

109TH CONGRESS
1ST SESSION

H. R. 3771

To allow certain coal exporters to directly claim a refund of the excise tax unconstitutionally imposed on coal exported by such exporters.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2005

Mr. DAVIS of Kentucky (for himself, Mr. LEWIS of Kentucky, Mr. JEFFERSON, Mr. ENGLISH of Pennsylvania, and Mr. JINDAL) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To allow certain coal exporters to directly claim a refund of the excise tax unconstitutionally imposed on coal exported by such exporters.

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. SPECIAL RULES FOR REFUND OF THE COAL EX-**
4 **CISE TAX TO CERTAIN COAL EXPORTERS.**

5 (a) IN GENERAL.—Notwithstanding sections
6 6416(a)(1) and (c) and 6511 of the Internal Revenue
7 Code of 1986, if—

8 (1) an exporter establishes that such exporter
9 exported coal to a foreign country or shipped coal to

1 a possession of the United States on or after Janu-
2 ary 1, 1992, and on or before December 31, 2004,

3 (2) such exporter filed a return on or after De-
4 cember 31, 1992, and on or before April 15, 2005,
5 and

6 (3) such exporter files a claim for refund not
7 later than the close of the 1-year period beginning
8 on the date of the enactment of this Act,

9 then the Secretary of the Treasury shall pay to such ex-
10 porter an amount equal to \$0.825 per ton of such coal.

11 (b) LIMITATION.—Subsection (a) shall not apply with
12 respect to exported coal if a credit or refund of tax im-
13 posed by section 4121 of such Code on such coal has been
14 allowed or made as of the date that the claim is filed under
15 this section with respect to such coal.

16 (c) SUBSEQUENT REFUND PROHIBITED.—If an ex-
17 porter is paid a refund pursuant to this section with re-
18 spect to any amount of exported coal, no credit or refund
19 shall be allowed or made to any other person with respect
20 to the tax imposed by section 4121 of such Code on such
21 coal.

22 (d) EXPORTERS RELATED TO PRODUCERS EX-
23 CLUDED.—Subsection (a) shall not apply with respect to
24 coal exported to a foreign country or shipped to a posses-
25 sion of the United States if the exporter of such coal—

1 (1) is also the producer of such coal,

2 (2) is related (within the meaning of section
3 144(a)(3) of such Code) to the producer or seller of
4 such coal, or

5 (3) has a contract, fee arrangement, or any
6 other agreement with the producer or seller of such
7 coal to sell such coal to a third party on behalf of
8 the producer or seller of such coal.

9 (e) TIMING OF REFUND.—With respect to any claim
10 for refund filed pursuant to this section, the Secretary of
11 the Treasury shall determine whether the requirements of
12 this section are met not later than 90 days after such
13 claim is filed. If the Secretary determines that the require-
14 ments of this section are met, the claim for refund shall
15 be paid not later than 90 days after the Secretary makes
16 such determination.

17 (f) INTEREST.—Any refund paid pursuant to this
18 section shall be paid by the Secretary of the Treasury with
19 interest from the date of overpayment determined by using
20 the overpayment rate and method under section 6621 of
21 such Code.

22 (g) STANDING.—This section shall not confer stand-
23 ing upon an exporter described in subsection (a) to com-
24 mence, or intervene in, any judicial proceeding concerning
25 a claim for refund by a coal producer. This section shall

- 1 not confer standing upon a coal producer to commence,
- 2 or intervene in, any judicial proceeding concerning a claim
- 3 for refund by such exporter.

