

109TH CONGRESS  
1ST SESSION

# H. R. 1387

To amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. HERGER (for himself, Mr. BRADY of Texas, Mr. BERRY, Mr. McCRERY, and Mr. COSTA) 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 clarify the excise tax exemptions for aerial applicators of fertilizers or other substances.

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. CLARIFICATION OF EXCISE TAX EXEMPTIONS**

4 **FOR AGRICULTURAL AERIAL APPLICATORS.**

5 (a) NO WAIVER BY FARM OWNER, TENANT, OR OP-  
6 ERATOR NECESSARY.—Subparagraph (B) of section  
7 6420(c)(4) of the Internal Revenue Code of 1986 (relating  
8 to certain farming use other than by owner, etc.) is  
9 amended to read as follows:

1           “(B) if the person so using the gasoline is  
2           an aerial or other applicator of fertilizers or  
3           other substances and is the ultimate purchaser  
4           of the gasoline, then subparagraph (A) of this  
5           paragraph shall not apply and the aerial or  
6           other applicator shall be treated as having used  
7           such gasoline on a farm for farming purposes.”.

8           (b) EXEMPTION INCLUDES FUEL USED BETWEEN  
9 AIRFIELD AND FARM.—Section 6420(c)(4) of the Internal  
10 Revenue Code of 1986, as amended by subsection (a), is  
11 amended by adding at the end the following new flush sen-  
12 tence:

13 “For purposes of this paragraph, in the case of an aerial  
14 applicator, gasoline shall be treated as used on a farm for  
15 farming purposes if the gasoline is used for the direct  
16 flight between the airfield and 1 or more farms.”.

17           (c) EXEMPTION FROM TAX ON AIR TRANSPOR-  
18 TATION OF PERSONS FOR FORESTRY PURPOSES EX-  
19 TENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of  
20 section 4261 of the Internal Revenue Code of 1986 (relat-  
21 ing to tax on air transportation of persons) is amended  
22 to read as follows:

23           “(f) EXEMPTION FOR CERTAIN USES.—No tax shall  
24 be imposed under subsection (a) or (b) on air transpor-  
25 tation—

1           “(1) by helicopter for the purpose of trans-  
2           porting individuals, equipment, or supplies in the ex-  
3           ploration for, or the development or removal of, hard  
4           minerals, oil, or gas, or

5           “(2) by helicopter or by fixed-wing aircraft for  
6           the purpose of the planting, cultivation, cutting, or  
7           transportation of, or caring for, trees (including log-  
8           ging operations),

9           but only if the helicopter or fixed-wing aircraft does not  
10          take off from, or land at, a facility eligible for assistance  
11          under the Airport and Airway Development Act of 1970,  
12          or otherwise use services provided pursuant to section  
13          44509 or 44913(b) or subchapter I of chapter 471 of title  
14          49, United States Code, during such use. In the case of  
15          helicopter transportation described in paragraph (1), this  
16          subsection shall be applied by treating each flight segment  
17          as a distinct flight.”.

18          (d) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to fuel use or air transportation  
20          after the date of the enactment of this Act.

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