

SUMMARY OF RECOMMENDATIONS ON
AIR USER TAXES

SUBMITTED TO

COMMITTEE ON FINANCE

ON THE SUBJECT OF

AIRPORT AND AIRWAY REVENUE ACT
OF 1970

PREPARED FOR THE USE OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

BY THE STAFF OF THE
JOINT COMMITTEE ON INTERNAL
REVENUE TAXATION



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HOUSE BILL

Title II of the House bill (H.R. 14465) makes the following tax changes to provide revenues for the development and expansion of the Nation's airport and airway system:

(1) An increase in the gasoline tax on general aviation (i.e., noncommercial) from the present effective rate of 2 cents a gallon to 7 cents a gallon, and a new tax of 7 cents a gallon on other aviation fuel used in general aviation (commercial aviation will not be taxed on fuel, as they will receive a full refund of the present manufacturers' tax of 4 cents a gallon on gasoline and pay no tax on other aviation fuels);

(2) An increase in the passenger ticket tax for domestic flights from 5 percent to 8 percent;

(3) A new \$3 "head tax" on international commercial flights beginning in the United States;

(4) A new tax of 5 percent on air freight waybills (including postal cargo); and

(5) A new annual aircraft registration tax of \$25 plus 2 cents a pound for piston-powered aircraft and 3.5 cents a pound for turbine-powered aircraft.

The House bill also makes certain other modifications in present air user taxes. All exemptions from the passenger ticket tax are removed except for transportation furnished to an international organization or the Red Cross. Special rules are provided for small aircraft not on established lines and for aircraft used by affiliated corporations.

Revenues from the taxes described above are to be placed in a new Airport and Airway Trust Fund, similar in nature to the existing Highway Trust Fund. In addition, receipts from taxes on tires and tubes used for aircraft are to be transferred by this title from the Highway Trust Fund to the Airport and Airway Trust Fund. This bill also provides that any general fund appropriations necessary to supplement the air user taxes are to be paid into the Trust Fund. Both the user tax revenues and the appropriations from general revenues will be paid out of the Trust Fund according to congressional appropriation acts.

To obtain and analyze data on the costs and use of the airway and airport system, the Department of Transportation is directed to make a study on the taxes to be used to insure an equitable distribution of the costs by the various users of the air transportation system.

Finally, the House bill removes some of the exemptions from State taxing jurisdiction presently provided for Washington National Airport. The bill removes the exemptions except for taxes relating to aviation fuels and the servicing of aircraft. Exceptions from the new State tax jurisdiction are allowed for existing leases.

Generally, the amendments made by the House bill are effective on January 1, 1970, except that the passenger and freight ticket taxes and the international flight departure tax applies to transportation beginning after December 31, 1969, not when the ticket is purchased.

SENATE COMMERCE COMMITTEE RECOMMENDATIONS

The Senate Commerce Report on S. 3108 (S. Rept. 91-565) makes the following recommendations regarding the tax changes for air user charges:

- (1) A tax of 6 cents a gallon on aviation fuels (gasoline and other fuels) used by general aviation;
- (2) A tax of 8 percent on passenger tickets for domestic flights;
- (3) A tax of \$5 on passenger tickets for international departure flights;
- (4) A tax of 5 percent on air freight waybills (including postal cargo), except 2 percent for freight destined to Alaska or Hawaii; and
- (5) An annual aircraft registration tax on commercial aircraft only of \$25 plus 3 cents a pound.

The Senate Commerce Committee also recommends placing the above air user taxes (except (5), the registration tax on commercial aircraft) into a new airport and airway trust fund, and requires the Department of Transportation to conduct a study respecting the appropriate method for allocating the cost of the airport and airway system among the various users, including the benefit to the "general public."

ADMINISTRATION PROPOSAL

The administration proposal (in H.R. 12374) contains the following air user taxes:

- (1) A tax of 9 cents a gallon on aviation fuels (gasoline and other fuels) used by general aviation;
- (2) A tax of 8 percent on passenger tickets for domestic flights;
- (3) A tax of \$3 on passenger tickets for international departure flights; and
- (4) A tax of 5 percent on air freight waybills (revenue estimates, however, do not include amounts for postal air cargo).

The administration proposes that receipts from the above air user taxes be earmarked into a "designated account," i.e., a special fund account, rather than a trust fund.

Summarized below are the recommendations of those submitting statements to the Finance Committee relative to the House bill, the Senate Commerce Committee recommendations, the administration proposal, and in general on the subject of air user taxes for the "Airport and Airway Revenue Act of 1970."

I. COMMENTS REGARDING THE FUELS TAX

(a) *Those supporting the House bill's 7 cents a gallon tax on general aviation:*

S. G. Tipton, President, Air Transport Association, Washington, D.C.: Feels that even this rate does not cover general aviation's share of the costs.

Harold Hammond, President, Transportation Association of America, Washington, D.C.

(b) *Those suggesting a fuels tax on both commercial and general aviation:*

(1) *Recommend a tax of 5 cents a gallon on all civil aviation.*

John P. Woods, Assistant Senior Director of Operations, National Business Aircraft Association, Inc.: Believes that an across-the-board tax rate of 5 cents a gallon would fully meet the revenue needs and would represent a fair share from the business segment of civil aviation. Contends that the FAA estimates of fuel consumption for general aviation jet fuel are much too low.

Watson E. Richards, President, Atlantic Aviation Corporation, Wilmington, Delaware: States that the ticket taxes on commercial aviation will be paid by the customers, not the airlines; whereas, the fuels tax must generally be absorbed by general aviation.

Ronald L. Gates, Royal Oak, Michigan

Joseph F. Devorak, Manager, West Central Airways, Fergus Falls, Minnesota: Suggests 5 cents or 6 cents on all fuel users.

(2) *Recommend a tax of 4 cents a gallon on all civil aviation.*

J. B. Hartranft., Jr., President, Aircraft Owners and Pilots Association: States that a uniform fuels tax would treat airlines and general aviation more fairly than imposing the fuels tax only on general aviation and increasing the ticket tax for airline passengers. Considers a fuels tax to be a good reflector of the relative use of the aviation facilities and services (i.e., the number of passengers is not a direct measure of the use of the air system, since the aircraft uses the facilities and airways regardless of the number of passengers), and to be easy to collect and to administer.

W. R. Sowell, President, Sowell Aviation Co., Inc., Panama City, Florida: Believes that general aviation should not be singled out for the fuels tax, as the airlines will pay no fuels tax (or passenger or freight ticket taxes) on pilot training and administrative flights but general aviation will have to pay a fuels tax.

(c) *Those supporting the Senate Commerce Committee recommendation of 6 cents per gallon fuels tax on general aviation:*

Charles Aune, Manager, Nelson-Ryan Flight Service, Inc., Hopkins, Minn.

Ralph J. McClellan, Executive Vice President, Gopher Aviation, Inc.

Curtis O. Erickson, President, Instrument Flight Training, Inc.

John Mr. Struber, President, American Aviation Co., Hopkins, Minn.

Richard O. Johnson, Vice President, Walston Aviation of St. Paul Inc., Minnesota.

James A. Einarson, President, Einarson Bros. Flying Service, Inc., International Falls, Minn.

Sherman, P. Booen, Executive Director, Minnesota Aviation Trades Association.

Richard F. Ford, Ford Aviation, Inc., Minneapolis, Minn.

Dwane L. Wallace, Chairman, General Aviation Manufacturers Association, Inc., Washington, D.C.

W. T. Piper, Jr., Chairman, Aviation Progress Committee, Washington, D.C.

(d) *Those suggesting a 5 cents per gallon tax on general aviation fuel:*

Honorable Jacob Javits, U.S. Senator, State of New York.

Thomas S. Miles, President, National Air Transportation Conferences, Inc., Washington, D.C.

Edward W. Majerle, Vermilion Air Service, Eveleth, Va.

Harold C. Chandler, President, Chandler Flying Service, Inc., Alexandria, Minn.

Lloyd Alsworth, Fairmont Flying Service, Inc., Fairmont, Minn.

Richard O. Johnson, Vice President, Walston Aviation of St. Paul, Inc., St. Paul, Minn.

Matthew C. Weisman, President, Executive Air Fleet Corp., New York, N.Y.: States that the FAA estimates of the number of corporate jet aircraft and hours flown (and therefore fuel consumption of general aviation jet planes) are understated, and a 5 cents a gallon fuel tax would be sufficient.

(e) *Those suggesting a 4 cents per gallon tax on general aviation fuel:*

National Aviation Trades Association.

(f) *Those suggesting modifications of the application of the fuels tax on general aviation:*

(1) *Suggests an exemption from the fuels tax for aircraft using private airports.*

Glenn C. Knudson, Larimore, North Dakota.

(g) *Other suggestions with regard to a fuels tax:*

(1) *Proposes a 2 cents per gallon tax on all fuel used in commercial aviation (as well as 5 cents a gallon on general aviation, item (d), above).*

Honorable Jacob Javits, U.S. Senator, State of New York.

II. COMMENTS REGARDING THE INTERNATIONAL DEPARTURE TAX

(a) *Those supporting the \$3 per person departure tax rate:*

Harold Hammond, President, Transportation Association of America, Washington, D.C.

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(b) *Those opposing the imposition of a departure tax:*

Honorable Jacob Javits, U.S. Senator, State of New York.

(c) *Those suggesting modifications in the departure tax:*

(1) *Suggests* renaming the tax so it is not referred to as a "head tax" or a "departure tax" in order to avoid confusion with airport services charges levied in some foreign countries. It should be clear that it is a tax on the international passenger's use of U.S. air facilities, in lieu of the percentage-based ticket tax on domestic flights.

S. G. Tipton, President, Air Transport Association,
Washington, D.C.

(2) *Recommends* removing foreign origination round-trip charter flights from the imposition of the international "head tax."

Leonard N. Bebachick, Counsel, Caledonian Airways.

III. COMMENTS REGARDING THE TAX ON AIR FREIGHT WAYBILLS

(a) *Those opposing the 5 percent tax on air freight:*

William J. Augello, Jr., Traffic Counsel, Society of American Florists and Ornamental Horticulturists, Alexandria, Va.: Considers that the "actual" users of the air facilities, the airlines, should pay for the Government costs, not the shippers.

(b) *Those suggesting modifications of the tax on air freight waybills:*

(1) *Indicates* that imposing the tax on the amount paid by the forwarder "to the air carrier" will be difficult to apply, as it would be difficult for the forwarder to recollect the exact tax from the shipper (with the tax being imposed on the amount paid for consolidated shipments, and not on what the forwarder collects for his services from the shipper); and also it would be difficult for Air Express to determine the exact amount paid for air transportation, since the tariff charge is for the entire service.

Recommends that the tax be imposed on the amount charged (published rates) to the shipper in all cases, to ease the administrative and collection burden.

S. G. Tipton, President, Air Transport Association,
Washington, D.C.

(2) *Considers* the tax on air freight entering the U.S. to discriminate against the shipper going through, for example, New York on the way to Chicago rather than directly to Chicago from outside the U.S. (as the tax is imposed on the portion of the flight over the U.S.)

Recommends that inbound freight shipments be treated the same as outbound shipments, i.e., exempt from tax if the freight is in continuous import movement.

S. G. Tipton, President, Air Transport Association,
Washington, D.C.

(3) *Excess baggage:* *Recommends* that excess baggage be exempted from the tax on property (air freight) due to the administrative problems and the minimal revenue impact.

S. G. Tipton, President, Air Transport Association,
Washington, D.C.

(4) *Recommends* that, if a tax on air shippers is necessary, that the tax not exceed 2 percent on floral traffic, and that a maximum tax or "hold-down" be established to protect long-haul shippers.

William J. Augello, Jr., Traffic Counsel, Society of American Florists and Ornamental Horticulturists, Alexandria, Va.

IV. COMMENTS REGARDING THE REMOVAL OF EXEMPTIONS FROM AIR
USER TICKET TAXES

(a) *Those supporting the removal of all exemptions:*

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(b) *Those opposing the removal of the exemption for State and local governments:*

Honorable Ted Stevens, U.S. Senator, State of Alaska.

Honorable Jacob Javits, U.S. Senator, State of New York.

Honorable Albert P. Brewer, Governor, State of Alabama.

Honorable John A. Love, Governor, State of Colorado.

Honorable Claude R. Kirk, Jr., Governor, State of Florida.

Honorable Lester Maddox, Governor, State of Georgia.

Honorable Carlos G. Camacho, Governor, Guam.

Honorable Don Samuelson, Governor, State of Idaho.

Honorable Robert Docking, Governor, State of Kansas.

Honorable Kenneth M. Curtis, Governor, State of Maine.

Honorable Marvin Mandel, Governor, State of Maryland.

Honorable Harold LeVander, Governor, State of Minnesota.

Honorable Nelson A. Rockefeller, Governor, State of New York.

Honorable Robert W. Scott, Governor, State of North Carolina.

Honorable William L. Guy, Governor, State of North Dakota.

Honorable Dewey F. Bartlett, Governor, State of Oklahoma.

Honorable Raymond P. Shafer, Governor, Commonwealth of Pennsylvania.

Honorable Frank Licht, Governor, State of Rhode Island.

Honorable John M. Haydon, Governor, Samoa.

Honorable Calvin L. Rampton, Governor, State of Utah.

Honorable Daniel J. Evans, Governor, State of Washington.

Honorable Warren P. Knowles, Governor, State of Wisconsin.

Honorable Stanley K. Hathaway, Governor, State of Wyoming.

Honorable William J. Conner, County Executive, Wilmington County, Del.

Honorable William M. Ullom, Mayor, Seward, Alaska.

Honorable Ernest C. Keppler, State Senator, State of Wisconsin.

Honorable Dale Anderson, County Executive, Baltimore County, Md.

Honorable Warren M. Anderson, State Senator, State of New York.

Honorable C. R. Hoyt, State Senator, State of Oregon, and Chairman, National Legislative Conference.

Patrick Healy, Executive Vice President, National League of Cities.

J. Donald Reilly, Executive Vice President, Airport Operators Council International, Inc.

Jay. E. Ricks, Member, Office of the County Board, Arlington County, Va.

Don E. Anderson, Director of Administration, Wichita, Kans.

Lawrence D. Shubnell, Budget Officer, Annapolis, Md.

Charles W. Bell, City Manager, Toccoa, Ga.

M. B. Winegar, City Manager, Juneau, Alaska.

G. W. Ray, City Manager, Fayetteville, N.C.
 J. D. Mackintosh, Jr., City Manager, Burlington, N.C.
 Peter F. Lydens, City Manager, Gastonia, N.C.
 Wallace C. Croz, City Manager, Fairbanks, Alaska.
 Robert E. Sharp, City Manager, Anchorage, Alaska.

(c) *Those opposing removal of the exemption from the ticket taxes for educational organizations:*

Rev. Msgr. James C. Donahue, Director, Division of Elementary and Secondary Education, United States Catholic Conference.

(d) *Other comments regarding exemptions from ticket taxes:*

(1) *Opposes* modification of exemption (i.e., reduction in weight from 12,500 pounds to 6,000 pounds, etc.) from the passenger ticket tax for aircraft not on established lines (e.g. on taxi charters).

Thomas S. Miles, President, National Air Transportation Conferences, Inc., Washington, D.C.

(2) *Believes* that the ticket tax on certain corporate group flights is double taxation, and should be eliminated.

H.R. Seifried, Chief Pilot, Universal Textured Yarns, Inc., Mebane, N.C.

V. COMMENTS REGARDING THE REGISTRATION TAX

(a) *Those supporting the registration tax on all aircraft:*

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(b) *Those opposing the registration tax on general aviation:*

National Aviation Trades Association.

J. B. Hartranft, Jr., President, Aircraft Owners and Pilots Association.

Thomas S. Miles, President, National Air Transportation Conferences, Inc., Washington, D.C.

Lloyd Alsworth, Fairmont Flying Service, Inc., Fairmont, Minn.

James A. Einarson, President, Einarson Bros. Flying Service, Inc., International Falls, Minn.

H. R. Seifried, Chief Pilot, Universal Textured Yarns, Inc., Mebane, N.C.

Watson E. Richards, President, Atlantic Aviation Corp., Wilmington, Del.

W. R. Sowell, President, Sowell Aviation Co., Inc., Panama City, Fla.

Charles Aune, Manager, Nelson-Ryan Flight Service, Inc., Hopkins, Minn.

Sherman P. Booen, Executive Director, the Minnesota Aviation Trades Association.

Ralph J. McClellan, Executive Vice President, Gopher Aviation, Inc.

Curtis O. Erickson, President, Instrument Flight Training, Inc.

Ronald L. Gates, Royal Oak, Mich.

Richard F. Ford, Ford Aviation, Inc., Minneapolis, Minn.

Ray F. Walburg, President, Duluth Air-Ways Inc., Duluth, Minn.

John Stuber, President, American Aviation Co., Hopkins, Minn.

Dwane L. Wallace, Chairman, General Aviation Manufacturers Association, Inc., Washington, D.C.

W. T. Piper, Jr., Chairman, Aviation Progress Committee, Washington, D.C.

Richard O. Johnson, Vice President, Walston Aviation of St. Paul, Inc., Minnesota.

Joseph F. Devorak, Manager, West Central Airways, Fergus Falls, Minn.

(c) *Those suggesting modifications in the registration tax:*

(1) *Recommends* a flat rate of 2 cents per pound on all aircraft based on "operator's empty weight," rather than "maximum certificated takeoff weight," as the latter weight is the heaviest flying weight permissible: full fuel load, full passenger load, and full cargo and baggage load.

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(2) *Suggests* a charge of 1 cent per pound on gross weight up to 12,500 pounds, and one-half cent per pound in excess of 12,500 pounds, with no \$25 basic tax.

H. R. Seifried, Chief Pilot, Universal Textured Yarns, Inc. Mebane, N.C.

(3) *Recommends* that, regarding the refund for flights in foreign commerce, each quarterly statement be filed with a credit allowed based on the previous quarter's experience, so the airline would not have to wait 1 year for the appropriate refund.

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(4) *Suggests* that the lessee be permitted to pay the registration tax as an alternative to payment by the lessor-owner.

S. G. Tipton, President, Air Transport Association, Washington, D.C.

(5) *Recommends* an exemption for experimental and antique aircraft.

David H. Scott, Washington representative, Experimental Aircraft Association.

(6) *Recommends* an exemption for aircraft owned by State and local governments.

J. Donald Reilly, Executive Vice President, Airport Operators Council International, Inc.

VI. COMMENTS REGARDING ESTABLISHMENT OF AN AIRPORT AND AIRWAY TRUST FUND

(1) *Recommends* earmarking of air user taxes and general appropriations, but in separate accounts for (a) airways and (b) airports; or, if in a single trust fund or designated account, in separate sub-accounts within the trust fund or designated account.

Harold Hammond, president, Transportation Association of America, Washington, D.C.

(2) *Proposes* (in S. 1265) that the revenues from the existing 5 percent passenger ticket tax continue to go into general revenues to

pay FAA airway costs, while depositing any additional revenues from user taxes into a new air trust fund.

Honorable Jacob Javits, U.S. Senator, State of New York.

VII. COMMENTS REGARDING A USER TAX STUDY

Those supporting a user cost allocation study:

Honorable Jacob Javits, U.S. Senator, State of New York.

John P. Woods, Assistant Senior Director, Operations, National Business Aircraft Association, Washington, D.C.

Harold Hammond, President, Transportation Association of America, Washington, D.C.

Duane L. Wallace, Chairman, General Aviation Manufacturers Association, Inc., Washington, D.C.

W. T. Piper, Jr., Chairman, Aviation Progress Committee, Washington, D.C.

National Aviation Trades Association.

Thomas S. Miles, President, National Air Transportation Conferences, Inc., Washington, D.C.

VIII. COMMENTS REGARDING STATE-LOCAL TAXING JURISDICTION AT FEDERAL AIRPORTS

Suggests clarification of section 209 of H.R. 14465 so that the new State-local taxing jurisdiction at Washington National Airport does not apply with respect to "fuels or other supplies to aircraft and aircraft passengers, or in respect of other servicing of aircraft or aircraft passengers."

S. G. Tipton, President, Air Transport Association, Washington, DD.C.

IX. COMMENTS REGARDING EFFECTIVE DATES

(1) *Recommends* an effective date of July 1, 1970. States that the airlines need a minimum leadtime of 90 days to establish mechanisms to collect and account for the new taxes.

S. G. Tipton, president, Air Transport Association, Washington, D.C.

(2) *Recommends* that the air user taxes expire June 30, 1980.

S. G. Tipton, President, Air Transport Association, Washington, D.C.

X. OTHER GENERAL COMMENTS REGARDING THE FINANCING OF THE AIRPORT AND AIRWAY SYSTEM

(1) *Recommends* that a floor be established whereby each state shall be entitled to a return of not less than 90 percent of funds that originated from a state. Points out that California is a "donor" state for the Highway Trust Fund and that California needs airport facilities if it is going to catch up with the demands of the aviation age.

Peter F. Schabarium, Member of the Assembly, California State Legislature.

(2) *Contends* that the F.A.A., at the behest of the airlines, wants general aviation to pay the bulk of the cost of service improvements for the airlines while general aviation is being excluded from major terminal areas in which it must operate in order to serve those businesses and persons who require it.

Walter S. Nussbaum, Southfield, Michigan.

(3) *Opposes* the user charges in S. 3108 for general aviation; argues that the airlines are not paying any tax under the ticket taxes.

R. P. Gaffey, Westmont, Ill.

(4) *Indicates* that general aviation's share of the financing is not fair (or too much)—

John M. West, Fergus Falls, Minn.

William R. Baker, Winnsboro, La.

Ray F. Wolberg, President, Duluth Air-Ways, Inc., Duluth, Minn.

Al Hilde, Jr., President, Satellite Industries, Minneapolis, Minn.