

108TH CONGRESS  
1ST SESSION

# H. R. 497

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. SENSENBRENNER (for himself and Mr. SMITH of Michigan) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freedom from Unfair  
5 Energy Levy Act”.

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

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

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

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

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

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

19 (e) FUEL USED ON INLAND WATERWAYS.—

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

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

3           (f) TECHNICAL AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

4 (a) IN GENERAL.—If—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

4 (1) IN GENERAL.—No tax shall be imposed by  
5 subsection (a)—

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

10 (B) on diesel fuel, kerosene, or aviation  
11 fuel held on such date by any person if the ag-  
12 gregate amount of diesel fuel, kerosene, or avia-  
13 tion fuel held by such person on such date does  
14 not exceed 2,000 gallons.

15 The preceding sentence shall apply only if such per-  
16 son submits to the Secretary (at the time and in the  
17 manner required by the Secretary) such information  
18 as the Secretary shall require for purposes of this  
19 paragraph.

20 (2) EXEMPT FUEL.—For purposes of para-  
21 graph (1), there shall not be taken into account fuel  
22 held by any person which is exempt from the tax im-  
23 posed by subsection (a) by reason of subsection (d)  
24 or (e).

1           (3) CONTROLLED GROUPS.—For purposes of  
2 this subsection—

3           (A) CORPORATIONS.—

4           (i) IN GENERAL.—All persons treated  
5 as a controlled group shall be treated as 1  
6 person.

7           (ii) CONTROLLED GROUP.—The term  
8 “controlled group” has the meaning given  
9 to such term by subsection (a) of section  
10 1563 of such Code; except that for such  
11 purposes the phrase “more than 50 per-  
12 cent” shall be substituted for the phrase  
13 “at least 80 percent” each place it appears  
14 in such subsection.

15           (B) NONINCORPORATED PERSONS UNDER  
16 COMMON CONTROL.—Under regulations pre-  
17 scribed by the Secretary, principles similar to  
18 the principles of subparagraph (A) shall apply  
19 to a group of persons under common control  
20 where 1 or more of such persons is not a cor-  
21 poration.

22           (g) OTHER LAW APPLICABLE.—All provisions of law,  
23 including penalties, applicable with respect to the taxes  
24 imposed by section 4041(a)(2) of such Code in the case  
25 of special fuels; by section 4081 of such Code in the case

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

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