

109TH CONGRESS
1ST SESSION

H. R. 3683

To amend the Internal Revenue Code of 1986 to suspend for 30 days
the Federal excise taxes on highway motor fuels.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2005

Mr. ENGLISH of Pennsylvania (for himself, Mr. SHADEGG, Mr. PAUL, Mr. MCHENRY, Mr. FORD, Mr. SENSENBRENNER, Mr. WILSON of South Carolina, Mr. SIMMONS, Mr. KENNEDY of Minnesota, Mr. GOODE, Mrs. CUBIN, Mr. MCCAUL of Texas, Mr. HAYWORTH, Mrs. JOHNSON of Connecticut, Mr. ADERHOLT, Mr. RENZI, Mr. WELLER, Mr. GINGREY, Mrs. BLACKBURN, Mr. MILLER of Florida, Mr. FRANKS of Arizona, and Mrs. MILLER of Michigan) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to suspend
for 30 days the Federal excise taxes on highway motor fuels.

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Gas Tax Relief Act of 2005”.

6 (b) CONSTITUTIONAL AUTHORITY TO ENACT THIS
7 LEGISLATION.—The constitutional authority upon which

1 this Act rests is the power of Congress to lay and collect
2 taxes, set forth in article I, section 8 of the United States
3 Constitution.

4 **SEC. 2. 30-DAY SUSPENSION OF FUEL TAXES ON HIGHWAY**
5 **MOTOR FUELS.**

6 (a) IN GENERAL.—Section 4081 of the Internal Rev-
7 enue Code of 1986 (relating to imposition of tax on motor
8 and aviation fuels) is amended by adding at the end the
9 following new subsection:

10 “(f) 30-DAY SUSPENSION OF HIGHWAY MOTOR
11 FUEL TAXES.—

12 “(1) IN GENERAL.—During the suspension pe-
13 riod, no tax shall be imposed by section 4041 or
14 4081 on highway motor fuel.

15 “(2) DEFINITIONS.—For purposes of this sub-
16 section—

17 “(A) SUSPENSION PERIOD.—The term
18 ‘suspension period’ means the 30-day period be-
19 ginning on the day after the date of the enact-
20 ment of this Act.

21 “(B) HIGHWAY MOTOR FUEL.—The term
22 ‘highway motor fuel’ means any fuel subject to
23 tax under section 4041 or 4081 other than
24 aviation gasoline and aviation-grade kerosene.

1 “(3) PREEMPTION OF STATE LAW.—No State
2 tax may be increased by reason of any suspension of
3 tax under this subsection.”.

4 (b) MAINTENANCE OF TRUST FUNDS DEPOSITS;
5 AMOUNTS APPROPRIATED TO TRUST FUNDS TREATED AS
6 TAXES.—

7 (1) IN GENERAL.—There is hereby appro-
8 priated (out of any money in the Treasury not other-
9 wise appropriated) to each trust fund which would
10 (but for this subsection) receive reduced revenues as
11 a result of suspending a tax referred to in section
12 4081(f)(1) of such Code (as added by this section)
13 an amount equal to such reduction in revenues.
14 Amounts appropriated by the preceding sentence to
15 any trust fund—

16 (A) shall be transferred from the general
17 fund at such times and in such manner as to
18 replicate to the extent possible the transfers
19 which would have occurred had subsection (a)
20 not been enacted, and

21 (B) shall be treated for all purposes of
22 Federal law as taxes received under the appro-
23 priate section referred to in such section
24 4081(f)(1).

1 (c) 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. FLOOR STOCK REFUNDS.**

5 (a) IN GENERAL.—If—

6 (1) before the tax suspension date, tax has been
7 imposed under section 4081 of the Internal Revenue
8 Code of 1986 on any highway motor fuel, and

9 (2) on such date such fuel is held by a dealer
10 and has not been used and is intended for sale,
11 there shall be credited or refunded (without interest) to
12 the person who paid such tax (hereafter in this section
13 referred to as the “taxpayer”) an amount equal to the tax
14 paid by the taxpayer.

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

17 (1) claim therefor is filed with the Secretary of
18 the Treasury before the date which is 6 months
19 after the tax suspension date based on a request
20 submitted to the taxpayer before the date which is
21 3 months after the tax suspension date by the dealer
22 who held the highway motor fuel on such date, and

23 (2) the taxpayer has repaid or agreed to repay
24 the amount so claimed to such dealer or has ob-

1 tained the written consent of such dealer to the al-
2 lowance of the credit or the making of the refund.

3 (c) EXCEPTION FOR FUEL HELD IN RETAIL
4 STOCKS.—No credit or refund shall be allowed under this
5 section with respect to any highway motor fuel in retail
6 stocks held at the place where intended to be sold at retail.

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

8 (1) TAX SUSPENSION DATE.—The term “tax
9 suspension date” means the day after the date of
10 the enactment of this Act.

11 (2) OTHER TERMS.—The terms “dealer” and
12 “held by a dealer” have the respective meanings
13 given to such terms by section 6412 of such Code.

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

17 **SEC. 4. FLOOR STOCKS TAX.**

18 (a) IMPOSITION OF TAX.—In the case of any highway
19 motor fuel which is held on the tax restoration date by
20 any person, there is hereby imposed a floor stocks tax
21 equal to the excess of the tax which would be imposed on
22 such fuel had the taxable event occurred on such date over
23 the tax (if any) previously paid (and not credited or re-
24 funded) on such fuel.

1 (b) LIABILITY FOR TAX AND METHOD OF PAY-
2 MENT.—

3 (1) LIABILITY FOR TAX.—The person holding
4 highway motor fuel on the tax restoration date to
5 which the tax imposed by subsection (a) applies shall
6 be liable for such tax.

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

10 (3) TIME FOR PAYMENT.—The tax imposed by
11 subsection (a) shall be paid on or before the 45th
12 day after the tax restoration date.

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

14 (1) TAX RESTORATION DATE.—The term “tax
15 restoration date” means the first day after the sus-
16 pension period (as defined in section 4081(f) of such
17 Code).

18 (2) HIGHWAY MOTOR FUEL.—The term “high-
19 way motor fuel” has the meaning given to such term
20 by section 4081(f) of such Code.

21 (3) HELD BY A PERSON.—A highway motor
22 fuel shall be considered as held by a person if title
23 thereto has passed to such person (whether or not
24 delivery to the person has been made).

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury or the Secretary’s del-
3 egate.

4 (d) EXCEPTION FOR EXEMPT USES.—The tax im-
5 posed by subsection (a) shall not apply to any highway
6 motor fuel held by any person exclusively for any use to
7 the extent a credit or refund of the tax is allowable for
8 such use.

9 (e) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

10 (1) IN GENERAL.—No tax shall be imposed by
11 subsection (a) on any highway motor fuel held on
12 the tax restoration date by any person if the aggre-
13 gate amount of such highway motor fuel held by
14 such person on such date does not exceed 2,000 gal-
15 lons. The preceding sentence shall apply only if such
16 person submits to the Secretary (at the time and in
17 the manner required by the Secretary) such informa-
18 tion as the Secretary shall require for purposes of
19 this paragraph.

20 (2) EXEMPT FUEL.—For purposes of para-
21 graph (1), there shall not be taken into account any
22 highway motor fuel held by any person which is ex-
23 empt from the tax imposed by subsection (a) by rea-
24 son of subsection (d).

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

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 if
20 1 or more of such persons is not a corporation.

21 (f) OTHER LAWS APPLICABLE.—All provisions of
22 law, including penalties, applicable with respect to the
23 taxes imposed by section 4081 of such Code shall, insofar
24 as applicable and not inconsistent with the provisions of
25 this section, apply with respect to the floor stock taxes

- 1 imposed by subsection (a) to the same extent as if such
- 2 taxes were imposed by such sections.

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