

**OVERVIEW OF HIGHWAY TRUST FUND EXCISE TAXES
AND RELATED INTERNAL REVENUE CODE
EXPENDITURE PROVISIONS**

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Prepared by the
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INTRODUCTION

The Senate Committee on Finance has announced a public hearing to examine Highway Trust Fund expenditure purposes. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of present-law provisions relating to Highway Trust Fund and recommendations of the Joint Committee on Taxation regarding simplification of the Highway Trust Fund excise taxes. The document further includes a summary of bills regarding the Highway Trust Fund excise taxes that have been introduced in the Senate during the 107th Congress.

¹ This document may be cited as follows: Joint Committee on Taxation, *Overview of Highway Trust Fund Excise Taxes and Related Internal Revenue Code Expenditure Provisions*, (JCX-37-02), May 7, 2002.

I. OVERVIEW OF HIGHWAY TRUST FUND EXCISE TAXES

Present Law

In general

Six separate excise taxes are imposed to finance the Federal Highway Trust Fund program. Three of these taxes are imposed on highway motor fuels. The remaining three are a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles. A substantial majority of the revenues produced by the Highway Trust Fund excise taxes is derived from the taxes on motor fuels. The six taxes are summarized below.

Except for 4.3 cents per gallon of the Highway Trust Fund fuels tax rates, all of these taxes are scheduled to expire after September 30, 2005. The 4.3-cents-per-gallon portion of the fuels tax rates is permanent.² Highway Trust Fund expenditure authority is scheduled to expire after September 30, 2003. The two-year delay in scheduled expiration of the excise taxes from that for expenditure authority reflects the operation of an anti-deficit provision (the so-called "Harry Byrd Rule") that governs Highway Trust Fund expenditures.³

Highway motor fuels taxes

The Highway Trust Fund motor fuels tax rates are as follows:⁴

Gasoline	18.3 cents per gallon
Diesel fuel and kerosene	24.3 cents per gallon
Special motor fuels	18.3 cents per gallon generally ⁵

² This portion of the tax rates was enacted as a deficit reduction measure in 1993. Receipts from it were retained in the General Fund until 1997 legislation provided for their transfer to the Highway Trust Fund.

³ This rule limits Highway Trust Fund obligations generally to the current year's ending balance plus two years projected revenues (sec. 9503(d)).

⁴ 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.

⁵ The statutory rate for certain special motor fuels is determined on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane)	13.6 cents per gallon
Liquefied natural gas	11.9 cents per gallon
Methanol derived from petroleum or natural gas	9.15 cents per gallon
Compressed natural gas	48.54 cents per MCF

Exemptions

Present law includes numerous exemptions (including partial exemptions) for specified uses of taxable fuels or for specified fuels. Because the gasoline and diesel fuel taxes generally are imposed before the end use of the fuel is known, many of these exemptions are realized through refunds to end users of tax paid by a party that processed the fuel earlier in the distribution chain. These exempt uses and fuels include:

- (1) use in State and local government and nonprofit educational organization highway vehicles;
- (2) use in buses engaged in transporting students and employees of schools;
- (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 the transportation; and
- (4) use in private intercity buses serving the general public along scheduled routes. (Such use is totally exempt from the gasoline excise tax and is exempt from 17 cents per gallon of the diesel fuel tax.)

In addition to exemptions for these highway uses of otherwise taxable motor fuels, fuels used in off-highway uses (limited to off-highway business uses in the case of gasoline), including use on farms for farming purposes, generally are exempt from these motor fuels taxes.⁶ In no case is excise tax imposed on fuel used in an off-highway use used to fund the Highway Trust Fund. Rather, where tax is imposed, it is used to finance other Trust Funds (e.g., motorboat gasoline and special motor fuel taxes from non-business off-highway use dedicated to the Aquatic Resources Trust Fund) or is retained in the General Fund (e.g., tax on diesel fuel used in trains).

Partial exemptions from the Highway Trust Fund excise taxes are provided for alcohol fuels that are used as special motor fuels or are blended with gasoline for use as a highway motor fuel (e.g., “gasohol”). In the case of ethanol and renewable source methanol (derived from sources other than petroleum, natural gas, or coal) used as an alcohol special motor fuel, the excise tax exemption is equal to 5.3 cents per gallon (6.0 cents per gallon for methanol) and the

See sec. 4041(a)(2) and (3) and 4041(m).

The compressed natural gas tax rate is equivalent only to 4.3 cents per gallon of the rate imposed on gasoline and other special motor fuels rather than the full 18.3-cents-per-gallon rate. The tax rate for the other special motor fuels is equivalent to the full 18.3 cents per gallon gasoline and special motor fuels tax rate.

⁶ Diesel fuel is the same fuel (#2 fuel oil) as is commonly used as home heating oil. Fuel oil used as heating oil is not subject to the Federal excise tax.

same amount per gallon of blended fuels consisting of gasoline or diesel fuel blended with these alcohols in prescribed proportions.⁷ The partial exemption for ethanol fuels is scheduled to decline to an ultimate level of 5.1 cents per gallon by 2007. This exemption is coordinated with an income tax credit equal to 53 cents per gallon (similarly scheduled to decline to 51 cents per gallon) for ethanol and 60 cents per gallon for renewable source methanol, producing a net tax subsidy for these fuels.

Present law allows alcohol blenders (persons that blend ethanol or renewable source methanol with gasoline for use as a highway motor fuel) a choice of three methods of realizing this benefit. First, the benefit may be realized in whole or in part by the income tax credit described. Second, blenders that register with the Internal Revenue Service (the “IRS”) may purchase gasoline to be blended with alcohol in certain gasoline/alcohol ratios at a special reduced tax rate (and alcohol tax-free) so that the tax paid on the gasoline is reduced by the portion of the alcohol benefit in excess of full tax-exemption for the alcohol. Third, blenders purchasing gasoline bearing the full 18.3-cents-per-gallon tax rate and blending the gasoline with alcohol may apply for a refund (on a weekly basis). Unlike most excise tax refunds, these refunds bear interest unless paid by the IRS within 20 days.⁸

Administration of the taxes

Gasoline, diesel fuel, and kerosene.—Gasoline, diesel fuel, and kerosene are taxed when the fuels are removed from a refinery or registered pipeline or barge terminal (sec. 4081(a)(1)). Typically, these fuels are transferred by pipeline or barge in large quantities (“bulk”) to terminal storage facilities that geographically are located closer to destination retail markets. A fuel is taxed when it “breaks bulk,” i.e., when it is removed from the refinery or terminal, typically by truck or rail car, for delivery to a smaller wholesale facility or a retail outlet. The party liable for

⁷ The excise exemption is scheduled to expire after September 30, 2007; the income tax credit is scheduled to expire after December 31, 2007 (or earlier, if the Highway Trust Fund excise taxes actually drop to 4.3 cents per gallon before that date).

⁸ The choice of how the alcohol tax benefit is realized generally depends on the arrangements under which the blender purchases gasoline, the blender's tax circumstances, or proportions of gasoline and alcohol in the blended fuel. For example, reduced tax rate gasoline purchases may be used to realize the full renewable source alcohol fuels tax benefit only on gasoline/alcohol mixtures that meet either of three proportions: 90, 92.3, or 94.5 percent gasoline and 10, 7.7, or 5.5 percent alcohol respectively. The balance of the alcohol tax benefit on nonconforming mixtures must be claimed through the income tax credit.

Blenders that receive their gasoline pursuant to inventory exchange agreements among suppliers (where one taxpayer-supplier delivers fuel from its terminal to a customer of another such supplier and bills the other supplier rather than the blender) may not purchase gasoline at reduced tax rates. These blenders are eligible for the expedited excise tax refunds.

All taxpayers are eligible for the income tax credit; however, that credit may not be used to offset alternative minimum tax liability and is not refundable.

payment of the taxes is the “position holder,” i.e., the person shown on the records of the terminal facility as owning the fuel.

All persons owning taxable motor fuels before tax is paid must be registered with the IRS (sec. 4101). Additionally, terminal facilities must register with the IRS as a condition of storing untaxed (or undyed) motor fuels (including motor fuels that are not owned by the terminal operator). Sale or other transfer of fuel to an unregistered party or removal to an unregistered facility before the fuel breaks bulk results in imposition of tax on that transaction. If the fuel subsequently is entered into and removed from a registered terminal, a second tax is imposed. Refund claims are allowed to prevent double taxation.

In general, all fuel removed from a registered terminal facility is subject to tax, without regard to whether the ultimate use of the fuel is taxable (e.g., non-taxable use for heating or other off-highway business use such as farming). Exceptions are provided allowing diesel fuel and kerosene to be removed for use a non-taxable use or in an intercity bus or a train eligible for a reduced tax rate if the fuel is indelibly dyed at the time of removal. All gasoline removals are subject to tax.

Most aviation jet fuel is a special grade of kerosene. The Code allows undyed aviation grade kerosene to be removed from terminals without payment of the Highway Trust Fund tax if (1) the kerosene is removed by pipeline to an airport, or (2) the fuel is removed for use in an airplane by or on behalf of a registered aviation fuel dealer. The pipeline recipient or dealer in turn is responsible for payment of any Airport and Airway Trust Fund tax that may be due on the kerosene. (The Airport and Airway Trust Fund fuels taxes are imposed at the wholesale level in the distribution chain.)

Refunds or income tax credits may be claimed (generally by consumers) for fuels on which tax is paid and which ultimately are used in a non-taxable use. The rules governing how and by whom a refund is claimed differ by type of fuel, by end use, and by dollar amount of the claim. Except in the case of gasohol and kerosene sold from certain “blocked pumps” for which weekly claims are allowed, no more than one claim per quarter may be filed. Refund claims may be filed only if prescribed dollar thresholds are satisfied. If the dollar amounts are not satisfied in a calendar year, refunds must be claimed as credits on income tax returns. Unlike income tax refunds, excise tax refunds generally do not bear interest if they are not paid within set periods. However, interest does accrue on gasohol and kerosene “blocked pump” refunds if not paid within 20 days.

Finally, exceptions to the general practice of consumers claiming fuels tax refunds for fuels sold to States and local governments and farmers, and for kerosene sold from blocked pumps for heating purposes. Those refunds must be claimed by actual taxpayers, wholesale distributors, or ultimate vendors.

Special motor fuels.—The special motor fuels tax is imposed on retail sale of the fuel, or on use if the fuel is consumed before a retail sale occurs.

Non-fuels excise taxes

Retail sales tax on tractors, heavy trucks, and heavy trailers

A 12-percent retail sales tax is imposed on the first retail sale of tractors, heavy trucks (over 33,000 pounds) and trailers (over 26,000 pounds) (sec. 4051). The taxable weight is the “gross vehicle weight,” which is the fully loaded, certified weight. In general, this tax is imposed on the price of a fully equipped highway vehicle. However, the price of certain equipment unrelated to the highway transportation function of the vehicle is excluded from the tax base (sec. 4053). Additionally, a credit against the tax is allowed for the amount of tire excise tax imposed on manufacturers of new tires installed on the vehicle.

The term first retail sale includes the first sale of a “remanufactured” vehicle (sec. 4052(a)). Whether modifications to a vehicle constitute a “repair” or the manufacture of a new (remanufactured) vehicle involves significant factual determinations.

Manufacturers tax on heavy vehicle tires

Tires designed for use on heavy highway vehicles are subject to a graduated tax, based on the weight of the tire (sec. 4071).

40 pounds or less	No tax
40-70 pounds	15 cents per pound 40 pounds
70-90 pounds	4.50 plus 30 cents per pound over 70 pounds
Over 90 pounds	\$10.50 plus 50 cents per pound over 90 pounds

Retread tires are not subject to tax except when the retreading covers the entire outer surface of the tire (i.e., is “bead to bead”).

Annual use tax for heavy vehicles

An annual use tax is imposed on heavy highway vehicles, at the rates shown below (sec. 4081).

Under 55,000 pounds	No tax
55,000-75,000 pounds	\$100 plus \$22 per 1,000 pounds over 55,000
Over 75,000 pounds	\$550

The annual use tax is imposed for a taxable period of July 1 through June 30. Generally, the tax is paid by the person in whose name the vehicle is registered. In certain cases, taxpayers are allowed to pay the tax in quarterly installments. Exemptions and reduced rates are provided for certain “transit-type buses,” trucks used for fewer than 5,000 miles on public highways (7,500 miles for agricultural vehicles), and logging trucks.

The Highway Trust Fund excise taxes are reported to the IRS on Form 720, Quarterly Federal Excise Tax Return. A copy of that form is included as an Appendix to this document.

II. OVERVIEW OF INTERNAL REVENUE CODE PROVISIONS GOVERNING ADMINISTRATION OF THE HIGHWAY TRUST FUND

Code section 9503 contains the operative rules for transfer of revenues to the Highway Trust Fund and for expenditure of monies from the Trust Fund.

In general, these rules provide for transfer of “gross receipts” from the Highway Trust Fund excise taxes to the Trust Fund (sec. 9503(b)).⁹ The transfers are net of refunds for tax overpayments. Additionally, 2.5 cents per gallon of the tax imposed on gasohol are retained in the General Fund. Also with respect to gasohol, Highway Trust Fund revenues are reduced by the amount of the tax subsidy claimed through the excise tax system, but not for amounts claimed as income tax credits.¹⁰

Amounts deposited in the Highway Trust Fund are divided between a Mass Transit Account and a residual, or Highway, Account. The Mass Transit Account receives 2.86 cents per gallon of the Highway Trust Fund motor fuels excise taxes.¹¹ The balance of the motor fuels tax receipts and all receipts from the three non-fuels excise taxes are deposited in the Highway Account.

The Code allows expenditure of Highway Trust Fund monies for the purposes authorized under each of the highway authorization Acts that have been enacted since creation of the Trust Fund in 1956, as those Acts were in effect on the date of enactment of the Transportation Equity Act for the 21st Century (“TEA 21”) (sec. 9503(c)). These expenditures are limited by an internal to the Trust Fund anti-deficit provision, the so-called “Harry Byrd Rule”. This Byrd Rule requires the Treasury Department to determine, on a quarterly basis, the amount (if any) by which unfunded highway authorizations exceed projected net Highway Trust Fund tax receipts for the 24-month period beginning at the close of each Fiscal Year (sec. 9503(d)). If there is an excess, apportionments to the States under the Highway Trust Fund are reduced by that amount.

The Code further contains a special enforcement provision to prevent expenditure of Highway Trust Fund monies for purposes not authorized in section 9503 (i.e., not approved by the tax-writing committees of Congress) (sec. 9503(b)(5)). This provision provides that should such unapproved expenditures occur, no further excise tax receipts will be transferred to the

⁹ Gross receipts do not reflect the effect on actual budget receipts resulting from interaction of the excise taxes with the Federal income tax. Thus, the Highway Trust Fund receives a greater amount than the actual budget gain experienced by the Federal Government from imposition of these taxes. See Section III below for a more complete discussion of this rule.

¹⁰ See Section I, above, for a description of the three methods the alcohol fuels tax benefits may be realized.

¹¹ This amount is adjusted to reflect the proportional taxes imposed on certain special motor fuels that are subject to tax at special “Btu equivalent” rates. There is no reduction in the Mass Transit portion to reflect the reduced tax per gallon paid on gasohol.

Highway Trust Fund. Rather, the taxes will continue to be imposed with receipts being retained in the General Fund. This enforcement provision provides specifically that it applies not only to unauthorized expenditures under the current Code provisions, but also to expenditures pursuant to future legislation that may provide for them unless either the legislation providing for the expenditure amends section 9503's expenditure authorization provisions or otherwise authorizes the expenditure as part of a revenue Act. (Enactment of future legislation in either of these circumstances would invoke the jurisdiction of the tax-writing committees.)

III. ROLES OF DIFFERENT CONGRESSIONAL COMMITTEES IN TRANSPORTATION EXCISE TAXES AND HIGHWAY TRUST FUND PROGRAMS

Because the Highway Trust Fund excise taxes, like many other transportation excise taxes, are dedicated to Trust Fund programs, extensions and modifications of the taxes frequently have been considered in conjunction with extensions and revisions of Trust Fund expenditure programs. Viewed in their totality, the excise taxes and programmatic expenditures require approval by at least three committees in each House of Congress--the tax-writing committee, one or more authorizing committees, and the appropriations committee. The tax-writing committees determine what revenues will be dedicated to the Trust Fund and review Trust Fund expenditure purposes; the authorizing committees consider competing transportation needs on a detailed level; and, the appropriations committees reconcile transportation spending needs with all other Federal spending needs. Historically, tax provisions and expenditure authorizations generally have been enacted as separate titles of a single Act; appropriations generally have been enacted separately as part of the annual Congressional appropriations process.

Raising revenues

Imposition of excise taxes and other “revenue measures” is within the exclusive jurisdiction of the House Committee on Ways and Means and the Senate Committee on Finance. Extension or modification of existing taxes, reinstatement of expired excise taxes, and imposition of fees and other measures which constitute revenue measures are included within this jurisdiction.¹²

Authorizing committees may impose, or may authorize executive agencies to impose, non-tax, or true, user fees that agencies may charge for specific services they provide. There are often disagreements as to whether certain charges constitute “fees” or “taxes.” These disagreements generally arise in one of three contexts: (1) determining whether there has been an unconstitutional delegation of the taxing power;¹³ (2) determining whether legislation constitutes a revenue measure that must originate in the House of Representatives;¹⁴ or (3) determining the committee assignment (including sequential committee referral) for a particular bill.¹⁵

¹² See, *e.g.*, Rule 1(s)(3) of the rules of the House of Representatives.

¹³ Article I, Section 8 of the U.S. Constitution includes among the enumerated powers of Congress the “. . . Power To lay and collect Taxes, Duties, Imposts, and Excises. . . .” Congress is limited in its ability to delegate legislative authority to the Executive Branch.

¹⁴ Article I, Section 7 of the U.S. Constitution (commonly referred to as the “Origination Clause”) provides that “[a]ll Bills for raising Revenue [must] originate in the House of Representatives. . . .” A privileged motion available to any Member, commonly referred to as a “blue slip” motion, enforces this prerogative of the House.

¹⁵ See, *e.g.*, 137 Cong. Rec. H501 (January 15, 1991) (statement of the Speaker of the House providing guidance for the application of House Rule XXI, Clause 5(b), regarding the referral of bills.

In general, a true fee is a charge levied on a class that directly avails itself of a governmental program, and is used solely to finance that program rather than to finance the costs of Government generally. The amount of the fee charged to any payor generally may not exceed the direct costs of providing the services with respect to which the fee is charged. Fees are not imposed on the general public; there must be a reasonable connection between the payors of the fee and the agency or function receiving the fee.¹⁶ Those paying a fee have the choice of not utilizing the governmental service or avoiding the regulated activity and thereby avoiding the charge. In other words, the fee can be viewed as a payment for a special privilege, as opposed to a mandatory charge (or tax) imposed on the public at large for general or specified (e.g., Trust Fund) governmental purposes.

Establishment of trust funds; dedication of excise tax revenues and authorization of expenditures

Transportation Trust Funds are governed by parallel provisions of the United States Code. First, the Internal Revenue Code (Title 26, sec. 9501 et. seq.) contains the operative provisions for all Federal Trust Funds to which specific excise tax revenues are dedicated. As described above, the provisions governing the Highway Trust Fund are contained in section 9503. These Code provisions provide for the transfer of specified revenues to the Trust Fund, include administrative provisions for management of Trust Fund monies, and provide general or specific purposes for which Trust Fund expenditures may be made. These Trust Fund provisions are within the jurisdiction of the Committee on Ways and Means and the Committee on Finance. Amendments to these provisions generally are contained in revenue titles of combined authorization and revenue legislation.

Generally, the Trust Fund expenditure purposes included in the Code approve general expenditure purposes and cross-reference authorizing Acts, which contain specific program expenditure details. On occasion, however, the tax-writing committees have addressed (either with approval or disapproval) specific expenditure purposes contemplated by authorizing legislation. Trust Fund monies may not be spent for a purpose that is not approved in the relevant Code Trust Fund provisions.

The Code transfers amounts equivalent to “gross receipts” raised by the transportation excise taxes, rather than the “net revenues” produced by those taxes, to the transportation Trust Funds. Net revenues equal approximately 75 percent of gross receipts. The concept of net

¹⁶ See, e.g., the Statement of Managers on the Federal Aviation Reauthorization Act of 1996, clarifying that certain fees which the FAA is authorized to charge for overflight services provided to aircraft that neither take-off nor land within the United States may “not exceed the aggregate annual direct costs incurred by the FAA in providing air traffic services to such flights.” (H. Rept. 104-848, p. 110) Also, the report of the House Committee on Transportation and Infrastructure on that same legislation, to the effect that these user fees may not be based on “any non-cost based determination of the 'value' of the service provided. For example, assuming similar cost of serving different carrier and aircraft types, the FAA user fees should not vary based on factors such as aircraft seating capacity or revenues derived from passenger fares.” (H. Rept. 104-714, Part 1, p. 50).

revenues reflects budget scorekeeping conventions that discount excise tax revenues by the amount that income tax receipts are expected to decrease as a result of monies being removed from the private economy for payment of excise taxes.¹⁷

Trust Fund expenditure (but not revenue dedication) provisions also are contained in transportation titles of the United States Code. These provisions generally authorize specifically identified expenditure purposes, with accompanying dollar amounts that are authorized to be spent therefore. These provisions are within the jurisdiction of the authorizing committees: in the House, generally, the Committees on Transportation and Infrastructure, Energy and Commerce, and Science and Technology; and in the Senate, generally, the Committees on Environment and Public Works, Banking, Housing and Urban Affairs, and Commerce, Science, and Technology.

Unused cash balances in certain Trust Funds earn interest on investments in Government securities (Code sec. 9602). These earnings are available, as are the dedicated excise tax revenues, for expenditure from the respective Trust Funds. Balances in the Highway Trust Fund do not earn interest pursuant to an agreement on budgetary treatment of that Trust Fund that was enacted as part of the Transportation Equity Act for the 21st Century (“TEA 21”).

Expenditure appropriations

The transportation Trust Funds, including the Highway Trust Fund, provide that monies in the Trust Funds may be spent only when they are appropriated. The operative Trust Fund provisions may provide for expenditures pursuant to advance appropriations, or pursuant to authority granted to the Executive Branch to enter into contracts obligating the United States to spend amounts not exceeding legislatively prescribed maximums with actual appropriations following. Monies generally are appropriated and levels of annual permitted contract authority are established as part of the Congressional appropriations process.

¹⁷ See, Joint Committee on Taxation, *Discussion of Revenue Estimation Methodology and Process* (JCS-14-92), August 13, 1992.

IV. TREATMENT OF DEDICATED EXCISE TAXES UNDER CBO REVENUE BASELINE

The Budget Enforcement Act provides that excise taxes that are dedicated to Trust Funds are assumed permanent for budget scorekeeping purposes. This means that revenues from the excise taxes are automatically included each year in the Congressional Budget Office (“CBO”) and Office of Management and Budget forecast of Government receipts (the “revenue baseline”), even though the taxes may be scheduled to expire before the end of the baseline period. The CBO issues this annual baseline as part of its overall economic forecast each February; the forecast is used in developing the Congressional budget resolution. Both revenue and spending estimates are determined relative to that forecast (and the budget resolution) throughout the year.¹⁸ As a result of their inclusion in the revenue baseline, extensions of Trust Fund excise taxes generally are not scored as raising revenues when the extensions are enacted. On the other hand, reductions in those excise taxes (even as part of an extension of the taxes) are scored as losing revenue.

The following examples illustrate the operation of these budget scorekeeping rules.

Example (1).—The Highway Trust Fund excise taxes are scheduled to expire after September 30, 2005. Assume that as part of Highway Trust Fund expenditure reauthorization legislation in 2003, Congress extends these taxes for three additional years. No additional Federal revenues would be scored from this extension because the 2003 CBO revenue baseline will reflect permanent imposition of the excise taxes under the Budget Act rule that current dedicated excise taxes are assumed permanent.

Example (2).—Assume that as part of the highway legislation described in Example (5), the Highway Trust Fund special motor fuels tax on alternative fuels is extended at a lower rate than is imposed under present law. This provision would be scored as having a revenue loss because the CBO revenue baseline assumes the present-law tax rates to be permanent. (Note that as shown by Example (1), extension of the underlying excise taxes provides no revenue increase to offset this loss.)

Example (3).—In 1995, the Airport and Airway Trust Fund excise taxes were scheduled to expire after December 31, 1995. The taxes had been imposed since before January 1, 1995. In November 1995, when Congress passed the Balanced Budget Act of 1995 extending these excise taxes, no revenue increase was scored from the extension. This occurred because the February 1995 CBO revenue baseline, against which legislation was scored, assumed permanent imposition of these dedicated excise taxes (i.e., the scheduled expiration date was disregarded in forecasting future Government receipts).

Example (4).—In actuality, the Airport and Airway Trust Fund excise taxes expired after December 31, 1995. When the CBO issued its 1996 revenue baseline, projected future receipts

¹⁸ The CBO typically issues an update of its February forecast in August; however, because the budget resolution is based on the February baseline, revenue estimates continue to be determined by reference to the February baseline throughout the year.

from the Airport Trust Fund excise taxes were deleted, and deficit forecasts were adjusted accordingly. The excise taxes were re-imposed by the Small Business Job Protection Act of 1996 (the “Small Business Act”) for the period August 27, 1996, through December 31, 1996. Because the Airport Trust Fund excise taxes had expired when the 1996 CBO revenue baseline was issued, no revenue from these excise taxes was included in the baseline, and thus, revenue increases were scored from their reinstatement in the Small Business Act, for the approximately four-month period during which the taxes actually were re-imposed.

Example (5).—Assume the Highway Trust Fund excise taxes expire as scheduled after September 30, 2005. When the February 2006 CBO revenue baseline is issued, the Highway Trust Fund excise taxes will have expired and the baseline will not include any projected receipts from them. If Congress acts to re-impose the taxes in 2006 after the CBO baseline is issued, revenue increases will be scored for the period during which the taxes are re-imposed.

V. OVERVIEW OF HIGHWAY TRUST FUND EXCISE TAX SIMPLIFICATION RECOMMENDATIONS BY THE STAFF OF THE JOINT COMMITTEE ON TAXATION

In April 2001, the staff of the Joint Committee on Taxation issued a report on the state of the Federal tax system and recommendations for simplifying that system.¹⁹ The report was required by the IRS Restructuring and Reform Act of 1998 and was funded by appropriations approved by the Congress. Several recommendations regarding the Highway Trust Fund excise taxes were included in the report. The Joint Committee staff recommendations regarding the Highway Trust Fund excise taxes are reproduced below.²⁰

“Recommendation 1: Reduce the number of separate taxes imposed to finance the Highway Trust Fund”

The Joint Committee staff recommends that the number of taxes imposed to finance Highway Trust Fund programs should be reduced by eliminating or consolidating the non-fuels taxes. The rates at which the fuels taxes or the restructured non-fuels taxes are imposed could be adjusted to ensure that future funding for Trust Fund programs is not affected.

Unlike taxes the revenues from which are retained in the General Fund of the Treasury, excise taxes dedicated to Trust Funds typically are designed to reflect a cost-benefit relationship between the taxpayer and the beneficiaries of the Trust Fund programs being financed. [. . .]he decision to structure the Highway Trust Fund excise taxes consistent with the findings of a Department of Transportation cost allocation study adds significant complexity to the Code. This complexity results from reliance on multiple, separate excise taxes that yield relatively small amounts of Federal revenue, but require significant factual determinations. In some cases, these taxes directly impact large numbers of taxpayers whose individual tax obligations are relatively small.

Historically, approximately 90 percent of the revenues for the Highway Trust Fund have been produced by the motor fuels excise taxes. For example, in Fiscal Year 2000, the motor fuels excise taxes yielded gross receipts of \$30.1 billion. The heavy vehicle retail sales tax produced \$3.1 billion, the tire excise tax yielded \$436 million, and the annual use tax yielded \$900 million. The Joint Committee staff recommendation would retain the historical user charge nature of

¹⁹ See, Joint Committee on Taxation, *Study of the Overall State of the Federal Tax System and Recommendations for Simplification, Pursuant to Section 8022(3)(B) of the Internal Revenue Code of 1986* (JCS-3-01), April 2001, vol. II at pp. 478-489.

²⁰ The discussion related to Recommendation 4(e) below (repeal of terminal dyeing mandate) has been deleted. That recommendation was enacted by the Job Creation and Worker Assistance Act of 2002.

these taxes, but would shift some emphasis from academic cost allocation studies in favor of simplified compliance.

Compliance issues are high relative to revenue yield for the non-fuels excise taxes. For example, the retail sales tax applies to the first sale of a new or “remanufactured” vehicle. Statutory and regulatory safe harbors are provided for determining when a repair is so extensive that a vehicle has been remanufactured with the result that a new tax is imposed. These safe harbors are based on relative values before and after the modifications, change in transportation function, and extension of the useful life or transportation function of the vehicle. In practice, the safe harbors are sufficiently imprecise that many transactions are subject to IRS audit challenge, often long after the transaction is complete. Thus, the vendor may lose the opportunity to pass the tax through to the customer who purchased a vehicle as a result of innocent mistakes in applying the present rules.

Other factual issues arise from the fact that the tax applies only to highway vehicles.²¹ The definition of highway vehicle is unclear in the case of vehicles that are used both on and off highway (e.g., heavy construction equipment). Similarly, certain types of equipment unrelated to the transportation function of a vehicle, but which are mounted on the vehicle, are exempt from tax. The determination of whether this equipment is related to the transportation function of the vehicle (and is therefore taxable) results in numerous IRS and taxpayer audit disputes as well.

Finally, despite the relatively small portion of Highway Trust Fund revenues it yields, the annual use tax on heavy vehicles includes not only special rules such as those for logging and agricultural vehicles which give rise to factual uncertainty, but also directly involves as “taxpayers” every heavy vehicle owner in the United States. Many such vehicle owners own only a single or a few vehicles, making IRS enforcement efforts inefficient if tax is not paid voluntarily. Similarly, Mexican- and Canadian-registered trucks operating in the United States are subject to the tax if they travel over 5,000 U.S. miles in a year. The only mechanism for monitoring compliance in these instances is border checks by the U.S. Customs Service. As a result, the costs associated with enforcement exceed the tax collected in many cases.

The Joint Committee staff recommendation could be accomplished by any of several modifications to the current tax structure. First, the three non-fuels excise taxes could be eliminated and the rates of the motor fuels taxes could be increased to protect Trust Fund program funding. Some would suggest that such a change would “under tax” heavy vehicle users at the expense of automobile and light truck users; however, reliance on the motor fuels taxes would have significant tax administration advantages. Because the gasoline, diesel fuel, and

²¹ The definition of highway vehicle also is important for determining whether fuel is subject to tax.

kerosene excise taxes are imposed at “narrow” points in the distribution chain of those fuels, there are significantly fewer persons directly involved in the calculation and remittance of the taxes.²² Further, the items subject to tax are clearly identifiable; therefore, the current complex factual determinations and accompanying audit disputes presented by the heavy vehicle retail sales tax would be eliminated.

Alternatively, separate taxes imposed on heavier vehicles could be retained, but in a consolidated form requiring fewer factual determinations (to reduce taxpayer uncertainty and IRS audit disputes) and/or yielding greater revenue per tax (to promote more productive use of IRS resources). For example, the three current taxes could be consolidated into a single weight-distance tax imposed on heavy vehicles. Such a tax would be more responsive to the cost-benefit principle that tax liability should be based on highway damage done than are any of the current non-fuels excise taxes because it would be directly related to miles driven. A weight distance tax would raise a similar issue regarding number of taxpayers to that presented by the current heavy vehicle annual use tax: all truck owners would be taxpayers. However, vehicle dealers and manufacturers and tire manufacturers no longer would be taxpayers. Further, if structured based on gross vehicle weight and total miles driven, the tax would not present many of the factual uncertainties that arise with the current heavy vehicle retail sales tax.²³

Finally, on a more limited basis, the retail sales tax and the tire tax could be consolidated. While such a modification would eliminate at least one set of current taxpayers, taxpayer uncertainty and complexity would not be reduced if the heavy vehicle retail sales tax were retained because of the inherent factual uncertainties over whether actions constitute repair or remanufacture. Imposed at a higher rate, the retail sales tax would increase the pressure on these factual determinations for taxpayers and the IRS. While not reducing complexity, the increased dollar significance of the issues could justify expenditure of more resources by taxpayers and the IRS on tax compliance.

Similarly, if the tire tax were retained at an increased rate, the current exemption for retread tires should be reviewed because a higher tax rate on new

²² The special motor fuels excise tax is imposed at the retail level; however, revenues from that tax and users of those fuels represent only a small fraction of the total motor fuels revenues and users.

²³ An example of a simplified weight-distance tax structure would be a tax at a fixed rate per mile (based on gross vehicle weight) for each mile driven. Gross vehicle weight would be defined as the maximum certified weight of the vehicle (the same as under the current heavy vehicle retail sales tax). Mileage data currently is reported to the Department of Transportation and is used to apportion State motor fuels tax liability among States so this information is readily available today as well.

tires would increase current market distortions in favor of untaxed retreads. Elimination of the tire tax, on the other hand, would make new tires more competitive, and potentially achieve some safety benefits.

Recommendation 2: Clarify the definition of “highway vehicle”

The Joint Committee staff recommends that the definition of highway vehicle should be clarified to eliminate taxpayer uncertainty about the taxability of motor fuels and retail sales (if the retail sales tax is retained).

In most cases, motor fuels are taxable only when used in a highway vehicle. Similarly, the retail sales tax on heavy highway vehicles does not apply to off-road vehicles or to equipment that is unrelated to the transportation function of a highway vehicle. As described above, there is no uniform definition of what is a highway vehicle or of what equipment forms a component of such a vehicle. Parties currently are litigating the classification of many heavy vehicles (e.g., highway construction trucks and trucks equipped to dig holes for utility poles alongside highways) in an attempt to exempt the vehicles (and fuel used in them) from these taxes despite the fact that much of their working time is spent on highways. Additionally, in the case of equipment installed on a highway vehicle, the present-law determination can be so highly factual that the manner in which the equipment is attached to the vehicle chassis determines whether the equipment is subject to tax.

A uniform definition of highway vehicle that includes within that definition (1) all equipment customarily used on such a vehicle and (2) all vehicles permitted to drive on highways would eliminate the current taxpayer confusion and resulting IRS audit disputes.

Recommendation 3: Eliminate the installment payment option for the heavy vehicle annual use tax (if that tax is retained)

The Joint Committee staff recommends that the option to pay the heavy vehicle annual use tax in quarterly installments be eliminated (if that tax is retained).

The heavy vehicle annual use tax is imposed once per twelve-month period, July 1 through June 30. Taxpayers are allowed to pay the tax (maximum of \$550 per truck) in quarterly installments. The “taxpayer” for this tax is the vehicle owner. This results in this tax having the greatest number of persons actually remitting tax of any Highway Trust Fund tax. Further, many taxpayers are liable only for relatively small amounts of tax.

Low compliance by smaller owner-operators and taxable vehicles having base registrations in Canada or Mexico led the Congress to require States to verify

with the IRS that the tax has been paid before issuing annual State registrations.²⁴ In the case of taxpayers that elect quarterly installment payments, the IRS has no procedure for ensuring that installments subsequent to the first one actually are paid. Thus, it is possible for taxpayers to receive State registrations when only the first quarterly installment is paid. Similarly, it is possible for taxpayers repeatedly to pay the first quarterly installment and continue to receive State registrations because the IRS has no computerized system for checking past compliance when it issues certificates of payment for the current year. In the case of taxpayers owning only one or a few vehicles, it is not cost effective for the IRS to monitor and enforce compliance.

If this tax is retained, eliminating the quarterly installment option would eliminate current opportunities for tax evasion without requiring devotion of IRS resources to non-cost-effective enforcement activities.

Recommendation 4: Simplify motor fuels refund and tax collection procedures²⁵

The Joint Committee staff recommends that several technical modifications should be made to the present Code provisions governing motor fuels refund procedures and tax collection:

(a) Timing and threshold requirements for claiming quarterly refunds should be consolidated to allow a single claim to be filed on an aggregate basis for all fuels.

(b) To the extent necessary to implement item (a), differing present-law exemptions should be conformed.

(c) Clarification of the party exclusively entitled to a refund should be provided in cases in which present law is unclear.

(d) The regulatory definition of “position holder” (the party liable for payment of the gasoline, diesel fuel, and kerosene taxes) should be modified to recognize certain two-party terminal exchange agreements between registered parties.

(e) The condition of registration requiring terminals to offer for sale both undyed and dyed diesel fuel and kerosene should be repealed.

²⁴ This requirement is in transportation provisions governing eligibility for Highway Trust Fund monies.

²⁵ If appropriate, these recommendations would apply to the aviation gasoline and jet fuels taxes as well. See the section on Airport and Airway Trust Fund Excise Taxes.

Refund provisions

Under present law, numerous differing refund rules create complexity for consumers as well as for IRS personnel who have to review refund claims. The Joint Committee staff recommendation would conform eligibility for exemptions with regard to fuel uses that are nontaxable, the persons entitled to claim refunds, and the time in which processing must occur if no interest is to be paid to claimants. Thus, to the maximum extent consistent with ensuring tax compliance, a single claim could be filed for all amounts due a person with respect to tax included in the price of any taxable fuel used in non-taxable use. Further, because of the multiple circumstances giving rise to refunds, flexibility should be provided with regard to timing and amendment of refund claims to the extent that compliance objectives are not harmed.

Person entitled to claim refunds.—Because the motor fuels excise taxes are imposed at points in the chain of distribution away from the consumer, most exemptions are realized by means of refunds. In many cases, the rules governing these exemptions date from periods before the tax collection regimes of present law were enacted. Some refunds are payable to wholesale distributors and ultimate vendors while others may be claimed only by consumers. When refunds are available to intervening parties that also are excise-tax taxpayers, certain refunds may be claimed as credits against current excise tax liability while others may not.

Differing definitions of nontaxable use.—The uses on which tax is not imposed differ between the gasoline and diesel fuel and kerosene taxes. An example of such a difference is the off-highway use fuels tax exemption. For gasoline, only off-highway “business” use is exempt; for diesel fuel and kerosene, all off-highway use is exempt.²⁶

Timing of refund claims.—Excise tax refunds for which actual refund claims are filed typically may be filed quarterly (if a minimum dollar threshold is met) and generally do not bear interest. In certain cases (e.g., ethanol blenders and ultimate vendors of kerosene in certain cases) persons may file claims as frequently as weekly and interest is payable on the claim if not paid within 20 days. Consumers that do not satisfy the minimum dollar thresholds must claim refunds as credits against income tax for the year in which the claim accrues. Finally, refunds payable to persons that actually remit tax to the IRS typically may be claimed as credits against semi-monthly excise tax deposits.

²⁶ If these exemptions were conformed to include non-business off-highway use of gasoline, the modifications would have to include a different source of revenue for the wetlands sub-account of the Aquatic Resource Trust Fund's Sport Fish Restoration Account. That sub-account is funded with assumed receipts from gasoline taxes on non-business fuel for off-highway small engines (e.g., snow blowers and all-terrain vehicles).

Recognition of certain two-party terminal exchange agreements

An additional part of this recommendation would modify the regulatory definition of “position holder” to recognize the provisions of two-party terminal exchange agreements among registered parties -- at least in the case of ethanol blending transactions. The IRS investigates persons as a condition of their owning non-tax-paid motor fuels or purchasing gasoline at reduced tax rates to be blended with ethanol. As of January 2001, there were 981 registered position holders and 1280 registered ethanol blenders. It is common industry practice for position holders to serve customers of other position holders, e.g., where Company A's terminal is more conveniently located for wholesale or retail customers of Company B.²⁷ In such cases, the motor fuel is removed in the name of the exchange agreement partner (Company B in the example) rather than that of the actual customer.

When ethanol is to be blended with gasoline being removed, the tax due on the gasoline is reduced. Failure to recognize these two-party terminal exchange agreements eliminates the availability of reduced-tax-rate removals of the gasoline to be blended with ethanol. Instead, the blender (actual customer) removing the gasoline has to pay the full gasoline tax and file a refund claim. Such refund claims may be filed weekly and must be paid by the IRS within 20 days or interest accrues on the unpaid claims.

Assuming that the IRS adequately monitors the trustworthiness of position holders as a condition of their registration, recognizing the two-party terminal exchange agreements should not reduce compliance.²⁸ However, such a move would reduce the number of refund claims that must be filed and processed as well as eliminating the “float” cost to blenders.”

²⁷ All gasoline and diesel fuel is “generic” until proprietary additives are injected on removal from a terminal facility to make the gasoline “branded” or unique to the company under whose name it is marketed at retail.

²⁸ Full implementation of a planned IRS computer tracking system for motor fuels currently under development should reduce, if not eliminate, potential tax evasion from implementation of this recommendation.

**VI. SUMMARY OF BILLS RELATING TO THE HIGHWAY TRUST FUND
INTRODUCED IN THE SENATE DURING THE 107TH CONGRESS**

A. S.594

On March 22, 2001, Senator Nickles introduced S.594. The bill would revise the excise tax on heavy truck tires. The bill would impose a tax equal to eight cents for each 10 pounds of tire load capacity in excess of 3500 pounds on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer.

B. S. 878

On May 15, 2001, Senator Inhofe introduced S. 878. The bill would prorate the heavy vehicle use tax between the first and subsequent purchasers of the same vehicle within one taxable period.

C. S. 907

On May 17, 2001, Senator Carnahan introduced S. 907. Among other things, the bill would further extend section 40 of the Code, relating to alcohol used as fuel.

D. S. 1058

On June 19, 2001, Senator Hutchinson, for himself and Senator Dayton, introduced S. 1058. The bill would provide an income tax credit for biodiesel used as fuel and would provide for a reduction of motor fuel excise taxes on biodiesel mixtures.

E. S. 1092

On June 22, 2001, Senator Gramm introduced S. 1092. The bill would exempt feed, seed, or fertilizer truck chassis from the excise tax on heavy trucks and trailers.

F. S. 1306

On August 2, 2001, Senator Baucus, for himself and 18 other Senators, introduced S. 1306, the "Highway Trust Fund Recovery Act of 2001." The bill would amend the Code to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund.

G. S. 1942

On February 13, 2002, Senator Lincoln, for herself and Senators Dayton and Johnson introduced S. 1942, the "Biodiesel Promotion Act of 2002." The bill would provide an income tax credit for biodiesel used as fuel and would provide for a reduction of motor fuel excise taxes on biodiesel mixtures.

H. S. 1979

On March 1, 2002, Senator Baucus introduced S. 1979, the "Energy Tax Incentives Act of 2002." Among its provisions are (1) a requirement that all excise taxes imposed on alcohol

fuels be transferred to the Highway Trust Fund, and (2) an income tax credit for biodiesel used as fuel and a reduction of motor fuel excise taxes on biodiesel mixtures. The bill would also allow a refiner blending ETBE and gasoline to transfer the alcohol fuels credit to a registered position holder that is a member of the same controlled group of corporations as the refiner, and the position holder could use the excise tax credit to offset its liability for excise taxes. Alternatively, in lieu of excise tax rate reductions for specified gasohol blends, a refiner blending ETBE and gasoline would accrue an excise tax credit equal to the amount of the alcohol fuels credit. The refiner could use this credit to offset its excise tax liability for highway motor fuels.

I. H.R. 4

On April 25, 2002, the Senate passed H.R. 4, as amended by the Senate. Division H of H.R. 4 contains the energy tax incentives of S. 1979 with modifications, including (1) a requirement that all excise taxes imposed on alcohol fuels be transferred to the Highway Trust Fund (sec. 2006), and (2) an income tax credit for biodiesel used as fuel and a reduction of motor fuel excise taxes on biodiesel mixtures (sec. 2008). Section 2007 of the bill would also allow a refiner blending ETBE and gasoline to transfer the alcohol fuels credit to a registered position holder that is a member of the same controlled group of corporations as the refiner, and the position holder could use the excise tax credit to offset its liability for excise taxes. Alternatively, in lieu of excise tax rate reductions for specified gasohol blends, a refiner blending ETBE and gasoline would accrue an excise tax credit equal to the amount of the alcohol fuels credit. The refiner could use this credit to offset its excise tax liability for highway motor fuels.

APPENDIX

IRS No.		Rate	Tax	IRS No.
33	Retail Tax Truck, trailer, and semitrailer chassis and bodies, and tractors	12% of sales price		33
29	Ship Passenger Tax Transportation by water	Number of persons \$3 per person		29
31	Other Excise Tax Obligations not in registered form	Amount of obligations \$.01		31
92	Luxury Tax Passenger vehicles (See instructions.)	Rate 3% of sales price over base amount		92
36	Manufacturers Taxes Coal—Underground mined	Number of tons Sales price	Rate \$1.10 per ton	36
37			4.4% of sales price	
38	Coal—Surface mined		Rate \$.55 per ton	38
39			4.4% of sales price	
66	Highway-type tires (See instructions.)			66
40	Gas guzzler tax (Attach Form 6197.)			40
97	Vaccines (See instructions.)			97
30	Foreign Insurance Taxes Policies issued by foreign insurers (See instructions.) Casualty insurance and indemnity bonds	Premiums paid	Rate \$.04	30
			.01	
			.01	
	Life insurance, sickness and accident policies, and annuity contracts			
	Reinsurance			

1 Total. Add all amounts in Part I. Complete Schedule A unless one-time filing. ▶ \$

Part II

IRS No.		Rate	Tax	IRS No.
41	Sport fishing equipment	10% of sales price		41
42	Electric outboard motors and sonar devices	3% of sales price		42
44	Bows	11% of sales price		44
102	Arrow components	12.4% of sales price		102
64	Inland waterways fuel use tax	Number of gallons	Rate \$.244	64
51				
20	Floor Stocks Tax Ozone-depleting chemicals (floor stocks) (Attach Form 6627.)			20

2 Total. Add all amounts in Part II. ▶ \$

Part III

3	Total tax. Add line 1, Part I, and line 2, Part II	3	
4	Claims (See instructions. Complete Schedule C.)	4	
5	Subtract line 4 from 3. If the result is less than zero, enclose the amount in parentheses	5	
6	Deposits made for the quarter	6	
7a	Overpayment from previous quarters	7a	
b	Enter the amount from Form 720X included on line 7a, if any	7b	
8	Total of lines 6 and 7a	8	
9	Balance Due. If line 5 is greater than line 8, enter the difference. This amount must be paid with the return. Enclose check or money order for full amount payable to the "United States Treasury." Write your EIN, "Form 720," and the quarter on it	9	
10	Overpayment. If line 8 is greater than line 5, enter the difference. If you have an entry that is less than zero on line 5, combine line 5 and line 8. Check if you want the overpayment: <input type="checkbox"/> Applied to your next return, or <input type="checkbox"/> Refunded to you.	10	

Third Party Designee Do you want to allow another person to discuss this return with the IRS (see page 3 of the separate instructions)? Yes. Complete the following. No.

Designee name ▶ Phone no. ▶ () Personal identification number (PIN) ▶

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Sign Here

Signature _____ Date _____ Title _____

Type or print name below signature. Telephone number ()

Schedule A Excise Tax Liability (See page 8 of the instructions.)

Note: You must complete Schedule A if you have a liability for any tax in Part I of Form 720. Do not complete Schedule A for Part II taxes (sport fishing equipment, electric outboard motors and sonar devices, bows, arrow components, inland waterways fuel use, alcohol sold but not used as fuel, or any floor stocks tax) or for one-time filings.

1 Regular method taxes

(a) Record of Net Tax Liability	Period					
	1st-15th day		16th-last day			
First month	A		B			
Second month	C		D			
Third month	E		F			
Special rule for September*						
(b) Net liability for regular method taxes. Add the amounts for each semimonthly period.						

2 Alternative method taxes (IRS Nos. 22, 26, 28, and 27)

(a) Record of Taxes Considered as Collected	Period					
	1st-15th day		16th-last day			
First month	M		N			
Second month	O		P			
Third month	Q		R			
Special rule for September*						
(b) Alternative method taxes. Add the amounts for each semimonthly period.						

*Complete only as instructed. See page 8.

Schedule C **Claims** Month your income tax year ends ►

- Complete Schedule C for claims *only* if you are reporting liability in Part I or II of Form 720.
- Attach a statement explaining each claim as required. Include your name and EIN on the statement. See page 8 of the instructions.

1 Nontaxable Use of Gasoline and Gasohol		Period of claim ►			
	Type of use	Rate	Gallons	Amount of claim	CRN
a	Gasoline	\$.184			362
b	10% gasohol	.131			359
c	7.7% gasohol	.14319			375
d	5.7% gasohol	.15379			376

2 Nontaxable Use of Aviation Gasoline		Period of claim ►			
	Type of use	Rate	Gallons	Amount of claim	CRN
a	Used in commercial aviation (other than foreign trade)	\$.15			354
b	Other nontaxable use	.194			324

3 Nontaxable Use of Undyed Diesel Fuel		Period of claim ►			
Claimant has the name and address of the person(s) who sold the diesel fuel to the claimant and the date(s) of the purchase(s) and if exported, the required proof of export.					
Claimant certifies that the diesel fuel did not contain visible evidence of dye.					
Exception. If any of the diesel fuel included in this claim did contain visible evidence of dye, attach a detailed explanation and check here . . . ► <input type="checkbox"/>					
Caution: Claims cannot be made on line 3 for diesel fuel used on a farm for farming purposes or for exclusive use by a state or local government.					
	Type of use	Rate	Gallons	Amount of claim	CRN
a	Nontaxable use	\$.244			360
b	Use in trains	.20			353
c	Use in certain intercity and local buses	.17			350

4 Nontaxable Use of Undyed Kerosene		Period of claim ►			
Claimant has the name and address of the person(s) who sold the kerosene to the claimant and the date(s) of the purchase(s) and if exported, the required proof of export.					
Claimant certifies that the kerosene did not contain visible evidence of dye.					
Exception. If any of the kerosene included in this claim did contain visible evidence of dye, attach a detailed explanation and check here . . . ► <input type="checkbox"/>					
Caution: Claims cannot be made on line 4 for kerosene used on a farm for farming purposes, for exclusive use by a state or local government, or for sales from a blocked pump.					
	Type of use	Rate	Gallons	Amount of claim	CRN
a	Nontaxable use	\$.244			346
b	Use in trains	.20			348
c	Use in certain intercity and local buses	.17			347

5 Nontaxable Use of Aviation Fuel		Period of claim ►			
	Type of use	Rate	Gallons	Amount of claim	CRN
a	Use in commercial aviation (other than foreign trade)	\$.175			355
b	Other nontaxable use	.219			369
c	Other nontaxable use	.044			377

6 Sales by Registered Ultimate Vendors of Undyed Diesel Fuel		Period of claim ►			
UV Registration Number ►					
Claimant sold the diesel fuel at a tax-excluded price, repaid the amount of tax to the buyer, or has obtained written consent of the buyer to make the claim; and obtained the required certificate from the buyer and has no reason to believe any information in the certificate or statement is false. See the instructions for additional information to be submitted.					
Claimant certifies that the diesel fuel did not contain visible evidence of dye.					
Exception. If any of the diesel fuel included in this claim did contain visible evidence of dye, attach a detailed explanation and check here . . . ► <input type="checkbox"/>					
		Rate	Gallons	Amount of claim	CRN
a	Use on a farm for farming purposes	\$.244			360
b	Use by a state or local government	.244			

7 Sales by Registered Ultimate Vendors of Undyed Kerosene

Period of claim ▶ _____
 UV Registration Number ▶ _____
 UP Registration Number ▶ _____

Claimant sold the kerosene at a tax-excluded price, repaid the amount of tax to the buyer, or has obtained the written consent of the buyer to make the claim; and obtained the required certificate (for lines 7a and 7b) from the buyer or has the statement required by Regulations section 48.6427-10(e)(4) (for line 7c) and has no reason to believe any information in the certificate or statement is false. See the instructions for additional information to be submitted.

Claimant certifies that the kerosene did not contain visible evidence of dye.

Exception. If any of the kerosene included in this claim **did** contain visible evidence of dye, attach a detailed explanation and check here. ▶

	Rate	Gallons	Amount of claim	CRN
a Use on a farm for farming purposes	\$.244			346
b Use by a state or local government	.244			
c Sales from a blocked pump	.244			

8 Use of LPG in Certain Buses

Period of claim ▶ _____

	Rate	Gallons	Amount of claim	CRN
a Certain intercity and local buses	\$.062			352
b Use in qualified local buses	.136			361
c Use in school buses	.136			

9 Gasohol Blending

Period of claim ▶ _____

Claimant certifies that it bought gasoline taxed at the full rate and blended it with alcohol to make gasohol. The gasohol was sold or used in claimant's trade or business. For **each batch** of gasohol, claimant has the required information relating to the purchase of the gasoline and alcohol used to make the gasohol and to support the amount claimed.

	Type of gasohol	Rate	Gallons of		Amount of claim (rate x gals. of gasoline)	CRN
			Gasoline	Alcohol		
a	10% gasohol	\$.03845				356
b	7.7% gasohol	.02887				357
c	5.7% gasohol	.02092				363

10 Gasoline

Earliest date of sale included in claim ▶ _____

Latest date of sale included in claim ▶ _____

Claimant sold the gasoline, gasohol, or aviation gasoline at a tax-excluded price, repaid the amount of the tax to the ultimate vendor, or has obtained the written consent of the ultimate vendor to make the claim; and has the required supporting information.

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Gasoline	\$.184			362
b	10% gasohol	.131			359
c	7.7% gasohol	.14319			375
d	5.7% gasohol	.15379			376
e	Aviation gasoline	.194			324

11 Other claims. See page 10 of the instructions.

For claims under section 6416(b)(2) relating to certain uses and resales of certain articles subject to manufacturers or retailers taxes, claimant sold the article at a tax-excluded price, repaid the amount of tax to the ultimate vendor, or has obtained the written consent of the ultimate vendor to make the claim.

	Amount of claim	CRN
a Section 4051(d) tire credit		366
b _____		
c _____		
d _____		
e _____		
f _____		
g _____		
h _____		

12 Total claims. Add all amounts on lines 1-11. Enter the result here and on page 2, Part III, line 4 of Form 720.

12			
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