

**EXTENSION OF AIRPORT AND AIRWAY TRUST  
FUND EXCISE TAXES**

Scheduled for Markup  
By the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on June 7, 2023

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



June 5, 2023  
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## INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup on June 7, 2023 of H.R. 3796. The bill extends the expiring excise taxes funding the Airport and Airway Trust Fund (the “trust fund”) through the end of fiscal year 2028.

The trust fund provides funding for capital improvements to the U.S. airport and airway system. Expenditures from the trust fund support the Federal Aviation Administration (the “FAA”). The trust fund pays for the majority of the FAA’s programs and activities. The trust fund is funded principally with amounts equivalent to revenues from certain excise taxes on commercial and noncommercial transportation by air and aviation fuel taxes. Generally, the excise taxes funding the trust fund are scheduled to expire after September 30, 2023.

This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the present-law trust fund excise taxes and H.R. 3796.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Extension of Airport and Airway Trust Fund Excise Taxes* (JCX-11-23), June 5, 2023. This document can also be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov). All section references herein are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

**A. Extension of Taxes Funding  
Airport and Airway Trust Fund**

**Present Law**

**Revenues dedicated to the Airport and Airway Trust Fund**

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.<sup>2</sup> The present-law aviation excise taxes are as follows:

Tax (and Code section)	Tax Rates
a. Domestic air passengers (sec. 4261)	7.5 percent of fare, plus \$4.80 (2023) per domestic flight segment generally <sup>3</sup>
b. International air passengers (sec. 4261)	\$21.10 (2023) per arrival or departure <sup>4</sup>
c. Amounts paid for right to award free or reduced rate passenger air transportation (sec. 4261)	7.5 percent of amount paid
d. Air cargo (freight) transportation (sec. 4271)	6.25 percent of amount charged for domestic transportation; no tax on international cargo transportation
e. Aviation fuels (sec. 4081): <sup>5</sup>	
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
f. Surtax on fuel used in fractional ownership program aircraft (sec. 4043)	14.1 cents per gallon

<sup>2</sup> 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) is exempt from the aviation excise taxes, but the transportation provider is subject to certain “overflight fees” imposed by the FAA pursuant to Congressional authorization. The term “225-mile zone” means that portion of Canada and Mexico that is not more than 225 miles from the nearest point in the continental United States. Sec. 4262(c)(2)

<sup>3</sup> A segment consists of a single takeoff and a single landing which is taxable transportation. The domestic flight segment portion of the tax is adjusted annually for inflation (effective each January 1). Sec. 3.45 of Rev. Proc. 2022-38, 2022-45 I.R.B. 445.

<sup>4</sup> The international arrival and departure tax rate is adjusted annually for inflation. For a domestic segment that begins or ends in Alaska or Hawaii, a reduced tax per person applies only to departures. For calendar year 2023, that reduced rate is \$10.60 per departure (to/from the mainland United States). *Ibid.*

<sup>5</sup> Kerosene generally is taxed at 24.3 cents per gallon. For kerosene used in aviation, these reduced rates apply when the kerosene is removed directly from the terminal into the fuel tank of an aircraft for use in commercial or noncommercial aviation. Under certain conditions, refueler trucks, tankers, and tank wagons are treated as terminals. There is no tax on kerosene removed directly into the fuel tank of an aircraft for use in foreign trade. In

The Airport and Airway Trust Fund excise taxes (except for 4.3 cents per gallon of the taxes on aviation fuels) are scheduled to expire after September 30, 2023. The 4.3-cents-per-gallon fuels tax rate is permanent.

### **Description of Proposal**

The proposal extends through September 30, 2028, all of the expiring taxes dedicated to the Airport and Airway Trust Fund.

### **Effective Date**

The proposal is effective on the date of enactment.

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addition, like most other taxable motor fuels, aviation fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank Trust Fund. For kerosene removed directly into the fuel tank of an aircraft for a use exempt from tax under section 4041(c) (such as use in an aircraft for the exclusive use of a State or local government), the rate of tax is 0.1 cent per gallon.

## **B. Estimated Revenue Effects**

The Congressional Budget Office receipts baseline assumes excise taxes dedicated to trust funds are permanent. Consequently, the proposal has no revenue effect relative to the Congressional Budget Office baseline.