

110TH CONGRESS
2D SESSION

S. 2896

To amend the Internal Revenue Code of 1986 to provide for a temporary reduction in the tax imposed on diesel fuel.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2008

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for a temporary reduction in the tax imposed on diesel fuel.

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 “Diesel Tax Parity Act
5 of 2008”.

6 **SEC. 2. TEMPORARY REDUCTION IN DIESEL FUEL TAXES.**

7 (a) REDUCTION.—

8 (1) IN GENERAL.—Section 4081 of the Internal
9 Revenue Code of 1986 (relating to imposition of tax

1 on gasoline, diesel fuel, and kerosene) is amended by
 2 adding at the end the following new subsection:

3 “(f) TEMPORARY REDUCTION OF TAXES ON DIESEL
 4 FUEL.—

5 “(1) IN GENERAL.—During the applicable pe-
 6 riod—

7 “(A) the rate of tax on diesel fuel under
 8 subsection (a)(2)(A)(iii) shall be 18.3 cents per
 9 gallon, and

10 “(B) the rate of tax with respect to diesel-
 11 water fuel emulsion described in subsection
 12 (a)(2)(D) shall be 14.84 cents per gallon.

13 “(2) APPLICABLE PERIOD.—For purposes of
 14 this subsection, the term ‘applicable period’ means
 15 the period beginning on the date that is 30 days
 16 after the date of the enactment of this subsection
 17 and ending on December 31, 2008.

18 “(3) MAINTENANCE OF TRUST FUND DEPOS-
 19 ITS.—In determining the amounts to be appro-
 20 priated to the Highway Trust Fund under section
 21 9503 and to the Leaking Underground Storage
 22 Tank Trust Fund under 9508, an amount equal to
 23 the reduction in revenues to the Treasury by reason
 24 of this subsection shall be treated as taxes received
 25 in the Treasury under this section or section 4041.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

4 (b) FLOOR STOCK REFUNDS.—

5 (1) IN GENERAL.—If—

6 (A) before the tax reduction date, a tax re-
7 ferred to in section 4081(f)(1) of the Internal
8 Revenue Code of 1986 has been imposed under
9 such Code on any liquid, and

10 (B) on such date such liquid is held by a
11 dealer and has not been used and is intended
12 for sale,

13 there shall be credited or refunded (without interest)
14 to the person who paid such tax (hereafter in this
15 subsection referred to as the “taxpayer”), against
16 the taxpayer’s subsequent semi-monthly deposit of
17 such tax, an amount equal to the excess of the tax
18 paid by the taxpayer over the amount of such tax
19 which would be imposed on such liquid had the tax-
20 able event occurred on the tax reduction date.

21 (2) TIME FOR FILING CLAIMS; CERTIFICATIONS
22 NECESSARY TO FILE CLAIMS.—

23 (A) IN GENERAL.—No credit or refund
24 shall be allowed or made under this sub-
25 section—

1 (i) unless claim therefor is filed with
2 the Secretary before the date which is 6
3 months after the tax reduction date, and

4 (ii) in any case where liquid is held by
5 a dealer (other than the taxpayer) on the
6 tax reduction date, unless the taxpayer
7 files with the Secretary—

8 (I) a certification that the tax-
9 payer has given a credit to such deal-
10 er with respect to such liquid against
11 the dealer's first purchase of liquid
12 from the taxpayer subsequent to the
13 tax reduction date, and

14 (II) a certification by such dealer
15 that such dealer has given a credit to
16 a succeeding dealer (if any) with re-
17 spect to such liquid against the suc-
18 ceeding dealer's first purchase of liq-
19 uid from such dealer subsequent to
20 the tax reduction date.

21 (B) REASONABLENESS OF CLAIMS CER-
22 TIFIED.—Any certification made under sub-
23 paragraph (A) shall include an additional cer-
24 tification that the claim for credit was reason-
25 ably based on the taxpayer's or dealer's past

1 business relationship with the succeeding deal-
2 er.

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

5 (A) the terms “dealer” and “held by a
6 dealer” have the respective meanings given to
7 such terms by section 6412 of such Code; ex-
8 cept that the term “dealer” includes a pro-
9 ducer, and

10 (B) the term “tax reduction date” means
11 the date that is 30 days after the date of the
12 enactment of this Act.

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

17 (c) FLOOR STOCKS TAX.—

18 (1) IMPOSITION OF TAX.—In the case of any
19 liquid on which tax would have been imposed under
20 section 4081 of the Internal Revenue Code of 1986
21 during the applicable period but for the amendment
22 made by subsection (a), and which is held on the
23 floor stocks tax date by any person, there is hereby
24 imposed a floor stocks tax in an amount equal to the

1 tax which would be imposed on such liquid had the
 2 taxable event occurred on the floor stocks tax date.

3 (2) LIABILITY FOR TAX AND METHOD OF PAY-
 4 MENT.—

5 (A) LIABILITY FOR TAX.—A person hold-
 6 ing a liquid on the floor stocks tax date to
 7 which the tax imposed by paragraph (1) applies
 8 shall be liable for such tax.

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

12 (C) TIME FOR PAYMENT.—The tax im-
 13 posed by paragraph (1) shall be paid on or be-
 14 fore the date which is 6 months after the floor
 15 stocks tax date.

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

18 (A) HELD BY A PERSON.—A liquid shall
 19 be considered as “held by a person” if title
 20 thereto has passed to such person (whether or
 21 not delivery to the person has been made).

22 (B) DIESEL FUEL.—The term “diesel
 23 fuel” has the meaning given such term by sec-
 24 tion 4083 of such Code.

1 (C) FLOOR STOCKS TAX DATE.—The term
2 “floor stocks tax date” means January 1, 2009.

3 (D) APPLICABLE PERIOD.—The term “ap-
4 plicable period” means the period described in
5 section 4081(f)(2) of such Code.

6 (4) EXCEPTION FOR EXEMPT USES.—The tax
7 imposed by paragraph (1) shall not apply to diesel
8 fuel held by any person exclusively for any use to the
9 extent a credit or refund of the tax imposed by sec-
10 tion 4081 of such Code is allowable for such use.

11 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
12 TANK.—No tax shall be imposed by paragraph (1)
13 on diesel fuel held in the tank of a motor vehicle.

14 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
15 FUEL.—

16 (A) IN GENERAL.—No tax shall be im-
17 posed by paragraph (1) on diesel fuel held on
18 such date by any person if the aggregate
19 amount of diesel fuel held by such person on
20 such date does not exceed 2,000 gallons. The
21 preceding sentence shall apply only if such per-
22 son submits to the Secretary (at the time and
23 in the manner required by the Secretary) such
24 information as the Secretary shall require for
25 purposes of this subparagraph.

1 (B) EXEMPT FUEL.—For purposes of sub-
 2 paragraph (A), there shall not be taken into ac-
 3 count fuel held by any person which is exempt
 4 from the tax imposed by paragraph (1) by rea-
 5 son of paragraph (4) or (5).

6 (C) CONTROLLED GROUPS.—For purposes
 7 of this paragraph—

8 (i) CORPORATIONS.—

9 (I) IN GENERAL.—All persons
 10 treated as a controlled group shall be
 11 treated as 1 person.

12 (II) CONTROLLED GROUP.—The
 13 term “controlled group” has the
 14 meaning given to such term by sub-
 15 section (a) of section 1563 of such
 16 Code; except that for such purposes
 17 the phrase “more than 50 percent”
 18 shall be substituted for the phrase “at
 19 least 80 percent” each place it ap-
 20 pears in such subsection.

21 (ii) NONINCORPORATED PERSONS
 22 UNDER COMMON CONTROL.—Under regula-
 23 tions prescribed by the Secretary, prin-
 24 ciples similar to the principles of clause (i)
 25 shall apply to a group of persons under

1 common control where 1 or more of such
2 persons is not a corporation.

3 (7) OTHER LAW APPLICABLE.—All provisions of
4 law, including penalties, applicable with respect to
5 the taxes imposed by section 4081 of such Code
6 shall, insofar as applicable and not inconsistent with
7 the provisions of this paragraph, apply with respect
8 to the floor stock taxes imposed by paragraph (1) to
9 the same extent as if such taxes were imposed by
10 such section 4081.

11 (d) SECRETARY.—For purposes of this section, the
12 term “Secretary” means the Secretary of the Treasury or
13 the Secretary’s delegate.

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