

**PRESENT LAW AND BACKGROUND INFORMATION
ON FEDERAL EXCISE TAXES**

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The Internal Revenue Code (the “Code”) imposes numerous excise taxes on goods, services, and activities.¹ In addition to excise taxes the primary purpose of which is revenue generation, excise taxes also are imposed to promote adherence to other policies (*i.e.*, regulatory or penalty excise taxes). Many trust funds established by the Federal Government are financed with dedicated excise tax “gross receipts” or “net revenues.”² This document³ provides a description of present-law Federal excise taxes, and when applicable, background information on trust funds financed with excise tax revenues.

Part I of the document discusses excise taxes dedicated to trust funds. Part II discusses General Fund excise taxes. Part III consists of a table showing net Federal revenues estimated to be raised by various excise taxes during Fiscal Years 2015 through 2025. Appendix A includes a summary rate schedule for the principal excise taxes that are presently imposed.

¹ Unless otherwise stated, all section references are to the Internal Revenue Code of 1986 (the “Code”), as amended.

² See Part III. for an explanation of the difference between “gross revenues” (or “receipts”) and “net revenues.”

³ This document may be cited as follows: Joint Committee on Taxation, *Present Law and Background Information on Federal Excise Taxes* (JCX-99-15), July 13, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

I. EXCISE TAXES DEDICATED TO TRUST FUNDS

A. Excise Taxes Dedicated to Transportation Trust Funds

1. Highway Trust Fund Excise Taxes

In general

Excise taxes are imposed on fuels and heavy vehicles and tires used in highway transportation to fund the Highway Trust Fund. The Highway Trust Fund was established in 1956 with what previously were General Fund excise taxes being expanded and gross receipts from the taxes being transferred to the Highway Trust Fund. Since 1983, the Highway Trust Fund has financed certain mass transit programs as well as traditional highway construction and maintenance programs.

The Highway Trust Fund is supported by motor fuel taxes (a tax on gasoline, a tax on diesel fuel and kerosene, and taxes on alternative fuels) and three non-fuel taxes (a retail sales tax on heavy highway vehicles (trucks, trailers and certain tractors), a manufacturers' excise tax on heavy vehicle tires, and an annual heavy vehicle use tax). Currently, the excise taxes (except for 4.3 cents per gallon of the motor fuels taxes which is permanent) are scheduled to expire after September 30, 2016 (September 30, 2017, in the case of the heavy vehicle use excise tax).⁴

Amounts equivalent to receipts from the highway excise taxes, as imposed through September 30, 2016, generally are transferred to the Highway Trust Fund.⁵ Receipts attributable to the excise taxes imposed on motorboat gasoline and special motor fuels and on gasoline used as a fuel in the non-business use of small-engine outdoor power equipment are transferred from the Highway Trust Fund to the Sport Fish Restoration and Boating Trust Fund through September 30, 2016, with the first \$1,000,000 per fiscal year of such monies going to the Land and Water Conservation Fund instead.⁶ Highway Trust Fund expenditure authority is scheduled to expire after July 31, 2015.

The majority of the revenue received from the highway excise taxes is derived from taxes on highway motor fuels. For fiscal year 2013, gasoline produced \$24.1 billion in taxes; diesel

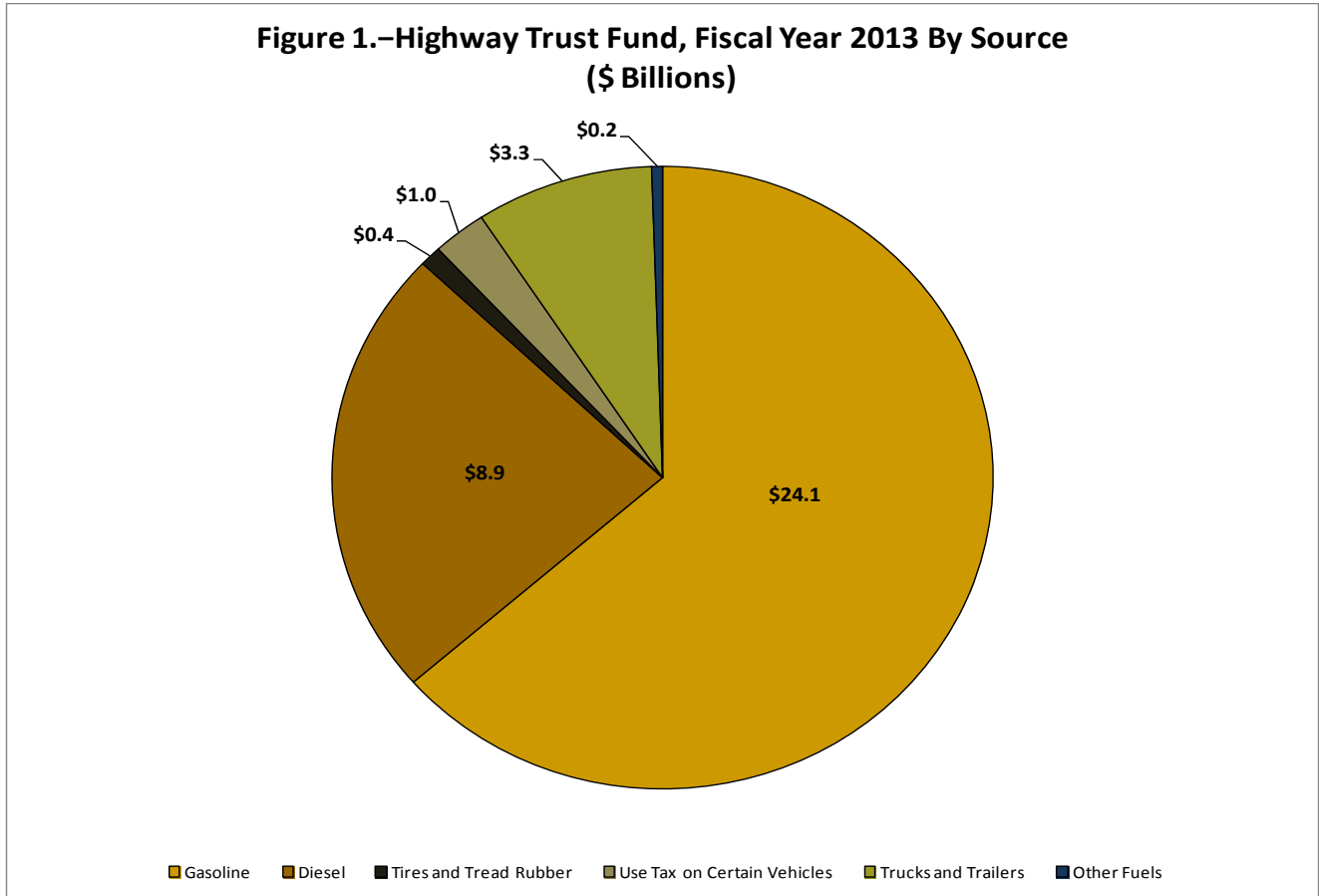
⁴ The 4.3-cents-per-gallon component of the taxes was enacted in 1993 as a General Fund deficit reduction measure. Provisions for transfer of these revenues to the Highway Trust Fund were enacted in 1997.

Despite the statutory expiration dates, the excise taxes are assumed to be permanent for Federal budget scorekeeping purposes. See Part III. for a description of these Federal budget rules.

⁵ In addition to excise tax receipts, receipts from numerous penalties imposed for highway-related tax violations also are transferred to the Trust Fund (secs. 6715, 6715A, 6717, 6718, 6720A, 6725, 7232, and 7272 (for failure to register under sec. 4101)). The Highway Trust Fund benefits from an ongoing General Fund subsidy from costs of refunds for certain tax overpayments, and excise tax credits for biodiesel, renewable diesel, and alternative fuels being borne by the General Fund. In addition, legislation has been enacted periodically to transfer specified amounts of General Fund revenues to the Highway Trust Fund (discussed *infra*).

⁶ Sec. 9503(c)(4) and (5). See, Part I.B.3 relating to the Sport Fish Restoration and Boating Trust Fund and Part I.B.4. relating to the Land and Water Conservation Fund.

produced \$8.9 billion; tires and tread rubber produced \$0.4 billion; the heavy vehicle use tax produced \$1.0 billion; the retail sales tax on truck and trailers produced \$3.3 billion; and other fuels (including kerosene, liquefied natural gas and other alternative fuels) produced \$0.2 billion in taxes. For fiscal year 2013, the total tax revenue for the Highway Trust Fund was \$37.9 billion.⁷



The present law highway excise taxes and tax rates are detailed in the following table.

⁷ Motorboat fuel taxes and small engine fuel taxes, to the extent deposited in the Highway Trust Fund, are transferred to the Sport Fish and Boating Restoration Trust fund. Taxes attributable to kerosene used in aviation and aviation gasoline are dedicated to the Airport and Airway Trust Fund. The FY 2013 numbers reflect transfers to the Highway Trust Fund after transfers of motorboat fuel and small engine fuel taxes have been taken into account.

Tax (and Code Section)	Tax Rates and Nonrefundable Income Tax/Refundable Excise Tax Credits
<i>Highway motor fuels excise taxes and credits</i>	
Taxable fuels: ⁸	
a. Gasoline and gasoline blendstocks (sec. 4081) ⁹	18.3 cents per gallon
b. Diesel fuel and kerosene (secs. 4081 and 4041)	24.3 cents per gallon
c. Diesel-water fuel emulsion (sec. 4081) ¹⁰	19.7 cents per gallon
d. Alcohol fuels (secs. 4041 and 4081)	18.3 cents per gallon
e. Liquid fuel produced from coal (sec. 4041)	24.3 cents per gallon
f. “Partially exempt” ethanol produced from natural gas (sec. 4041(m)) ¹¹	11.3 cents per gallon
g. Partially exempt methanol fuel produced from natural gas (sec. 4041(m))	9.15 cents per gallon

⁸ With the exception of liquefied petroleum gas (“propane”), compressed natural gas (“CNG”), and liquefied natural gas (“LNG”), highway motor fuels are subject to an additional 0.1 cent-per-gallon tax to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund (through September 30, 2016). See, Part I.B.1., for a description of this excise tax and trust fund.

⁹ Gasoline blendstocks are defined in Treasury Department regulations as: alkylate, butane, catalytically cracked gasoline, coker gasoline, ethyl tertiary butyl ether (“ETBE”), hexane, hydrocrackate, isomerase, methyl tertiary butyl ether (“MTBE”), mixed xylene (including any separated isomer of xylene), natural gasoline, pentane, pentane mixture, polymer gasoline, raffinate, reformat, straight-run gasoline, straight-run naphtha, tertiary amyl methyl ether (“TAME”), tertiary butyl alcohol (gasoline grade), thermally cracked gasoline, and toluene. See, Treas. Reg. sec. 48.4081-1(c)(3).

¹⁰ Diesel-water fuel emulsion consists of a mixture of diesel fuel and at least 14 percent water combined with an emulsion additive that is registered by a U.S. manufacturer with the Environmental Protection Agency (the “EPA”) pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003) (sec. 4081(a)(2)(D)).

¹¹ Partially exempt ethanol and methanol fuel means a liquid at least 85 percent of which consists of ethanol, methanol, or other alcohol produced from natural gas. After September 30, 2015, the tax rates on these fuels are scheduled to decline to 4.3 cents per gallon (ethanol) and 2.15 cents per gallon (methanol and other non-ethanol alcohol).

Tax (and Code Section)	Tax Rates and Nonrefundable Income Tax/Refundable Excise Tax Credits
<ul style="list-style-type: none"> h. B-100 (100% biodiesel) and renewable diesel (sec. 4041)¹² i. Biodiesel and renewable diesel fuel mixtures (sec. 4081) j. Compressed natural gas (“CNG”) (sec. 4041) k. Liquefied petroleum gas (“LPG”) (sec. 4041) l. Liquefied natural gas (“LNG”) (sec. 4041) m. Liquid fuel derived from biomass (sec. 4041) n. “P Series” fuels (sec. 4041) o. Liquefied hydrogen fuel (sec. 4041) p. Qualified ethanol and methanol fuels produced from coal (sec. 4041) 	<ul style="list-style-type: none"> 24.3 cents per gallon 24.3 cents per gallon 18.3 cents per gasoline gallon equivalent (GGE = 126.67 c.f.) 18.3 cents per gallon 24.3 cents per gallon 24.3 cents per gallon 18.3 cents per gallon 18.3 cents per gallon 18.3 cents per gallon
<p><i>Non-fuels taxes imposed on heavy highway vehicles:</i></p> <ul style="list-style-type: none"> a. Retail excise tax on highway tractors (over 19,500 lbs.), heavy trucks (over 33,000 lbs.), and trailers (over 26,000 lbs.) (sec. 4051)¹³ b. Manufacturers’ excise tax on tires for heavy vehicles (sec. 4071) 	<ul style="list-style-type: none"> 12 percent of retail price 9.45 cents for each 10 lbs. in excess of 3,500 lbs. of maximum rated load capacity (4.725 cents for biasply tires and super single tires)¹⁴

¹² Biodiesel contains monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet EPA requirements and ASTM D6751. Renewable diesel is defined as a liquid fuel meeting EPA requirements and ASTM D975 and D396 (or other equivalent standards approved by the Treasury Department). Renewable diesel fuel does not include any fuel derived by co-processing biomass with a feedstock that is not biomass.

¹³ Weight is determined on “gross vehicle weight,” which is the fully-loaded, certificated weight for the vehicle.

¹⁴ Biasply tire means a pneumatic tire on which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread (sec. 4072(d)). Super single tires are single tires greater than 13 inches in cross section width designed to replace two tires in a dual fitment (other than for steering) (sec. 4072(c)).

Tax (and Code Section)	Tax Rates and Nonrefundable Income Tax/Refundable Excise Tax Credits
c. Annual heavy vehicle use tax (sec. 4481) ¹⁵	Under 55,000 lbs. – No tax 55,000-75,000 lbs. – \$100 plus \$22 per 1,000 lbs. (or fraction thereof) over 55,000 lbs. Over 75,000 lbs. – \$550

Administration of taxes

Fuels excise taxes.—The highway motor fuels excise taxes on fuels other than “alternative fuels” are imposed on removal of taxable fuels from a refinery or on importation, unless the fuels are transferred in bulk by pipeline or barge to a registered terminal facility (the “bulk removal exception”). In the latter case, tax is imposed upon removal from the terminal facility. The bulk removal exception to refinery or importation taxation applies only if both the person removing or entering the fuel and the operator of the pipeline or barge are registered with the Treasury Department.¹⁶

In general, present law imposes tax on all gasoline (including gasoline blendstocks), diesel fuel, and kerosene that are removed, except tax is not imposed on diesel fuel and kerosene that are destined for a nontaxable use and indelibly dyed in accordance with Treasury Department regulations.¹⁷ The refiner, importer, or person holding an inventory position in a terminal (the “position holder”) generally is liable for payment of the tax.

The taxes on alternative fuels are imposed at the retail or user level.

Other taxes.—The excise tax on heavy highway vehicles is imposed at the retail level. To prevent sales of “stripped down” vehicles which subsequently are completed, special rules apply to sales of parts and accessories (in excess of \$1,000) installed on a taxable vehicle within six months after the date the vehicle is first placed in service. This tax is primarily imposed on the truck owner, with installers being secondarily liable for its payment.¹⁸ Similarly, special rules apply for determining whether repairs or other modifications to heavy highway vehicles constitute a taxable re-manufacture of a new vehicle.¹⁹

¹⁵ Weight is defined as “taxable gross weight,” which is the customary fully loaded weight.

¹⁶ Deep-draft vessels are not required to be registered for the bulk transfer exception to apply.

¹⁷ The dyeing requirement does not apply in rural areas of Alaska. A further exception applies to kerosene received by pipeline or vessel for use in the manufacture or production of non-fuel feedstocks.

¹⁸ Sec. 4051(b).

¹⁹ Sec. 4052(f).

The excise tax on heavy vehicle tires is a manufacturers' excise tax.

The annual heavy vehicle use tax is imposed with respect to a taxable period of July 1 – June 30. Tax liability is incurred as of the first month the vehicle is used during the taxable period (subject to proration rules). Tax also is prorated for vehicles sold, destroyed, or stolen (and not subsequently used) during the taxable period.

Exemptions and reduced rates

Fuels excise taxes.—Present law includes numerous exemptions (including partial exemptions) for specified uses (or users) of taxable fuels. Because most highway motor fuels excise taxes are imposed before the end use (or user) of the fuel is known, these exemptions typically are administered through refunds to end users of tax paid by a party that owned or processed the fuel earlier in the distribution chain.²⁰ The present exempt uses (and users) include:

1. Use by States and local governments;
2. Use by nonprofit educational organizations;
3. Use in private local mass transit buses having a seating capacity of at least 20 adults (not including the driver) when the buses operate under contract with (or are subsidized by) a State or local governmental unit to furnish transportation;
4. Use in private intercity buses serving the general public along scheduled routes;²¹ and,
5. Use in an off-highway business use (gasoline), or an off-highway use (diesel fuel and kerosene). Examples of such uses include use for non-fuel feedstock purposes and the use of diesel fuel or kerosene as heating fuel.

Other taxes.—The non-fuels excise taxes imposed on heavy highway vehicles and components thereof include numerous partial and full exemptions and special rules for coordinating the taxes on vehicles that otherwise could be subject (in part) to more than one of these taxes.

1. Tractors for use with a trailer or semi-trailer are not subject to the retail sales tax if the combination has a gross vehicle weight of 33,000 pounds or less.
2. The cost of “idling reduction devices” is not subject to the retail sales tax on tractors and trucks.
3. A credit is allowed against the retail excise tax for tax previously imposed on tires sold in connection with a taxable tractor, trailer, or truck.

²⁰ Highway Trust Fund receipts are not reduced to reflect the “cost” of these refunds. Rather, that cost is borne by the General Fund.

²¹ This use is exempt from the full 18.3-cents-per-gallon gasoline excise tax (sec. 6421(b)) and is subject to 7.3 cents per gallon of the 24.3-cents-per-gallon diesel fuel and kerosene excise taxes (sec. 6427(b)).

4. Various vehicles and components are exempt from the retail excise tax: camper coaches for self-propelled mobile homes, certain agricultural vehicles, house trailers, ambulances and hearses, concrete mixers, rail/highway combination trailers and vans, trash containers that are not designed to be permanently mounted on a taxable vehicle, insulation having an “R value” of at least R35 per inch, and certain mobile machinery.
5. State and local government vehicles, certain local transit buses, certain blood collector vehicles, and certain mobile machinery are exempt from the annual heavy vehicle use tax as are vehicles used fewer than 5,000 miles on public highways during a taxable period (7,500 miles in the case of farm vehicles).
6. The annual heavy vehicle use tax is reduced by 25 percent for vehicles used exclusively in transporting harvested forest products to and from the forested site if the vehicles are licensed for such purpose in the State where the vehicle is required to be registered.

Fuel tax credits (expired)

Before January 1, 2015, the Code provided income tax credits and refundable excise tax credits for biodiesel and biodiesel fuel mixtures, renewable diesel, and renewable diesel fuel mixtures. The Code also provided a refundable excise tax credit for alternative fuel. A non-refundable excise tax credit was provided for alternative fuel mixtures and a non-refundable income tax credit was provided for second generation biofuel (generally fuel made from cellulosic materials or algae). These credits, set forth in the table below, are currently expired:

Tax credits: ²²	
a. Biodiesel and biodiesel fuel mixtures (secs. 40A, 6426, and 6427(e))	\$1.00 per gallon of biodiesel (B-100 eligible for nonrefundable income tax credit only)
b. Renewable diesel and renewable fuel mixtures (secs. 40A, 6426 and 6427(e))	\$1.00 per gallon of renewable diesel (100% renewable diesel fuel eligible for nonrefundable income tax credit only)
c. Small agri-biodiesel producer credit (sec. 40A)	10 cents per gallon (nonrefundable income tax credit only)
d. Second generation biofuel producer credit (sec. 40)	\$1.01 per gallon (nonrefundable income tax credit only)
e. Alternative fuels and alternative fuel mixtures (LPG, “P Series” fuels, CNG, LNG, liquefied hydrogen, liquid fuel derived from coal, ²³ and liquid fuel derived from biomass) (sec. 6426 and 6427(e))	50 cents per gallon (refundable excise tax credit)

Overview of Highway Trust Fund expenditure provisions

In general.—Section 9503 of the Code authorizes expenditures (subject to appropriations) from the Highway Trust Fund through July 31, 2015, for the purposes provided in authorizing legislation in effect on the date of enactment of the Highway and Transportation Funding Act of 2015.²⁴

Highway Trust Fund expenditures.—The Highway Trust Fund has two accounts: a Mass Transit Account and a Highway Account.²⁵ Both accounts are funding sources for specific transit

²² Before January 1, 2012, an income tax credit (at various credit rates) (sec. 40) was provided for alcohol fuel commonly referred to as “ethanol” derived from renewable sources and for such ethanol mixed with other taxable fuels. During the period the credit was allowed, the rates ranged from a low of 3 cents per gallon to a high of 60 cents per gallon, plus after 1990, a 10-cent-per-gallon “small ethanol producer credit.” At the time of its expiration, the credit rate was 45 cents per gallon, and the credit could be claimed either as a nonrefundable income tax offset (sec. 40) or as a refundable credit against highway excise tax liability (secs. 6426 and 6427). Before 2005, excise tax offsets were available only to alcohol mixed in specified blends with other taxable fuels and were accomplished through a reduced tax rate on such mixtures.

²³ To be an alternative fuel, liquid fuel from coal (including peat) must be derived through the “Fischer-Tropsch” process, and certain carbon capture requirements applicable to the gasification facility also must be met. Sec. 6426(d)(2)(E) and 6426(d)(4).

²⁴ Pub. L. No. 114-21, Title II, sec. 2001(a).

²⁵ Highway Trust Fund expenditures are subject to appropriations Acts. However, certain of the programs are classified as “contract spending”, a category of Federal spending in which executive agencies are permitted to enter into contracts for spending with appropriations being enacted subsequently to liquidate the contracted expenditures. Highway Trust Fund spending further has benefited from special Federal budget “firewalls” designed to

and highway-related programs. Both accounts accrue interest on unexpended balances. The Mass Transit Account receives revenues equivalent to 2.86 cents per gallon of highway motor fuels excise taxes generally, except 1.43 cents per gallon for any partially exempt methanol or ethanol, 1.86 cents per gallon for liquefied natural gas, 2.13 cents per gallon for liquefied petroleum gas, and 9.71 cents per MCF for compressed natural gas. The Highway Account receives the balance of the monies dedicated to the Highway Trust Fund.

Highway Trust Fund expenditure purposes have been updated with each surface transportation Act enacted since establishment of the Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are specifically approved by the Code as Highway Trust Fund expenditure purposes. The Code provides that authority to make expenditures from the Highway Trust Fund expires after July 31, 2015.

Anti-deficit provisions of the Highway Trust Fund.—Highway Trust Fund spending is limited by internal anti-deficit provisions. Generally, these rules are intended to prevent the further obligation of Federal highway/transit funds from the Highway Trust Fund if the current and expected balances of the Trust Fund are projected to fall below certain levels. In the case of the Highway Account, the rules require the Treasury Department to determine, on a quarterly basis, the amount (if any) by which unfunded highway authorizations exceed projected net Trust Fund receipts for the 48-month period beginning at the close of each fiscal year.²⁶ If unfunded highway authorizations exceed projected 48-month Trust Fund receipts, apportionments to the States for programs are to be reduced proportionately. The Mass Transit Account has a similar receipts rule.²⁷ For purposes of these rules, Highway Trust Fund excise taxes are assumed to be permanent.

Limitations on transfers to the Highway Trust Fund.—No Highway Trust Fund monies may be spent for a purpose not approved by the Code. The Code contains a specific enforcement provision to prevent expenditure of Highway Trust Fund monies for purposes not authorized in the Code.²⁸ Should such unapproved expenditures occur, no further excise tax receipts will be transferred to the Highway Trust Fund. Instead, the taxes will continue to be imposed with receipts being retained in the General Fund. This enforcement provision provides that it applies not only to unauthorized expenditures under the current Code provisions, but also to expenditures pursuant to future legislation that does not amend the Code's expenditure authorization provisions or otherwise authorize the expenditure as part of a revenue Act, and applies regardless of whether the subsequently enacted provision attempts to waive this limitation.

ensure that the monies are spent as authorized rather than being subjected to obligations ceilings enacted as part of deficit reduction measures.

²⁶ Sec. 9503(d).

²⁷ Sec. 9503(e)(4).

²⁸ Sec. 9503(b)(5).

Legislation regarding the Highway Trust Fund balance

In recent years, trends in Highway Trust Fund receipts and spending have resulted in projections of significant shortfalls. As discussed below, several provisions have been enacted transferring money from the General Fund to the Highway Trust Fund to avoid a shortfall.

Public Law No. 110-318, “an Act to amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance” transferred, out of money in the Treasury not otherwise appropriated, \$8,017,000,000 to the Highway Trust Fund effective September 15, 2008. Public Law No. 111-46, “an Act to restore sums to the Highway Trust Fund and for other purposes,” transferred, out of money in the Treasury not otherwise appropriated, \$7 billion to the Highway Trust Fund effective August 7, 2009. The Hiring Incentives to Restore Employment Act transferred, out of money in the Treasury not otherwise appropriated, \$14,700,000,000 to the Highway Trust Fund and \$4,800,000,000 to the Mass Transit Account in the Highway Trust Fund.²⁹ The HIRE Act provisions generally were effective as of March 18, 2010.

Moving Ahead for Progress in the 21st Century (“MAP-21”)³⁰ provided that, out of money in the Treasury not otherwise appropriated, the following transfers were to be made from the General Fund to the Highway Trust Fund:

	FY 2013	FY 2014
Highway Account	\$6.2 billion	\$10.4 billion
Mass Transit Account	_____	\$2.2 billion

MAP-21 also transferred \$2.4 billion from the Leaking Underground Storage Tank Trust Fund to the Highway Account in the Highway Trust Fund.

Signed into law on August 8, 2014, the Highway and Transportation Funding Act of 2014 transferred \$7.765 billion from the General Fund to the Highway Account of the Highway Trust Fund, \$2 billion from the General Fund to the Mass Transit Account of the Highway Trust Fund, and \$1 billion from the Leaking Underground Storage Tank Trust Fund to the Highway Account of the Highway Trust Fund.³¹

²⁹ The Hiring Incentives to Restore Employment Act (the “HIRE” Act), Pub. L. No. 111-147, sec. 442.

³⁰ Moving Ahead for Progress in the 21st Century Act (“MAP-21”), Pub. L. No. 112-141, sec. 40201(a)(2), and sec. 40251.

³¹ Highway and Transportation Funding Act of 2014, Pub. L. No. 113-159, sec. 2002.

2. Airport and Airway Trust Fund Excise Taxes³²

Excise taxes are imposed on amounts paid for commercial air passenger and freight transportation and on fuels used in commercial and noncommercial (*i.e.*, transportation that is not “for hire”) aviation to fund the Airport and Airway Trust Fund.³³ The present aviation excise taxes are as follows:

Tax (and Code section)	Tax Rates
a. Domestic air passengers (sec. 4261)	7.5 percent of fare, plus \$4.00 (2015) per domestic flight segment generally ³⁴
a. International air passengers (sec. 4261)	\$17.70 (2015) per arrival or departure ³⁵
b. Amounts paid for right to award free or reduced rate passenger air transportation (sec. 4261)	7.5 percent of amount paid
c. Air cargo (freight) transportation (sec. 4271)	6.25 percent of amount charged for domestic transportation; no tax on international cargo transportation
d. Aviation fuels (sec. 4081): ³⁶	
i. Commercial aviation	4.3 cents per gallon
ii. Non-commercial (general) aviation: Aviation gasoline	19.3 cents per gallon
Jet fuel	21.8 cents per gallon

³² The Airport and Airway Trust Fund excise taxes (except for 4.3 cents per gallon of the taxes on aviation fuels and the 14.1 cents per gallon fractional aircraft fuel surtax) are scheduled to expire after September 30, 2015. The 4.3-cents-per-gallon fuels tax rate is permanent. The fractional aircraft fuel surtax expires after September 30, 2021. However, for Federal budget scorekeeping purposes, the statutory expiration date is disregarded and the full amount of the taxes is assumed to be permanent. See Part III.

³³ Air transportation through U.S. airspace that neither lands in nor takes off from a point in the United States (or the 225-mile zone, described below) is exempt from the aviation excise taxes, but the transportation provider is subject to certain “overflight fees” imposed by the Federal Aviation Administration pursuant to Congressional authorization.

³⁴ The domestic flight segment portion of the tax is adjusted annually (effective each January 1) for inflation (adjustments based on the changes in the consumer price index (the “CPI”).

³⁵ The international arrival and departure tax rate is adjusted annually for inflation (measured by changes in the CPI).

³⁶ Like most other taxable motor fuels, aviation fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the LUST Trust Fund. See Part I.B.1.

Tax (and Code section)	Tax Rates
e. Fractional aircraft fuel surtax (sec. 4043)	14.1 cents per gallon

Administration of taxes

Air passenger and cargo taxes.—Persons purchasing air transportation are liable for the commercial air passenger excise taxes. Transportation providers are secondarily liable if they fail to collect tax from their passengers. The amount of tax must be separately disclosed to passengers on airline tickets. Like the air passenger excise taxes, the air cargo tax is imposed on the person paying for the service.

Aviation fuels taxes.—The aviation fuels excise taxes are administered under rules similar to those that apply to the Highway Trust Fund fuels taxes. That is, the taxes generally are collected on removal of taxable fuels from a refinery (subject to the bulk transfer exception also applicable to the highway fuels excise taxes). Most aviation fuels excise tax is collected upon removal of the fuel from a registered terminal facility. Many airports include registered terminals within the secured area of the airport. Under a special rule, certain refueler trucks, tankers, or tank wagons are treated as part of such terminals, thereby allowing imposition of tax on jet fuel to be deferred until the kerosene is loaded into the fuel tank of an aircraft.³⁷ Qualifying trucks and tankers may not be registered for highway use and must be operated by the owner of the registered terminal facility.

Jet fuel that is not delivered directly into the fuel tank of an aircraft from a registered terminal is taxed at the higher general aviation rates. Commercial airlines and other commercial aircraft using jet fuel on which tax is paid at the general aviation tax rate may recover tax imposed at the higher rate through refund claims or credits against excise tax liability (including air passenger and cargo tax collections).

Fractional aircraft fuel surtax.—Section 4043 imposes a 14.1 cent-per-gallon tax on any liquid used in a fractional program aircraft as fuel (1) for the transportation of a qualified fractional owner with respect to the fractional ownership aircraft program of which such aircraft is a part, or (2) with respect to the use of such aircraft on account of such a qualified fractional owner, including use in deadhead service. In general, a fractional ownership aircraft program is a system of aircraft ownership and exchange that involves a single program manager that manages a fleet of aircraft on behalf of fractional owners. Participation in a fractional ownership aircraft program entitles the owner to fly on any of the aircraft in the program’s fleet on an on-available basis, regardless of whether the owner has an ownership interest in the aircraft in which the owner travels. The fractional ownership program manager, rather than fractional owners, is liable for the

³⁷ When fuel is delivered directly into the fuel tanks of a commercial aircraft, commercial airlines may “self-certify” and become the direct payers of the jet fuel excise tax.

fractional aircraft fuel surtax. Fractional ownership program managers must report the fractional aircraft fuel surtax on Form 720, Quarterly Federal Excise Tax Return.³⁸

Exemptions, reduced rates, and special rules

Air passenger taxes.—The domestic air passenger taxes apply to transportation beginning and ending within the United States or to or from a point within the continental United States and a point within the “225-mile zone” of Canada or Mexico. The 225-mile zone includes the portions of those countries that are not more than 225 miles from the nearest point in the continental United States. If passenger transportation is purchased outside the United States, it is subject to the domestic taxes only if the transportation both begins and ends in this country.

Special rules apply to air transportation between the continental United States and Alaska or Hawaii and between Alaska and Hawaii.³⁹ The portion of such transportation that is not within the United States (*e.g.*, the portion over the Pacific Ocean) is not subject to the 7.5-percent domestic air passenger excise tax. In addition to this pro-rated *ad valorem tax*, an \$8.90 (2015) international tax rate (for the excluded portion of the travel) is imposed (on departures only).⁴⁰ The domestic flight segment component of tax applies under the same rules as for flights within the continental United States. Further, transportation within Alaska or Hawaii is taxed in the same manner as domestic transportation within the continental United States.

An additional special rule exempts domestic flight segments to or from qualified rural airports from the flight segment portion of the domestic air passenger excise tax. A qualified rural airport is an airport (1) from which there were fewer than 100,000 commercial passengers departing by air on flight segments of at least 100 miles during the second preceding calendar year, and (2) (a) which is not located within 75 miles of another airport that is not a qualified rural airport, (b) which is not connected by paved roads to another airport, or (c) which was receiving “essential air service subsidies” on October 1, 1997.

The domestic air passenger excise tax does not apply to domestic segments (*i.e.*, segments wholly within the United States) that are part of uninterrupted international air transportation. Uninterrupted international air transportation means travel (entirely by air) that does not both begin and end in the United States (or the 225-mile zone) and during which there is no more than a 12-hour scheduled period between arrival at and departure from any intermediate point in the United States.⁴¹

Both the domestic and international passenger taxes are imposed on “amounts paid” for air transportation. Therefore, no tax is imposed on transportation under airline frequent flyer

³⁸ See Notice 2012-27.

³⁹ The term “continental United States” includes the 48 contiguous States and the District of Columbia.

⁴⁰ The \$8.90 amount is adjusted annually for inflation (measured by the CPI).

⁴¹ An extended layover rule is provided for military personnel traveling in uniform while on leave in transportation that involves both international and domestic U.S. segments.

programs for which no charge is made. Similarly, no excise tax is imposed on no-charge transportation provided to airline employees as a fringe benefit. Excise tax is imposed (determined by reference to actual amounts paid) for reduced-cost travel available under both frequent-flyer and airline employee and fringe-benefit programs. Further, the Internal Revenue Service (the “IRS”) has ruled that separately-stated charges for “checked” passenger baggage and other “optional” or “non-transportation” services are not subject to the excise tax.⁴²

Air cargo tax.—Based on legislative history accompanying the original enacting legislation, the air cargo excise tax has been interpreted to exclude amounts paid for “accessorial ground services.” This interpretation has allowed air cargo providers to reduce the effective rate of tax below the statutory 6.25 percent of price by allocating a portion of waybill charges to ground operations. Accessorial services charges are exempt from tax only if the service *could* be performed by a party other than the transportation provider and if the provider maintains in its records a separate accounting for the charge.

Additional exemptions to air passenger and air cargo taxes.—Special rules classify certain for-hire (*i.e.*, commercial) transportation as general aviation (thereby exempting the transportation from the passenger and cargo excise taxes, but subjecting it to higher fuels excise tax rates). Under these rules, flights for skydiving, flights on seaplanes, and flights by aircraft in qualifying “fractional ownership” programs generally are subject to the general aviation fuels excise taxes rather than the air passenger and air cargo excise taxes.

An additional rule classifies all air transportation on aircraft having a maximum certificated takeoff weight of 6,000 pounds or less as general aviation when the aircraft are not operating on established lines. Aircraft operated for the sole purpose of sightseeing are not treated as operated on established lines, notwithstanding that such aircraft may operate on established schedules or routes.

Certain transportation on air ambulances providing emergency services and on helicopters and fixed-wing aircraft engaged in hard mineral, oil, or gas exploration activities or as part of logging activities are exempt from tax. The exemption is limited to aircraft not using Federal aviation services or taking off or landing at an airport eligible for Airport and Airway Trust Fund assistance in the case of these uses (other than provision of emergency services).

Aviation fuels tax exemptions.—Fuels used in aircraft owned and operated by certain aircraft museums are exempt from the aviation fuels excise taxes. Qualifying museums are section 501(c)(3) organizations that are operated exclusively for the procurement, care, and exhibition of World War II combat and transport aircraft.

Overview of Airport and Airway Trust Fund expenditure provisions

In general.—The Airport and Airway Trust Fund was established in 1970 to finance a major portion of national aviation programs (previously funded entirely with General Fund revenues). Operation of the Trust Fund is governed by parallel provisions of the Code and authorizing

⁴² See, PLR 20102004, 2010 WL 147820 (January 15, 2010).

statutes.⁴³ The Code provisions govern deposit of revenues into the Trust Fund and approve expenditure purposes in authorizing statutes as in effect on the date of enactment of the latest authorizing Act. The authorizing Acts provide for specific Trust Fund expenditure programs.

Authorized expenditures from the Airport and Airway Trust Fund include the following principal programs:

1. Airport Improvement Program (“AIP”) (airport planning, construction, noise compatibility programs, and safety projects);
2. Facilities and Equipment (“F&E”) program (costs of acquiring, establishing, and improving the air traffic control facilities);
3. Research, Engineering, and Development (“RED”) program (FAA research and development activities);
4. Federal Aviation Administration (“FAA”) Operations and Maintenance (“O&M”) programs; and

Limits on Airport and Airway Trust Fund expenditures.—Currently, no expenditures are permitted to be made from the Airport and Airway Trust Fund after September 30, 2015. The purposes for which Airport and Airway Trust Fund monies are permitted to be expended are fixed as of the date of enactment of the FAA Modernization and Reform Act of 2012; therefore, the Code must be amended in order to authorize new Airport and Airway Trust Fund expenditure purposes.⁴⁴ The Code contains a specific enforcement provision to prevent expenditure of Trust Fund monies for purposes not authorized under Code section 9502.⁴⁵ This provision provides that, should such unapproved expenditures occur, no further aviation excise tax receipts will be transferred to the Trust Fund. Rather, the aviation taxes will continue to be imposed, but the receipts will be retained in the General Fund.

3. Inland Waterways Trust Fund Excise Tax

Tax and exemptions

A 29-cents-per-gallon excise tax is imposed on fuel used in powering commercial cargo vessels on a designated system of inland or intra-coastal waterways.⁴⁶ This tax is permanent. The tax applies to fuel used on any specified inland or intra-coastal waterway of the United States in the business of transporting property (other than fish or other aquatic animal life caught on the

⁴³ Sec. 9502 and 49 U.S.C. sec. 48101, et. seq.

⁴⁴ Sec. 9502(d).

⁴⁵ Sec. 9502(e)(1).

⁴⁶ Sec. 4042. Like other taxable motor fuels, inland waterway fuels are subject to an additional excise tax of 0.1 cents per gallon to fund the LUST Trust Fund. See Part 1.B.1.

voyage) for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel other than fish or other aquatic animal life caught on the voyage.⁴⁷ The inland waterways excise tax is a use tax, imposed on the boat operator.

Exemptions are provided for vessels designed primarily for use on the high seas which have a draft of more than 12 feet (“deep-draft ocean-going vessels”), for vessels used primarily for transportation of persons, for State or local government vessels engaged in governmental business, and for use in tugboat movement of LASH (“lighter-aboard-ship”) and SEABEE ocean-going barges used exclusively to ferry international cargoes to or from their carriers.

Overview of Inland Waterways Trust Fund expenditure provisions

Operation of the Inland Waterways Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁴⁸ The Code provisions govern deposit of receipts from the fuel tax into the Trust Fund and approve general expenditure purposes. The authorizing statutes specify expenditure programs.

Amounts in the Inland Waterways Trust Fund are available, as provided by appropriation Acts, for making construction and rehabilitation expenditures for navigation on the inland and coastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of Code section 9506. There is a limit of 50 percent that may be paid from the Inland Waterways Trust Fund for the cost of any construction under section 102(a) of the Water Resources Development Act of 1986 (as in effect on the date of enactment of Code sec. 9506). The remaining 50 percent is to be paid from the General Fund.

4. Harbor Maintenance Trust Fund Excise Tax

Tax and exemptions

A 0.125-percent excise tax is imposed on the value of commercial cargo loaded or unloaded at taxable United States ports and on charges for transportation of passengers to or from such ports.⁴⁹ No tax is imposed on cargo movements within a U.S. port. The tax is permanent. Unlike most Federal excise taxes, the harbor maintenance excise tax is administered by the U.S. Customs Service (rather than the IRS or the Treasury Department’s Alcohol and Tobacco Tax and Trade Bureau (the “TTB”). Administrative rules applicable to the tax are those applicable to customs duties. Shippers and importers are liable for the tax.

⁴⁷ The term inland or intra-coastal waterway of the United States means any inland or intra-coastal waterway of the United States which is described in section 206 of the Inland Waterways Revenue Act of 1978 and includes the Mississippi River upstream from Baton Rouge, Louisiana, the Mississippi River’s tributaries, and specified waterways, including the Gulf of Mexico and Atlantic Intra-coastal Waterways, and the Tennessee-Tombigbee Waterway.

⁴⁸ Sec. 9506 and 33 U.S.C. sec 2212.

⁴⁹ Sec. 4461.

The tax generally is imposed on all cargo (other than exports) and passengers that are loaded or unloaded at a U.S. port, defined as any channel or harbor in the United States that is open to public navigation. The tax does not apply to waterways where the inland waterways fuels excise tax is imposed or to ports with respect to which no Federal funds have been used since 1977 for construction, maintenance, or operation, or which were de-authorized by Federal law before 1985. Transportation at ports on the Columbia River is taxable only if the ports are downstream of the Bonneville lock and dam.

In addition to exported cargo, the tax does not apply to cargo shipped between the continental United States and Alaska (except for crude oil), Hawaii, and/or U.S. possessions, or to cargo shipped between Alaska, Hawaii, and/or such possessions for ultimate use or consumption in those locations. This exemption includes intra-state/U.S. possession cargo movements as well as passenger cruises within Alaska or Hawaii that also include travel in international waters, if the cruises do not include any stops at ports of call located outside the State from which the cruise begins. Transportation on regularly scheduled ferries transporting passengers (and their vehicles) that operate within the United States or between the U.S. and contiguous countries (*e.g.*, Canada) are not subject to tax. There is an exemption for cargo owned by nonprofit organizations that is intended for use in humanitarian or development assistance overseas and by U.S. government agencies. Ships' stores and fish (not previously loaded on shore) also are exempt.

Overview of Harbor Maintenance Trust Fund expenditure provisions

Operation of the Harbor Maintenance Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁵⁰ The Code provisions govern deposit of revenues into the Harbor Maintenance Trust Fund and approve general expenditure programs. The authorizing statutes specify expenditure programs.

The Harbor Maintenance Trust Fund generally is limited to financing the operations and maintenance costs for federally-authorized public harbors and channels for commercial navigation incurred by the U. S. Corps of Engineers under section 210 of the Water Resources Development Act of 1986 (as in effect on the date of the enactment of the Water Resources Development Act of 1996). Harbor Maintenance Trust Fund expenditures have principally been for operations and maintenance costs of access channels to deep-draft harbors, *i.e.*, dredging expenses and not channel deepening projects.

St. Lawrence Seaway Development Corporation operations and maintenance expenditures related to the seaway are financed from the Harbor Maintenance Trust Fund, as well as rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on April 1, 1987).

Certain ancillary activities directly related to maintenance dredging or related to keeping a waterway unobstructed also are financed from the Harbor Maintenance Trust Fund.⁵¹ Further, the

⁵⁰ Sec. 9505 and Pub. L. No. 104-303.

⁵¹ See, 33 U.S.C. 2241(2).

administrative costs of collecting the harbor maintenance tax (not to exceed \$5 million for any fiscal year) are authorized to be paid from the Trust Fund.

B. Excise Taxes Dedicated to Environmental Trust Funds or Designated Funds

1. Leaking Underground Storage Tank Trust Fund Excise Tax

Tax and exemptions

Fuels of a type subject to other excise taxes generally are subject to an add-on excise tax of 0.1 cent per gallon to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund.⁵² For example, the LUST excise tax is imposed on gasoline, diesel fuel, kerosene, and most alternative fuels subject to highway and aviation fuels excise taxes, and to fuels subject to the inland waterways fuel excise tax. This excise tax is imposed on both uses and parties subject to the other taxes, and to situations (other than export) in which the fuel otherwise is tax-exempt. For example, off-highway business use of gasoline and off-highway use of diesel fuel and kerosene generally are exempt from highway motor fuels excise tax. Similarly, States and local governments and certain other parties are exempt from such tax. Nonetheless, all such uses and parties are subject to the 0.1-cent-per-gallon LUST excise tax.

Liquefied natural gas, compressed natural gas, and liquefied petroleum gas are exempt from the LUST tax. Additionally, methanol and ethanol fuels produced from coal (including peat) are taxed at a reduced rate of 0.05 cents per gallon.

The LUST tax is scheduled to expire after September 30, 2016.⁵³

Overview of Leaking Underground Storage Tank Trust Fund expenditure provisions

Amounts in the LUST Trust Fund are available, as provided in appropriations Acts, for expenditures to carry out sections 9003(h)-(j), 9004(f), 9005(c), and 9010-9013 of the Solid Waste Disposal Act, as in effect on the date of enactment of Public Law 109-168. Any claim filed against the LUST Trust Fund may be paid only out of the Trust Fund, and the liability of the United States for claims is limited to the amount in the Trust Fund.

The monies in the LUST Trust Fund are used to pay expenses incurred by the EPA and the States for preventing, detecting, and cleaning up leaks from petroleum underground storage tanks, as well as programs to evaluate the compatibility of fuel storage tanks with alternative fuels, MTBE additives, and ethanol and biodiesel blends.

The EPA makes grants to States to implement the program, and States use cleanup funds primarily to oversee and enforce corrective actions by responsible parties. States and the EPA also may use cleanup funds to conduct corrective actions where no responsible party has been identified, where a responsible party fails to comply with a cleanup order, in the event of an emergency, and to take cost recovery actions against parties. In 2005, Congress authorized EPA

⁵² Secs. 4041, 4042, and 4081.

⁵³ For Federal budget scorekeeping purposes, the LUST Trust Fund tax, like other excise taxes dedicated to trust funds, is assumed to be permanent. See Part III. for a description of these Federal budget rules.

and States to use Trust Fund monies for non-cleanup purposes as well, specifically for administration and enforcement of the leak prevention requirements of the LUST program.⁵⁴

2. Oil Spill Liability Trust Fund Excise Tax

Tax and exemptions

The Oil Spill Liability Trust Fund is financed with revenues from an eight-cents-per-barrel⁵⁵ excise tax on crude oil received at a United States refinery and on imported petroleum products.⁵⁶ The tax rate is scheduled to increase to nine cents per barrel in calendar year 2017, after which it currently is scheduled to expire.⁵⁷ A back-up “use tax” is imposed on crude oil that is used in the United States before being received at a refinery (sec. 4611(b)).⁵⁸ Crude oil is defined to include oil condensates and natural gasoline. Under a special rule, natural gasoline produced from natural gas at a refinery is treated as received at the refinery at the time of its production and is subject to tax at that time.

Unlike the excise taxes dedicated to transportation trust funds, the oil spill liability excise tax applies in all U.S. possessions as well as in the 50 States and the District of Columbia.⁵⁹ The term “United States” is defined for purposes of this tax to include foreign trade zones and the U.S. continental shelf.

Overview of the Oil Spill Liability Trust Fund provisions

Operation of the Oil Spill Liability Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁶⁰ The Code provisions govern deposit of revenues into the Oil Spill Liability Trust Fund and approve general Oil Spill Liability Trust Fund expenditure programs. The authorizing statutes specify expenditure programs.

⁵⁴ Pub. L. No. 109-58.

⁵⁵ A barrel equals 42 gallons.

⁵⁶ Sec. 4611(a). Petroleum products include crude oil (sec. 4612(a)(3)).

⁵⁷ For Federal budget scorekeeping purposes, the oil spill excise tax is assumed to be permanent. See Part III., for a description of these Federal budget rules. Under prior law, the tax was required to terminate if the trust fund balance were to reach \$2.7 billion in a calendar quarter. That requirement was repealed in the Emergency Economic Stabilization Act of 2008 (Pub. L. No. 110-343, sec. 405(b)(1) Div. B).

⁵⁸ Statutorily, the tax also applies to crude oil that is exported from the U.S. before being received at a refinery. See, sec. 4611(b)(1).

⁵⁹ Revenues from the tax imposed in Puerto Rico and the U.S. Virgin Islands are retained in the Federal Treasury, unlike revenues from the excise tax on rum imported or brought into the United States from those possessions (and on certain tobacco products produced therein and imported or brought into the U.S.), which are “covered over” to the two possessions.

⁶⁰ Sec. 9509 and 33 U.S.C. secs. 2701-2761, et. seq.

Amounts in the Oil Spill Liability Trust Fund are available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, for the following oil spill-related expenditures:

1. Payment of removal costs and other costs, expenses, claims, and damages under section 1012 of the 1990 Act;
2. Costs relating to oil pollution or the substantial threat of oil pollution (under sections 5 and 7 of the Intervention on the High Seas Act);
3. Payment of liabilities incurred by the revolving fund under section 311(k) of the Federal Water Pollution Control Act;
4. Payments for prevention, removal, and enforcement related to oil discharges (under section 311(b)-(d), (j), and (l) of the Federal Water Pollution Control Act);
5. Payment of liabilities incurred by the Deepwater Port Liability Fund; and
6. Payment of liabilities incurred by the Offshore Pollution Compensation Fund.

There is a general limit of \$1 billion per incident that may be paid out of the Oil Spill Liability Trust Fund, with costs of natural resource damage assessments and claims for any single incident being limited to \$500 million. Except in the case of payments for oil removal costs, payments may be made from the Trust Fund only if the Fund maintains a minimum balance of \$30 million after such payment. Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of the Trust Fund.

3. Sport Fish Restoration and Boating Trust Fund

Tax

The Sport Fish Restoration and Boating Trust Fund is financed by revenues from three principal excise taxes.⁶¹ First, receipts equivalent to the highway excise taxes collected on gasoline and other motor fuels used in motorboats are transferred from the Highway Trust Fund to this Trust Fund in lieu of allowing refunds to consumers for this off-highway use.⁶² Second, the Trust Fund receives receipts (also transferred from the Highway Trust Fund) equivalent to excise taxes collected on “small engine fuel.” Small-engine fuel means gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment (*i.e.*, non-commercial off-highway

⁶¹ In addition to the excise tax revenue sources, the Trust Fund receives receipts from import duties on fishing tackle and on yachts and pleasure craft.

⁶² The first \$1 million of such receipts is transferred to the Land and Water Conservation Fund, discussed below. Off-highway business use generally is exempt from the highway gasoline excise tax, and off-highway use generally is exempt from those taxes on diesel fuel and kerosene (sec. 4082, 4041, and 6421)

vehicles such as snowmobiles and small-engine outdoor power equipment such as snow blowers and lawn mowers).⁶³

The third revenue source for the Trust Fund is an excise tax imposed on manufacturers and importers of “sport fishing equipment.”⁶⁴ The articles subject to tax, and the applicable tax rates, are shown in the following table.

Articles subject to tax at 10 percent rate:

- Fishing rods and poles (and component parts therefor)⁶⁵
- Fishing reels
- Fly fishing lines, and other fishing lines not over 130 pounds test
- Fishing spears, spear guns, and spear tips
- Items of terminal tackle, including leaders, artificial lures, artificial baits, and artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels⁶⁶
- Fish stringers
- Creels
- Bags, baskets, or other containers designed to hold fish
- Portable bait containers
- Fishing vests
- Landing nets
- Gaff hooks
- Fishing hook disgorgers
- Dressing for fishing lines and artificial flies

⁶³ The fuels from which tax receipts are transferred to the Trust Fund are subject to an additional 0.1-cent-per-gallon excise tax for the LUST Trust Fund in the same manner as other highway motor fuels.

⁶⁴ Sec. 4161.

⁶⁵ The tax on fishing rods and poles is limited to a maximum of \$10 per taxable article.

⁶⁶ Terminal tackle does not include natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines over 130 pounds test.

Articles subject to tax at 10 percent rate:

Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers

Articles subject to tax at 3 percent rate:

Tackle boxes

Electric outboard motors

Parts and accessories sold by manufacturers or importers in connection with the sale of any taxable article are included in the tax base for the article.

Overview of Sport Fish Restoration and Boating Trust Fund expenditure provisions

Operation of the Sport Fish Restoration and Boating Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁶⁷ The Code provisions govern deposits into the Trust Fund and approve general expenditure purposes. The authorizing statutes specify expenditure programs.

Monies received in this Trust Fund in any fiscal year are allocated to eligible programs in the following fiscal year. The following seven programs are funded from the Trust Fund:⁶⁸

1. Coastal wetlands conservation and restoration programs, the majority of which is for Corps of Engineers Louisiana Coastal Wetlands Restoration;
2. Recreational boating safety grant program to the States, administered by the U.S. Coast Guard's Office of Boating Safety;
3. Grants for states to construct sewage pump-out and dump stations for recreational boating sewage disposal;
4. State grant programs for construction or upgrade of docking facilities for transient large recreational boats (26 feet or more in length);
5. Grants for national aquatic resource outreach and communications programs to encourage participation in recreational boating and fishing and greater public involvement in aquatic stewardship and to improve communication with anglers, boaters, and the general public;
6. State conservation grants for wildlife and sport fish restoration; and

⁶⁷ Sec. 9504 and 16 U.S.C. sec. 777, 16 USC sec. 3951, et. seq., and Pub. L. No. 105-178, sec. 7204.

⁶⁸ See, Congressional Research Service, *The Sport Fish Restoration and Boating Trust Fund* (CRS Report RS22060, May 10, 2012).

7. Interstate fishery commissions and the Sport Fishing and Boating Partnership Council.

After the programs listed above are funded, the remaining amounts in the Trust Fund are used for State grants for sport fish restoration programs, with 60 percent of the grants being based on the number of anglers in the State and 40 percent on its land and water area.

4. Land and Water Conservation Fund (the “Federal Aid to Wildlife Restoration Program”) and Dedicated Excise Taxes

In general

The Federal Aid to Wildlife Program (the “Fund”), although not a formal trust fund, receives revenues from three dedicated excise taxes. First, the Fund receives \$1 million per year of the excise taxes imposed on motorboat fuels. Second, receipts from an 11-percent manufacturers’ or importers’ excise tax on certain bows and arrows and excise taxes on certain “regular” firearms are dedicated to the Fund. The latter two excise taxes are outlined in the following table.

Tax (and Code Section)	Tax Rates
<p>Bows and arrows (sec. 4161):</p> <p>Bows having a peak draw weight of 30 pounds or more</p> <p>Archery equipment⁶⁹</p> <p>Arrow shafts for use as part of an arrow (a) that measures at least 18 inches in length, or (b) if shorter, that is suitable for use with a taxable bow⁷⁰</p>	<p>11 percent of price</p> <p>11 percent of price</p> <p>49 cents per shaft (2015)⁷¹</p>

⁶⁹ Taxable archery equipment is any part or accessory suitable for inclusion in or attachment to a taxable bow, and any quiver, broadhead, or point suitable for use with a taxable bow.

⁷⁰ The tax applies to shafts sold separately or as part of a finished arrow. Otherwise taxable shafts consisting of all natural wood with no laminations or artificial means of enhancing the spine, which are designed to be (or are) incorporated into a finished arrow measuring 5/16 of an inch or less in diameter and which are not suitable for use with a taxable bow are exempt from tax.

⁷¹ The tax rate is adjusted annually for inflation (measured by the CPI).

Tax (and Code Section)	Tax Rates
Regular firearms and ammunition (sec. 4181)⁷²	
Pistols and revolvers	10 percent of price
Other firearms ⁷³	11 percent of price
Shells and cartridges	11 percent of price

Overview of Federal Aid to Wildlife Restoration Fund provisions

In general.—The Federal Aid to Wildlife Restoration Act of September 2, 1937, commonly referred to as the “Pittman-Robertson Act,”⁷⁴ became effective on July 1, 1938. As subsequently amended by the 1952 “Dingell-Johnson” Act and other legislation, the program provides dedicated funds for Federal aid to States for management and restoration of fish and game wildlife (including acquisition and improvement of wildlife habitat), hunter education programs (including operation of target ranges), hunter safety programs, and development of fish and wildlife management plans.

Specific Federal Wildlife Restoration Fund expenditure purposes.—The Federal Aid to Wildlife Restoration Act authorizes appropriations from the Fund attributable to revenues from Federal excises on regular firearms (rifles, shotguns, pistols and revolvers), ammunition, and bows and arrows received during the prior fiscal year. These funds remain available until expended. Any State-apportioned amounts that are unspent or unobligated at the end of the following fiscal year may be used by the Secretary of the Interior to carry out the provisions of the Migratory Bird Conservation Act.

Amounts attributable to the excise tax on sporting firearms (rifles and shotguns) and ammunition are appropriated to the Secretary of the Interior and apportioned to States for paying up to 75 percent of the approved wildlife restoration projects (including acquisition and development of access facilities for public use) and hunter education programs.

Fifty percent of the monies transferred to the Fund from the excise taxes on pistols, revolvers, and bows and arrows is apportioned among the States based on population. Twenty-five percent of the monies is apportioned among the States based on geographic size, and the balance is apportioned based on the number of paid hunting license holders in each State. States may use such apportioned amounts to finance up to 75 percent of the costs of an approved plan or project (not to include law enforcement or public relation costs), *i.e.*, 25 percent must come from State and

⁷² Otherwise taxable firearms manufactured by persons that manufacture or import fewer than 50 such articles during a calendar year are exempt from tax. Sales to the U.S. Department of Defense also are exempt.

⁷³ “Other firearms” are firearms (other than pistols and revolvers) such as regular rifles and shotguns that are exempt from the “non-regular firearms” excise tax of sec. 5811 of the National Firearms Act. See, Part II.D.

⁷⁴ 16 U.S.C. 669-669j; 50 Stat. 917.

local government sources. States may use funds apportioned on the basis of population for up to 75 percent of the costs of hunter safety programs and the construction and operation of public target ranges.

Limited amounts of Trust Fund monies may be used to offset Federal administrative expenses. Limited monies also are available for aid to U.S. territories and possessions.

C. Excise Taxes Dedicated to Health-Related Trust Funds

1. Black Lung Disability Trust Fund Excise Taxes

Coal excise tax

To finance the Black Lung Disability Trust Fund, an excise tax is imposed on producers of coal mined in the United States.⁷⁵ The tax rate is \$1.10 per ton for coal from underground mines and 55 cents per ton for coal from surface mines. Both rates are limited to a maximum of 4.4 percent of the coal's selling price. The coal excise tax rates are scheduled to decline to 50 cents per ton for underground mines and 25 cents per ton for surface mines (both limited to two percent of the coal's selling price) on the earlier of January 1, 2019 or the first January 1 after which there is no balance of repayable advances from the General Fund that have been made to the Trust Fund and no unpaid interest on previous such advances.⁷⁶

The tax does not apply to lignite⁷⁷ or to coal mined in the United States that is to be exported.⁷⁸

Black lung benefit trusts and penalty excise taxes

Present law allows coal mine operators that are liable for paying black lung benefits to miners or their survivors to fund that liability through deductible contributions to a qualified tax-exempt trust.⁷⁹ To qualify, the trust must be established for the sole purpose of satisfying the operator's liability under Black Lung Acts, paying premiums for insurance exclusively covering such liability, and paying administrative expenses of the trust.

The Code imposes three "penalty excise taxes" to regulate potential misuse of monies in these trusts. Revenues from the penalty excise taxes are dedicated to the Black Lung Disability Trust Fund. Because raising revenue is not the primary purpose of these taxes, revenue raised by the penalty excise taxes historically has been relatively small. The following table summarizes these penalty excise taxes.

⁷⁵ Sec. 4121.

⁷⁶ Sec. 4121(e).

⁷⁷ Sec. 4121(c).

⁷⁸ See, *Ranger Fuel Corp. v. U.S.*, 33 F.Supp.2d 466 (E.D. Va., 1998).

⁷⁹ Sec. 501(c)(21).

Tax (and Code Section)	Tax Rates
Self-dealing (sec. 4951) ⁸⁰	<p><i>Initial tax.</i>—Ten percent of the amount of self-dealing on the self-dealer; 2.5 percent of such amount on the trustee</p> <p><i>Additional tax.</i>—If not corrected, additional tax of 100 percent of amount involved on the self-dealer; 50 percent of such amount on the trustee</p>
Taxable expenditures (sec. 4952) ⁸¹	<p><i>Initial tax.</i>—Ten percent of taxable expenditure on the fund; 2.5 percent of such amount on the trustee</p> <p><i>Additional tax.</i>—If not corrected, additional tax of 100 percent of amount of expenditure on the fund; 50 percent of such amount on the trustee</p>
Excess contributions to benefit trust (sec. 4953) ⁸²	Five percent of excess contribution on the contributor

Overview of Black Lung Disability Trust Fund expenditure provisions

In general.—Operation of the Black Lung Disability Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁸³ The Code provisions govern deposit of revenues into the Trust Fund and approve general expenditure programs. The authorizing statutes specify expenditure programs.

Black Lung Disability Trust Fund expenditure purposes.—Amounts in the Trust Fund are available, as provided in appropriation Acts, for the following purposes:

⁸⁰ Self-dealing is defined as sale, leasing, etc. of real or personal property, lending of money or other extension of credit, furnishing of goods, services or facilities, and payment of compensation between a benefit trust and a disqualified person. A disqualified person is a contributor to the benefit trust, a trustee, or an owner of more than ten percent of the combined voting power of a corporation, the profits interest of a partnership, or the beneficial interest of a trust or unincorporated entity that is a contributor to the benefit trust. Officers, directors, and employees of contributors to the benefit trust and spouses, family members, and certain related corporations and trusts also are disqualified persons.

⁸¹ A taxable expenditure is any expenditure other than for a purpose described in sec. 501(c)(21).

⁸² An “excess contribution” is any amount greater than the amount deductible under sec. 192, defined as (1) amounts necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims of the employer’s past and present employees or (2) amounts necessary to provide a trust balance equal to the amounts payable for the taxable year.

⁸³ Sec. 9501 and 30 U.S.C. sec. 901 et. seq.

1. Payment of benefits under section 422 of the Black Lung Benefits Act in cases where the Secretary of Labor determines that (a) the coal mine operator liable for the payment of such benefits has not commenced payment of benefits within 30 days after the date of an initial determination of eligibility or has not made a payment within 30 days after the payment is due, or (b) there is no operator who is liable for payment of such benefits;
2. Payment of obligations incurred by the Secretary of Labor for claims of miners or their survivors where the miner's last coal mine employment was before January 1, 1970;
3. Repayment to the General Fund of amounts paid by the Secretary of Labor for claims under part C of the Black Lung Benefits Act that were attributable to eligibility between January 1, 1974 and March 31, 1978;
4. Repayment of advances (and interest on advances) to the General Fund;
5. Payment of administrative expenses incurred on or after March 1, 1978, by the Department of Labor or Department of Health and Human Services under Part C of the Black Lung Benefits Act (other than sections 427(a) or 433), or by the Treasury Department in administering the excise tax and the Trust Fund;
6. Reimbursement of operators for amounts paid (other than for penalties or interest) before April 1, 1978, in satisfaction of claims of miners whose last employment in coal mines was terminated before January 1, 1970; and
7. Reimbursement of operators and insurers for amounts paid (other than for penalties, interest, or attorney's fees) for any claim denied before March 1, 1978, and which is or has been approved under section 435 of the Black Lung Benefits Act.

2. Vaccine Injury Compensation Trust Fund Excise Taxes

In general

A 75-cents-per-dose⁸⁴ excise tax⁸⁵ is imposed on the sale or use by a manufacturer or importer of listed vaccines to finance the Vaccine Injury Compensation Trust Fund program. The tax is imposed on sale or use by private parties and governmental entities, including the Federal, State, and local governments. The tax further is imposed within the 50 States, the District of Columbia, and all U.S. possessions.

The following table lists the currently taxable vaccines.

⁸⁴ Vaccines comprised of more than one taxable component vaccine are taxed as if the components were separate doses.

⁸⁵ Sec. 4131.

Taxable Vaccines:
Any vaccine containing diphtheria toxoid
Any vaccine containing tetanus toxoid
Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens
Any vaccine against measles, mumps, or rubella
Any vaccine containing polio virus
Any vaccine against hepatitis A, hepatitis B, chicken pox, or rotavirus gastroenteritis
Any conjugate vaccine against streptococcus pneumoniae
Any trivalent vaccine against influenza or any other vaccine against seasonal influenza
Any meningococcal vaccine
Any vaccine against the human papillomavirus
Any HIB vaccine

Overview of Vaccine Injury Compensation Trust Fund provisions

Operation of the Vaccine Injury Compensation Trust Fund is governed by parallel provisions of the Code and authorizing statutes.⁸⁶ The Code provisions govern deposit of net revenues⁸⁷ into the Trust Fund and approve general expenditure programs. The authorizing statutes specify expenditure purposes.

Amounts in the Vaccine Injury Compensation Trust Fund are available, as provided in appropriations Acts, for the following:

1. Payment of compensation under subtitle 2 of Title XXI of the Public Health Service Act (as in effect on October 18, 2000) for vaccine-related injury or death with respect to any vaccine which is (a) administered after September 30, 1988, and (b) a taxable vaccine (defined in sec. 4132(a)(1)) at the time compensation is paid; and
2. Payment of expenses of administration (not to exceed \$9.5 million for any fiscal year) incurred by the Federal Government in administering subtitle 2.

⁸⁶ Sec. 9510 and 42 U.S.C. sec. 300aa.

⁸⁷ See, Part III., below.

Liability of the United States relating to vaccine injury compensation is limited to the amount in the Vaccine Injury Compensation Trust Fund, and any claim filed against the Trust Fund may be paid only out of the Fund.

3. Patient-Centered Outcomes Research Trust Fund Excise Taxes

The Patient Protection and Affordable Care Act (“PPACA”)⁸⁸ established the Patient-Centered Outcomes Research Institute, a nonprofit corporation (not part of the Federal Government) to support research, evidence synthesis, and dissemination of research findings with respect to “the manner in which diseases, disorders, and other health conditions can effectively and appropriately be prevented, diagnosed, treated, monitored and managed.”⁸⁹

The Patient-Centered Outcomes Research Institute is funded through the Patient-Centered Outcomes Research Trust Fund (the “PCORI Fund”).⁹⁰ The PCORI Fund receives net revenues from excise taxes (referred to statutorily as “fees”) imposed on health insurance policies and self-insured health plans⁹¹ and specified General Fund appropriations. These excise taxes are effective for policy years ending after September 30, 2012, and before October 1, 2019.

For fiscal year 2015, the tax rate for “specified health insurance policies” is \$2.08. For “applicable self-insured plans,” the tax rate for fiscal year 2015 is \$2.08. In both cases, the tax is determined by applying the applicable rate to the average number of lives covered under the policy or plan. Both tax rates are indexed to reflect annual increases in the per capita amount of national health expenditures.

The taxes are imposed on the issuers of specified health insurance policies or plan sponsors of applicable self-insured health plans, including governmental entities (other than Medicare, Medicaid, the State Children’s Health Insurance Program (“SCHIP”), and Federal programs for providing medical care (other than through insurance policies) to members of the Armed Forces, veterans, or members of Indian tribes). The taxes further are imposed both within the 50 States and the District of Columbia and in all U.S. possessions.

⁸⁸ Pub. L. No. 111-148. For purposes of this document, PPACA and the Healthcare and Education Reconciliation Act of 2010 (“HCERA”), Pub. L. No. 111-152, are referred to collectively as the “Affordable Care Act” or “ACA.”

⁸⁹ Sec. 6301(b) of PPACA.

⁹⁰ Sec. 9511.

⁹¹ Secs. 4375-4377. Under the Expatriate Health Coverage Clarification Act of 2014, Pub. L. No. 113-235, Division M, these fees do not apply an expatriate health plan, as defined in section 3(d)(2) of such Act; and see Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 113th Congress* (JCS-1-15), March 2015, pages 42-58.

A “specified health insurance policy” is an accident or health insurance policy (including a policy under a group health plan) that is issued with respect to individuals residing in the United States (including possessions).⁹²

An applicable self-insured health plan is any plan providing accident or health coverage if any portion of the coverage is provided other than through an insurance policy and such plan is established or maintained by (1) one or more employers for the benefit of current or former employees, (2) one or more employee organizations for the benefit of current or former members, (3) jointly by one or more employers and one or more employee organizations, (4) a voluntary employees’ beneficiary association (“VEBA”),⁹³ (5) a tax-exempt business league, chamber of commerce, real-estate board, board of trade or professional football league,⁹⁴ or (6) if not included in a previous category, a multiple employer welfare arrangement (“MEWA”) or rural electric or telephone cooperative.⁹⁵ The plan sponsor of an applicable self-insured health plan is (1) in the case of a plan established or maintained by a single employer, the employer, (2) in the case of a plan established or maintained by an employee organization, the employee organization, and (3) in the case of other plans, the association, committee, joint board of trustees, or similar group establishing or maintaining the plan.

4. Annual Fee on Branded Prescription Pharmaceutical Manufacturers and Importers

An annual fee is imposed on certain manufacturers and importers of branded prescription drugs for sale to any specified government program or pursuant to coverage under any such program. Fees collected are credited to the Medicare Part B Trust Fund.

The aggregate annual fee imposed on all covered manufacturers and importers is \$3 billion for calendar years 2015 and 2016, \$4 billion for calendar year 2017, \$4.1 billion for calendar year 2018, and \$2.8 billion for calendar year 2019 and thereafter. The aggregate fee is apportioned among the covered manufacturers and importers each year based on their relative share of branded prescription drug sales taken into account during the preceding calendar year. Because of data availability lags, the Treasury Department bases the annual fee on sales in the second calendar year preceding the fee year plus a retroactive adjustment to the preceding calendar year’s fee to reflect actual sales results.⁹⁶

⁹² A specified health insurance policy does not include a policy substantially all of the benefits of which are excepted benefits under Code sec. 9832(c). Examples of excepted benefits are coverage for only accident or disability insurance, or any combination thereof, liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, coverage for on-site medical clinics, limited scope dental or vision benefits, benefits for long-term care, nursing home care, community-based care, coverage for only a specified disease or illness, hospital indemnity or other fixed indemnity insurance, and Medicare supplemental coverage.

⁹³ A VEBA generally is exempt from income tax under section 501(c)(9).

⁹⁴ Sec. 501(c)(6).

⁹⁵ These entities are defined in section 3(40) of the Employee Retirement Income Security Act of 1974.

⁹⁶ See, 26 CFR 51.5.

The term “branded prescription drug” includes any drug which is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act and for which an application was submitted under section 505(b) of such Act. Branded prescription drug sales do not include sales of any drug or biological product with respect to which an orphan drug tax credit was allowed for any taxable year under Code section 45C (the “orphan drug tax credit”). The exception for orphan drug sales does not apply to any drug or biological product after such drug or biological product is approved by the Food and Drug Administration for marketing for any indication other than the rare disease or condition with respect to which the orphan drug tax credit was allowed.

Specified government programs include: (1) the Medicare Part D program under part D of title XVIII of the Social Security Act; (2) the Medicare Part B program under part B of title XVIII of the Social Security Act; (3) the Medicaid program under title XIX of the Social Security Act; (4) any program under which branded prescription drugs are procured by the Department of Veterans Affairs; (5) any program under which branded prescription drugs are procured by the Department of Defense; or (6) the TRICARE retail pharmacy program under section 1074g of title 10, United States Code.

For purposes of procedure and administration under the rules of Subtitle F of the Code, the fee under this provision is treated as an excise tax with respect to which only civil actions for refund under Subtitle F apply. As with other excise taxes, the Treasury Department may re-determine the amount of a covered entity’s fee for any calendar year for which the statute of limitations remains open.

For purposes of section 275, relating to the nondeductibility of specified taxes, the fee is considered to be a nondeductible tax described in section 275(a)(6).

II. GENERAL FUND EXCISE TAXES

A. Principal General Fund Excise Taxes

1. Distilled Spirits, Wine and Beer Excise Taxes

In general

Federal excise taxes on alcohol were first imposed by the Distilled Spirits Tax Act of 1791, but the origin of most of the present excise taxes on distilled spirits, wine, and beer dates from the 1860s when they were enacted to fund the costs of the Civil War. Under present law, taxes are imposed at different rates on distilled spirits, wine, and beer and are imposed on these products when produced or imported. Generally, these excise taxes are administered and enforced by the TTB, except the taxes on imported bottled distilled spirits, wine, and beer are collected by the Customs and Border Protection Bureau (the “CBP”) of the Department of Homeland Security (under delegation by the Secretary of the Treasury). The following table outlines the present rates of tax on distilled spirits, wine, and beer.

Tax (and Code Section)	Tax Rates
Distilled spirits (sec. 5001)	\$13.50 per proof gallon ⁹⁷
Wines (sec. 5041)	
“Still wines” ⁹⁸ not more than 14 percent alcohol	\$1.07 per wine gallon ⁹⁹
“Still wines” more than 14 percent, but not more than 21 percent, alcohol	\$1.57 per wine gallon
“Still wines” more than 21 percent, but not more than 24 percent, alcohol	\$3.15 per wine gallon
“Still wines” more than 24 percent alcohol	\$13.50 per proof gallon (taxed as distilled spirits)
Champagne and other sparkling wines	\$3.40 per wine gallon
Artificially carbonated wines	\$3.30 per wine gallon

⁹⁷ A proof gallon is a U.S. liquid gallon consisting of 50 percent alcohol.

⁹⁸ A “still wine” is a non-carbonated wine. Most common table wines are still wines.

⁹⁹ A wine gallon is a U.S. liquid gallon.

Tax (and Code Section)	Tax Rates
Hard apple cider ¹⁰⁰	\$0.226 per wine gallon
Beer (sec. 5051)	\$18 per barrel (31 gallons) generally

Liability for the excise tax on distilled spirits comes into existence when the alcohol is produced but is not determined and payable until bottled distilled spirits are removed from the bonded premises of the distilled spirits plant where they are produced. Liability for the excise taxes on wine and beer also come into existence when the alcohol is produced but is not payable until the wine or beer is removed from the bonded wine cellar or winery or brewery for consumption or sale. Generally, bulk distilled spirits and bulk and bottled wine may be transferred in bond between bonded premises and beer may be transferred between commonly owned breweries without payment of tax; however, tax liability follows these products. Imported bulk distilled spirits, bulk natural wine, and bulk beer may be released from customs custody without payment of tax and transferred in bond to a distillery, winery, or brewery. Distilled spirits, wine, and beer may be exported without payment of tax and these products may be withdrawn without payment of tax or free of tax from the production facility for certain authorized uses, including industrial uses and non-beverage uses.

A portion of the revenues from the distilled spirits excise tax imposed on rum imported or brought into¹⁰¹ the United States (less certain administrative costs) is transferred (“covered over”) to Puerto Rico and the U.S. Virgin Islands.¹⁰² The amount covered over is \$10.50 per proof gallon (\$13.25 per proof gallon during the period from July 1, 1999, through December 31, 2014).

Eligible distilled spirits wholesale distributors and distillers receive an income tax credit for the average cost of carrying previously imposed excise tax on beverages stored in their warehouses.¹⁰³

Reduced rates and exemptions for certain wine and beer producers

Domestic wineries having aggregate annual production not exceeding 250,000 gallons receive a credit against the wine excise tax equal to 90 cents per gallon (the amount of a wine tax increase enacted in 1990) on the first 100,000 gallons of wine removed during a calendar year.¹⁰⁴

¹⁰⁰ Hard apple cider is defined as apple cider (not containing any other fruit product) otherwise classified as a still wine, the alcohol content of which is at least one-half of one percent but less than seven percent by volume.

¹⁰¹ Because Puerto Rico is inside U.S. customs territory, articles entering the United States from that commonwealth are “brought into” rather than “imported into” the U.S.

¹⁰² Sec. 7652.

¹⁰³ Sec. 5011. Section 5011 is administered and enforced by the IRS.

¹⁰⁴ Sec. 5041(c).

The credit is reduced (but not below zero) by one percent for each 1,000 gallons produced in excess of 150,000 gallons. The credit does not apply to sparkling wines.

The credit rate is 5.6 cents per gallon for hard apple cider. Production of hard apple cider and other wines produced by a qualifying winery are aggregated in applying the per-winery volume limits of the credit.

Small domestic brewers are subject to a reduced tax rate of \$7 per barrel on the first 60,000 barrels of beer removed each year.¹⁰⁵ Small brewers are defined as brewers producing fewer than two million barrels of beer during a calendar year. The credit reduces the effective per-gallon tax rate from approximately 58 cents per gallon to approximately 22.6 cents per gallon for this beer.

Individuals may produce limited quantities of wine and beer for personal or family use without payment of tax during each calendar year. The limits for each beverage are 200 gallons per calendar year for households of two or more adults and 100 gallons per calendar year for single-adult households.

2. Tobacco Excise Taxes

In general

Excise taxes are imposed on tobacco products and cigarette papers and tubes that are manufactured in or imported into the United States. "Tobacco products" means cigars, cigarettes, smokeless tobacco (snuff and chewing tobacco), pipe tobacco, and "roll your own" tobacco. Processed tobacco is regulated under the Code but no excise tax is imposed on it. Tax liability comes into existence when the domestic tobacco products are manufactured and is determined and payable when the tobacco products or cigarette papers and tubes are removed in packages from the bonded premises of the manufacturer. Manufacturers and export warehouse proprietors are subject to an annual special (occupational) tax.

These excise taxes are administered and enforced by the TTB. The taxes on imported tobacco products and cigarette papers and tubes are collected by the CBP, under a delegation from the Secretary of the Treasury, except where such imported products are transferred in bond to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes or export warehouse proprietor.

¹⁰⁵ Sec. 5051(a)(2).

Tax (and Code Section)	Tax Rates
Tobacco products (sec. 5701)	
“Small cigarettes” (weighing three pounds or less per thousand)	\$50.33 per thousand ¹⁰⁶
“Large cigarettes” (weighing more than three pounds per thousand)	\$105.69 per thousand ¹⁰⁷
“Small cigars” (weighing three pounds or less per thousand)	\$50.33 per thousand
“Large cigars” (weighing more than three pounds per thousand)	52.75 percent of manufacturer’s sales price, but not more than 40.26 cents per cigar ¹⁰⁸
Snuff	\$1.51 per pound (proportionate rate on fractional parts of a pound)
Chewing tobacco	50.33 cents per pound (proportionate rate on fractional parts of a pound)
Pipe tobacco	\$2.8311 per pound (proportionate rate on fractional parts of a pound)
“Roll-your-own” tobacco	\$24.78 per pound (proportionate rate on fractional parts of a pound)
Cigarette papers ¹⁰⁹	3.15 cents for each 50 papers (or fractional part thereof)
Cigarette tubes	6.30 cents for each 50 tubes (or fractional part thereof)

¹⁰⁶ The tax rate equals \$1.0066 per pack of 20 cigarettes.

¹⁰⁷ Large cigarettes more than 6.5 inches long are taxed as small cigarettes, counting each 2.75 inches in length (or fraction) as one cigarette.

¹⁰⁸ The price of large cigars on which tax is based is inclusive of any charge for putting the cigar into a condition ready for sale, and is exclusive of (1) Federal excise tax and (2) separately stated retail sales taxes imposed by any State or local government (regardless of whether the vendor or purchaser is liable for the tax).

¹⁰⁹ Cigarette papers measuring more than 6.5 inches in length are taxed at the rate prescribed, counting each 2.75 inches (or fraction thereof) as one cigarette paper. An identical rule applies to cigarette tubes more than 6.5 inches in length.

Tax (and Code Section)	Tax Rates
Manufacturers and export warehouse proprietors occupational tax (sec. 5731)	\$1,000 per taxable year, per premise (\$500 per year, per premise for businesses having gross receipts of less than \$500,000 in the preceding taxable year) ¹¹⁰

3. Communications Excise Tax

Local telephone service, teletypewriter service, and prepaid telephone cards (that are expressly for local-only service) are subject to a three-percent excise tax.¹¹¹ The taxes on local telephone service and teletypewriter service are imposed on the amount billed to consumers. The consumer is liable for the tax, with service providers being responsible for collecting and remitting tax to the Government. The tax on prepaid telephone cards is based on the face amount of the card and is imposed when the cards are transferred from a telecommunications carrier to any person who is not such a carrier.

Statutorily, the tax applies to “toll,” or long distance, telephone service as well. However, toll service is defined in the Code as service for which charges vary based on *both* distance and elapsed time. Present long distance service typically does not vary based on both of these elements; therefore, tax is not imposed on such service. After July 31, 2006, collectors stopped collecting and paying over the tax on long distance service. The IRS allowed taxpayers to claim a one-time income tax credit for past excise tax collected on non-taxable long distance service that was billed after February 28, 2003, and before August 1, 2006, on their 2006 Federal income tax returns.¹¹²

4. Gas Guzzler Excise Tax

Automobiles with a fuel efficiency rating of less than 22.5 miles per gallon (“mpg”) are subject to an excise tax ranging from \$1,000 to \$7,700.¹¹³ The tax is imposed on manufacturers and importers. Taxable automobiles include four-wheeled highway vehicles rated at 6,000 pounds unloaded gross vehicle weight or less. The following table outlines the rates imposed on vehicles at different fuel efficiency levels.

¹¹⁰ The taxable year is July 1 through June 30.

¹¹¹ Sec. 4251.

¹¹² Notice 2006-50, 2006 I.R.B. 25, and Notice 2007-11, 2007 I.R.B. 261, revoking Notice 2005-79, 2005-46 I.R.B. 952, and acquiescing in *Am Bankers Ins. Group. V. United States*, 408 F.3d 1328 (11th Cir. 2005); *OfficeMax, Inc. v. United States*, 428 F. 3d 583 (6th Cir. 2005); *Nat’l. R.R. Passenger Corp. v. United States*, 431 F. 3d 374 (D.C. Cir. 2005); *Fortis v. United States*, 447 F. 3d 190 (2d Cir. 2006); and, *Reese Bros. v. United States*, 447 F. 3d 229 (3d Cir. 2006).

¹¹³ Sec. 4064.

Fuel Economy Rating (in mpg)	Tax per Vehicle
At least 22.5	No tax
At least 21.5, but less than 22.5	\$1,000
At least 20.5 but less than 21.5	\$1,300
At least 19.5 but less than 20.5	\$1,700
At least 18.5 but less than 19.5	\$2,100
At least 17.5 but less than 18.5	\$2,600
At least 16.5 but less than 17.5	\$3,000
At least 15.5 but less than 16.5	\$3,700
At least 14.5 but less than 15.5	\$4,500
At least 13.5 but less than 14.5	\$5,400
At least 12.5 but less than 13.5	\$6,400
Less than 12.5	\$7,700

Fuel economy ratings are determined by the EPA based upon the average number of miles traveled by the automobile per gallon of gasoline.

Exemptions are provided for automobiles classified as non-passenger vehicles under rules prescribed by the Department of Transportation for purposes of section 501 of the Motor Vehicles Information and Cost Savings Act (as in effect on November 9, 1978), emergency vehicles used as ambulances or ambulance/hearses, police and law-enforcement vehicles, and other emergency-use vehicles specified in Treasury Department regulations. The Treasury Department further has excluded certain sports utility vehicles (and trucks) from the term “automobile” as defined for purposes of the tax.

5. Water Transportation Passenger Excise Tax

A \$3 per passenger retail excise tax is imposed on “covered voyages” on commercial vessels.¹¹⁴ The ship operator is liable for payment of the tax. A covered voyage is defined generally as any voyage during which passengers embark or disembark the vessel in the United States, and (1) which extends for one or more nights on a passenger vessel having berth or stateroom accommodations for more than 16 passengers, or (2) on which passengers may engage in gambling aboard the vessel while beyond the territorial waters of the United States (*i.e.*, more than three nautical miles from shore). The tax does not apply to voyages on any vessel owned or operated by the United States or a State or any agency or political subdivision, nor does it apply to a voyage of fewer than 12 hours between two U.S. ports.

¹¹⁴ Sec. 4471.

6. Ozone-Depleting Chemicals Excise Tax

Chemicals

A manufacturers and importers excise tax is imposed on listed ozone-depleting chemicals sold or used in the United States.¹¹⁵ The tax rate per pound of listed chemicals is determined as the product of a base tax amount and each chemical's statutorily prescribed "ozone depleting factor." The base tax amount is \$14.35 for calendar year 2015; this amount increases by \$0.45 each year. The following table outlines the chemicals subject to tax, their statutorily prescribed ozone-depleting factors, and the 2015 tax applicable to those chemicals.

Chemicals	Ozone-Depleting Factor	2015 Tax per Pound
CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-114, and CFC-211 through CFC-217	1.0	\$14.35
CFC-113	0.8	\$11.48
CFC-115	0.6	\$8.61
Halon-1211	3.0	\$43.05
Halon-1301	10.0	\$143.50
Halon-2402	6.0	\$86.10
Carbon tetrachloride	1.1	\$15.785
Methyl chloroform	0.1	\$1.435

Ozone-depleting chemicals that are diverted or recovered in the United States as part of a recycling process (and not as part of an original manufacturing or production process) and certain exported chemicals are exempt from tax. Chemicals used as propellants in metered-dose inhalers are exempt from tax.

Imported taxable products

Imported products manufactured or produced using taxable ozone-depleting chemicals as materials are subject to tax at a rate that would have been imposed on the ozone-depleting chemicals had those chemicals used been sold in the United States. If an importer does not furnish adequate information to the Treasury Department to determine a tax rate for a product, the assumed rate is one percent of the value of the imported product.

¹¹⁵ Sec. 4681.

B. Foreign Procurement Excise Tax

Foreign persons are subject to an excise tax of two percent on any specified procurement payment.¹¹⁶ A specified procurement payment is a payment made by the United States government or its agents, pursuant to a contract under which the United States purchases goods or services from a source in a country that is not party to an international government procurement agreement (“GPA”) with the United States. Goods are from such a source if produced or manufactured in the non-member agreement country. Payments for services are subject to the tax if the services are provided in a country that is not a party to such an agreement with the United States. If the origin of the goods or services is in a country that is not a member of a GPA, payments made to a foreign parent located in a country that is a member of a GPA are subject to the excise tax.

The excise tax is imposed on the gross amount of the payment under contracts entered into on or after January 2, 2011.¹¹⁷ The tax is treated as an income tax solely for purposes of subtitle F of the Code, permitting assessment and collection of the amounts in a manner similar to the withholding taxes under chapter 3 of the Code.

¹¹⁶ Sec. 5000C.

¹¹⁷ The provision was enacted as section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Pub. L. No. 111-347.

C. General Fund Excise Taxes Related to Health Care¹¹⁸

1. Excise Tax on Indoor Tanning Services

A retail excise tax is imposed on indoor tanning services (including services paid for by insurance).¹¹⁹ The tax rate is ten percent of the amount paid for such services. Consumers are liable for the tax, with service providers being responsible for collecting and remitting the tax to the Federal Government.¹²⁰

Indoor tanning services are services employing any electronic product designed to induce skin tanning and which incorporate one or more ultraviolet lamps with wavelengths in air between 200 and 400 nanometers. Taxable services do not include phototherapy service performed by a licensed medical professional.

2. Excise Tax on Certain Medical Devices

A 2.3-percent excise tax is imposed on the sale of medical devices by manufacturers or importers. “Medical device” is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act.¹²¹ Section 201(h) defines “device” as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory which is (1) recognized in the official National Formulary or the United States Pharmacopeia, or any supplement to them, (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

The tax does not apply to eyeglasses, contact lenses, hearing aids, or to other medical devices specified by the Treasury Department as generally for sale in retail establishments or over the Internet to individuals for their personal use. Examples of such items are pregnancy test kits, diabetes testing supplies, denture adhesives, and certain bandages and tipped applicators.

The tax applies to sales to State or local governments, nonprofit organizations, and qualified blood collectors as well as to sales to private parties.

¹¹⁸ For purposes of this document, Pub. L. No. 111-148 (2010), the “Patient Protection and Affordable Care Act” (“PPACA”) and Pub. L. No. 111-152 (2010), the “Healthcare and Education Reconciliation Act of 2010” (“HCERA”) are collectively referred to as the “Affordable Care Act” (“ACA”).

¹¹⁹ Sec. 5000B.

¹²⁰ This structure is like that of the communications excise tax on local telephone service and the domestic air passenger excise tax.

¹²¹ Sec. 4191(b)(1); 21 U.S.C. sec. 321.

3. Annual Fee on Health Insurance Providers

An annual fee is imposed on entities engaged in the business of providing health insurance with respect to United States health risks (“covered entities”).¹²² The fee is imposed with respect to net premiums written after December 31, 2012, for such risks. The aggregate annual fee for all such entities is \$11.3 billion for each of calendar years 2015 and 2016, \$13.9 billion for calendar year 2017, and \$14.3 billion for calendar year 2018. After 2018, the \$14.3 billion aggregate annual fee is indexed to the rate of premium growth.

The aggregate annual fee is apportioned among covered entities based on a ratio designed to reflect their respective market shares of U.S. health insurance business. For each covered entity, the fee for a calendar year is an amount that bears the same ratio to the aggregate annual fee as (1) the covered entity’s net written premiums during the preceding calendar year for U.S. health risks bears to (2) the aggregate net written premiums of all covered entities for such risks.

Net written premiums includes reinsurance premiums written, reduced by reinsurance ceded, and reduced by ceding commissions. The term does not include amounts arising under arrangements that are not treated as insurance (*i.e.*, in the absence of sufficient risk shifting and risk distribution for the arrangement to constitute insurance).¹²³

The amount of net written premiums that are taken into account for purposes of determining a covered entity’s market share is subject to dollar thresholds. Net premiums written during a calendar year that are not more than \$25 million are not taken into account. Fifty percent of such premiums that exceed \$25 million but are not more than \$50 million are taken into account, and one hundred percent of such premiums in excess of \$50 million are taken into account.¹²⁴

Subject to certain exceptions, the term “covered entity” includes insurance companies subject to tax under Part I or II of Subchapter L of the Code, organizations exempt from tax under section 501(a), foreign insurers that provide health insurance for U.S. risks, and insurers that provide health insurance with respect to U.S. health risks under Medicare Advantage, Medicare Part D, or Medicaid.¹²⁵

¹²² Section 9010 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by section 10905, is further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

¹²³ See, *Helvering v. Le Gierse*, 312 U.S. 531 (1941).

¹²⁴ A further special rule excludes (in addition to the exclusions above), 50 percent of net premiums written that are attributable to exempt activities of a health insurance organization exempt from Federal income tax by reason of being described in sec. 501(c)(3) (generally, a public charity), sec. 501(c)(4) (generally, a social welfare organization), sec. 501(c)(26) (generally, a high-risk health insurance pool), or sec. 501(c)(29) (a consumer operated and oriented plan (“CO-OP”) health insurance issuer).

¹²⁵ A covered entity does not include an employer to the extent that the employer self-insures health risks of its employees. Governmental entities, or entities that (1) qualify as nonprofit under applicable State law, (2) meet the private inurement and limitation on lobbying provision of sec. 501(c)(3), and (3) receive more than 80 percent of their

A United States health risk is the health risk of an individual who is a U.S. citizen, is a U.S. resident within the meaning of Code section 7701(b)(1)(A) (whether or not located in the United States), or is located in the U.S., with respect to the period the individual is located here.

Health insurance does not include:

1. Coverage only for accident or disability income, or a combination thereof;
2. Coverage only for a specified disease or illness;
3. Hospital indemnity or other fixed indemnity insurance; or
4. Long-term care insurance or any Medicare supplemental health insurance (as defined in section 1882(g) (1) of the Social Security Act.

Special rules apply to the treatment of expatriate health insurance issuers with respect to coverage of a qualified expatriate enrolled in an expatriate health plan.¹²⁶

For purposes of the Code rules on procedure and administration, the fee is treated as an excise tax with respect to which only civil actions for refund apply. Further, the fee is considered to be a nondeductible tax described in section 275(a)(6).

4. Excise Tax on Individuals without Minimum Essential Coverage

Most United States citizens and persons lawfully present in the U.S. are required to maintain a minimum level of health insurance coverage (“minimum essential coverage”). Individuals who fail to maintain this coverage may be subject to an excise tax, referred to statutorily as a penalty.¹²⁷ Minimum essential coverage includes government-sponsored programs such as Medicare, eligible employer-sponsored plans, plans in the individual health insurance market, grandfathered health plans, and other coverage recognized by the Departments of Treasury and Health and Human Services.

The excise tax equals the lesser of (1) the sum of the monthly amounts (described below) for months during a taxable year when an individual is not covered under minimum essential

gross revenue from government programs targeting low-income, elderly, or disabled populations (e.g., Medicare, Medicaid, the State Children’s Health Insurance Plan (“SCHIP”), and dual-eligible plans) also are exempt. Further, organizations that qualify as a VEBA under sec. 501(c)(9) established by an entity other than the employer (e.g., a union) to provide health benefits are exempt (other than MEWAs).

¹²⁶ See the Expatriate Health Coverage Clarification Act of 2014, Pub. L. No. 113-235, Division M, and see Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 113th Congress* (JCS-1-15), March 2015, pages 42-58.

¹²⁷ Sec. 5000A. An individual is liable for the tax with respect to a dependent who does not have coverage and is jointly liable for the tax with respect to a spouse with whom the individual files a joint income tax return.

coverage, or (2) the national average premium for coverage under a “bronze level” qualified health plan offered through an American Health Benefit Exchange (an “Exchange”).¹²⁸

The monthly tax amount is one-twelfth of the greater of (1) a flat dollar amount or (2) a percentage (two percent for 2015, and 2.5 percent for all subsequent years) of the excess of the individual’s household income for the taxable year over his or her income tax return filing threshold for the year.¹²⁹ The flat dollar amount is the lesser of (1) the sum of the applicable dollar amounts for all household individuals who do not have minimum essential coverage, or (2) 300 percent of the applicable dollar amount.¹³⁰ The applicable dollar amount is \$325 for 2015 and \$695 for 2016. After 2016, the \$695 amount is indexed for cost-of-living increases after 2015.

Exceptions to the requirement that an individual have minimum essential coverage are provided for the following:

1. An individual for whom coverage is unaffordable because the required contribution exceeds 8.05 percent (for 2015)¹³¹ of household income;¹³²
2. An individual with household income below the income tax filing threshold;
3. A member of an Indian tribe;
4. A member of certain recognized religious sects or a health sharing ministry;
5. An individual with a coverage gap for a continuous period of less than three months; and
6. An individual who is determined by the Secretary of Health and Human Services to have suffered a hardship with respect to the capability to obtain coverage.¹³³

¹²⁸ Provisions relating to exchanges, qualified health plans, and the levels of coverage (such as bronze level) under such plans are contained in sections 1301-1343 of PPACA.

¹²⁹ See, sec. 6012(a)(1) for income tax return filing thresholds.

¹³⁰ For individuals under age 18, the applicable dollar amount is 50 percent of the otherwise applicable amount (except for purposes of determining the 300-percent limit on such amount referred to above).

¹³¹ The applicable percentage is adjusted annually to reflect the excess of the rate of premium growth over the rate of income growth after 2013.

¹³² In the case of an individual eligible for coverage under an employer-sponsored plan, the required contribution is the individual’s share of the annual premium under the plan. In the case of an individual eligible only able to purchase coverage in the individual market, the required contribution is the annual premium for the lowest cost bronze plan available in the Exchange, reduced by the maximum amount of any premium assistance credit under sec. 36B allowable to the individual for the taxable year, determined as if the individual were covered by a qualified health plan for the entire year.

¹³³ In addition, certain U.S. citizens or residents whose tax home is in a foreign country (sec. 911(d)(1)(A) or (B)) and bona fide residents of a U.S. possession (sec. 937(a)) are deemed to have minimum essential coverage.

The excise tax is assessed in the same manner as an assessable penalty.¹³⁴ However, IRS authority to use certain collection methods is limited. Specifically, the filing of notices of liens and levies otherwise authorized for collection of taxes does not apply to collection of this tax. IRS authority to offset refunds or credits is not limited by this provision.

5. Excise Tax on Large Employers Not Offering Health Coverage

An applicable large employer that fails to offer its full-time employees (and their dependents) minimum essential coverage may be subject to an excise tax, referred to statutorily as an “assessable payment.”¹³⁵ An applicable large employer generally is defined as an employer having an average of at least 50 full-time employees during the preceding calendar year. In determining whether an employer has at least 50 full-time employees, the employer must include the number of its full-time equivalent employees for a month, determined by dividing the aggregate hours of service of non-full-time employees for the month by 120.¹³⁶

The excise tax is imposed monthly. An applicable large employer is subject to the tax for a month if (1) it does not offer minimum essential coverage to its full-time employees (and dependents) or it offers minimum essential coverage that is unaffordable or does not provide minimum value,¹³⁷ and (2) any full-time employee is certified to the employer as receiving for the month a premium assistance credit for health insurance purchased on an Exchange or reduced cost-sharing for the employee’s share of expenses covered by such health insurance.¹³⁸ Thus an employer is not subject to the tax unless at least one full-time employee receives a premium assistance credit or reduced cost sharing.

¹³⁴ See, secs. 6671-6725.

¹³⁵ Sec. 4980H. Notice 2013-45, 2013-31 I.R.B. 116, Part III, Q&A-2 provided that no assessable payments would be imposed under section 4980H for 2014. In addition, no assessable payments for 2015 will apply to applicable large employers that have fewer than 100 full-time employees (taking into account full-time equivalent employees) and meet certain other requirements. See, sec. XV.D.6. of the preamble to the final regulations under sec. 4980H, 79 Fed. Reg. 8544, 8574-8575, February 12, 2014.

¹³⁶ Members of the same controlled group, group under common control, and affiliated service group are treated as a single employer. See, sec. 414(b), (c), (m), and (o).

¹³⁷ Coverage is considered unaffordable for this purpose if the coverage has an employee-paid premium that is more than 9.56 percent (for 2015) of the employee’s household income. This percentage is indexed annually to reflect the excess of the rate of premium growth for the preceding calendar year. Coverage fails to provide minimum value if the plan’s share of the total allowed cost of provided benefits is less than 60 percent of such costs.

¹³⁸ Premium assistance credits for health insurance purchased on an Exchange are provided under section 36B. Reduced cost-sharing for an individual’s share of expenses covered by such health insurance is provided under section 1402 of PPACA. An individual who is eligible for minimum essential coverage under an employer-sponsored plan is not eligible for the premium assistance credit or reduced cost-sharing unless the employer-sponsored coverage is unaffordable or does not offer minimum value. For further information on these provisions, see Part II.B-D of the Joint Committee on Taxation, *Present Law and Background Relating to the Tax-Related Provisions in the Affordable Care Act* (JCX-6-13), March 4, 2013, which can be found on the Joint Committee on Taxation website at www.jct.gov.

Assessable payment for not offering coverage.—The assessable payment for not offering minimum essential coverage is equal to the total number of full-time employees of the employer in excess of 30 during the applicable month (regardless of how many employees receive premium assistance credits or cost-sharing reductions) multiplied by one-twelfth of \$2,000.¹³⁹ The \$2,000 amount is increased annually by the percentage by which the average per capita premium for health insurance coverage in the United States for the preceding calendar year exceeds the average per capita premium for calendar year 2013.

Assessable payment if coverage is unaffordable or lacks minimum value.—The assessable payment for offering coverage that is not affordable or does not provide minimum value is equal to one-twelfth of \$3,000 for each full-time employee who receives a premium assistance credit or reduced cost-sharing. However, the assessable payment in this case is limited to the amount that would apply if the employer did not offer coverage. The \$3,000 amount is increased annually in the same manner as the \$2,000 dollar amount, described above.

6. Excise Tax on High-Cost Employer-Sponsored Health Coverage

Effective in 2018, an excise tax will be imposed on the aggregate cost of employer-sponsored health coverage for an employee that exceeds a threshold amount.¹⁴⁰ The tax equals 40 percent of the aggregate cost of the coverage in excess of the threshold amount. The excise tax is determined on a monthly basis, by reference to the monthly aggregate cost of employer-sponsored coverage for the month and one-twelfth of the annual threshold amount. The excise tax is not deductible.¹⁴¹

The threshold amount for 2018 is \$10,200 for self-only coverage and \$27,500 for family coverage, both multiplied by a “health cost adjustment percentage” and increased by an “age and gender adjustment,” if applicable.¹⁴² The health cost adjustment percentage equals 100 percent plus the excess, if any, of (1) the percentage by which the per employee cost of coverage (self-only or family, as applicable) under the Blue Cross/Blue Shield standard benefit option of the Federal Employees Health Benefits plan (“standard FEHBP coverage”) for plan year 2018 exceeds the per

¹³⁹ Only one 30-employee threshold is allowed when multiple employers are aggregated and treated as a single employer, *e.g.*, for a controlled group.

¹⁴⁰ Sec. 4980I. The excise tax also is imposed if the threshold amount is exceeded for any former employee, surviving spouse, or any other primary insured individual. Under the Expatriate Health Coverage Clarification Act of 2014 (Pub. L. No. 113-235, Division M), the excise tax does not apply to coverage under an expatriate health plan, except with respect to employer-sponsored coverage of a qualified expatriate described in section 3(d)(3)(A)(i) of such Act who is assigned (rather than transferred) to work in the U.S. See also Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 113th Congress* (JCS-1-15), March 2015, pages 42-58.

¹⁴¹ See, sec. 275(a)(6).

¹⁴² In general, the family dollar amount applies to employees enrolled in multiemployer plans regardless of whether the employees maintain family or self-only coverage. In addition, higher dollar amounts apply to certain retirees, to plans primarily covering employees engaged in high-risk professions, and to plans for persons engaged in repair or installation of electrical or telecommunications lines.

employee costs of that plan for 2010, over (2) 55 percent.¹⁴³ The threshold amounts will be indexed to the CPI-U plus one percentage point in 2019 and to the CPI-U thereafter.

In general, the age and gender adjustment equals the excess, if any, of (1) the premium cost of standard FEHBP coverage for the type of coverage provided to the individual if priced for age and gender characteristics of the employer's workforce, over (2) the premium cost for that coverage priced for age and gender characteristics of the national workforce. The age and gender adjustment is determined annually after the adjustments to the threshold amount applicable for the year.

In determining the amount by which the cost of employer-sponsored coverage for an employee exceeds the threshold amount, the aggregate cost of all employer-sponsored coverage of the employee is taken into account.¹⁴⁴ Cost is determined separately for self-only coverage and family coverage. Special valuation rules apply to retiree coverage, certain health FSAs, and contributions to HSAs and Archer MSAs.

The excise tax is imposed on the provider of the employer-sponsored coverage ("coverage provider"). In the case of insured coverage (*i.e.*, coverage under a policy, certificate, or contract issued by an insurance company), the health insurance issuer is liable for the tax. In the case of self-insured coverage, the person that administers the plan benefits generally is liable. In the case of employer contributions to an HSA or an Archer MSA, the employer is liable.

In the case of multiple providers, the excise tax is allocated pro-rata among the coverage providers. The employer generally is responsible for calculating the amount of excess benefit allocable to each coverage provider and for notifying each coverage provider (and the IRS) of the provider's allocable share. In the case of employer-sponsored coverage under a multiemployer plan, the plan sponsor is responsible for the calculation and notification. Each coverage provider is then liable for its share of the excise tax.¹⁴⁵

¹⁴³ The health cost adjustment percentage is designed to account for possible increases in the cost of U.S. health care in excess of projected growth for the period 2010 through 2017.

¹⁴⁴ The cost of employer-sponsored coverage generally is determined under rules similar to the rules for determining the applicable premium under COBRA (section 4980B(f)(4)) except any portion of the cost of coverage attributable to the excise tax is not taken into account.

¹⁴⁵ The employer or multiemployer plan sponsor may be liable for a penalty if the total excise tax due exceeds the tax on the excess benefit calculated and allocated amount coverage providers.

D. Miscellaneous Regulatory Excise Taxes

In addition to the excise taxes imposed to raise revenues for trust fund programs and for the General Fund, the Code includes numerous excise taxes imposed primarily to regulate activities or products (*e.g.*, wagering and “non-regular” firearms) or to promote adherence to other tax policies (*e.g.*, penalty taxes on specified activities with respect to private foundations, retirement plans, and health insurance coverage).

With certain exceptions, most of these regulatory excise taxes raise less than \$50 million per year. For example, in fiscal years 2015-2025, the excise tax on domestic private foundation net investment income (sec. 4940) is projected to raise \$7.9 billion. Similarly, the excise tax on insurance policies issued by foreign insurers (casualty insurance and indemnity bonds life insurance, sickness and accident policies, and annuity contracts; reinsurance) (sec. 4371) is projected to raise approximately \$4.7 billion during this same period.

The following table provides an overview of these excise taxes.

Tax (and Code Section)	Tax Rates
1. “Non-Regular” Firearms¹⁴⁶	
a. Occupational taxes (sec. 5801) ¹⁴⁷	
Manufacturers and importers	\$1,000 per year, per premise (\$500 for businesses with gross receipts of less than \$500,000 in the preceding taxable year)
Dealers	\$500 per year (or fraction thereof), per premise
b. Transfer taxes for certain weapons (sec. 5811)	\$200 per transfer; \$5 for certain concealable weapons (defined in sec 5845(e))
c. Making tax (sec. 5821)	\$200 per firearm

¹⁴⁶ The taxes on non-regular firearms are administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice. The chapter of the Code imposing these excise taxes is named the “National Firearms Act”. The term “non-regular” firearm includes machine guns, destructive devices (*e.g.*, explosive devices such as bombs, grenades, small rockets, and mines), shotguns with barrels of less than 18 inches, rifles with barrels of less than 16 inches, silencers, and certain concealable weapons.

¹⁴⁷ July 1 – June 30 is the taxable year for the occupational taxes. There also are Federal licensing fees for manufacturers, importers, and dealers in destructive devices or ammunition for such devices. See, 18 U.S.C. sec. 923.

Tax (and Code Section)	Tax Rates
<p>2. Wagering Excise Taxes</p> <p>a. Certain wagers (sec. 4401)¹⁴⁸</p> <p>b. Occupational taxes (sec. 4411)</p>	<p>Two percent of amount of wager, except tax is 0.25 percent in States where wagering is authorized by State law</p> <p>\$500 per year on person engaged or employed in business of accepting wagers, except that the tax is \$50 per year in States where wagering is authorized by State law¹⁴⁹,</p>
<p>3. Excise Tax on Domestic Private Foundation Net Investment Income (sec. 4940)</p>	<p><i>Tax-exempt foundations.</i>—Two percent of net investment income in general (one percent where foundation meets certain distribution requirements)</p> <p><i>Taxable foundations.</i>—Excess of section 4940 excise tax that would be imposed if foundation were tax-exempt plus unrelated business tax that would have been imposed over regular income tax imposed on the foundation</p>
<p>4. Excise Tax on Foreign Private Foundation Net Investment Income (sec. 4948)</p>	<p>Four percent of gross investment income from sources within the United States</p>
<p>5. Excise Tax on Insurance Policies Issued by Foreign Insurers (sec. 4371)¹⁵⁰</p> <p>a. Casualty insurance and indemnity bonds</p>	<p>Four cents per dollar, or fractional part, of premium paid</p>

¹⁴⁸ The tax is imposed on any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers, any wager placed in a wagering pool with respect to a sports event or contest (if such pool is conducted for profit), and certain lottery-type wagers (including numbers games and similar types of wagering). No tax is imposed on pari-mutuel wagering licensed under State law, coin-operated wagers, State-conducted lotteries, games where wagers are placed and winners are determined and prizes are distributed with all persons placing wagers present, or drawings by tax-exempt organizations where no part of the proceeds inures to the benefit of any private shareholder or individual. The person accepting the wager is liable for the tax.

¹⁴⁹ The taxable year is July 1 – June 30.

¹⁵⁰ The tax does not apply to insurance on exports. See, *U.S. v. International Business Machines*, 517 U.S. 843 (1996).

Tax (and Code Section)	Tax Rates
<ul style="list-style-type: none"> b. Life insurance, sickness and accident policies, and annuity contracts c. Reinsurance 	<p>One cent per dollar, or fractional part, of premium paid</p> <p>One cent per dollar, or fractional part, of premium paid on reinsurance of policies subject to tax under a. or b.</p>
<p>6. Excise Tax on Lobbying Expenditures</p> <ul style="list-style-type: none"> a. Public charities making an election under sec. 501(h) (sec. 4911) b. Charitable organizations disqualified from tax-exempt status because of lobbying expenditures (sec. 4912) 	<p>25 percent of excess lobbying expenditures</p> <p>Five percent of lobbying expenditures on the organization; five percent of lobbying expenditures on the organization manager in certain cases</p>
<p>7. Excise Taxes on Certain Private Foundation Activities</p> <ul style="list-style-type: none"> a. Self-dealing (sec. 4941) b. Failure to distribute income (sec. 4942) c. Excess business holdings (sec. 4943) 	<p><i>Initial tax.</i>—Ten percent of the amount of self-dealing on the self-dealer; five percent on the foundation manager in certain cases (up to \$20,000 including any additional tax)</p> <p><i>Additional tax.</i>—If not corrected within specified period, 200-percent tax on self-dealer, 50-percent tax on foundation manager in certain cases (up to \$20,000 including any additional tax)</p> <p><i>Initial tax.</i>—30-percent tax on foundation on amount of undistributed income remaining undistributed at beginning of succeeding taxable year</p> <p><i>Additional tax.</i>—If not corrected within specified period, tax of 100 percent of amount not distributed</p> <p><i>Initial tax.</i>—Ten percent tax on foundation on value of excess holdings</p> <p><i>Additional tax.</i>—If not corrected within specified period, tax of 200 percent of excess holdings</p>

Tax (and Code Section)	Tax Rates
<p>d. Investments jeopardizing charitable purpose (sec. 4944)</p> <p>e. Taxable expenditures (sec. 4945)</p>	<p><i>Initial tax.</i>—Ten-percent tax on foundation on amount of investment; ten-percent tax on foundation manager in certain cases (up to \$10,000)</p> <p><i>Additional tax.</i>—25-percent tax on foundation if not corrected within specified period; five-percent tax on foundation manager in certain cases (up to \$20,000)</p> <p><i>Initial tax.</i>—20 percent of amount of expenditure on foundation; five-percent tax on foundation manager in certain cases (up to \$10,000)</p> <p><i>Additional tax.</i>—If not corrected within specified period, tax of 100 percent of taxable expenditure on foundation; 50-percent tax on foundation manager in certain cases (up to \$20,000)</p>
<p>8. Excise Tax on Political Expenditures of Section 501(c)(3) Organizations (sec. 4955)</p>	<p><i>Initial tax.</i>—Ten percent of political expenditure on organization; 2.5-percent tax on organization manager in certain cases (up to \$5,000)</p> <p><i>Additional tax.</i>—If not corrected within specified period, tax of 100 percent of expenditure on organization, 50-percent tax on organization manager in certain cases (up to \$10,000)</p>

Tax (and Code Section)	Tax Rates
<p>9. Excise Tax on Excess Benefit Transactions of Certain Section 501(c)(3) and 501(c)(4) Organizations (sec. 4958)¹⁵¹</p>	<p><i>Initial tax.</i>—25 percent of amount of excess benefit on disqualified person who is the beneficiary of the transaction; 10-percent tax on the organization manager in certain cases (up to \$20,000)</p> <p><i>Additional tax.</i>—If not corrected within specified period, tax of 200 percent of excess benefit on the disqualified person</p>
<p>10. Excise Taxes Relating to Employee Pension and Benefit Plans</p> <p>a. Failure to meet minimum funding standards (sec. 4971)</p> <p>b. Nondeductible contributions to qualified employer plan (sec. 4972)</p> <p>c. Excess contributions to IRA's, Archer MSA's, etc. (sec. 4973)</p> <p>d. Certain accumulations in IRA's, etc. (sec. 4974)</p> <p>e. Prohibited transactions (sec. 4975)</p> <p>f. Disqualified welfare benefits (sec. 4976)</p>	<p><i>Initial tax.</i>—For single-employer plan or a CSEC plan, 10 percent of unpaid required contributions on employer; for multiemployer plan, five percent accumulated funding deficiency on employer</p> <p><i>Additional tax.</i>—If not corrected within specified period, 100 percent of unpaid required contributions or accumulated funding deficiency on employer</p> <p>Ten percent of nondeductible contributions to plan on employer</p> <p>Six percent of excess contributions on account owner</p> <p>50 percent of amount by which minimum amount required to be distributed during year exceeds amount actually distributed on the payee</p> <p><i>Initial tax.</i>—15 percent of amount involved in prohibited transaction on disqualified person engaging in transaction</p> <p><i>Additional tax.</i>—If not corrected within specified period, 100 percent of amount involved on disqualified person</p> <p>100 percent of disqualified benefit amount on the employer</p>

¹⁵¹ Private foundations are not subject to the excise tax.

Tax (and Code Section)	Tax Rates
<ul style="list-style-type: none"> g. Excess fringe benefits provided by an employer (sec. 4977) h. Dispositions of sec. 1042 securities by ESOP's and worker-owned cooperatives (sec. 4978) i. Excess contributions under a cash or deferred arrangement (sec. 4979) j. Prohibited allocations of qualified securities by ESOP's and worker-owned cooperatives (sec. 4979A) k. Reversion of qualified plan assets to employer (sec. 4980) l. Failure to provide notice of benefit accrual reduction (sec. 4980F) 	<ul style="list-style-type: none"> 30 percent of excess benefits on employer electing aggregation of lines of business 10 percent of amount realized on disposition on employer or cooperative 10 percent of sum of excess contributions and any excess aggregate contributions under the plan for plan year on employer 50 percent of amount involved in prohibited allocation or ownership on employer, cooperative or S corporation 20 percent of amount of employer reversion on employer (generally); 50 percent if employer does not maintain a qualified replacement plan or provide certain pro-rata benefit increases \$100 per day per failure, up to specified maximum
<p>11. Excise Taxes on Real Estate Investment Trusts and Regulated Investment Companies</p> <ul style="list-style-type: none"> a. Real estate investment trusts (sec. 4981) b. Regulated investment companies (sec. 4982) 	<ul style="list-style-type: none"> Four percent of excess required distribution for calendar year over distributed amount Four percent of excess required distribution for calendar year over distributed amount
<p>12. Excise Tax on Issuers of "Registration-Required Obligations" Not in Registered Form (sec. 4701)</p>	<p>One percent of principal amount of obligation multiplied by number of years in obligation term</p>
<p>13. Excise Tax on "Golden Parachute" Payments (sec. 4999)</p>	<p>20 percent of excess parachute payment</p>
<p>14. Failure to Satisfy Social Security Act "Secondary Payor Requirements" (Nonconforming Group Health Plans) (sec. 5000)</p>	<p>25 percent of employer's or employee organization's expenses during calendar year</p>
<p>15. Excise Tax on "Greenmail"¹⁵² (sec. 5881)</p>	<p>50 percent of "greenmail"</p>

¹⁵² "Greenmail" is defined as any consideration transferred by a corporation to acquire its stock if (1) the stock has been held by the shareholder for fewer than two years, (2) the shareholder (or any related person or other

Tax (and Code Section)	Tax Rates
16. Excise Tax on Certain Tax-Exempt Entities Entering into Prohibited Tax Shelter Transactions (sec. 4965)	<p><i>Entity.</i> – In general, highest corporate rate multiplied by greater of entity’s net income for taxable year of prohibited transaction attributable to transaction or 75 percent of proceeds received for taxable year (for subsequently listed transactions, amount allocable to period beginning on date transaction identified or first day of taxable year)</p> <p>For certain “knowing transactions,” tax equals greater of 100 percent of income attributable to transaction or 75 percent of proceeds received from transaction</p> <p><i>Entity manager.</i> – \$20,000 for each approval (or other act causing participation)</p>
17. Excise Taxes on Certain Donor Advised Fund Activities	
<p>a. Taxable distributions (sec. 4966)</p>	<p>20 percent of taxable distribution on sponsoring organization; five percent of amount involved on fund manager in certain cases (up to \$10,000)</p>
<p>b. Prohibited benefits (sec. 4967)</p>	<p>125 percent of benefit on a person advising fund to make distribution or receiving benefit; 10 percent of benefit on fund manager in certain cases (up to \$10,000)</p>
18. Tax on Structured Settlement Factoring Transactions (sec. 5891)	<p>40 percent of factoring discount</p>
19. Tax on Failures by Hospital Organizations (sec. 4959)	<p>\$50,000 on hospital organization that fails to satisfy community health needs assessment requirement of sec. 501(c)(3) for taxable year</p>

person acting in concert) made or threatened to make a public tender offer for stock during this period, and (3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

Tax (and Code Section)	Tax Rates
20. Failure to Satisfy Health Plan Continuation (“COBRA”) Requirements (sec. 4980B)	\$100 per beneficiary for each day of “noncompliance period” (six months after last day coverage required, if earlier); tax imposed on employer (on plan in case of multi-employer plans); annual limit of \$500,000 or 10 percent of amount paid for group health plans (for medical care if multiemployer plan) for failures due to reasonable cause
21. Tax on Issuers of Qualified Long-term Care Insurance Contracts (sec. 4980C)	\$100 per insured per day for failure to satisfy consumer protection provisions of the long-term care insurance model act and model regulation of the National Association of Insurance Commissioners
22. Failure to Meet Certain Group Health Plan Requirements (sec. 4980D)	\$100 per individual to whom failure relates for each day of noncompliance period (subject to minimum and maximum amounts) for failure to satisfy Code Subtitle K, Chapter 100 group health plan requirements, including no preexisting conditions, no annual or lifetime benefit limits, coverage of children to age 26
23. Failure of Employer to Make Comparable Archer MSA or Health Savings Account (“HSA”) Contributions (sec. 4980E and 4980G)	35 percent of aggregate amount contributed to Archer MSA or HSA on employers that contribute to such plans (employers not required to contribute)

III. ESTIMATED FEDERAL TAX REVENUES FROM SELECTED EXCISE TAXES, FISCAL YEARS 2015-2025

This Part provides information on estimated revenues from various Federal excise taxes during Fiscal Years 2015 through 2025. Understanding this information requires an understanding of several provisions of Federal budget law, including various budget scorekeeping rules adhered to in compliance with that law.

Assumption that dedicated excise taxes are permanent

Federal budget law provides that excise taxes that are dedicated to trust funds are assumed to be permanent for budget scorekeeping purposes. This means that revenues from the trust fund excise taxes automatically are included each year in the Congressional Budget Office (“CBO”) and Office of Management and Budget (“OMB”) forecasts of Government receipts (the “revenue baseline”) as if there were no scheduled expirations. The CBO issues its annual baseline as part of its overall economic forecast each February; the forecast is used in developing the Congressional Budget Resolution.

As a result of their inclusion in the revenue baseline as permanent taxes, extensions (without modifications) of trust fund excise taxes are *not* scored as raising revenues when extensions are enacted *before their actual expiration and adoption of a new revenue baseline*. On the other hand, increases in those excise taxes are scored as raising revenue. Similarly, reductions in dedicated excise taxes (even as part of an extension of the underlying taxes) are scored as losing revenue because the excise taxes are included in the revenue baseline at their existing rates.

The information in the table, below, is presented consistent with these Federal budget law rules. Thus, revenues for all currently imposed trust fund fuels excise taxes are assumed to continue through the periods reflected, notwithstanding any earlier statutory scheduled expiration of the underlying excise taxes. For example, the highway excise taxes (other than 4.3 cents per gallon of the motor fuels rates) generally are scheduled to expire after September 30, 2016; however, the revenue table assumes imposition of these taxes (and their present structure) on a permanent basis.

Gross receipts versus net revenues

In general, the relevant provisions of the Code transfer “gross receipts” to Trust Funds financed with proceeds of dedicated excise taxes, rather than the “net revenues” to the Federal Government produced by those taxes.¹⁵³ Exceptions to this general rule provide for transfer of only net revenues from the relevant excise taxes to the Vaccine Injury Compensation Trust Fund and certain ACA trust funds. The concept of net revenues reflects budget scorekeeping conventions that reduce excise tax revenues by the amount that income and payroll tax receipts are

¹⁵³ See, Joint Committee on Taxation, *The Income and Payroll Tax Offset to Changes in Excise Tax Revenues* (JCX-59-11), December 23, 2011, and Joint Committee on Taxation, *New Income and Payroll Tax Offsets to Changes in Excise Tax Revenues for 2015-2025* (JCX-36-15), February 9, 2015.

expected to decrease as a result of monies being removed from the private economy for payment of excise taxes. Under this concept, net revenues equal approximately 75 percent of gross receipts.

The excise tax revenues shown in the following table reflect the projections in the CBO revenue baseline, *i.e.*, gross receipts, raised by the listed taxes. This amount does not reflect the income and payroll tax offsets, described above, which would result in official revenue estimates for changes to the taxes being less than the gross receipts produced by them.

ESTIMATED FEDERAL TAX REVENUES FROM SELECTED EXCISE TAXES

Fiscal Years 2015 - 2025

[Billions of Dollars]

Provision	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
A. Highway Trust Fund Excise Taxes											
<i>Major Highway Motor Fuels Excise Taxes:</i>											
1. Gasoline and gasoline blendstocks.....	24.3	24.2	24.1	23.8	23.5	23.1	22.7	22.2	21.6	21.0	20.3
2. Diesel fuel and kerosene.....	9.7	9.9	10.0	10.1	10.2	10.3	10.4	10.5	10.6	10.7	10.8
3. Other motor fuels.....	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.3
<i>Non-fuels taxes imposed on heavy highway vehicles:</i>											
1. Retail excise tax on highway tractors, heavy trucks, and trailers.....	3.8	4.0	4.2	4.4	4.6	4.7	4.9	5.0	5.1	5.3	5.5
2. Manufacturers excise tax on tires for heavy vehicles.....	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.6	0.6
3. Annual heavy vehicle use tax.....	1.0	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.2	1.3	1.3
<i>Refunds of Highway Trust Fund Excise Taxes.....</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.1</i>	<i>-1.0</i>	<i>-1.0</i>	<i>-1.0</i>	<i>-1.0</i>
Total of Highway Trust Fund Excise Taxes.....	38.3	38.7	38.9	39.0	39.0	38.9	38.8	38.6	38.3	38.1	37.8
B. Airport and Airway Trust Fund Excise Taxes											
1. Air ticket taxes.....	12.7	13.4	14.0	14.5	15.1	15.7	16.3	17.0	17.7	18.4	19.1
2. Air cargo (freight) transportation.....	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
3. Aviation fuels.....	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
Total of Airport and Airway Trust Fund Excise Taxes [1].....	13.8	14.4	15.0	15.6	16.2	16.8	17.4	18.1	18.8	19.5	20.2
C. Other Trust Fund Taxes											
1. Inland Waterways Trust Fund excise tax.....	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
2. Harbor Maintenance Trust Fund excise tax.....	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3	2.4	2.6
3. Leaking Underground Storage Tank ("LUST") Trust Fund excise tax.....	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.1
4. Oil Spill Liability Trust Fund excise tax.....	0.5	0.5	0.5	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6

Provision	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
5. Sport Fish Restoration and Boating Trust Fund excise taxes.....	0.6	0.6	0.6	0.6	0.6	0.5	0.5	0.5	0.5	0.5	0.5
6. Federal Aid to Wildlife Program excise taxes.....	0.8	0.7	0.6	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.8
7. Black Lung Disability Trust Fund Coal excise tax.....	0.6	0.6	0.6	0.6	0.3	0.3	0.3	0.3	0.3	0.3	0.3
8. Vaccine Injury Compensation Trust Fund excise tax [2].....	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
9. Annual fee on branded prescription pharmaceutical manufacturers and importers.....	3.0	3.0	4.0	4.1	2.8	2.8	2.8	2.8	2.8	2.8	2.8
D. Other Excise Taxes											
1. Alcoholic Beverage excise taxes.....	10.1	10.2	10.4	10.5	10.7	10.9	11.0	11.2	11.4	11.5	11.7
2. Tobacco excise taxes.....	14.1	13.9	13.7	13.4	13.2	13.0	12.7	12.5	12.2	12.0	11.7
3. Telephone excise tax.....	0.7	0.6	0.5	0.5	0.4	0.4	0.4	0.3	0.3	0.3	0.2
4. Excise tax on indoor tanning services.....	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
5. Excise tax on certain medical devices.....	2.3	2.5	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2
6. Annual fee on health insurance providers.....	10.6	11.0	13.3	13.9	14.6	15.4	16.3	17.3	18.3	18.9	19.5
E. Additional Excise Taxes Not Enumerated Above.....	0.7	1.0	1.4	2.0	3.5	3.5	3.8	4.2	4.7	5.2	5.2
Excise Taxes in March 2015 Baseline [3].....	98.0	100.0	104.6	106.8	108.1	109.5	111.5	113.5	115.6	117.4	118.8

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Source: Congressional Budget Office Baseline Receipts Projections, March 2015.

[1] This total may be overstated since it does not include projected fuel tax refunds.

[2] Net revenues from the tax are transferred to the Vaccine Injury Compensation Trust Fund. Generally, net revenues of the tax are approximately 75 percent of the gross revenues. The remaining 25 percent of the gross revenues remain in the General Fund.

[3] The Congressional Budget Office records Item C.2., Harbor Maintenance Trust Fund excise tax, as customs duties for budget purposes.

Therefore the Congressional Budget Office reports an	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
excise tax baseline net of these taxes equal to.....	96.5	98.3	102.9	105.0	106.2	107.6	109.4	111.3	113.3	115.0	116.2

APPENDIX: SCHEDULE OF PRESENT FEDERAL EXCISE TAX RATES¹⁵⁴

Tax (and Code Section)	Tax Rates
1. Highway Trust Fund Excise Taxes	
<i>Highway motor fuels excise taxes and credits</i>	
Taxable fuels: ¹⁵⁵	
a. Gasoline and gasoline blendstocks (sec. 4081)	18.3 cents per gallon
b. Diesel fuel and kerosene (secs. 4081 and 4041)	24.3 cents per gallon
c. Diesel-water fuel emulsion (sec. 4081)	19.7 cents per gallon
d. Alcohol fuels (sec. 4041 and 4081)	18.3 cents per gallon
e. Liquid fuel produced from coal (sec. 4041)	24.3 cents per gallon
f. Partially exempt ethanol produced from natural gas (sec. 4041(m))	11.3 cents per gallon
g. Partially exempt methanol fuel produced from natural gas (sec. 4041(m))	9.15 cents per gallon
h. B-100 (100% biodiesel) and renewable diesel (sec. 4041)	24.3 cents per gallon
i. Biodiesel and renewable diesel fuel mixtures (sec. 4081)	24.3 cents per gallon
j. Compressed natural gas (“CNG”) (sec. 4041)	18.3 cents per gasoline gallon equivalent (“GGE”) (GGE = 126.67 c.f.)
k. Liquefied petroleum gas (“LPG”) (sec. 4041)	18.3 cents per gallon

¹⁵⁴ This table includes rates for most excise taxes described in Parts I and II, except for the taxes listed in the table contained in Part II.D (Miscellaneous Regulatory Excise Taxes). Tax rates are as in effect on January 1, 2015, except where noted. For more information on the excise taxes listed in the table and the meaning of defined terms, see Parts I and II, above.

¹⁵⁵ As described in Parts I.A. and I.B., with the exception of liquefied petroleum gas (propane), compressed natural gas (“CNG”), and liquefied natural gas (“LNG”), highway motor fuels are subject to an additional 0.1 cent-per-gallon tax to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund (through September 30, 2016). See, Part I.B.1., for a description of this excise tax and Trust Fund.

Tax (and Code Section)	Tax Rates
l. Liquefied natural gas (“LNG”) (sec. 4041)	24.3 cents per gallon
m. Liquid fuel derived from biomass (sec. 4041)	24.3 cents per gallon
n. “P Series” fuels (sec. 4041)	18.3 cents per gallon
o. Liquefied hydrogen fuel (sec. 4041)	18.3 cents per gallon
p. Qualified ethanol and methanol fuels produced from coal (sec. 4041)	18.3 cents per gallon
Tax credits: ¹⁵⁶	
a. Biodiesel and biodiesel fuel mixtures (secs. 40A, 6426, and 6427(e))	\$1.00 per gallon of biodiesel (B-100 eligible for nonrefundable income tax credit only)
b. Renewable diesel and renewable fuel mixtures (secs. 40A, 6426, 6427(e))	\$1.00 per gallon of renewable diesel (100% renewable diesel fuel eligible for nonrefundable income tax credit only)
c. Small agri-biodiesel producer credit (sec. 40A)	10 cents per gallon (nonrefundable income tax credit only)
d. Second generation biofuel producer credit (sec. 40)	\$1.01 per gallon (nonrefundable income tax credit only)
e. Alternative fuels and alternative fuel mixtures (LPG, “P Series” fuels, CNG, LNG, liquefied hydrogen, liquid fuel derived from coal, and liquid fuel derived from biomass) (sec. 6426, 6427(e))	50 cents per gallon (refundable excise tax credit only)

¹⁵⁶ These tax credits expired after December 31, 2014.

Tax (and Code Section)	Tax Rates
<p><i>Non-fuels taxes imposed on heavy highway vehicles:</i></p> <ul style="list-style-type: none"> a. Retail excise tax on highway tractors (over 19,500 lbs.), heavy trucks (over 33,000 lbs.), and trailers (over 26,000 lbs.) (sec. 4051) b. Manufacturers excise tax on tires for heavy vehicles (sec. 4071) c. Annual heavy vehicle use tax (sec. 4481) 	<p>12 percent of retail price</p> <p>9.45 cents for each 10 lbs. in excess of 3,500 lbs. of maximum rated load capacity (4.725 cents for biasply tires and super single tires)</p> <p>Under 55,000 lbs. – No tax 55,000-75,000 lbs. – \$100 plus \$22 per 1,000 lbs. over 55,000 lbs. Over 75,000 lbs. – \$550</p>
<p>2. Airport and Airway Trust Fund Excise Taxes</p> <ul style="list-style-type: none"> a. Domestic air passengers (sec. 4261) b. International air passengers (sec. 4261) c. Amounts paid for right to award free or reduced rate passenger air transportation (sec. 4261) d. Air cargo (freight) transportation (sec. 4271) e. Aviation fuels (sec. 4081): <ul style="list-style-type: none"> i. Commercial aviation ii. Non-commercial (general) aviation: Aviation gasoline Jet fuel 	<p>7.5 percent of fare, plus \$4.00 per domestic flight segment generally (indexed annually)</p> <p>\$17.70 per arrival or departure (indexed annually)</p> <p>7.5 percent of amount paid</p> <p>6.25 percent of amount charged for domestic transportation; no tax on international cargo transportation</p> <p>4.3 cents per gallon</p> <p>19.3 cents per gallon 21.8 cents per gallon</p>
<p>3. Inland Waterways Trust Fund Excise Tax</p> <p>Diesel fuel and other liquid fuels used by commercial cargo vessels on specified inland and intra-coastal waterways (sec. 4041)</p>	<p>20 cents per gallon (29 cents per gallon after March 15, 2015)</p>

Tax (and Code Section)	Tax Rates
4. Harbor Maintenance Trust Fund Excise Tax (sec. 4461)	0.125 percent of value of commercial cargo loaded or unloaded at taxable U.S. ports and of charges made for transportation of passengers traveling to or from such ports
5. Leaking Underground Storage Tank (“LUST”) Trust Fund Excise Tax Fuels of a type subject to other excise taxes (e.g., gasoline, diesel fuel, kerosene, and inland waterways fuels, without regard to exemptions from the other excise taxes) (secs. 4041, 4042, and 4081)	0.1 cent per gallon (LNG, CNG, and LPG exempt); methanol and ethanol fuels produced from coal subject to 0.05-cent-per-gallon rate
6. Oil Spill Liability Trust Fund Excise Tax Crude oil received at a U.S. refinery or exported and imported refined petroleum products (sec. 4611(a))	Eight cents per barrel through December 31, 2016; nine cents per barrel in 2017
7. Sport Fish Restoration and Boating Trust Fund Excise Taxes a. Sport fishing equipment (sec. 4161)	<u>Articles subject to tax at 10 percent rate:</u> Fishing rods and poles (and component parts) ¹⁵⁷ Fishing reels Fly fishing lines, and other fishing lines not over 130 pounds test Fishing spears, spear guns, and spear tips Items of terminal tackle, including leaders, artificial lures, artificial baits, and artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels Fish stringers Creels Bags, baskets, or other containers designed to hold fish Portable bait containers Fishing vests

¹⁵⁷ Tax on fishing rods and poles is limited to a maximum of \$10.

Tax (and Code Section)	Tax Rates
<p>b. Gasoline and other motor fuels used in motorboats and certain small-engine equipment (secs. 4041 and 4081)</p>	<p>Landing nets Gaff hooks Fishing hook disgorgers Dressing for fishing lines and artificial flies Fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers <u>Articles subject to tax at 3 percent rate:</u> Tackle boxes Electric outboard motors 18.3 cents per gallon or 24.3 cents per gallon (same as Highway Trust Fund tax rate applicable to such fuel)</p>
<p>8. Federal Aid to Wildlife Program Excise Taxes</p> <p>a. Bows and arrows (sec. 4161)</p> <p>i. Bows having a peak draw weight of 30 pounds or more</p> <p>ii. Archery equipment</p> <p>iii. Arrow shafts for use as part of an arrow (a) that measures at least 18 inches in length, or (b) if shorter, that is suitable for use with a taxable bow</p> <p>b. Regular firearms and ammunition (sec. 4181)</p> <p>i. Pistols and revolvers</p> <p>ii. Other regular firearms¹⁵⁸</p> <p>iii. Shells and cartridges</p>	<p>11 percent of price</p> <p>11 percent of price</p> <p>49 cents per shaft (indexed annually)</p> <p>10 percent of price</p> <p>11 percent of price</p> <p>11 percent of price</p>

¹⁵⁸ Other regular firearms are firearms (other than pistols and revolvers) like shotguns and rifles that are exempt from the non-regular firearms excise tax of sec. 5811 of the National Firearms Act.

Tax (and Code Section)	Tax Rates
<p>9. Black Lung Disability Trust Fund Excise Taxes</p> <p>a. Coal (sec. 4121)</p> <p>b. Black lung benefit trust penalty excises</p> <p> i. Self-dealing (sec. 4951)</p> <p> ii. Taxable expenditures (sec. 4952)</p> <p> iii. Excess contributions to benefit trust (sec. 4953)</p>	<p>\$1.10 per ton for coal from underground U.S. mines and 55 cents per ton for coal from U.S. surface mines; both rates subject to a maximum of 4.4 percent of the coal's selling price</p> <p><i>Initial tax.</i>—10 percent of the amount of self-dealing on the self-dealer; 2.5 percent of such amount on trustee</p> <p><i>Additional tax.</i>—If not corrected within specified time, additional tax of 100 percent of amount involved on self-dealer; 50 percent of such amount on trustee</p> <p><i>Initial tax.</i>—10 percent of taxable expenditure on fund; 2.5 percent of such amount on trustee</p> <p><i>Additional tax.</i>—If not corrected within specified time, additional tax of 100 percent of amount of expenditure on fund; 50 percent of such amount on trustee</p> <p>Five percent of excess contribution on the contributor</p>
<p>10. Vaccine Injury Compensation Trust Fund Excise Tax (sec. 4131)</p> <p><i>Taxable vaccines:</i></p> <p>Any vaccine containing diphtheria toxin</p> <p>Any vaccine containing tetanus toxin</p> <p>Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens</p> <p>Any vaccine against measles, mumps, or rubella</p>	<p>75 cents per dose of vaccine</p>

Tax (and Code Section)	Tax Rates
<p>Any vaccine containing polio virus</p> <p>Any vaccine against hepatitis A, hepatitis B, chicken pox, or rotavirus gastroenteritis</p> <p>Any conjugate vaccine against streptococcus pneumoniae</p> <p>Any trivalent vaccine against influenza or any other vaccine against seasonal influenza</p> <p>Any HIB vaccine</p> <p>Any meningococcal vaccine</p> <p>Any vaccine against the human papillomavirus</p>	
<p>11. Patient-Centered Outcomes Research Trust Fund Excise Taxes</p> <p>a. Insured and self-insured health plans (sec. 4375)</p> <p>b. Self-insured plans (sec. 4376)</p>	<p>\$2.08 per “specified health insurance policy” times the average number of lives covered under the policy in 2015 (indexed annually).</p> <p>\$2.08 per self-insured plan times the average number of lives covered under the plan in 2015 (indexed annually).</p>
<p>12. Annual fee on branded prescription pharmaceutical manufacturers and importers</p>	<p>Aggregate annual fee for all covered manufacturers and importers: \$3 billion for calendar years 2015 and 2016, \$4 billion for calendar year 2017, \$4.1 billion for calendar year 2018, and \$2.8 billion for calendar year 2019 and thereafter.</p>
<p>13. Alcoholic Beverage Excise Taxes</p> <p>a. Distilled spirits (sec. 5001)</p> <p>b. Wines (sec. 5041)</p> <p> i. “Still wines” not more than 14 percent alcohol</p> <p> ii. “Still wines” more than 14 percent, but not more than 21 percent, alcohol</p>	<p>\$13.50 per proof gallon</p> <p>\$1.07 per wine gallon</p> <p>\$1.57 per wine gallon</p>

Tax (and Code Section)	Tax Rates
<ul style="list-style-type: none"> iii. "Still wines" more than 21 percent, but not more than 24 percent, alcohol iv. "Still wines" more than 24 percent alcohol v. Champagne and other sparkling wines vi. Artificially carbonated wines vii. Hard apple cider c. Beer (sec. 5051) 	<ul style="list-style-type: none"> \$3.15 per wine gallon \$13.50 per proof gallon (taxed as distilled spirits) \$3.40 per wine gallon \$3.30 per wine gallon \$0.226 per wine gallon \$18 per barrel (31 gallons) generally
<p>14. Tobacco Excise Taxes</p> <ul style="list-style-type: none"> a. Tobacco products (sec. 5701) <ul style="list-style-type: none"> i. "Small cigarettes" (weighing three pounds or less per thousand) ii. "Large cigarettes" (weighing more than three pounds per thousand) iii. "Small cigars" (weighing three pounds or less per thousand) iv. "Large cigars" (weighing more than three pounds per thousand) v. Snuff vi. Chewing tobacco vii. Pipe tobacco viii. "Roll-your-own" tobacco ix. Cigarette papers x. Cigarette tubes 	<ul style="list-style-type: none"> \$50.33 per thousand (\$1.0066 per pack of 20 cigarettes) \$105.69 per thousand \$50.33 per thousand 52.75 percent of manufacturer's sales price, but not more than 40.26 cents per cigar \$1.51 per pound (proportionate rate on fractional parts of a pound) 50.33 cents per pound (proportionate rate on fractional parts of a pound) \$2.8311 per pound (proportionate rate on fractional parts of a pound) \$24.78 per pound (proportionate rate on fractional parts of a pound) 3.15 cents for each 50 papers (or fractional part thereof) 6.30 cents for each 50 tubes (or fractional part thereof)

Tax (and Code Section)	Tax Rates
b. Manufacturers and export warehouse proprietors occupational tax (sec. 5731)	\$1,000 per taxable year, per premise (\$500 per year, per premise for businesses having gross receipts of less than \$500,000 in the preceding taxable year)
15. Communications Excise Taxes (sec. 4251)	
a. Local telephone service and teletypewriter service	Three percent of amount billed
b. Prepaid telephone cards	Three percent of face amount
16. Gas Guzzler Excise Tax (sec. 4064) <i>Vehicle fuel economy rating (mpg's):</i>	
At least 22.5	No tax
At least 21.5, but less than 22.5	\$1,000
At least 20.5 but less than 21.5	\$1,300
At least 19.5 but less than 20.5	\$1,700
At least 18.5 but less than 19.5	\$2,100
At least 17.5 but less than 18.5	\$2,600
At least 16.5 but less than 17.5	\$3,000
At least 15.5 but less than 16.5	\$3,700
At least 14.5 but less than 15.5	\$4,500
At least 13.5 but less than 14.5	\$5,400
At least 12.5 but less than 13.5	\$6,400
Less than 12.5	\$7,700
17. Water Transportation Passenger Excise Tax (sec. 4471)	\$3.00 per passenger per “covered voyage”

Tax (and Code Section)	Tax Rates
<p>18. Ozone-Depleting Chemicals Excise Tax (sec. 4681)</p> <p><i>Taxable chemicals:</i></p> <p>CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-114, and CFC-211 through CFC-217</p> <p>CFC-113</p> <p>CFC-115</p> <p>Halon-1211</p> <p>Halon-1301</p> <p>Halon-2402</p> <p>Carbon tetrachloride</p> <p>Methyl chloroform</p>	<p><i>2015 Tax Rates¹⁵⁹</i></p> <p>\$14.35</p> <p>\$11.48</p> <p>\$8.61</p> <p>\$48.05</p> <p>\$143.50</p> <p>\$86.10</p> <p>\$15.785</p> <p>\$1.435</p>
<p>19. Foreign Procurement Excise Tax (sec. 5000C)</p> <p>Specified Federal procurement payments for goods or services from countries not party to an international procurement agreement with the U.S.</p>	<p>Two percent tax withheld from specified Federal procurement payments received under contracts entered into on or after January 2, 2011.</p>
<p>20. General Fund Excise Taxes Related to Health Care</p> <p>a. Indoor tanning services (sec. 5000B)</p> <p>b. Certain medical devices (sec. 4191)</p>	<p>Ten percent of amount paid</p> <p>2.3 percent of manufacturers' or importers' sales price</p>

¹⁵⁹ The tax rate applied to the statutorily prescribed ozone depleting factor increases by \$0.45 per year.

Tax (and Code Section)	Tax Rates
c. Annual fee on health insurance providers	Aggregate annual fee for all covered entities: \$11.3 billion for calendar years 2015 and 2016, \$13.9 billion for calendar year 2017, and \$14.3 billion for calendar year 2018. (For calendar years after 2018, the fee is the amount for the preceding calendar year indexed to the rate of premium growth.)
d. Individuals not securing minimum coverage (sec. 5000A)	<p>Calculated with respect to months when minimum coverage requirement not satisfied and collected annually in conjunction with income tax.</p> <p>In general, greater of (a) 2.5 percent (two percent in 2015) of amount household's income exceeds income tax filing threshold or (b) per-adult amount of \$325 (2015), and \$695 (2016) (annual indexing of \$695 amount thereafter); tax limited to 300 percent of per-adult amount or national average premium for "bronze level" plan offered by applicable Health Exchange.</p>
e. Large employers not offering affordable coverage to full-time employees and dependents (sec. 4980H)	<p>Determined monthly.</p> <p>Failure to offer coverage.—1/12th of \$2,000 (indexed annually) times number of full-time employees over 30 during month</p> <p>Coverage unaffordable or lacking minimum value.—1/12th of \$3,000 (indexed annually) for each employee enrolling in health insurance from an applicable exchange and receiving tax credits/cost-sharing payments on such insurance (limited to amount of tax for failure to offer coverage for month)</p>
f. High-cost employer-sponsored health coverage (sec. 4980I)	40 percent of aggregate value of coverage in excess of, generally, \$10,200 (self-only coverage) or \$27,500 (family coverage) times "health cost adjustment percentage," plus "age and gender adjustment" (effective after December 31, 2017)