

**DESCRIPTION OF S. 436
(THE "INTERCITY PASSENGER RAIL TRUST FUND ACT OF 1997")
AND OF PRESENT-LAW PROVISIONS
RELATING TO
FEDERAL EXCISE TAXES IMPOSED ON
TRANSPORTATION MOTOR FUELS**

Scheduled for a Public Hearing

Before the

SENATE COMMITTEE ON FINANCE

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INTRODUCTION

The Senate Committee on Finance has scheduled a public hearing on April 23, 1997, on S. 436 (the "Intercity Passenger Rail Trust Fund Act of 1997"). S. 436 (introduced by Senators Roth, Moynihan, Jeffords, and others) would establish a new Intercity Passenger Rail Trust Fund (the "Rail Trust Fund") in the Internal Revenue Code. The Rail Trust Fund would receive amounts equivalent to 0.5 cent per gallon of the excise taxes imposed on gasoline, diesel fuel, and special motor fuels (regardless of the transportation sector in which such fuels were used). Amounts in the Rail Trust Fund would be available for financing certain capital expenditures of the National Railroad Passenger Corporation ("Amtrak"), and for certain other specified transportation purposes by States in which Amtrak does not provide service.

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the present-law Federal excise taxes imposed on transportation motor fuels (Part I), background information on historical use of revenues from these taxes to finance Federal transportation Trust Fund and General Fund activities (Part II), and a description of the provisions of S. 436 (Part III).

¹ This document may be cited as follows: Joint Committee on Taxation, Description of S. 436 (the "Intercity Passenger Rail Trust Fund Act of 1997") and of Present-Law Provisions Relating to Federal Excise Taxes Imposed on Transportation Motor Fuels (JCX-12-97), April 21, 1997.

I. PRESENT-LAW FEDERAL EXCISE TAXES IMPOSED ON TRANSPORTATION MOTOR FUELS

Separate Federal excise taxes are imposed on specified transportation motor fuels. Taxable fuels include gasoline, diesel fuel, and special motor fuels used for highway transportation, gasoline and diesel fuel used in motorboats, diesel fuel used in trains, fuels used in inland waterway transportation, and aviation fuel (gasoline and jet fuel). Motor fuels used by all of these transportation sectors are subject to a permanent 4.3-cents-per-gallon excise tax, enacted by the Omnibus Budget Reconciliation Act of 1993. Revenues from the 4.3-cents-per-gallon excise tax are retained in the General Fund of the Treasury.

The aggregate tax rate varies for each transportation sector. For example, diesel fuel used in trains is subject to an aggregate General Fund tax rate of 5.55 cents per gallon. Transportation sectors that benefit from Federal public works and environmental programs also are subject to additional tax rates (beyond the 4.3-cents-per-gallon General Fund rate) to finance Federal Trust Funds established as a financing source for those programs. All motor fuels excise taxes other than the 4.3-cents-per-gallon General Fund excise tax are temporary (i.e., have scheduled expiration dates).

In addition to the taxes imposed on actual transportation motor fuels, excise taxes formerly were imposed on crude oil (and imported refined petroleum products) to finance the Hazardous Substance Superfund program (before January 1, 1996) and the Oil Spill Liability Trust Fund program (before January 1, 1995). A further excise tax on motor fuels, the Leaking Underground Storage Tank Trust Fund tax, expired after December 31, 1995.

Between 1956 and 1990, Federal motor fuels excise taxes generally were imposed only to finance Trust Fund programs. The Omnibus Budget Reconciliation Act of 1990 imposed a temporary (through September 30, 1995) General Fund motor fuels excise tax of 2.5 cents per gallon on highway and rail transportation.² Table 1, below, summarizes the present-law excise tax rates on transportation motor fuels, by Trust Fund and General Fund components.

² The 1990 Act also increased the Highway Trust Fund rate by 2.5 cents per gallon during the same period.

**Table 1. Present-Law Federal Motor Fuels Excise Tax Rates
on Various Transportation Sectors**
(rates shown in cents per gallon)

<u>Transportation Sector</u>	<u>Trust Fund</u>	<u>General Fund</u>	<u>Total Tax</u>
<u>Highway Transportation</u> ¹			
In general (trucks, automobiles)			
Gasoline	14.0	4.3	18.3
Diesel fuel	20.0	4.3	24.3
Special motor fuels ²	14.0	4.3	18.3
Private intercity bus			
Gasoline	no tax	no tax	no tax
Diesel fuel	3.0	4.3	7.3
<u>Rail Transportation</u>			
	no tax	5.55	5.55
<u>Water Transportation</u>			
Inland waterway			
Recreational boats	20.0	4.3	24.3
Gasoline			
Diesel fuel	14.0	4.3	18.3
	no tax	no tax ³	no tax
<u>Air Transportation</u>			
Commercial aviation			
	no tax ⁴	4.3	4.3
Noncommercial aviation			
Gasoline	15.0	4.3	19.3
Jet fuel	17.5	4.3	21.8

¹ Reduced highway motor fuels excise tax rates apply to mixtures of taxable fuels with ethanol and methanol produced from renewable sources (i.e., "gasohol") and to certain "neat" (at least 85 percent pure) methanol fuels produced from natural gas.

² Examples of special motor fuels are liquefied petroleum gas ("propane"), liquefied natural gas ("LNG"), other liquids used as a fuel in highway transportation, and compressed natural gas ("CNG"). CNG, a gaseous fuel rather than a liquid fuel, is subject only to a General Fund tax of 48.54 cents per thousand cubic feet.

³ A General Fund tax rate of 24.3 cents per gallon, enacted in 1993 to be effective through December 31, 1999, was suspended through December 31, 1997, by the Small Business Job Protection Tax Act of 1996.

⁴ Commercial aviation Trust Fund taxes consist of a 10-percent domestic passenger tax, a \$6 dollar international passenger departure tax, and a 6.25-percent domestic air cargo tax.

II. LEGISLATIVE BACKGROUND OF TRANSPORTATION MOTOR FUELS EXCISE TAXES

Use of motor fuels excise taxes for deficit reduction

Beginning with the establishment of the Highway Trust Fund in 1956 and extending through 1990, Federal excise taxes on transportation motor fuels generally were imposed exclusively for Trust Fund programs, and imposition of the taxes was limited to beneficiaries of the Trust Funds.⁵ In 1990, and again in 1993, transportation motor fuels tax rates were increased as a deficit reduction measure, with revenues from all or part of the increases being retained in the General Fund of the Treasury. Unlike the 1990 General Fund tax rate and the various Trust Fund rates, the 1993 4.3-cents-per-gallon rate is permanent and all of the revenues are retained in the General Fund.

1990 transportation motor fuels excise tax

The Omnibus Budget Reconciliation Act of 1990 (the "1990 Act") increased the existing highway motor fuels taxes by 5 cents per gallon. This tax also was imposed on diesel motor fuel used in trains at a reduced rate of 2.5 cents per gallon to reflect the General Fund portion of the increased highway fuels taxes. The excise taxes on noncommercial aviation fuel were increased by 25 percent by the 1990 Act as part of a general extension of and increase in Airport and Airway Trust Fund taxes. As enacted, these increases were temporary: the additional highway and rail taxes were scheduled to expire after September 30, 1995, and the additional noncommercial aviation fuel taxes were scheduled to expire after December 31, 1995 (when all other Airport and Airway Trust Fund taxes were scheduled to expire).

Highway transportation motor fuels tax revenues from this 1990 increase were divided equally between the Highway Trust Fund and the General Fund of the Treasury. Revenues from the noncommercial aviation fuels tax increase were retained in the General Fund for a two-year period, followed by three years in which revenues were deposited in the Airport and Airway Trust Fund. Revenues from the 2.5-cents-per-gallon excise tax on train diesel fuel were retained in the General Fund.

1993 transportation motor fuels excise tax and extension of 1990 taxes

A 4.3-cents-per-gallon General Fund transportation motor fuels excise tax was imposed as a deficit reduction measure by the Omnibus Budget Reconciliation Act of 1993 (the "1993 Act"). This excise tax was enacted as an alternative to a broad-based energy ("BTU") tax proposed by President Clinton. This transportation motor fuels tax applies to fuel used in all domestic

⁵ Excise taxes were imposed on motor fuels before 1956. During that period, revenues from the taxes were deposited in the General Fund, and Federal transportation programs were financed from the General Fund.

transportation: highway, aviation, rail, inland waterway shipping, and recreational boating. The tax is imposed on all fuels otherwise subject to excise tax (liquid fuels), plus compressed natural gas. Statutorily, the tax is imposed as an add-on to the other excise taxes. Thus, uses of motor fuels that are wholly exempt from other excise tax (e.g., State and local government and farm use) are exempt from this tax.

In addition to imposing the 4.3-cents-per-gallon transportation motor fuels excise tax, the 1993 Act extended the 5-cents-per-gallon excise tax imposed on highway transportation in 1990 and the 1990 tax on diesel fuel used in trains (at a reduced rate of 1.25 cents per gallon), both through September 30, 1999. The 1993 Act provided that all revenues from extension of this tax on highway motor fuels would be deposited in the Highway Trust Fund during the extension period (October 1, 1995-September 30, 1999). Revenues from the tax on diesel fuel used in trains continue to go to the General Fund as there is no Federal Trust Fund for rail capital programs.

Use of transportation motor fuels excise taxes for Federal Trust Fund financing

Highway Trust Fund

The Highway Trust Fund was established in 1956 to provide a financing source for the then-new Interstate Highway System and for continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the General Fund. Existing General Fund excise taxes on gasoline, diesel fuel, and special motor fuels were increased from 2 cents per gallon to 3 cents per gallon, through 1958, with the revenues being dedicated to the Highway Trust Fund. The Highway Trust Fund fuels tax rate was further increased to 4 cents per gallon in 1959. The fuels tax rates remained at that level until 1983 following enactment of the Surface Transportation Assistance Act of 1982, which increased these Highway Trust Fund tax rates to 9 cents per gallon.

Beginning in 1985, the diesel fuel excise tax rate (but not the gasoline excise tax rate) was increased by an additional 6 cents per gallon, to a total of 15 cents per gallon (all for the Highway Trust Fund). The 1985 increase was enacted as a revenue offset for a reduction in an annual use tax imposed on heavy trucks, the primary users of diesel fuel. No further increases in the highway motor fuels excise tax rates were enacted until 1990.

In 1982, the Highway Trust Fund was divided into two accounts, the Highway Account and the Mass Transit Account. Highway programs continue to be financed from the Highway Account. The Mass Transit Account, which currently is funded by 2 cents per gallon of the highway motor fuels excise tax revenues, finances Federal mass transit capital programs.

Inland Waterways Trust Fund

Federal excise taxes have been imposed on motor fuels used in vessels operating on a designated inland waterway system since 1980. The initial tax rate was 4 cents per gallon.

Following a series of scheduled, phased increases, the tax currently is imposed at a rate of 20 cents per gallon. Revenues from this permanent excise tax are dedicated to the Inland Waterways Trust Fund to finance construction and rehabilitation expenditures for navigation of 26 specified inland and intracoastal waterways.

Aquatic Resources Trust Fund and Land and Water Conservation Fund

Revenues from the gasoline excise tax imposed on motorboat use are dedicated to the Aquatic Resources Trust Fund (the "Aquatic Fund") and the Land and Water Conservation Fund. The Land and Water Conservation Fund receives \$1 million per year of these revenues. The balance of the revenues is allocated between a Boat Safety Account and a Sport Fish Account in the Aquatic Fund. The Boat Safety Account finances boat safety programs conducted by the U.S. Coast Guard; the Sport Fish Account funds Federal fish restoration grant programs.

A sub-account in the Sport Fish Account separately receives the portion of highway motor fuel taxes attributable to small engines (e.g., lawnmowers and snowblowers). Amounts in this sub-account are dedicated to coastal wetlands restoration programs.

Airport and Airway Trust Fund

Since establishment of the Airport and Airway Trust Fund in 1970, excise taxes on commercial and noncommercial aviation generally have been dedicated to financing of programs of that Trust Fund. The majority of the revenues for the Airport and Airway Trust Fund are produced by air passenger ticket and air cargo taxes imposed on commercial air travel. The noncommercial aviation sector's contribution to the Trust Fund takes the form of motor fuels excise taxes. From 1970 through 1980, both aviation gasoline and jet fuel were taxed at 7 cents per gallon. Following a period when rates were temporarily reduced (because of failure to extend scheduled expirations), the taxes were set at 14 cents per gallon (jet fuel) and 12 cents per gallon (gasoline) until enactment of the 1990 increase described above.

Leaking Underground Storage Tank Trust Fund

A 0.1-cent-per-gallon excise tax was imposed on all otherwise taxable transportation motor fuels (other than propane) from 1987 through December 31, 1995. Statutorily, this tax was structured as an add-on rate to the existing taxes. Revenues from the tax were dedicated to remediation of ground pollution from underground fuel storage tanks.

National Recreational Trails Trust Fund

Highway motor fuels excise tax revenues attributable to fuel consumed in recreational trail vehicles are dedicated, subject to appropriations, to the National Recreational Trails Trust Fund to finance Federal programs promoting recreational trail construction and maintenance. To date, no appropriations for this Trust Fund have been enacted.

III. DESCRIPTION OF S. 436 (THE "INTERCITY PASSENGER RAIL TRUST FUND ACT OF 1997")

Rail Trust Fund provisions

S. 436 would establish an Intercity Passenger Rail Trust Fund (the "Rail Trust Fund") in the Internal Revenue Code. The Rail Trust Fund would be financed with amounts equivalent to 0.5 cent per gallon of the excise taxes imposed on all gasoline, diesel fuel, and special motor fuels after September 30, 1997, and before October 1, 2002, without regard to the transportation sector in which the fuels ultimately were used (e.g., highway, waterway, aviation, or rail).³

Amounts deposited in the Rail Trust Fund would be divided between Amtrak and States not receiving Amtrak passenger rail service to finance obligations incurred after September 30, 1997, and before October 1, 2002. Although transfers to the Rail Trust Fund and authority to enter into new obligations would terminate after September 30, 2002, monies deposited in the Fund and obligated before October 1, 2002, would remain available after that date to satisfy outstanding obligations.

Each State not receiving Amtrak rail service would receive an allocation each fiscal year not exceeding one percent of the lesser of (1) Rail Trust Fund revenues for the year or (2) the aggregate amount appropriated from the Rail Trust Fund for the year. Allocations to these non-Amtrak States would be pro-rated on a monthly basis if Amtrak service was provided in the State during a portion of a fiscal year. Non-Amtrak States could use the amounts they received for capital improvements and maintenance expenditures related to intercity passenger rail and bus service provided within their respective jurisdictions and certified by the Department of Transportation as eligible. The balance of the Rail Trust Fund revenues would be available to Amtrak for financing capital improvements, including equipment, rolling stock, and maintenance facilities, as well as for maintenance of existing equipment. Allocations would be made before October 1 of each fiscal year based on projected revenues for the upcoming fiscal year.⁴

Rail Trust Fund expenditures would be classified as direct spending (i.e., not subject to appropriation) through contract authority under the Budget Enforcement Act of 1990.

³ In the case of taxable fuels used in highway transportation, the bill provides that the 0.5 cent per gallon will not include any amount that might otherwise be dedicated to the Highway Trust Fund. Thus, if the proposals that have been made to transfer revenues attributable to the 4.3-cents-per-gallon excise tax on highway motor fuels to the Highway Trust Fund were adopted, the Rail Trust Fund would receive no revenues from highway motor fuels under the bill, as introduced.

⁴ The bill does not include a mechanism to adjust for differences (shortfalls or surpluses) between projected and actual receipts.

Tax treatment of Rail Trust Fund expenditures

Amounts received from the Rail Trust Fund by Amtrak and other taxable entities would not be included in gross income when received. However, the basis of any property financed with the monies would be reduced by the tax-free amounts received, and no deduction would be allowed for any expenditures attributable to those amounts.

Effective date

The provisions of the bill would be effective on October 1, 1997, with respect to taxes imposed after September 30, 1997, and before October 1, 2002.