

109TH CONGRESS
2D SESSION

H. R. 5240

To amend the Internal Revenue Code of 1986 to suspend the excise tax on highway motor fuels when average United States retail gasoline prices exceed \$2.75 per gallon.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2006

Mr. McHUGH 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 the excise tax on highway motor fuels when average United States retail gasoline prices exceed \$2.75 per gallon.

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 “Gasoline Tax Relief
5 Act of 2006”.

1 **SEC. 2. SUSPENSION OF FUEL TAXES ON HIGHWAY MOTOR**
 2 **FUELS WHEN WEEKLY UNITED STATES RE-**
 3 **TAIL GASOLINE PRICES EXCEED BENCH-**
 4 **MARK.**

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

9 “(f) SUSPENSION OF HIGHWAY MOTOR FUEL TAXES
 10 WHEN RETAIL GASOLINE EXCEEDS BENCHMARK.—

11 “(1) IN GENERAL.—During any suspension pe-
 12 riod, the tax imposed by section 4041 or 4081 on
 13 highway motor fuel shall be suspended.

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

16 “(A) SUSPENSION PERIOD.—The term
 17 ‘suspension period’ means—

18 “(i) the 60-day period beginning 7
 19 days after the date of enactment of this
 20 subsection, and

21 “(ii) after such 60-day period, any pe-
 22 riod—

23 “(I) beginning 7 days after the
 24 date on which the weekly United
 25 States retail gasoline price for regular
 26 grade conventional areas (as published

1 by the Energy Information Adminis-
2 tration, Department of Energy), inclu-
3 sive of such tax, is greater than the
4 benchmark price, and

5 “(II) ending 7 days after the
6 date on which such price (as so pub-
7 lished), without regard to this sub-
8 section, does not exceed the bench-
9 mark price.

10 “(B) BENCHMARK PRICE.—For purposes
11 of this subsection—

12 “(i) IN GENERAL.—The term ‘bench-
13 mark price’ means \$2.75 per gallon.

14 “(ii) ADJUSTMENT FOR INFLATION.—
15 In the case of any calendar year beginning
16 after 2006, the dollar amount in clause (i)
17 shall be increased by an amount equal to—

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section 1(f)(3)
22 for such calendar year, determined by
23 substituting ‘calendar year 2005’ for
24 ‘calendar year 1992’ in subparagraph
25 (B) thereof.

1 Any increase determined under subclause
 2 (II) shall be rounded to the nearest cent.

3 “(C) HIGHWAY MOTOR FUEL.—The term
 4 ‘highway motor fuel’ means any fuel subject to
 5 tax under section 4041 or 4081 other than
 6 aviation gasoline and aviation-grade kerosene.”.

7 (b) MAINTENANCE OF TRUST FUNDS DEPOSITS;
 8 AMOUNTS APPROPRIATED TO TRUST FUNDS TREATED AS
 9 TAXES.—

10 (1) IN GENERAL.—There is hereby appro-
 11 priated (out of any money in the Treasury not other-
 12 wise appropriated) to each trust fund which would
 13 (but for this subsection) receive reduced revenues as
 14 a result of a suspension in a rate of tax by reason
 15 of section 4081(f)(1) of the Internal Revenue Code
 16 of 1986 (as added by this section) an amount equal
 17 to such reduction in revenues. Amounts appropriated
 18 by the preceding sentence to any trust fund—

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

24 (B) shall be treated for all purposes of
 25 Federal law as taxes received under the appro-

1 prie section referred to in such section
2 4081(f)(1).

3 (c) EFFECTIVE DATE.—The amendment made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 (d) FLOOR STOCK REFUNDS.—

7 (1) IN GENERAL.—If—

8 (A) before the tax suspension date, tax has
9 been imposed under section 4081 of the Inter-
10 nal Revenue Code of 1986 on any highway
11 motor fuel, and

12 (B) on such date such fuel is held by a
13 dealer and has not been used and is intended
14 for sale,

15 there shall be credited or refunded (without interest)
16 to the person who paid such tax (hereafter in this
17 subsection referred to as the “taxpayer”) an amount
18 equal to the excess of the tax paid by the taxpayer
19 over the tax which would be imposed on such fuel
20 had the taxable event occurred on such date.

21 (2) TIME FOR FILING CLAIMS.—No credit or re-
22 fund shall be allowed or made under this subsection
23 unless—

24 (A) claim therefor is filed with the Sec-
25 retary of the Treasury before the date which is

1 6 months after the tax suspension date based
2 on a request submitted to the taxpayer before
3 the date which is 3 months after the tax sus-
4 pension date by the dealer who held the high-
5 way motor fuel on such date, and

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

11 (3) EXCEPTION FOR FUEL HELD IN RETAIL
12 STOCKS.—No credit or refund shall be allowed under
13 this subsection with respect to any highway motor
14 fuel in retail stocks held at the place where intended
15 to be sold at retail.

16 (4) DEFINITIONS.—For purposes of this sub-
17 section—

18 (A) TAX SUSPENSION DATE.—The term
19 “tax suspension date” means the first day of
20 any suspension period in effect under section
21 4081(f) of the Internal Revenue Code of 1986
22 (as added by subsection (a) of this section).

23 (B) OTHER TERMS.—The terms “dealer”
24 and “held by a dealer” have the respective

1 meanings given to such terms by section 6412
2 of such Code.

3 (5) CERTAIN RULES TO APPLY.—Rules similar
4 to the rules of subsections (b) and (c) of section
5 6412 of such Code shall apply for purposes of this
6 subsection.

7 (e) FLOOR STOCKS TAX.—

8 (1) IMPOSITION OF TAX.—In the case of any
9 highway motor fuel which is held on the tax restora-
10 tion date by any person, there is hereby imposed a
11 floor stocks tax equal to the excess of the tax which
12 would be imposed on such fuel had the taxable event
13 occurred on such date over the tax (if any) pre-
14 viously paid (and not credited or refunded) on such
15 fuel.

16 (2) LIABILITY FOR TAX AND METHOD OF PAY-
17 MENT.—

18 (A) LIABILITY FOR TAX.—The person
19 holding highway motor fuel on the tax restora-
20 tion date to which the tax imposed by para-
21 graph (1) applies shall be liable for such tax.

22 (B) METHOD OF PAYMENT.—The tax im-
23 posed by paragraph (1) shall be paid in such
24 manner as the Secretary shall prescribe.

1 (C) TIME FOR PAYMENT.—The tax im-
2 posed by paragraph (1) shall be paid on or be-
3 fore the 45th day after the tax restoration date.

4 (3) DEFINITIONS.—For purposes of this sub-
5 section—

6 (A) TAX RESTORATION DATE.—The term
7 “tax restoration date” means the first day after
8 the end of any suspension period (as defined in
9 section 4081(f) of the Internal Revenue Code of
10 1986).

11 (B) HIGHWAY MOTOR FUEL.—The term
12 “highway motor fuel” has the meaning given to
13 such term by section 4081(f) of such Code.

14 (C) HELD BY A PERSON.—A highway
15 motor fuel shall be considered as held by a per-
16 son if title thereto has passed to such person
17 (whether or not delivery to the person has been
18 made).

19 (D) SECRETARY.—The term “Secretary”
20 means the Secretary of the Treasury or the
21 Secretary’s delegate.

22 (4) EXCEPTION FOR EXEMPT USES.—The tax
23 imposed by paragraph (1) shall not apply to any
24 highway motor fuel held by any person exclusively

1 for any use to the extent a credit or refund of the
2 tax is allowable for such use.

3 (5) EXCEPTION FOR CERTAIN AMOUNTS OF
4 FUEL.—

5 (A) IN GENERAL.—No tax shall be im-
6 posed by paragraph (1) on any highway motor
7 fuel held on the tax restoration date by any per-
8 son if the aggregate amount of such highway
9 motor fuel held by such person on such date
10 does not exceed 2,000 gallons. The preceding
11 sentence shall apply only if such person submits
12 to the Secretary (at the time and in the manner
13 required by the Secretary) such information as
14 the Secretary shall require for purposes of this
15 subparagraph.

16 (B) EXEMPT FUEL.—For purposes of sub-
17 paragraph (A), there shall not be taken into ac-
18 count any highway motor fuel held by any per-
19 son which is exempt from the tax imposed by
20 paragraph (1) by reason of paragraph (4).

21 (C) CONTROLLED GROUPS.—For purposes
22 of this subsection—

23 (i) CORPORATIONS.—

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

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

13 (ii) NONINCORPORATED PERSONS
14 UNDER COMMON CONTROL.—Under regula-
15 tions prescribed by the Secretary, prin-
16 ciples similar to the principles of subpara-
17 graph (A) shall apply to a group of per-
18 sons under common control if 1 or more of
19 such persons is not a corporation.

20 (6) OTHER LAWS APPLICABLE.—All provisions
21 of law, including penalties, applicable with respect to
22 the taxes imposed by section 4081 of such Code
23 shall, insofar as applicable and not inconsistent with
24 the provisions of this subsection, apply with respect
25 to the floor stock taxes imposed by paragraph (1) to

- 1 the same extent as if such taxes were imposed by
- 2 such section.

