

109TH CONGRESS  
1ST SESSION

# H. R. 3752

To amend the Internal Revenue Code of 1986 to impose a windfall profit tax on crude oil and to ease gas prices for consumers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

Mr. MENENDEZ 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 impose a windfall profit tax on crude oil and to ease gas prices for consumers, 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Gas Price Relief Act  
5       of 2005”.

6       **SEC. 2. WINDFALL PROFITS TAX.**

7       (a) IN GENERAL.—Subtitle E of the Internal Rev-  
8       enue Code of 1986 (relating to alcohol, tobacco, and cer-  
9       tain other excise taxes) is amended by adding at the end  
10      the following new chapter:

1     **“CHAPTER 56—WINDFALL PROFITS ON**  
2                     **CRUDE OIL**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; removal price; base price; qualified investment.

“Sec. 5898. Special rules and definitions.

3     **“SEC. 5896. IMPOSITION OF TAX.**

4             “(a) IN GENERAL.—In addition to any other tax im-  
5 posed under this title, there is hereby imposed on any inte-  
6 grated oil company (as defined in section 291(b)(4)) an  
7 excise tax equal to the excess of—

8                     “(1) the amount equal to 50 percent of the  
9 windfall profit from all barrels of taxable crude oil  
10 removed from the property during each taxable year,  
11 over

12                    “(2) the amount of qualified investment by such  
13 company during such taxable year.

14             “(b) FRACTIONAL PART OF BARREL.—In the case of  
15 a fraction of a barrel, the tax imposed by subsection (a)  
16 shall be the same fraction of the amount of such tax im-  
17 posed on the whole barrel.

18             “(c) TAX PAID BY PRODUCER.—The tax imposed by  
19 this section shall be paid by the producer of the taxable  
20 crude oil.

21     **“SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; BASE**  
22                     **PRICE; QUALIFIED INVESTMENT.**

23             “(a) GENERAL RULE.—For purposes of this chapter,  
24 the term ‘windfall profit’ means the excess of the removal

1 price of the barrel of taxable crude oil over the base price  
2 of such barrel.

3 “(b) REMOVAL PRICE.—For purposes of this chap-  
4 ter—

5 “(1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the term ‘removal price’  
7 means the amount for which the barrel of taxable  
8 crude oil is sold.

9 “(2) SALES BETWEEN RELATED PERSONS.—In  
10 the case of a sale between related persons, the re-  
11 moval price shall not be less than the constructive  
12 sales price for purposes of determining gross income  
13 from the property under section 613.

14 “(3) OIL REMOVED FROM PROPERTY BEFORE  
15 SALE.—If crude oil is removed from the property be-  
16 fore it is sold, the removal price shall be the con-  
17 structive sales price for purposes of determining  
18 gross income from the property under section 613.

19 “(4) REFINING BEGUN ON PROPERTY.—If the  
20 manufacture or conversion of crude oil into refined  
21 products begins before such oil is removed from the  
22 property—

23 “(A) such oil shall be treated as removed  
24 on the day such manufacture or conversion be-  
25 gins, and

1           “(B) the removal price shall be the con-  
2           structive sales price for purposes of determining  
3           gross income from the property under section  
4           613.

5           “(5) PROPERTY.—The term ‘property’ has the  
6           meaning given such term by section 614.

7           “(c) BASE PRICE DEFINED.—For purposes of this  
8           chapter, the term ‘base price’ means \$40 for each barrel  
9           of taxable crude oil.

10          “(d) QUALIFIED INVESTMENT.—For purposes of this  
11          chapter, the term ‘qualified investment’ means any  
12          amount paid or incurred with respect to any qualified fa-  
13          cility described in paragraph (1), (2), (3), or (4) of section  
14          45(d) (determined without regard to any placed in service  
15          date).

16          **“SEC. 5898. SPECIAL RULES AND DEFINITIONS .**

17          “(a) WITHHOLDING AND DEPOSIT OF TAX.—The  
18          Secretary shall provide such rules as are necessary for the  
19          withholding and deposit of the tax imposed under section  
20          5896 on any taxable crude oil.

21          “(b) RECORDS AND INFORMATION.—Each taxpayer  
22          liable for tax under section 5896 shall keep such records,  
23          make such returns, and furnish such information (to the  
24          Secretary and to other persons having an interest in the

1 taxable crude oil) with respect to such oil as the Secretary  
 2 may by regulations prescribe.

3 “(c) RETURN OF WINDFALL PROFIT TAX.—The Sec-  
 4 retary shall provide for the filing and the time of such  
 5 filing of the return of the tax imposed under section 5896.

6 “(d) DEFINITIONS.—For purposes of this chapter—

7 “(1) PRODUCER.—The term ‘producer’ means  
 8 the holder of the economic interest with respect to  
 9 the crude oil.

10 “(2) CRUDE OIL.—

11 “(A) IN GENERAL.—The term ‘crude oil’  
 12 includes crude oil condensates and natural gas-  
 13 oline.

14 “(B) EXCLUSION OF NEWLY DISCOVERED  
 15 OIL.—Such term shall not include any oil pro-  
 16 duced from a well drilled after the date of the  
 17 enactment of the Gas Price Relief Act of 2005,  
 18 except with respect to any oil produced from a  
 19 well drilled after such date on any proven oil or  
 20 gas property (within the meaning of section  
 21 613A(c)(9)(A)).

22 “(3) BARREL.—The term ‘barrel’ means 42  
 23 United States gallons.

24 “(e) ADJUSTMENT OF REMOVAL PRICE.—In deter-  
 25 mining the removal price of oil from a property in the case

1 of any transaction, the Secretary may adjust the removal  
2 price to reflect clearly the fair market value of oil removed.

3 “(f) REGULATIONS.—The Secretary shall prescribe  
4 such regulations as may be necessary or appropriate to  
5 carry out the purposes of this chapter.

6 “(g) TERMINATION.—This chapter shall not apply to  
7 taxable crude oil removed after the date which is 1 year  
8 after the date of the enactment of this section.”.

9 (b) TRANSFER OF WINDFALL PROFIT TAX RECEIPTS  
10 TO HIGHWAY TRUST FUND.—Paragraph (1) of section  
11 9503(b) of the Internal Revenue Code of 1986 is amended  
12 by striking “and” at the end of subparagraph (D), by  
13 striking the period at the end of subparagraph (E) and  
14 inserting “, and”, and by inserting after subparagraph (E)  
15 the following new subparagraph:

16 “(F) section 5896 (relating to windfall  
17 profits tax on crude oil).”.

18 (c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—  
19 The first sentence of section 164(a) of the Internal Rev-  
20 enue Code of 1986 (relating to deduction for taxes) is  
21 amended by inserting after paragraph (5) the following  
22 new paragraph:

23 “(6) The windfall profit tax imposed by section  
24 5896.”.

1 (d) CLERICAL AMENDMENT.—The table of chapters  
 2 for subtitle E of the Internal Revenue Code of 1986 is  
 3 amended by adding at the end the following new item:

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by  
 6 this section shall apply to crude oil removed after  
 7 the date of the enactment of this Act, in taxable  
 8 years ending after such date.

9 (2) TRANSITIONAL RULES.—For the period  
 10 ending December 31, 2005, the Secretary of the  
 11 Treasury or the Secretary’s delegate shall prescribe  
 12 rules relating to the administration of chapter 56 of  
 13 the Internal Revenue Code of 1986. To the extent  
 14 provided in such rules, such rules shall supplement  
 15 or supplant for such period the administrative provi-  
 16 sions contained in chapter 56 of such Code (or in so  
 17 much of subtitle F of such Code as relates to such  
 18 chapter 56).

19 **SEC. 3. REDUCTION OF FUEL TAXES ON HIGHWAY MOTOR**  
 20 **FUELS.**

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

1       “(f) REDUCTION OF HIGHWAY MOTOR FUEL  
2 TAXES.—

3               “(1) IN GENERAL.—During the reduction pe-  
4 riod, the rate of tax imposed by section 4041 (other  
5 than subsection (d) thereof) or 4081(a)(2)(A) on  
6 highway motor fuel shall be reduced by 10 cents per  
7 gallon.

8               “(2) DEFINITIONS AND SPECIAL RULE.—For  
9 purposes of this subsection—

10               “(A) REDUCTION PERIOD.—The term ‘re-  
11 duction period’ means the 1-year period begin-  
12 ning on the date of enactment of the Gas Price  
13 Relief Act of 2005.

14               “(B) HIGHWAY MOTOR FUEL.—The term  
15 ‘highway motor fuel’ means any fuel subject to  
16 tax under section 4041 or 4081 other than  
17 aviation gasoline and aviation-grade kerosene.”.

18       (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on the date of the enact-  
20 ment of this Act.

21 **SEC. 4. MAINTENANCE OF TRUST FUNDS DEPOSITS;**  
22 **AMOUNTS APPROPRIATED TO TRUST FUNDS**  
23 **TREATED AS TAXES.**

24       (a) IN GENERAL.—There is hereby appropriated (out  
25 of any money in the Treasury not otherwise appropriated)



1 to the Highway Trust Fund an amount equal to the excess  
2 (if any) of—

3 (1) the amount (but for this subsection) of re-  
4 duced revenues received in the Highway Trust Fund  
5 as a result of a reduction in a rate of tax by reason  
6 of section 4081(f)(1) of the Internal Revenue Code  
7 of 1986 (as added by section 3 of this Act), over

8 (2) amounts appropriated to the Highway Trust  
9 Fund by section 9503(b)(1)(F) of the Internal Rev-  
10 enue Code of 1986 (relating to windfall profits tax  
11 on crude oil).

12 (b) SPECIAL RULES.—Amounts appropriated by sub-  
13 section (a) to the Highway Trust Fund—

14 (1) shall be transferred from the general fund  
15 at such times and in such manner as to replicate to  
16 the extent possible the transfers which would have  
17 occurred had section 3 of this Act not been enacted,  
18 and

19 (2) shall be treated for all purposes of Federal  
20 law as taxes received under the appropriate section  
21 referred to in such section 4081(f)(1).

22 **SEC. 5. FLOOR STOCK REFUNDS.**

23 (a) IN GENERAL.—If—

24 (1) before the tax rate reduction date, tax has  
25 been imposed under section 4081 of the Internal

1 Revenue Code of 1986 on any highway motor fuel,  
2 and

3 (2) on such date such fuel is held by a dealer  
4 and has not been used and is intended for sale,  
5 there shall be credited or refunded (without interest) to  
6 the person who paid such tax (hereafter in this section  
7 referred to as the “taxpayer”) an amount equal to the ex-  
8 cess of the tax paid by the taxpayer over the tax which  
9 would be imposed on such fuel had the taxable event oc-  
10 curred on such date.

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

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

20 (2) the taxpayer has repaid or agreed to repay  
21 the amount so claimed to such dealer or has ob-  
22 tained the written consent of such dealer to the al-  
23 lowance of the credit or the making of the refund.

24 (c) EXCEPTION FOR FUEL HELD IN RETAIL  
25 STOCKS.—No credit or refund shall be allowed under this

1 section with respect to any highway motor fuel in retail  
2 stocks held at the place where intended to be sold at retail.

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

4 (1) TAX RATE REDUCTION DATE.—The term  
5 “tax rate reduction date” means the first day of the  
6 reduction period (as defined in section 4081(f) of  
7 the Internal Revenue Code of 1986 (as added by  
8 section 3 of this Act)).

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

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

15 **SEC. 6. FLOOR STOCKS TAX.**

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

23 (b) LIABILITY FOR TAX AND METHOD OF PAY-  
24 MENT.—

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

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

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

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

12           (1) TAX RESTORATION DATE.—The term “tax  
13 restoration date” means the first day after the re-  
14 duction period (as defined in section 4081(f) of the  
15 Internal Revenue Code of 1986).

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

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

23           (4) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Treasury or the Secretary’s del-  
25 egate.

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

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

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

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

22           (3) CONTROLLED GROUPS.—For purposes of  
23 this section—

24               (A) CORPORATIONS.—

1 (i) IN GENERAL.—All persons treated  
 2 as a controlled group shall be treated as 1  
 3 person.

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

12 (B) NONINCORPORATED PERSONS UNDER  
 13 COMMON CONTROL.—Under regulations pre-  
 14 scribed by the Secretary, principles similar to  
 15 the principles of subparagraph (A) shall apply  
 16 to a group of persons under common control if  
 17 1 or more of such persons is not a corporation.

18 (f) OTHER LAWS APPLICABLE.—All provisions of  
 19 law, including penalties, applicable with respect to the  
 20 taxes imposed by section 4081 of such Code shall, insofar  
 21 as applicable and not inconsistent with the provisions of  
 22 this section, apply with respect to the floor stock taxes  
 23 imposed by subsection (a) to the same extent as if such  
 24 taxes were imposed by such sections.

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