

**DESCRIPTION OF THE CHAIRMAN'S MARK OF
A PROPOSAL TO CONVERT THE TAX ON LIQUEFIED
NATURAL GAS AND LIQUEFIED PETROLEUM GAS
TO AN ENERGY EQUIVALENT BASIS**

Scheduled for Markup
by the
SENATE COMMITTEE ON FINANCE
on February 11, 2015

Prepared by the Staff
of the
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INTRODUCTION

The Senate Committee on Finance has scheduled a committee markup on February 11, 2015, of a proposal to convert the tax on liquefied natural gas and liquefied petroleum gas to an energy equivalent basis. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the proposal.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of a Proposal to Convert the Tax on Liquefied Petroleum Gas and Liquefied Natural Gas to an Energy Equivalent Basis* (JCX-32-15), February 9, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Equalization of Excise Tax on Liquefied Natural Gas and Liquefied Petroleum Gas

Present Law

The Code imposes an excise tax on gasoline, diesel fuel, kerosene, and certain alternative fuels at the following rates:²

Gasoline	18.3 cents per gallon
Diesel fuel and kerosene	24.3 cents per gallon ³
Alternative fuels	24.3 and 18.3 cents per gallon ⁴

The Code imposes tax on gasoline, diesel fuel, and kerosene upon removal from a refinery or on importation, unless the fuel is transferred in bulk by registered pipeline or barge to a registered terminal facility.⁵ The imposition of tax on alternative fuels generally occurs at retail when the fuel is sold to an owner, lessee or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat.

Liquefied natural gas ("LNG") and liquefied petroleum gas (also known as propane) are classified as alternative fuels. LNG is taxed at the same per gallon rate as diesel, 24.3 cents per gallon. According to the Oak Ridge National Laboratory, diesel fuel has an energy content of 128,700 Btu per gallon (lower heating value) and LNG has an energy content of 74,700 Btu per gallon (lower heating value). Therefore, a gallon of LNG produces approximately 58 percent of the energy produced by a gallon of diesel fuel.

Liquefied petroleum gas is taxed at the same per gallon rate as gasoline, 18.3 cents per gallon. According to the Oak Ridge National Laboratory, gasoline has an energy content of 115,400 Btu per gallon (lower heating value), and liquefied petroleum gas has an energy content

² These fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank ("LUST") Trust Fund (secs. 4041(d) and 4081(a)(2)(B)). That tax is imposed as an "add-on" to other existing taxes. Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

³ Diesel-water emulsions are taxed at 19.7 cents per gallon (sec. 4081(a)(2)(D)).

⁴ The rate of tax is 24.3 cents per gallon in the case of liquefied natural gas, any liquid fuel (other than ethanol or methanol) derived from coal, and liquid hydrocarbons derived from biomass. Other alternative fuels sold or used as motor fuel are generally taxed at 18.3 cents per gallon. "Alternative fuel" also includes compressed natural gas. The rate for compressed natural gas is 18.3 cents per energy equivalent of a gallon of gasoline. See sec. 4041(a)(2) and (3).

⁵ Sec. 4081(a)(1).

of 83,500 Btu per gallon (lower heating value).⁶ Therefore, a gallon of liquefied petroleum gas produces approximately 72 percent of the energy produced by a gallon of gasoline.

Description of Proposal

The proposal changes the tax rate of LNG to a rate based on its energy equivalent of a gallon of diesel (approximately 14.1 cents per gallon) and changes the tax rate of liquefied petroleum gas to a rate based on its energy equivalent of a gallon of gasoline (approximately 13.2 cents per gallon).

Specifically, the proposal provides that liquefied petroleum gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. For this purpose, "energy equivalent of a gallon of gasoline" means, with respect to liquefied petroleum gas, the amount of such fuel having a Btu (British Thermal Unit) content of 115,400 (lower heating value). LNG is taxed at 24.3 cents per energy equivalent of a gallon of diesel fuel. For this purpose, "energy equivalent of a gallon of diesel" means, with respect to a liquefied natural gas fuel, the amount of such fuel having a Btu content of 128,700 (lower heating value).

Effective Date

The proposal is effective for fuel sold or used in calendar quarters beginning more than 60 days after the date of enactment.

⁶ All Btu lower (or "net") heating values are taken from Appendix B of the Oak Ridge National Laboratories Data Transportation Energy Data Book (Edition 32), *Table B.4, Heat Content for Various Fuels* (2013) http://cta.ornl.gov/data/tedb32/Edition32_Appendix_B.pdf.

B. Revenue Estimate

Fiscal Years													
[Millions of Dollars]													
<u>Item</u>	<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>	<u>2015-20</u>	<u>2015-25</u>
Decrease the LNG tax rate to 14.1 cpg....	-1	-3	-3	-3	-3	-3	-3	-3	-4	-4	-4	-17	-35
Decrease the LPG tax rate to 13.2 cpg....	[1]	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-10	-19

NOTE: Details may not add to totals due to rounding.

[1] Loss of less than \$500,000.

C. Increase Continuous Levy Authority on Payments to Medicare Providers and Suppliers

Present Law

In general

Levy is the administrative authority of the IRS to seize a taxpayer's property, or rights to property, to pay the taxpayer's tax liability.⁷ Generally, the IRS is entitled to seize a taxpayer's property by levy if a Federal tax lien has attached to such property,⁸ the property is not exempt from levy,⁹ and the IRS has provided both notice of intention to levy¹⁰ and notice of the right to an administrative hearing (the notice is referred to as a "collections due process notice" or "CDP notice" and the hearing is referred to as the "CDP hearing")¹¹ at least 30 days before the levy is made. A levy on salary or wages generally is continuously in effect until released.¹² A Federal tax lien arises automatically when: (1) a tax assessment has been made; (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment; and (3) the taxpayer has failed to pay the amount assessed within 10 days after the notice and demand.¹³

The notice of intent to levy is not required if the Secretary finds that collection would be jeopardized by delay. The standard for determining whether jeopardy exists is similar to the standard applicable when determining whether assessment of tax without following the normal deficiency procedures is permitted.¹⁴

The CDP notice (and pre-levy CDP hearing) is not required if: (1) the Secretary finds that collection would be jeopardized by delay; (2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund; (3) the taxpayer subject to the levy requested a CDP hearing with respect to unpaid employment taxes arising in the two-year period before the beginning of the taxable period with respect to which the employment tax levy is served; or (4) the Secretary has served a Federal contractor levy. In each of these four cases,

⁷ Sec. 6331(a). Levy specifically refers to the legal process by which the IRS orders a third party to turn over property in its possession that belongs to the delinquent taxpayer named in a notice of levy.

⁸ *Ibid.*

⁹ Sec. 6334.

¹⁰ Sec. 6331(d).

¹¹ Sec. 6330. The notice and the hearing are referred to collectively as the CDP requirements.

¹² Secs. 6331(e) and 6343.

¹³ Sec. 6321.

¹⁴ Secs. 6331(d)(3), 6861.

however, the taxpayer is provided an opportunity for a hearing within a reasonable period of time after the levy.¹⁵

Federal payment levy program

To help the IRS collect taxes more effectively, the Taxpayer Relief Act of 1997¹⁶ authorized the establishment of the Federal Payment Levy Program (“FPLP”), which allows the IRS to continuously levy up to 15 percent of certain “specified payments” by the Federal government if the payees are delinquent on their tax obligations. With respect to payments to vendors of goods, services, or property sold or leased to the Federal government, the continuous levy may be up to 100 percent of each payment.¹⁷ For payments to Medicare providers and suppliers, the levy is up to 15 percent for payments made within 180 days after December 19, 2014. For payments made after that date, the levy is up to 30 percent.¹⁸

Under FPLP, the IRS matches its accounts receivable records with Federal payment records maintained by Treasury’s Bureau of Fiscal Service (“BFS”), such as certain Social Security benefit and Federal wage records. When these records match, the delinquent taxpayer is provided both the notice of intention to levy and the CDP notice. If the taxpayer does not respond after 30 days, the IRS can instruct BFS to levy the taxpayer’s Federal payments. Subsequent payments are continuously levied until such time that the tax debt is paid or the IRS releases the levy.

Description of Proposal

The proposal provides that the present limitation of 30 percent of certain specified payments be increased by an amount sufficient to offset the estimated revenue loss of the provision described in Part A, above.

Effective Date

The proposal is effective for payments made after 180 days after the date of enactment.

¹⁵ Sec. 6330(f).

¹⁶ Pub. L. No. 105-34.

¹⁷ Sec. 6331(h)(3).

¹⁸ Pub. L. No. 113-295, Division B.