5) of subsection (l)”, and

24 (B) by striking “the preceding sentence”
 25 and inserting “subsection (l)(5)”.

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

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

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

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

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

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

16 (2) *CONFORMING AMENDMENTS.*—

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

19 “(c) *AVIATION-GRADE KEROSENE.*—

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

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

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

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

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

13 *(B) Section 4041(d)(2) is amended by strik-*
 14 *ing “section 4091” and inserting “section 4081”.*

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

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

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

22 *(F) Section 6416(b)(2) is amended by strik-*
 23 *ing “4091 or”.*

24 *(G) Section 6416(b)(3) is amended by strik-*
 25 *ing “or 4091” each place it appears.*

1 (H) Section 6416(d) is amended by striking
 2 “or to the tax imposed by section 4091 in the
 3 case of refunds described in section 4091(d)”.

4 (I) Section 6427(j)(1) is amended by strik-
 5 ing “, 4081, and 4091” and inserting “and
 6 4081”.

7 (J)(i) Section 6427(l)(1) is amended to read
 8 as follows:

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

19 (ii) Paragraph (5)(B) of section 6427(l) is
 20 amended by striking “Paragraph (1)(A) shall
 21 not apply to kerosene” and inserting “Para-
 22 graph (1) shall not apply to kerosene (other than
 23 aviation-grade kerosene)”.

1 (K) Subparagraph (B) of section 6724(d)(1)
2 is amended by striking clause (xv) and by redesi-
3 gnating the succeeding clauses accordingly.

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

8 (M) Paragraph (1) of section 9502(b) is
9 amended by adding “and” at the end of subpara-
10 graph (B) and by striking subparagraphs (C)
11 and (D) and inserting the following new sub-
12 paragraph:

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

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

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

20 (O) Subsection (b) of section 9508 is
21 amended by striking paragraph (3) and by re-
22 designating paragraphs (4) and (5) as para-
23 graphs (3) and (4), respectively.

(P) Section 9508(c)(2)(A) is amended by striking “sections 4081 and 4091” and inserting “section 4081”.

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

“Subpart A. Motor and aviation fuels.
“Subpart B. Special provisions applicable to fuels tax.”.

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

“Subpart A—Motor and Aviation Fuels”.

(S) *The heading for subpart B of part III of subchapter A of chapter 32, as redesignated by paragraph (1), is amended to read as follows:*

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

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

(f) *FLOOR STOCKS TAX.*—

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

(A) the tax which would have been imposed before such date on such kerosene had the amend-

ments made by this section been in effect at all times before such date, reduced by

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

(2) *LIABILITY FOR TAX AND METHOD OF PAYMENT.*—

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

(B) *METHOD AND TIME FOR PAYMENT.*—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) *TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.*—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

1 (A) *at the Leaking Underground Storage*
 2 *Tank Trust Fund financing rate under such sec-*
 3 *tion to the extent of 0.1 cents per gallon, and*

4 (B) *at the rate under section*
 5 *4081(a)(2)(A)(iv) to the extent of the remainder.*

6 (4) *HELD BY A PERSON.—For purposes of this*
 7 *section, kerosene shall be considered as held by a per-*
 8 *son if title thereto has passed to such person (whether*
 9 *or not delivery to the person has been made).*

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

17 **SEC. 203. DYE INJECTION EQUIPMENT.**

18 (a) *IN GENERAL.—Section 4082(a)(2) (relating to ex-*
 19 *emptions for diesel fuel and kerosene) is amended by insert-*
 20 *ing “by mechanical injection” after “indelibly dyed”.*

21 (b) *DYE INJECTOR SECURITY.—Not later than 180*
 22 *days after the date of the enactment of this Act, the Sec-*
 23 *retary of the Treasury shall issue regulations regarding me-*
 24 *chanical dye injection systems described in the amendment*

1 *made by subsection (a), and such regulations shall include*
 2 *standards for making such systems tamper resistant.*

3 *(c) PENALTY FOR TAMPERING WITH OR FAILING TO*
 4 *MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL*
 5 *DYE INJECTION SYSTEMS.—*

6 *(1) IN GENERAL.—Part I of subchapter B of*
 7 *chapter 68 (relating to assessable penalties) is amend-*
 8 *ed by adding after section 6715 the following new sec-*
 9 *tion:*

10 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
 11 **SECURITY REQUIREMENTS FOR MECHANICAL**
 12 **DYE INJECTION SYSTEMS.**

13 *“(a) IMPOSITION OF PENALTY—*

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

18 *“(2) FAILURE TO MAINTAIN SECURITY REQUIRE-*
 19 *MENTS.—If any operator of a mechanical dye injec-*
 20 *tion system used to indelibly dye fuel for purposes of*
 21 *section 4082 fails to maintain the security standards*
 22 *for such system as established by the Secretary, then*
 23 *such operator shall pay a penalty in addition to the*
 24 *tax (if any).*

1 “(b) *AMOUNT OF PENALTY.*—*The amount of the pen-*
 2 *alty under subsection (a) shall be—*

3 “(1) *for each violation described in paragraph*
 4 *(1), the greater of—*

5 “(A) *\$25,000, or*

6 “(B) *\$10 for each gallon of fuel involved,*
 7 *and*

8 “(2) *for each—*

9 “(A) *failure to maintain security standards*
 10 *described in paragraph (2), \$1,000, and*

11 “(B) *failure to correct a violation described*
 12 *in paragraph (2), \$1,000 per day for each day*
 13 *after which such violation was discovered or such*
 14 *person should have reasonably known of such*
 15 *violation.*

16 “(c) *JOINT AND SEVERAL LIABILITY.*—

17 “(1) *IN GENERAL.*—*If a penalty is imposed*
 18 *under this section on any business entity, each officer,*
 19 *employee, or agent of such entity or other contracting*
 20 *party who willfully participated in any act giving*
 21 *rise to such penalty shall be jointly and severally lia-*
 22 *ble with such entity for such penalty.*

23 “(2) *AFFILIATED GROUPS.*—*If a business entity*
 24 *described in paragraph (1) is part of an affiliated*
 25 *group (as defined in section 1504(a)), the parent cor-*

1 poration of such entity shall be jointly and severally
 2 liable with such entity for the penalty imposed under
 3 this section.”.

4 (2) *CLERICAL AMENDMENT.*—The table of sec-
 5 tions for part I of subchapter B of chapter 68 is
 6 amended by adding after the item related to section
 7 6715 the following new item:

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

8 (d) *EFFECTIVE DATE.*—The amendments made by
 9 subsections (a) and (c) shall take effect on the 180th day
 10 after the date on which the Secretary issues the regulations
 11 described in subsection (b).

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

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

17 “(iii) inspecting any books and records
 18 and any shipping papers pertaining to such
 19 fuel, and”.

20 (b) *EFFECTIVE DATE.*—The amendments made by this
 21 section shall take effect on the date of the enactment of this
 22 Act.

1 **SEC. 205. REGISTRATION OF PIPELINE OR VESSEL OPERA-**
 2 **TORS REQUIRED FOR EXEMPTION OF BULK**
 3 **TRANSFERS TO REGISTERED TERMINALS OR**
 4 **REFINERIES.**

5 (a) *IN GENERAL.*—Section 4081(a)(1)(B) (relating to
 6 exemption for bulk transfers to registered terminals or refin-
 7 eries) is amended—

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

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

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

14 (c) *PUBLICATION OF REGISTERED PERSONS.*—Begin-
 15 ning on July 1, 2004, the Secretary of the Treasury (or
 16 the Secretary’s delegate) shall periodically publish a current
 17 list of persons registered under section 4101 of the Internal
 18 Revenue Code of 1986 who are required to register under
 19 such section.

20 **SEC. 206. DISPLAY OF REGISTRATION.**

21 (a) *IN GENERAL.*—Subsection (a) of section 4101 (re-
 22 lating to registration) is amended—

23 (1) by striking “Every” and inserting the fol-
 24 lowing:

25 “(1) *IN GENERAL.*—Every”, and

1 (2) *by adding at the end the following new para-*
 2 *graph:*

3 “(2) *DISPLAY OF REGISTRATION.—Every oper-*
 4 *ator of a vessel required by the Secretary to register*
 5 *under this section shall display proof of registration*
 6 *through an electronic identification device prescribed*
 7 *by the Secretary on each vessel used by such operator*
 8 *to transport any taxable fuel.”.*

9 (b) *CIVIL PENALTY FOR FAILURE TO DISPLAY REG-*
 10 *ISTRATION.—*

11 (1) *IN GENERAL.—Part I of subchapter B of*
 12 *chapter 68 (relating to assessable penalties) is amend-*
 13 *ed by inserting after section 6716 the following new*
 14 *section:*

15 **“SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON**
 16 **VESSELS.**

17 “(a) *FAILURE TO DISPLAY REGISTRATION.—Every*
 18 *operator of a vessel who fails to display proof of registration*
 19 *pursuant to section 4101(a)(2) shall pay a penalty of \$500*
 20 *for each such failure. With respect to any vessel, only one*
 21 *penalty shall be imposed by this section during any cal-*
 22 *endar month.*

23 “(b) *MULTIPLE VIOLATIONS.—In determining the pen-*
 24 *alty under subsection (a) on any person, subsection (a) shall*
 25 *be applied by increasing the amount in subsection (a) by*

1 *the product of such amount and the aggregate number of*
 2 *penalties (if any) imposed with respect to prior months by*
 3 *this section on such person (or a related person or any pred-*
 4 *ecessor of such person or related person).*

5 “(c) *REASONABLE CAUSE EXCEPTION.*—No penalty
 6 shall be imposed under this section with respect to any fail-
 7 ure if it is shown that such failure is due to reasonable
 8 cause.”.

9 (2) *CLERICAL AMENDMENT.*—The table of sec-
 10 tions for part I of subchapter B of chapter 68 is
 11 amended by inserting after the item relating to sec-
 12 tion 6716 the following new item:

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

13 (c) *EFFECTIVE DATES.*—

14 (1) *SUBSECTION (a).*—The amendments made by
 15 subsection (a) shall take effect on October 1, 2004.

16 (2) *SUBSECTION (b).*—The amendments made by
 17 subsection (b) shall apply to penalties imposed after
 18 September 30, 2004.

19 **SEC. 207. PENALTIES FOR FAILURE TO REGISTER AND FAIL-**
 20 **URE TO REPORT.**

21 (a) *INCREASED PENALTY.*—Subsection (a) of section
 22 7272 (relating to penalty for failure to register) is amended
 23 by inserting “(\$10,000 in the case of a failure to register
 24 under section 4101)” after “\$50”.

1 (b) *INCREASED CRIMINAL PENALTY.*—Section 7232
 2 *(relating to failure to register under section 4101, false rep-*
 3 *resentations of registration status, etc.) is amended by strik-*
 4 *ing “\$5,000” and inserting “\$10,000”.*

5 (c) *ASSESSABLE PENALTY FOR FAILURE TO REG-*
 6 *ISTER.*—

7 (1) *IN GENERAL.*—Part I of subchapter B of
 8 chapter 68 *(relating to assessable penalties)* is amend-
 9 ed by inserting after section 6717 the following new
 10 section:

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

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

15 “(b) *AMOUNT OF PENALTY.*—The amount of the pen-
 16 alty under subsection (a) shall be—

17 “(1) \$10,000 for each initial failure to register,
 18 and

19 “(2) \$1,000 for each day thereafter such person
 20 fails to register.

21 “(c) *REASONABLE CAUSE EXCEPTION.*—No penalty
 22 shall be imposed under this section with respect to any fail-
 23 ure if it is shown that such failure is due to reasonable
 24 cause.”.

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

“Sec. 6718. Failure to register.”.

5 (d) *ASSESSABLE PENALTY FOR FAILURE TO RE-*
 6 *PORT.*—

7 (1) *IN GENERAL.*—*Part II of subchapter B of*
 8 *chapter 68 (relating to assessable penalties) is amend-*
 9 *ed by adding at the end the following new section:*

10 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
 11 **SECTION 4101.**

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

16 “(b) *FAILURES SUBJECT TO PENALTY.*—*For purposes*
 17 *of subsection (a), the failures described in this subsection*
 18 *are—*

19 “(1) *any failure to make a report under section*
 20 *4101(d) on or before the date prescribed therefor, and*

21 “(2) *any failure to include all of the information*
 22 *required to be shown on such report or the inclusion*
 23 *of incorrect information.*

24 “(c) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
 25 *shall be imposed under this section with respect to any fail-*

1 *ure if it is shown that such failure is due to reasonable*
 2 *cause.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*
 4 *tions for part II of subchapter B of chapter 68 is*
 5 *amended by adding at the end the following new item:*

“Sec. 6725. Failure to report information under section 4101.”.

6 (e) *EFFECTIVE DATE.—The amendments made by this*
 7 *section shall apply to penalties imposed after September 30,*
 8 *2004.*

9 **SEC. 208. COLLECTION FROM CUSTOMS BOND WHERE IM-**
 10 **PORTER NOT REGISTERED.**

11 (a) *TAX AT POINT OF ENTRY WHERE IMPORTER NOT*
 12 *REGISTERED.—Subpart B of part III of subchapter A of*
 13 *chapter 32, as redesignated by section 202(d), is amended*
 14 *by adding after section 4103 the following new section:*

15 **“SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IM-**
 16 **PORTER NOT REGISTERED.**

17 “(a) *IN GENERAL.—The importer of record shall be*
 18 *jointly and severally liable for the tax imposed by section*
 19 *4081(a)(1)(A)(iii) if, under regulations prescribed by the*
 20 *Secretary, any other person that is not a person who is*
 21 *registered under section 4101 is liable for such tax.*

22 “(b) *COLLECTION FROM CUSTOMS BOND.—If any tax*
 23 *for which any importer of record is liable under subsection*
 24 *(a), or for which any importer of record that is not a person*
 25 *registered under section 4101 is otherwise liable, is not paid*

1 on or before the last date prescribed for payment, the Sec-
 2 retary may collect such tax from the Customs bond posted
 3 with respect to the importation of the taxable fuel to which
 4 the tax relates. For purposes of determining the jurisdiction
 5 of any court of the United States or any agency of the
 6 United States, any action by the Secretary described in the
 7 preceding sentence shall be treated as an action to collect
 8 the tax from a bond described in section 4101(b)(1) and
 9 not as an action to collect from a bond relating to the im-
 10 portation of merchandise.”.

11 (b) *CONFORMING AMENDMENT.*—The table of sections
 12 for subpart B of part III of subchapter A of chapter 32,
 13 as redesignated by section 202(d), is amended by adding
 14 after the item related to section 4103 the following new
 15 item:

“Sec. 4104. Collection from Customs bond where importer not reg-
 istered.”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall apply with respect to fuel entered after Sep-
 18 tember 30, 2004.

19 **SEC. 209. MODIFICATIONS OF TAX ON USE OF CERTAIN VE-**
 20 **HICLES.**

21 (a) *PRORATION OF TAX WHERE VEHICLE SOLD.*—

22 (1) *IN GENERAL.*—Subparagraph (A) of section
 23 4481(c)(2) (relating to where vehicle destroyed or sto-
 24 len) is amended by striking “destroyed or stolen” both

1 *places it appears and inserting “sold, destroyed, or*
 2 *stolen”.*

3 (2) *CONFORMING AMENDMENT.—The heading for*
 4 *section 4481(c)(2) is amended by striking “DE-*
 5 *STROYED OR STOLEN” and inserting “SOLD, DE-*
 6 *STROYED, OR STOLEN”.*

7 (b) *REPEAL OF INSTALLMENT PAYMENT.—*

8 (1) *Section 6156 (relating to installment pay-*
 9 *ment of tax on use of highway motor vehicles) is re-*
 10 *pealed.*

11 (2) *The table of sections for subchapter A of*
 12 *chapter 62 is amended by striking the item relating*
 13 *to section 6156.*

14 (c) *ELECTRONIC FILING.—Section 4481 is amended by*
 15 *redesignating subsection (e) as subsection (f) and by insert-*
 16 *ing after subsection (d) the following new subsection:*

17 “(e) *ELECTRONIC FILING.—Any taxpayer who files a*
 18 *return under this section with respect to 25 or more vehicles*
 19 *for any taxable period shall file such return electronically.”.*

20 (d) *REPEAL OF REDUCTION IN TAX FOR CERTAIN*
 21 *TRUCKS.—Section 4483 is amended by striking subsection*
 22 *(f).*

23 (e) *EFFECTIVE DATE.—The amendments made by this*
 24 *section shall apply to taxable periods beginning after the*
 25 *date of the enactment of this Act.*

1 **SEC. 210. MODIFICATION OF ULTIMATE VENDOR REFUND**

2 **CLAIMS WITH RESPECT TO FARMING.**

3 *(a) IN GENERAL.—*

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

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

9 *“(A) IN GENERAL.—In the case of diesel fuel*
 10 *or kerosene used on a farm for farming purposes*
 11 *(within the meaning of section 6420(c)), para-*
 12 *graph (1) shall not apply to the aggregate*
 13 *amount of such diesel fuel or kerosene if such*
 14 *amount does not exceed 250 gallons (as deter-*
 15 *mined under subsection (i)(5)(A)(iii)).*

16 *“(B) PAYMENT TO ULTIMATE VENDOR.—The*
 17 *amount which would (but for subparagraph (A))*
 18 *have been paid under paragraph (1) with respect*
 19 *to any fuel shall be paid to the ultimate vendor*
 20 *of such fuel, if such vendor—*

21 *“(i) is registered under section 4101,*
 22 *and*

23 *“(ii) meets the requirements of sub-*
 24 *paragraph (A), (B), or (D) of section*
 25 *6416(a)(1).”.*

1 (2) *FILING OF CLAIMS.*—Section 6427(i) is
 2 amended by inserting at the end the following new
 3 paragraph:

4 “(5) *SPECIAL RULE FOR VENDOR REFUNDS WITH*
 5 *RESPECT TO FARMERS.*—

6 “(A) *IN GENERAL.*—A claim may be filed
 7 under subsection (l)(6) by any person with re-
 8 spect to fuel sold by such person for any pe-
 9 riod—

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

13 “(ii) which is not less than 1 week,
 14 and

15 “(iii) which is for not more than 250
 16 gallons for each farmer for which there is a
 17 claim.

18 Notwithstanding subsection (l)(1), paragraph
 19 (3)(B) shall apply to claims filed under the pre-
 20 ceding sentence.

21 “(B) *TIME FOR FILING CLAIM.*—No claim
 22 filed under this paragraph shall be allowed un-
 23 less filed on or before the last day of the first
 24 quarter following the earliest quarter included in
 25 the claim.”.

1 (3) *CONFORMING AMENDMENTS.*—

2 (A) *Section 6427(l)(5)(A) is amended to*
3 *read as follows:*

4 “(A) *IN GENERAL.*—Paragraph (1) shall
5 *not apply to diesel fuel or kerosene used by a*
6 *State or local government.”.*

7 (B) *The heading for section 6427(l)(5) is*
8 *amended by striking “FARMERS AND”.*

9 (b) *EFFECTIVE DATE.*—*The amendment made by this*
10 *section shall apply to fuels sold for nontaxable use after the*
11 *date of the enactment of this Act.*

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

14 (a) *IN GENERAL.*—*Subsection (b) of section 9503 (re-*
15 *lating to transfer to Highway Trust Fund of amounts*
16 *equivalent to certain taxes) is amended by redesignating*
17 *paragraph (5) as paragraph (6) and inserting after para-*
18 *graph (4) the following new paragraph:*

19 “(5) *CERTAIN PENALTIES.*—*There are hereby ap-*
20 *propriated to the Highway Trust Fund amounts*
21 *equivalent to the penalties paid under sections 6715,*
22 *6715A, 6717, 6718, 6725, 7232, and 7272 (but only*
23 *with regard to penalties under such section related to*
24 *failure to register under section 4101).”.*

25 (b) *CONFORMING AMENDMENTS.*—

1 (1) *The heading of subsection (b) of section 9503*
 2 *is amended by inserting “AND PENALTIES” after*
 3 *“TAXES”.*

4 (2) *The heading of paragraph (1) of section*
 5 *9503(b) is amended by striking “IN GENERAL” and*
 6 *inserting “CERTAIN TAXES”.*

7 (c) *EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to penalties assessed after October 1,*
 9 *2004.*

10 ***TITLE III—OTHER EXCISE TAX*** 11 ***PROVISIONS***

12 ***SEC. 301. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE*** 13 ***VENDORS.***

14 (a) *IN GENERAL.—Paragraph (4) of section 6416(a)*
 15 *(relating to abatements, credits, and refunds) is amended*
 16 *to read as follows:*

17 *“(4) REGISTERED ULTIMATE VENDOR TO ADMIN-*
 18 *ISTER CREDITS AND REFUNDS OF GASOLINE TAX.—*

19 *“(A) IN GENERAL.—For purposes of this*
 20 *subsection, if an ultimate vendor purchases any*
 21 *gasoline on which tax imposed by section 4081*
 22 *has been paid and sells such gasoline to an ulti-*
 23 *mate purchaser described in subparagraph (C)*
 24 *or (D) of subsection (b)(2) (and such gasoline is*
 25 *for a use described in such subparagraph), such*

ultimate vendor shall be treated as the person
(and the only person) who paid such tax, but
only if such ultimate vendor is registered under
section 4101. For purposes of this subparagraph,
if the sale of gasoline is made by means of a
credit card, the person extending the credit to the
ultimate purchaser shall be deemed to be the ultimate
vendor.

“(B) *TIMING OF CLAIMS.*—The procedure
and timing of any claim under subparagraph
(A) shall be the same as for claims under section
6427(i)(4), except that the rules of section
6427(i)(3)(B) regarding electronic claims shall
not apply unless the ultimate vendor has certified
to the Secretary for the most recent quarter
of the taxable year that all ultimate purchasers
of the vendor covered by such claim are certified
and entitled to a refund under subparagraph (C)
or (D) of subsection (b)(2).”.

(b) *CREDIT CARD PURCHASES OF DIESEL FUEL OR
KEROSENE BY STATE AND LOCAL GOVERNMENTS.*—Section
6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene,
and aviation fuel) is amended by adding at the end
the following new flush sentence: “For purposes of this subparagraph,
if the sale of diesel fuel or kerosene is made by

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

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

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

7 *(a) IN GENERAL.—Subpart B of part III of subchapter*
 8 *A of chapter 32, as amended by this Act, is amended by*
 9 *adding after section 4104 the following new section:*

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

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

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

20 *“(1) The transaction includes a transfer from the*
 21 *delivering person, who holds the inventory position*
 22 *for taxable fuel in the terminal as reflected in the*
 23 *records of the terminal operator.*

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

4 “(3) *The terminal operator in its books and*
 5 *records treats the receiving person as the person that*
 6 *removes the taxable fuel across the terminal rack for*
 7 *purposes of reporting the transaction to the Secretary.*

8 “(4) *The transaction is the subject of a written*
 9 *contract.*”.

10 (b) *CONFORMING AMENDMENT.—The table of sections*
 11 *for subpart B of part III of subchapter A of chapter 32,*
 12 *as amended by this Act, is amended by adding after the*
 13 *item relating to section 4104 the following new item:*

“Sec. 4105. *Two-party exchanges.*”.

14 (c) *EFFECTIVE DATE.—The amendment made by this*
 15 *section shall take effect on the date of the enactment of this*
 16 *Act.*

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

18 (a) *IN GENERAL.—Subsection (a) of section 4071 is*
 19 *amended to read as follows:*

20 “(a) *IMPOSITION AND RATE OF TAX.—There is hereby*
 21 *imposed on taxable tires sold by the manufacturer, pro-*
 22 *ducer, or importer thereof a tax at the rate of 9.4 cents (4.7*
 23 *cents in the case of a biasply tire) for each 10 pounds so*
 24 *much of the maximum rated load capacity thereof as ex-*
 25 *ceeds 3,500 pounds.*”

1 (b) *TAXABLE TIRE*.—Section 4072 is amended by re-
 2 designating subsections (a) and (b) as subsections (b) and
 3 (c), respectively, and by inserting before subsection (b) (as
 4 so redesignated) the following new subsection:

5 “(a) *TAXABLE TIRE*.—For purposes of this chapter,
 6 the term ‘taxable tire’ means any tire of the type used on
 7 highway vehicles if wholly or in part made of rubber and
 8 if marked pursuant to Federal regulations for highway
 9 use.”

10 (c) *EXEMPTION FOR TIRES SOLD TO DEPARTMENT OF*
 11 *DEFENSE*.—Section 4073 is amended to read as follows:

12 **“SEC. 4073. EXEMPTIONS.**

13 “The tax imposed by section 4071 shall not apply to
 14 tires sold for the exclusive use of the Department of Defense
 15 or the Coast Guard.”

16 (d) *CONFORMING AMENDMENTS*.—

17 (1) Section 4071 is amended by striking sub-
 18 section (c) and by moving subsection (e) after sub-
 19 section (b) and redesignating subsection (e) as sub-
 20 section (c).

21 (2) The item relating to section 4073 in the table
 22 of sections for part II of subchapter A of chapter 32
 23 is amended to read as follows:

“Sec. 4073. Exemptions.”

24 (e) *EFFECTIVE DATE*.—The amendments made by this
 25 section shall apply to sales in calendar years beginning

- 1 *more than 30 days after the date of the enactment of this*
- 2 *Act.*

Union Calendar No. 257

108TH CONGRESS
2^D Session

H. R. 3971

[Report No. 108-444]

A BILL

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

MARCH 23, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed