

DESCRIPTION OF H. R. 4800  
(AIRPORT AND AIRWAY REVENUE ACT OF 1981)

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## INTRODUCTION

This document provides a description of H.R. 4800, the Airport and Airway Revenue Act of 1981, as introduced on October 21, 1981 (by Messrs. Rostenkowski and Conable). The bill would provide funding for the Airport and Airway Trust Fund through 1983 by reinstating and extending certain aviation excise taxes. The bill is for consideration by the Committee on Ways and Means as the revenue title to accompany H.R. 2643, the Airport and Airway Improvement Act of 1981, as reported by the Committee on Public Works and Transportation and the Committee on Science and Technology. H.R. 2643 provides Trust Fund authorizations through fiscal year 1983.

The Committee on Ways and Means held a public hearing on October 14 on proposals relating to aviation excise taxes and the Airport and Airway Trust Fund. A staff pamphlet (JCS-54-81) provides a description of the Administration aviation tax proposal (title II of H.R. 2930) and the 1980 Ways and Means Committee amendment. The pamphlet also provides a comparison of the Trust Fund authorization programs in the Administration proposal (title I of H.R. 2930) and H.R. 2643.

The first part of this document is a discussion of present and prior law relating to aviation excise taxes. This is followed by a description of the provisions of H.R. 4800. The third part is a comparison of projected revenue effects for the Trust Fund taxes. Finally, the Appendix Table compares the aviation excise tax rates of present and prior law with those proposed in H.R. 4800, H.R. 2930, and the 1980 Committee amendment.

## I. PRESENT LAW AND BACKGROUND

### 1. Overview

The Airport and Airway Revenue Act of 1970 (Title II of Public Law 91-258) imposed or amended most of the aviation excise taxes included in the law since that time. The Act also established the Airport and Airway Trust Fund ("Trust Fund") for deposit of these excise taxes. On October 1, 1980, many of the taxes expired or were reduced. Deposit of the aviation tax revenues in the Trust Fund was also terminated on that date.

### 2. Present law

Since October 1, 1980, a 5-percent excise tax has been imposed on domestic air transportation of persons (Code sec. 4261(e)).<sup>1</sup> Revenues from this tax currently go into the general fund. There is also a 4-cents-per-gallon manufacturers excise tax on gasoline used in noncommercial aviation (Code sec. 4081 generally), the revenues of which currently go into the Highway Trust Fund.

Excise taxes on aircraft tires and tubes are also imposed at the same rates applicable to other nonhighway tires (4.875 cents per pound) and tubes (10 cents per pound) under present law (Code sec. 4071). The revenues from the taxes on aircraft tires and tubes currently go into the Highway Trust Fund.

Table 1 shows the present law schedule of aviation excise taxes and the present tax rates.

TABLE 1.—SCHEDULE OF AVIATION EXCISE TAXES UNDER PRESENT LAW

Tax (and Code section)	Present rate
Air passenger ticket tax (secs. 4261 (a), (b), (d), and (e)).....	5 percent.
Fuels tax for noncommercial (general) aviation gasoline (sec. 4041(c)).....	4 cents/gallon.
Aircraft tires tax (sec. 4071).....	4.875 cents/lb.
Aircraft tubes tax (sec. 4071).....	10 cents/lb.

<sup>1</sup> Air transportation between the United States and a foreign station which is not more than 225 miles from the nearest point in the continental United States, as well as between two such foreign stations, generally is subject to the 5-percent tax where payment for the travel is made in the United States. This tax does not apply to transportation between the United States and other foreign stations where payment is made outside the United States, nor does it apply to the U.S. portions of certain uninterrupted international air transportation (where the layover does not exceed 6 hours). Also, the air passenger tax does not apply to the portion of flights to or from Alaska and Hawaii which are not made over the United States (Code sec. 4262).

### 3. Prior law

#### *Taxes on air transportation of persons and property*

For the period July 1, 1970 through September 30, 1980, the excise tax on air passenger transportation within the United States was imposed at a rate of 8 percent of the amount of the airfare.

There also was a \$3 per passenger departure tax (a new tax added by the 1970 Act) for international air transportation that began in the United States and for flights to or from Alaska and Hawaii. This tax terminated on October 1, 1980.

In the case of air transportation of property, the 1970 Act imposed a tax of 5 percent of the air freight waybill charge; this tax terminated on October 1, 1980. In determining taxable transportation, the same rules generally applied as for transportation of persons, except that the air freight tax applied only to amounts paid for transportation of property by air which began and ended in the United States.

These taxes were collected along with the fare by the air carrier, for subsequent deposit by the Treasury into the Airport and Airway Trust Fund. Exemptions from these taxes were (and continue to be) provided for transportation by small aircraft on nonestablished lines (Code sec. 4281) and for private air transportation services provided within a group of affiliated corporations (Code sec. 4282). Aircraft not subject to these passenger or freight taxes were subject to the fuels tax, mentioned below.

#### *Other aviation excise taxes*

In addition to the taxes on air passenger and air freight fares, there was a 7-cents-per-gallon tax on aviation fuels (gasoline and other fuels, including jet fuels) used by noncommercial (general) aviation, an aircraft use tax,<sup>2</sup> and a tax on aircraft tires and tubes. The fuels tax was an increase from the pre-1970 net tax of two cents per gallon on gasoline for aviation use. The tax on aviation gasoline returned to 4-cents-per-gallon on October 1, 1980, while the 7-cents-per-gallon tax on nongasoline fuels (e.g., kerosene—jet fuels) expired on that date. The aircraft use tax was new under the 1970 Act; the tax expired on October 1, 1980. The tax on aircraft tires and tubes was merely a transfer of revenues from the excise taxes on such tires and tubes from the Highway Trust Fund.

There was (and continues to be for gasoline) a general exemption (via a refund or credit) from the aviation fuels tax for fuel sold for

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<sup>2</sup>The annual aircraft use tax consisted of two parts: (1) a \$25 annual per plane tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight." For the period July 1, 1980–September 30, 1980, the use tax was at one-fourth the annual rates.

use or used on a farm for farming purposes. Also, the tax on aviation fuels and the tax on aircraft use did not apply to aircraft owned by a tax-exempt aircraft museum operated exclusively for the procurement, care, and exhibition of World War II aircraft. In addition, there was a general exemption from the fuels tax for fuel sold for use or used by a State or local government, by a nonprofit educational organization, and for fuels exported.

Table 2 shows the aviation excise taxes and tax rates as they existed before October 1, 1980 (generally for the period July 1, 1970 through September 30, 1980).

TABLE 2.—SCHEDULE OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES BEFORE OCTOBER 1, 1980

Tax (and Code section)	Prior law rate
Air passenger ticket tax (sec. 4261 (a), (b) and (d))	8 percent.
Air freight waybill tax (sec. 4271)	5 percent.
International departure tax (sec. 4261(c))	\$3.
Fuels tax for noncommercial (general) aviation (sec. 4041(c)) <sup>1</sup>	7 cents/gal.
Aircraft use tax (sec. 4491) <sup>1</sup>	( <sup>2</sup> ).
Aircraft tires tax (sec. 4071)	5 cents/lb.
Aircraft tubes tax (sec. 4071)	10 cents/lb.

<sup>1</sup> The tax did not apply to aircraft owned by a tax-exempt museum operated exclusively for the procurement, care, and exhibition of World War II aircraft (defined in sec. 4041(h)).

<sup>2</sup> An annual tax of two parts: (1) a \$25 annual per plane tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight." However, for the period July 1, 1980-Sept. 30, 1980, the use tax was one-fourth the applicable annual rates.

II. DESCRIPTION OF H.R. 4800

A. Aviation Excise Taxes  
(Secs. 202-204 of the bill)

Description of provisions

In general, the bill would continue or reinstate the same aviation excise taxes as existed under prior law on September 30, 1980. However, certain tax rates under the bill would be different than they had been under prior law, the aircraft use tax of prior law would be repealed, and certain technical modifications would be made.

Aviation fuels taxes.--The excise tax on gasoline used in non-commercial aviation would be reinstated and increased to 8 cents per gallon. This tax would be in addition to the existing 4-cents-per-gallon manufacturers excise tax on gasoline. Thus, the total tax would be 12 cents per gallon. The excise tax on fuels other than gasoline (such as jet fuel) which are used in noncommercial aviation would be reinstated and increased to 12 cents per gallon.

Air passenger tax.--The air passenger ticket tax would remain at 5 percent of amounts paid for taxable transportation, as under present law. The tax would be extended to apply to the portion of air travel between the continental United States and Alaska or Hawaii (or between Alaska and Hawaii) that is not made over the United States, which portion is excluded from the air passenger tax under present law. For the purpose of determining whether a flight is a part of an uninterrupted international flight (to which part this air passenger tax does not apply), the 6-hour layover rule would be extended to a 12-hour rule.

The bill would remove the present law requirement that an airline ticket show the airfare and the passenger tax for each segment of a trip (if it shows the airfare for any such segment) but would

retain the present law requirement that the ticket show the airfare and passenger tax for the total trip.

In addition, the bill would authorize the Secretary of the Treasury to waive the existing 225-mile-zone rule under certain conditions. In order to effect a waiver, the Secretary, if he determines that Canada or Mexico has entered into a qualified agreement with the United States, would be required to

(1) publish a notice of such determination in the Federal Register, and, at least 90 days prior to such publication,

(2) furnish a copy of the agreement to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

For this purpose, a qualified agreement would mean an agreement between the United States and Canada or Mexico that sets forth the areas which are not to be treated as within the 225-mile zone and provides for applicable Canadian or Mexican taxes which the Secretary determines are appropriate. The bill would also authorize the Secretary to terminate a waiver under certain conditions.

International departure tax.--The international departure tax would be reinstated and increased to \$5 per person. The tax would not apply to flights between the continental United States and Alaska or Hawaii or to flights between Alaska and Hawaii, as it had under prior law.

Air freight waybill tax.--The air freight waybill tax would be reinstated at the prior law rate of 5 percent. As under prior law, this tax would not apply to the air transportation of property



between the continental United States and Alaska or Hawaii or between Alaska and Hawaii.

Aircraft tires and tubes taxes.--The present law manufacturers excise taxes of 4.875 cents per pound on aircraft tires and 10 cents per pound on aircraft inner tubes would be continued.

Aircraft use tax.--The aircraft use tax of prior law would be repealed.

Effective dates

The aviation fuels taxes provided by the bill would apply on and after January 1, 1982, and before January 1, 1984. Technical modifications to the air passenger tax (relating to tax on flights to or from Alaska and Hawaii, extension of layover rule to 12 hours, and authorization of Secretary to waive the 225-mile zone rule) and repeal of the aircraft use tax would generally apply for transportation beginning after December 31, 1981. However, the provision relating to information shown on airline tickets would apply for transportation beginning after the date of enactment of the bill. The international departure tax and air freight waybill tax would apply to transportation beginning after December 31, 1981, and before January 1, 1984.

B. Extension of Airport and Airway Trust Fund  
(Sec. 205 of the bill)

This section would establish a new Subtitle I, "Trust Fund Code," in the Internal Revenue Code, which would transfer the Airport and Airway Trust Fund provisions (sec. 208 of the Airport and Airway Revenue Act of 1970) to the Code. The transfer would be effective on January 1, 1982.

New Code sections 9501, 9601 and 9602 formally would recreate the Airport and Airway Trust Fund with little change in the trust fund provisions. Section 9501, Establishment of the Trust Fund, would (1) create the Trust Fund, (2) appropriate fuels and air transportation excise tax receipts to the Trust Fund for the period January 1, 1982, through December 31, 1983, (3) provide authorization for additional sums when necessary to make expenditures for which the Trust Fund was established, (4) specify the purposes for which expenditures could be made from the Trust Fund (the same general purposes as prior law), and (5) authorize such expenditures from the Trust Fund through September 30, 1983 (fiscal year 1983).

Section 9601 would provide for quarterly transfer of the appropriated tax receipts from the general fund to the Trust Fund.

Section 9602 relates to the management of the Trust Fund. The only substantive change from prior law would be made in this section, i.e., with respect to investment of currently excess receipts. The new section would delete the authorization to invest these funds in U.S. guaranteed obligations or in special obligations issued only to the Trust Fund (i.e., investments would be in general public debt obligations of the U.S.).

Investments by the Trust Fund, under section 9601(b), could be made only in interest-bearing obligations of the United States and could be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. Obligations held by the Trust Fund could be sold by the Secretary of the Treasury at the market price.

C. Certain Reimbursements Made to Customs Service  
(Sec. 206 of the bill)

This section would delete a provision in present law (sec. 53(e) of the Airport and Airway Development Act of 1970) under which a private aircraft or vessel would not be charged for overtime pay for employees of the Customs Service in connection with the arrival in or departure from the United States on a Sunday or holiday or a weekday after 5:00 p.m. and before 8:00 a.m. This change would be effective on January 1, 1982.

The denial of a charge greater than \$25 for overtime services performed by employees of the Public Health Service, Immigration and Naturalization Service, and the Department of Agriculture would remain in effect.

III. PROJECTED TRUST FUND REVENUES

(Fiscal Years--Millions of Dollars)

	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>
<u>Present Law</u>				
Ticket tax (5%)	1,254	1,080	1,435	1,640
Fuels tax (4¢ gallon-Aviation gasoline)	12	13	13	14
Tires and tubes	1	1	1	1
Total	<u>1,267</u>	<u>1,094</u>	<u>1,449</u>	<u>1,655</u>
<u>H.R. 4800<sup>1/</sup></u>				
Ticket tax (5%) <sup>2/</sup>		1,125	1,522	1,735
Waybill tax (5%)		73	126	54
International departure tax (\$5/person)		85	137	33
Fuels tax <sup>3/</sup>		77	110	45
Tires and tubes		1	1	1
Total		<u>1,361</u>	<u>1,896</u>	<u>1,868</u>
<u>Administration's Proposal</u>				
Tax changes 10/1/81 (H.R. 2930)		1,707	2,330	2,753
effective: 1/1/82		1,553	2,330	2,753

<sup>1/</sup> All tax changes from present law are effective 1/1/82.

<sup>2/</sup> Includes a change from present law for certain Alaska and Hawaii flights.

<sup>3/</sup> Aviation gasoline: 4¢/gallon to 12¢/gallon for the period 1/1/82-12/31/83 dropping to 4¢/gallon thereafter. Jet fuel: 12¢/gallon for the period 1/1/82-12/31/83.

APPENDIX

—COMPARISON OF AVIATION EXCISE TAX RATES: PRESENT AND PRIOR LAW AND ALTERNATIVE PROPOSALS

Tax	Present rate	Pre-Oct. 1, 1980 rate	Administration (H.R. 2936)*	1980 Ways and Means amendment <sup>1</sup>	H.R. 4800**
Air passenger ticket tax	5%	8%	6.5%	8%/5% <sup>2</sup>	5%
Air freight waybill tax		5%	5%	5%	5%
International departure tax		\$3/person	\$3/person	\$3/person	\$5/person.
Fuels tax for noncommercial aviation:					
Gasoline	4¢/gal.	7¢/gal.	12-36¢/gal. <sup>3</sup>	8½¢/gal.	12¢/gal.
Nongasoline (jet fuel, etc.)		7¢/gal.	20-65¢/gal. <sup>3</sup>	8½¢/gal.	12¢/gal.
Aircraft use tax		( <sup>4</sup> )	None	( <sup>5</sup> )	None
Aircraft tires and tubes tax	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	(6).

<sup>1</sup> Committee amendment, was to have been offered as a separate title to H.R. 6721 (96th Congress), approved on May 28, 1980. The amendment would have extended the rates indicated through September 30, 1985, unless otherwise noted.

<sup>2</sup> 8 percent through Sept. 30, 1982, and 5 percent thereafter.

<sup>3</sup> The tax on noncommercial aviation fuels would be as follows (per gallon):

Period	Gasoline <sup>4</sup> (cents)	Nongasoline (jet fuel) (cents)
7/1/81-9/30/82	12	20
10/1/82-9/30/83	18	35
10/1/83-9/30/84	24	50
10/1/84-9/30/85	30	58
10/1/85 and later years	36	65

\* Includes the present 4-cents-a-gallon manufacturer's tax.

<sup>4</sup> From July 1, 1980, through Sept. 30, 1980, the use tax on civil aircraft was an annual tax of two parts: (1) a \$0.25 per plane tax, plus (2) a weight tax of ¼ cent per pound for turbine-powered (jet) aircraft and ½ cent per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of maximum certificated takeoff weight.

Before July 1, 1980, the use tax on civil aircraft was an annual tax of two parts: (1) a \$25 per plane tax, plus (2) a weight tax of 3¼ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of maximum certificated takeoff weight.

<sup>5</sup> Extend the use tax only for commercial aircraft (through Sept. 30, 1985).

<sup>6</sup> Taxed at the general rates for nonhighway tires (5 cents per pound before January 1, 1981, and 4.875 cents per pound thereafter) and inner tubes (10 cents per pound).

\*No expiration date on the tax rates.

\*\*Except for the 5-percent air passenger ticket tax (which is a continuation of present law), the tax rates would apply from Jan. 1, 1982 through Dec. 31, 1983.