

110TH CONGRESS  
2D SESSION

# H. R. 6106

To amend the Internal Revenue Code of 1986 to temporarily reduce the excise tax on diesel fuel and kerosene to the rate applicable to gasoline.

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IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2008

Mrs. BONO MACK introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to temporarily reduce the excise tax on diesel fuel and kerosene to the rate applicable to gasoline.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The Diesel Tax Fair-  
5 ness Act of 2008”.

6 **SEC. 2. TEMPORARY REDUCTION IN EXCISE TAX ON KER-**  
7 **OSENE AND DIESEL FUEL TO THE RATE AP-**  
8 **PLICABLE TO GASOLINE.**

9 (a) IN GENERAL.—Section 4081 of the Internal Rev-  
10 enue Code of 1986 (relating to imposition of tax on gaso-

1 line, diesel fuel, and kerosene) is amended by adding at  
2 the end the following new subsection:

3 “(f) TEMPORARY REDUCTION OF TAX ON DIESEL  
4 FUEL AND KEROSENE (OTHER THAN AVIATION-GRADE  
5 KEROSENE).—

6 “(1) IN GENERAL.—During the temporary re-  
7 duction period—

8 “(A) the rate of tax applicable under sub-  
9 section (a)(2)(A)(iii) shall be 18.3 cents, and

10 “(B) the rate of tax applicable under sub-  
11 section (a)(2)(D) shall be 14.8 cents.

12 “(2) TEMPORARY REDUCTION PERIOD.—For  
13 purposes of this subsection, the temporary reduction  
14 period is the period—

15 “(A) beginning on the date of the enact-  
16 ment of this subsection, and

17 “(B) ending on December 31, 2010.

18 “(3) MAINTENANCE OF TRUST FUND DEPOS-  
19 ITS.—In determining the amounts to be appro-  
20 priated to any trust fund, an amount equal to the  
21 reduction in revenues to the Treasury by reason of  
22 a reduction under this subsection in any rate shall  
23 be treated as taxes received in the Treasury under  
24 such rate.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 3. FLOOR STOCKS REFUNDS.**

5 (a) IN GENERAL.—If—

6 (1) before the date of the enactment of this  
7 Act, a tax referred to in section 4081(f)(1) of the  
8 Internal Revenue Code of 1986 has been imposed on  
9 any liquid, and

10 (2) on such date such liquid is held by a dealer  
11 and has not been used and is intended for sale,  
12 there shall be credited or refunded (without interest) to  
13 the person who paid such tax (hereafter in this section  
14 referred to as the “taxpayer”) an amount equal to the ex-  
15 cess of the tax paid by the taxpayer over the amount of  
16 such tax which would be imposed on such liquid had the  
17 taxable event occurred on such date.

18 (b) TIME FOR FILING CLAIMS.—No credit or refund  
19 shall be allowed or made under this section unless—

20 (1) claim therefor is filed with the Secretary of  
21 the Treasury before the date which is 6 months  
22 after the date of the enactment of this Act, and

23 (2) in any case where liquid is held by a dealer  
24 (other than the taxpayer) on the date of the enact-  
25 ment of this Act—

1 (A) the dealer submits a request for refund  
2 or credit to the taxpayer before the date which  
3 is 3 months after such date, and

4 (B) the taxpayer has repaid or agreed to  
5 repay the amount so claimed to such dealer or  
6 has obtained the written consent of such dealer  
7 to the allowance of the credit or the making of  
8 the refund.

9 (c) EXCEPTION FOR FUEL HELD IN RETAIL  
10 STOCKS.—No credit or refund shall be allowed under this  
11 section with respect to any liquid in retail stocks held at  
12 the place where intended to be sold at retail.

13 (d) DEFINITIONS.—For purposes of this section, the  
14 terms “dealer” and “held by a dealer” have the respective  
15 meanings given to such terms by section 6412 of such  
16 Code; except that the term “dealer” includes a producer.

17 (e) CERTAIN RULES TO APPLY.—Rules similar to the  
18 rules of subsections (b) and (c) of section 6412 of such  
19 Code shall apply for purposes of this section.

20 **SEC. 4. FLOOR STOCKS TAX.**

21 (a) IMPOSITION OF TAX.—In the case of any taxable  
22 liquid which is held on the floor stocks tax date by any  
23 person, there is hereby imposed a floor stocks tax equal  
24 to the excess of the tax which would be imposed on such  
25 liquid under section 4041 or 4081 of the Internal Revenue

1 Code of 1986 had the taxable event occurred on the floor  
2 stocks tax date over the tax paid under any such section  
3 on such liquid.

4 (b) LIABILITY FOR TAX AND METHOD OF PAY-  
5 MENT.—

6 (1) LIABILITY FOR TAX.—A person holding a  
7 liquid on the floor stocks tax date to which the tax  
8 imposed by subsection (a) applies shall be liable for  
9 such tax.

10 (2) METHOD OF PAYMENT.—The tax imposed  
11 by subsection (a) shall be paid in such manner as  
12 the Secretary shall prescribe.

13 (3) TIME OF PAYMENT.—The tax imposed by  
14 subsection (a) shall be paid on or before the date  
15 which is 6 months after the floor stocks tax date.

16 (c) DEFINITIONS.—For purposes of this section—

17 (1) HELD BY A PERSON.—A liquid shall be con-  
18 sidered as held by a person if title thereto has  
19 passed to such person (whether or not delivery to  
20 the person has been made).

21 (2) TAXABLE LIQUID.—The term “taxable liq-  
22 uid” means diesel fuel and kerosene (other than  
23 aviation-grade kerosene).

24 (3) FLOOR STOCKS DATE.—The term “floor  
25 stocks tax date” means January 1, 2011.

1           (4) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Treasury.

3           (d) EXCEPTION FOR EXEMPT USES.—The tax im-  
4           posed by subsection (a) shall not apply to taxable liquid  
5           held by any person exclusively for any use to the extent  
6           a credit or refund of the tax imposed by a section of the  
7           Code referred to in section 4081(a)(2) of such Code is al-  
8           lowable for such use.

9           (e) EXCEPTION FOR FUEL HELD IN VEHICLE  
10          TANK.—No tax shall be imposed by subsection (a) on tax-  
11          able liquid held in the tank of a motor vehicle or motor-  
12          boat.

13          (f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

14               (1) IN GENERAL.—No tax shall be imposed by  
15               subsection (a) on any liquid held on the floor stocks  
16               tax date by any person if the aggregate amount of  
17               liquid held by such person on such date does not ex-  
18               ceed 2,000 gallons. The preceding sentence shall  
19               apply only if such person submits to the Secretary  
20               (at the time and in the manner required by the Sec-  
21               retary) such information as the Secretary shall re-  
22               quire for purposes of this paragraph.

23               (2) EXEMPT FUEL.—For purposes of para-  
24               graph (1), there shall not be taken into account fuel  
25               held by any person which is exempt from the tax im-

1 posed by subsection (a) by reason of subsection (d)  
2 or (e).

3 (3) CONTROLLED GROUPS.—For purposes of  
4 this section—

5 (A) CORPORATIONS.—

6 (i) IN GENERAL.—All persons treated  
7 as a controlled group shall be treated as 1  
8 person.

9 (ii) CONTROLLED GROUP.—The term  
10 “controlled group” has the meaning given  
11 to such term by subsection (a) of section  
12 1563 of such Code; except that for such  
13 purposes the phrase “more than 50 per-  
14 cent” shall be substituted for the phrase  
15 “at least 80 percent” each place it appears  
16 in such subsection.

17 (B) NONINCORPORATED PERSONS UNDER  
18 COMMON CONTROL.—Under regulations pre-  
19 scribed by the Secretary, principles similar to  
20 the principles of subparagraph (A) shall apply  
21 to a group of persons under common control  
22 where 1 or more of such persons is not a cor-  
23 poration.

24 (g) OTHER LAWS APPLICABLE.—All provisions of  
25 law, including penalties, applicable with respect to the

1 taxes imposed by chapter 31 or 32 of such Code shall,  
2 insofar as applicable and not inconsistent with the provi-  
3 sions of this section, apply with respect to the floor stock  
4 taxes imposed by subsection (a) to the same extent as if  
5 such taxes were imposed by such chapter.

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