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ANALYSIS OF ENERGY SUPPLY, CONSERVATION, AND CONVERSION

HOUSE BILL (H.R. 6860) AND POSSIBLE ALTERNATIVES

AUTOMOTIVE

PREPARED FOR THE USE OF THE

COMMITTEE ON FINANCE

BY THE STAFF OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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ANALYIS OF ENERGY SUPPLY, CONSERVATION, AND CONVERSION—AUTOMOTIVE

A. GASOLINE AND OTHER MOTOR FUELS

Present law

A manufacturers excise tax presently is imposed on gasoline at the rate of 4 cents per gallon and a retailers excise tax of 4 cents per gallon is imposed on special fuels.[1] These taxes are scheduled to drop to 1½ cents per gallon on or after October 1, 1977. The net revenues from these taxes go into the Highway Trust Fund (scheduled to expire after September 30, 1977), except for amounts attributable to the taxes paid by noncommercial aviation, which go into the Airport and Airway Trust Fund (scheduled to expire after June 30, 1980). Noncommercial aviation also now pays additional retailers excise taxes of 3 cents per gallon on both gasoline and special fuels.[2]

House bill

The bill as passed by the House does not provide for any increase in the excise tax on gasoline or special motor fuels.

However, the bill as reported by the House Committee on Ways and Means would have increased the taxes on gasoline and special motor fuels (but not on diesel fuel). The Ways and Means bill provided for an increase in the taxes on gasoline and special motor fuels of 3 cents per gallon on January 1, 1976. There were to be no special exemptions, credits, or refunds on the 3-cent tax other than those available under present law—for farming, State and local governments, nonprofit educational institutions, supplies on vessels or aircraft, com-

[1] The special fuels subject to the present retailers tax are diesel fuel and other special motor fuels such as benzol, benzene, naptha, liquefied petroleum gas, casinghead and natural gasoline or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxed as gasoline under section 4081).

[2] On October 1, 1977 (when the basic gasoline and special fuels taxes are scheduled to be 1½ cents per gallon), the extra retailers excise taxes on noncommercial aviation use of these fuels is scheduled to be 5½ cents, for a total of 7 cents. Present law provides exemptions for the following use of gasoline: (1) State and local governments (including public transit); (2) nonprofit educational organizations; (3) export; (4) supplies for vessels or aircraft; (5) further manufacture; (6) commercial aviation; and (7) farming. In addition, private local transit (as defined in sec. 6421(b) and (d)) is eligible for a credit or refund of 2 cents of the 4-cent gasoline tax. Nonhighway use (other than noncommercial aviation) is also eligible for a 2-cents-a-gallon credit or refund (sec. 6421(a)). Sales to the United States Government may be exempt under section 4293. Similar exemptions (except for further manufacture, which is not applicable) are provided from the tax on special motor fuels. Intercity bus transit pays the full 4-cents-a-gallon tax, but may deduct it as a business expense. Tax-exempt organizations (other than educational organizations) are also subject to the 4-cents-a-gallon tax. Gasoline and special fuels taxes paid on fuel used in a trade or business are deductible as business expenses under section 162.

mercial aviation, and a one-half exemption for local transit use[3]). A further increase in these taxes would have occurred (starting April 15, 1977) if the U.S. domestic gasoline consumption for 1976 (or later years) were above the 1973 consumption level. The additional tax would have been 5 cents per gallon for each one-percent increase in consumption, with a maximum additional tax of 20 cents per gallon (or a total of 23 cents for the conservation tax, which would be in addition to the present law tax of 4 cents).

To reduce the potential adverse economic impact and to reimburse individuals for the tax increase on an amount approximating average use of gasoline, the Ways and Means bill provided credits and exemptions for certain uses of gasoline and special motor fuels. For any increase in the gasoline tax above 3 cents per gallon, a credit was provided for personal use equal to the tax on 40 gallons per month (whether or not this much gasoline was used).[4] This credit was to be reflected in income tax withholding. The Ways and Means bill also provided a 50-percent credit for business use and certain other work-related use, a 75-percent exemption (in lieu of the business credit or deduction) for certain taxicab use, and an exemption for tax-exempt charitable organizations (sec. 501(c)(3)), in the case of both gasoline and special motor fuels. Users exempt from the 3-cent tax were also exempt from the 20-cent increase.

The revenues from the 3-cent tax and the net revenues (after credits and refunds) from any additional tax were to be deposited in the Energy Conservation and Conversion Trust Fund. The Ways and Means bill also included a provision to disregard any refundable gasoline tax credit received by an individual for purposes of determining eligibility under a Federal or Federally-assisted welfare program.

Revenue impact of gasoline conservation taxes and credits under the Ways and Means bill

The following tabulation gives the revenue impact (change in tax liability) of the gasoline and special motor fuels conservation taxes under the Ways and Means bill (and the credits and exemptions provided) for calendar years 1976–1980 (millions of dollars):

[3] Under the Ways and Means bill, the present law's exemption for exports would not have applied to these fuel conservation taxes.

[4] This credit was to be available to each individual who, at the end of the taxable year, was a United States resident and had attained the age of 16.

Estimated fuel tax liability and credits, etc., calendar years 1976–80 [1]

Provision	1976	1977	1978	1979	1980
Gasoline conservation tax	3, 102	6, 956	16, 138	23, 301	25, 523
Special motor fuels tax	18	41	100	150	168
Credit for personal use of gasoline		−2, 743	−9, 435	−14, 775	−16, 145
Credit for business use		−384	−1, 300	−2, 006	−2, 219
Credit for work-related travel		−10	−33	−50	−53
Repayments for farming, local transit, etc	−64	−143	−332	−479	−525
Exemptions for State-local governments, educational, etc	−47	−104	−242	−350	−383
Net gain from conservation fuel taxes	3, 009	3, 613	4, 836	5, 791	6, 366

[1] These estimates were based on the assumption that the new gasoline and special motor fuels conservation excise taxes would be "triggered in" by increased gasoline usage at the following rates: 3 cents per gallon effective Jan. 1, 1976; 8 cents per gallon effective Apr. 15, 1977; 18 cents per gallon effective Apr. 15, 1978; and 23 cents per gallon effective Apr. 15, 1979. The estimates for the tax credits and repayments were based on the same timing of the future increases in tax rates under the Ways and Means bill.

Administration proposal

The administration has opposed an increase in the gasoline tax. However, the administration's energy tax program included an increased tariff on imported petroleum and petroleum products and an excise tax on domestic crude oil. Thus, gasoline produced from such imported and domestic oil would have a tariff or tax included in the price of the crude used to produce the gasoline. (Assuming no "tilt" in passing on the tax to gasoline, the administration's proposed $2 per barrel tax on domestic crude oil and $2 per barrel tariff on imported crude oil imposed on June 1, 1975, would be equivalent to about a 5 cents per gallon increase in the price of gasoline.) In addition, the administration proposal to remove price controls on crude oil would raise the price of gasoline by an additional 5 cents per gallon. (With the $2 tariff and no excise tax in effect, the tariff raises gasoline prices by 1.8 cents per gallon, and decontrol would cause an 8.4-cent increase.) The administration's proposal did not include provisions for credits, refunds, or exemptions based on crude oil consumption although the administration did propose income tax reductions to give back the revenue raised by its tax and tariff increases.

Staff analysis

One way to provide greater encouragement to conserve gasoline and other motor fuels would be to increase the excise taxes on these fuels. This would focus attention on a major discretionary use of petroleum and on a use which many believe involves more waste than most other petroleum uses. Gasoline use accounts for almost 40 percent of total petroleum use in the U.S. It is argued that increases in the

price of selected uses of petroleum, such as through increased taxes on gasoline, would be less harmful to the national economy than would more general increases in petroleum prices; also increased gasoline taxes would accelerate the trend toward greater use of more fuel-efficient automobiles.

There are about 100 million private autos in the United States, consuming gasoline at the rate of about 70 billion gallons per year, or 70 percent of the total domestic gasoline consumption of about 100 billion gallons (6.5 million barrels per day). Urban driving is said to account for about two-thirds of private auto use, and much of this is for commuting with one-person use of the auto. Since urban driving tends to be of the short distance, stop-and-go nature, such driving is much more inefficient than highway driving. Thus, any encouragement to more efficient automobiles, more car pooling, or less use of autos in urban areas could produce sizeable energy savings.

It is estimated that there would be considerable potential energy savings resulting from increasing the tax on gasoline. This in turn would reduce the United States reliance on imported oil, and lessen the attendant economic and national security risks involved in a major reliance on foreign-source petroleum. For example, the increase in the gasoline tax contained in the Ways and Means bill was estimated to produce energy savings of 1.12 million barrels of oil per day by 1985. Lesser increases in the tax would, of course, result in lesser potential energy savings.

The Administration has maintained, on the other hand, that reduction in demand for petroleum (including gasoline) would be best accomplished through general price increases for crude oil. This, it is argued, would allow the private price market mechanism to regulate (reduce) the demand for petroleum products in general, rather than concentrating the efforts on gasoline through a tax increase.

Opponents of a gasoline tax increase also contend that gasoline users should not be singled out for increased taxation, since they believe that there also is considerable waste in business and industrial use of petroleum. Moreover, they believe that the gasoline tax would impose a greater burden on those who must rely on the automobile for commuting and other work-related travel and in business use, particularly in areas not served by mass transit systems and those areas where there are long distances between communities.

Those opposed to a substantial increase in the gasoline tax claim that such an increase would result in further adverse effects on the automobile industry as well as in commercial activities that rely on private auto travel—such as resort areas, motels and hotels, parks and campgrounds, recreational vehicles and producers and vendors of other leasure equipment and supplies. It is pointed out that the tourist industry suffered substantial reduction in revenues following the 1973–74 oil embargo and the resulting gasoline shortages.

Proponents of a gasoline tax increase respond by noting that there is much discretionary use of gasoline that offers the opportunity for substantial savings if drivers recognize the need for reduced consumption. It is maintained that this is probably true to a greater extent with regard to gasoline used in automobiles than with regard to other petroleum products. If substantially all of the increased gasoline tax reve-

nues are returned to the general public, then the fiscal impact upon the economy and the otherwise adverse impacts on individual automobile drivers can be substantially reduced or almost eliminated. If these revenues are returned through the use of refundable income tax credits that may be integrated into the present withholding system, then they can be brought back into the economy almost as fast as the tax removes them from the economy. As to the effects on the automobile industry, the leaders of the industry maintain that the effects of a gasoline tax would be significantly less disruptive than would mandatory efficiency standards enforced by taxes or civil penalties.

An additional factor to consider would be the role of the present gasoline tax and its relationship to the Highway Trust Fund and to the Federal-State fiscal mix. As of October 1, 1977, the four-cent-per-gallon gasoline tax is scheduled to be reduced to one and one-half cents per gallon, with such revenues going into the General Fund as the Highway Trust Fund is scheduled to expire. Some have proposed abolition of the Highway Trust Fund, while others have recommended more use of the funds for mass transit. In addition, there have been suggestions to establish a combined transportation trust fund for highway, rail, water and air transportation. Since the States need to know in advance the level of Federal backing for their highway programs, congressional consideration of whether to extend the Highway Trust Fund will be required soon. The President has recently proposed that the Highway Trust Fund be extended indefinitely but modified (beginning October 1, 1976) so that only one cent of the present four-cent gasoline tax would go into the Trust Fund (for completion of the Interstate Highway System). Two cents of the gasoline tax would go into the General Fund (with the other Federal highway aid program to be financed out of the General Fund); the other one cent would be for the States to pick up for their own use as they desire. This would be accomplished by allowing a one-cent-per-gallon offset against the Federal tax for State gasoline tax increases.

Alternative proposals

Consideration could be given to various levels of increases in the gasoline tax. One consideration would be to fund a given level of financing for an energy research and development trust fund (including development and demonstration of projects relating to alternative sources of energy and modes of transportation as well as more efficient automobile transportation). For example, an increase in the gasoline tax of 5 cents per gallon would produce increased revenues of about $5 billion per year. All or part of this increase could be used to supplement other sources of revenue for the trust fund. Or, most of the revenues could be returned to the economy through credits or refunds. For example, if the committee chose to adopt a per-person credit (along the lines of that provision in the Ways and Means bill), then about $3.7 billion of the $5 billion revenue would be returned to individuals in the form of $24 credits, leaving about $1.3 billion to supplement other trust fund revenues.

The use of such a per-person income tax credit could be expected to provide the following results. (1) Although the credit substantially decreases net revenues, it would do so without reducing the conservation effect of the increased tax. This is because the potential gasoline

purchaser would get the credit even without purchasing the gasoline. Consequently, the prospective gasoline purchaser would see that the next gallon of gasoline that he contemplates purchasing would in fact cost him the entire amount of the tax (plus, of course, the remainder of the costs, including profits, that go into the price of the gasoline at the pump). (2) The credit at the rate of 40 gallons per month times the then current rate of the gasoline conservation tax would return to the average individual all of the out-of-pocket costs he would otherwise incur on account of the increased tax. Indeed, for the average individual in lower-income brackets, the credit would exceed his increased tax costs. (3) If the credit's availability is dependent only on such elements as United States residence and age (and is not tied to other elements such as automobile ownership or driver's licenses), then it can be paid through the income tax withholding system, thereby avoiding the fiscal drag that would occur if the taxes were fully paid in one year and the credits on account of those taxes were not returned to the individuals until the next year.

Some or all of the increases in the gasoline tax could be tied to the level of gasoline consumption above a base year (similar in concept to the provision reported by the Ways and Means Committee, but probably of a much lesser magnitude). For example, a modification in the Ways and Means Committee approach might be to set any tax increase to a one-cent-per-gallon tax increase for each one-percent increase in gasoline consumption in the previous year over, say, the 1973 level. (The highest full-year consumption in United States history was in 1973—almost 6.7 million barrels per day.) In addition, provision could be made for a like reduction in tax if consumption decreases.

Other examples of possible gasoline tax increases are contained in S. 973 (introduced by Senator Bentsen) and S. 2047 (introduced by Senator Percy). S. 973 would impose an additional gasoline tax as follows:

Period:	*Additional tax rate* *Cents per gallon*
1976	5
1977	10
1978	15
1979 and after	20

S. 973 would also provide a credit against the individual income tax, computed according to filing status and phased out as adjusted gross income rises. For example, a single taxpayer with AGI of $5,000 or less per year would receive a credit of $55 (equivalent to the tax on 1,100 gallons), which would be phased down to $20 for a single person with AGI of $25,000–$30,000; no credit would be available if AGI exceeds $30,000. Each year the credit would increase as the gasoline tax increases. The credit would be also allowed (at the taxpayer's election) for the preceding taxable year. It would also be refundable. In addition, S. 973 would allow a tax deduction for the extra gasoline tax, to the extent the commuting travel between home and place of employment exceeds 50 miles per working day.

S. 2047 would impose an additional gasoline tax of 10 cents per gallon for sales occurring before October 1, 1977, and an additional tax of 12.5 cents per gallon on and after that date. (Thus, the total gasoline tax, including the existing tax, would be 14 cents per gallon

on a permanent basis.) The increased tax would apply to gasoline sold on and after the first day of the first calendar month beginning more than 29 days after date of enactment. Local transit would continue to be exempted, in effect, from one-half of the total gasoline tax (as under present law). An income tax credit would be provided, equal to 10 cents times the number of gallons of gasoline purchased during the taxable year for the taxpayer's (or his family's) use. The credit would be limited to $50 per year ($100 for a joint return), or equivalent to the extra 10-cent tax on 500 gallons per year (1,000 gallons for a couple). The credit would be accounted for through the income tax withholding system, but it would not be refundable.

Another possible modification of a gasoline tax increase would be to provide that a portion of the increased tax would be available for State governments. This could be accomplished either through a direct credit against the Federal tax (similar in nature to the credit against the Federal unemployment compensation excise tax), or through a payment out of the Federal Treasury. State governments have indicated that they should share in the revenue raised from any increased Federal gasoline taxes.

The President, as mentioned above, has recently proposed modifying the present four-cents-per-gallon Federal gasoline tax to allow a one-cent offset for State gasoline tax increases. This proposal would also transfer two cents of the existing four-cents tax to the General Fund, leaving one cent to go into the Highway Trust Fund for the Interstate Highway System. The committee could review the present gasoline tax and the Highway Trust Fund in view of the President's recommendation. On the other hand, this review might be made later when the entire Federal highway-aid program and Highway Trust Fund extension can be more fully considered.

Consideration could also be given to completely eliminating the gasoline tax for local transit use. At present, privately owned local transit pays a net tax of 2 cents per gallon (through a credit or refund of 2 cents out of the existing tax of 4 cents per gallon). Public local transit systems are completely exempt since they come under the State-local government exemption. In order to remove the tax distinction between public and private local transit and to encourage energy saving by promoting more mass transportation, the existing taxes on both gasoline and special motor fuels could be repealed for all mass transit use.

B. VEHICLE FUEL EFFICIENCY

Present law

Under the Internal Revenue Code, an excise tax has never been imposed on automobiles or other vehicles for the purpose of encouraging the manufacture of fuel-efficient vehicles. However, until 1971 an ad valorem excise tax was imposed on the manufacturers' sale of automobiles. In addition, a 10-percent excise tax is at present imposed on the sale by manufacturers of buses and of trucks with gross vehicle weight of over 10,000 lbs., and an 8-percent tax is imposed on the sale by manufacturers of parts and accessories for buses and trucks.

Similarly, Federal law has never contained a prohibition against or penalties for the manufacture or sale of vehicles which produce relatively low fuel economy.

House bill

The energy bill reported by the Ways and Means Committee contained a provision establishing an ad valorem tax on a manufacturer if the average fuel economy of all cars produced by that manufacturer in a given year were to fall below certain mileage standards. This provision was to apply to the years 1973 through 1980.

On the House floor, an amendment was adopted which provides standards substantially similar to those in the Ways and Means bill but which establish civil penalties rather than taxes for failure to meet the standards. The bill as passed by the House establishes the following standards for the average fuel economy of all vehicles produced by each manufacturer: 1978, 18.5 miles per gallon (mpg); 1979, 19.5 miles per gallon; 1980, 20.5 miles per gallon; 1981–84 to be set by the Secretary of Transportation; 1985 and thereafter, 28.0 mpg.

A manufacturer is treated as having met the standard for any year if he comes within 0.5 mpg of the standard for that year. If a manufacturer exceeds any year's standard by more than 0.5 mpg, the excess over 0.5 mpg may be carried back one year and, if not fully used, carried forward one year. The standard of 28 mpg set for 1985 can be modified by the Secretary of Transportation (pursuant to his anual review of the standards to be completed in January, 1979) if he concludes that the standards cannot reasonably be attained or that more stringent standards can reasonably be achieved. Any modification made by the Secretary, however, is subject to a 60-day either-House veto.

The bill also requires the Secretary of Transportation to establish separate standards for classes of light-duty trucks and multipurpose passenger vehicles, and for the vehicles of a manufacturer which produces a total of less than 10,000 vehicles, in cases where applying the statutory standards would result in an unreasonable burden on that manufacturer.

The penalty for failure to meet the standard in any year is $5 per 1/10th mile per gallon that the manufacturer falls short of the standard for that year, multiplied by all the automobiles produced by the manufacturer in that year.[1]

The amount of the penalty which would be imposed under this formula may be modified or waived by the Secretary of Transportation to prevent the bankruptcy of a manufacturer or to reflect acts of God, fires, or strikes.

The bill applies to all automobiles with gross vehicle weight of 10,000 lbs. or less which have the primary intended function of transporting 10 or fewer individuals on public streets, roads, and highways and which use any gaseous or liquid fuel. The bill also applies to light duty trucks and multipurpose vehicles with gross vehicle weight 10,000 lbs. or less.

The bill requires United States manufacturers to calculate their average fuel economy separately for their domestically produced cars (i.e., cars which have at least 75 percent of their manufacturing cost attributable to value added in the United States or Canada) and for their cars produced abroad which are imported into the United States. In this way, domestic manufacturers will not be able to meet the

[1] Although no penalty is imposed if the manufacturer falls short of the standard by less than 0.5 mpg, that 0.5 mpg leeway does not reduce the amount of the penalty of a manufacturer which misses the standard by at least 0.5 mpg.

standards in any year by producing (or purchasing) fuel-efficient cars abroad and importing them into the United States.

The standards established in the bill are to be reduced to the extent that a change in auto emissions standards from those currently in effect result in an overall decrease in fuel economy. Thus. if a change in auto emissions standards in later years reduces fuel economy, the Secretary of Transportation automatically is to adjust the fuel economy standards for subsequent years by the amount of the average decreased fuel economy.

The administration of the provisions is primarily the responsibility of the Secretary of Transportation, although the testing of vehicles and the establishment of regulations governing the testing are to be conducted by the Environmental Protection Agency in a manner similar to the fuel economy testing it now does in conjunction with its auto emissions testing under the Clean Air Act of 1974.

The Federal Energy Administration estimates that the auto standards in H.R. 6860 will save 360.000 barrels of oil per day by 1980 and 660,000 barrels per day in 1985.

Administration proposal

The Administration has made no legislative proposals in this area but has obtained voluntary agreements from the three largest United States manufacturers of automobiles, to strive to improve the fuel economy of their cars so that by 1980 the cars of these U.S. manufacturers will obtain on the average 18.7 mpg, an average 40 percent improvement over the depressed fuel-efficiency levels of 1974. These voluntary agreements are evidenced by an exchange of letters between Mr. Rogers C. B. Morton (in his capacity as Chairman of the Energy Resources Council) and the presidents of each of these three companies. The letters of the presidents of the automobile companies each state their commitment to achieving the goal of 18.7 miles per gallon, but also state various factors which would prevent them from doing so, such as more stringent auto emission standards, more stringent safety standards. and public resistance to buying more fuel-efficient automobiles.

Senate proposals

Senator Ribicoff has introduced a bill which provides for a per-car tax on fuel-inefficient cars and a fleet average tax on manufacturers whose cars do not meet certain average standards. The per-car tax would be applied as follows:

If the fuel mileage rating (in miles per gallon) of the automobile is—	And the model year is—			
	1977	1978	1979	1980 and thereafter
	Then the amount of the tax is—			
20 or more				0
19 or more but less than 20			0	$100
18 or more but less than 19		0	$100	200
17 or more but less than 18	0	$100	200	300
16 or more but less than 17	$100	200	300	450
15 or more but less than 16	200	350	450	650
14 or more but less than 15	350	500	650	85
13 or more but less than 14	550	700	900	1,110
Less than 13	800	1,000	1,200	1,400

The fleet average tax would be applied to manufacturers whose cars fall below the following standards:

	Miles per gallon
1977	16.5
1978	18.0
1979	19.5
1980	21.0
1981	22.5
1982	24.0
1983	25.5
1984	27.0
1985	28.0

The bill would require manufacturers to calculate their fleet averages separately for their imported cars. A manufacturer who misses the standard in any year would be required to pay a tax equal to $20 for each $\frac{1}{10}$ mile per gallon by which he misses the standard, multiplied by each car which misses the standard.

Earlier this month the Senate passed a bill (reported by the Commerce Committee) which establishes mandatory standards (beginning in 1978) for manufacturers and importers, and penalties for missing the standards. The bill does not set the standards at specific miles-per-gallon levels in any year, but instead mandates the Secretary of Transportation to set standards at levels that will lead to a 50-percent improvement in gas mileage in 1980 and a 100-percent improvement in 1985 (over 1974 levels). Since the average mileage in 1974 was 14 mpg, the bill in effect mandates standards of 21 mpg in 1980 and 28 mpg in 1985. Penalties are set at $5 to $10 for each $\frac{1}{10}$ mile per gallon that the standards are missed, with the precise amount to be determined by the Secretary of Transportation.

In addition, Senators Percy and Mathias have introduced a bill which applies a per-car tax, beginning in 1978, to cars that get under 18 mpg, and by 1983 extending to all cars getting under 22 mpg. That bill also gives a credit to cars with mileage substantially higher than those cars subject to the tax. The credit is allowed only on cars produced in the United States or Canada.

Staff analysis

The average fuel economy of all 1974 model cars sold in the United States was 14.0 mpg, with all cars of foreign importers averaging over 18 mpg.[2] The automobile industry estimates that 1975 model cars will achieve something over 15 mpg on a sales-weighted basis, which results from the use of catalytic converters and the industry's and automobile buyers' response to the higher gasoline prices of this year. Nonetheless in earlier years, little or no improvement was accomplished. In fact, the average fuel mileage in 1950 was 14.9 mpg, which is higher than the 1974 average. Also, statistics published in the January 1975 issue of *Scientific American* indicate an almost unbroken decline in average fuel mileage of United States cars beginning in 1952, long before the

[2] These fuel mileage ratings are the average fuel mileages of all cars sold by the manufacturer and are based on the results of EPA fuel economy tests. These tests are made with prototype automobiles using a dynamometer machine, which runs the automobiles through a simulated highway driving cycle and urban driving cycle. The EPA fuel mileage rating is an average of these two cycles, weighted 55 percent for the urban driving cycle and 45 percent for the highway driving cycle. These percentages correspond to the average actual driving experience across the country.

start of those emissions and safety programs to which recent "efficiency penalties" have been attributed. Given this lack of improvement in prior years, and given the substantially higher level of fuel efficiency of foreign manufactured cars, it appears that substantial improvements can be made in the fuel efficiency of domestically manufactured automobiles.

sufficient to induce the major changes in automobile design, production

Voluntary agreements or other similar measures may not be and advertising which are required if substantial fuel-economy improvements are to be made. Automobile manufacturers have a market incentive to attempt to sell as many of their large and relatively fuel inefficient automobiles as they can because the profit-margins on those automobiles have traditionally been the greatest. Similarly, accessories added to automobiles which in many cases reduce their fuel mileage provide a significant profit margin for automobile manufacturers and dealers. Thus, it is generally believed that some sort of mandatory fuel economy legislation backed by substantial sanctions is required if a dramatic improvement in automobile fuel efficiency is to be achieved over the next 10 years.

Mandatory fuel economy legislation can be a most effective energy conservation measure because it focuses directly on the one area of gasoline consumption where substantial conservation can be obtained most readily, since it is preferable to most drivers to save gasoline by driving a more efficient car than by driving fewer miles or by buying fewer cars. Furthermore, because auto efficiency taxes do not in any way encourage drivers to drive fewer miles, they avoid having an adverse impact on certain industries (such as tourism), on most of those employees who must commute, and on those workers whose job locations require that they move from place to place.[3]

Moreover, automobile efficiency taxes need not have a major adverse effect on the domestic auto industry. The taxes can be designed to apply to future years and thus can give the industry a chance to alter its design and manufacturing schedules in line with the new fuel economy goals. Further, any sanctions can be primarily applied on the largest cars produced by domestic manufacturers, which cars do not face substantial competition from imported cars. Thus, energy savings can be achieved through competition between domestic manufacturers.

A program designed to encourage production and sale of more fuel-efficient automobiles is essentially a long-range gasoline conservation program. Any mandatory standards provided probably should not be made effective immediately, in order to recognize the "lead" time necessary for design changes to be translated into assembly line production. Even then, the effects of the improved fuel efficiency standards would be felt on only about one-tenth of the automobile population by the end of the first year, and it would take about a decade after the first year of mandatory standards for those effects to be felt on substantially the entire automobile population.

Automobile manufacturers oppose mandatory fuel efficiency standards and suggest that, instead, efforts be concentrated on increasing prices for all petroleum products through the decontrol of old oil. The

[3] In fact, auto efficiency taxes alone may actually increase the total number of miles driven by the average driver, since a driver can drive more miles for the same dollar's worth of gasoline. Of course, to the extent this occurs, gasoline consumption will decrease by less than the improvement in fuel economy.

manufacturers maintain that increased gasoline taxes affect the entire automobile population much more promptly and that they provide incentives for prospective purchasers to replace their existing vehicles sooner if they can find comparable vehicles with greater fuel efficiency. The manufacturers indicated a concern that, in many cases, an automobile owner who is faced with a significant tax on the sort of automobile he would wish to purchase, will delay the purchase of a new automobile rather than change to a more efficient one. This concern, if well-founded, would, of course, have a depressing effect on new car sales and on employment in the automobile and related industries.

In deciding what type of legislation to adopt, a major question is whether or not the legislation should be written in terms of excise taxes or (as in the House-passed bill) in terms of mandatory standards enforced by "civil penalties." Tax proposals appear to present a number of advantages. Tax measures would be enforced through the IRS, which provides established administrative personnel and administrative procedures for the determination of the amount of tax, the assessment and collection of the tax, and administrative and ultimately judicial appeals of any tax. With mandatory standards and penalties, any penalty is collected by obtaining it through a law suit in court. In addition, if a per-car approach to any tax or penalty is adopted (as is discussed below), mandatory standards and penalties can only be established by making it illegal to manufacture certain fuel-inefficient cars. Yet, Congress probably would not intend to prohibit the manufacture of these cars absolutely, some of which are necessary for large families or to use for car pools. Rather, the purpose of any per-car proposal would be to increase the price of large and inefficient cars and thereby discourage their consumption. This suggests that a tax approach is much more consistent with congressional objectives than a civil penalty approach.[4]

In considering tax proposals, two basic approaches can be followed: A per-car tax, and a fleet-average tax (a tax imposed only if all of the cars produced by a manufacturer did not on the average achieve a certain mileage). A per-car tax has the advantage of permitting the use of a label on the car which indicates to the consumer how much more he must pay to purchase a relatively fuel-inefficient car. This could provide a substantial incentive for consumers to seek more fuel-efficient automobiles. On the other hand, a fleet-average tax has the advantage of giving a manufacturer flexibility in producing any mix of cars which is desired as long as the average mileage standards are met. It also gives domestic manufacturers a chance to avoid the tax altogether if they make substantial improvements in their average mileage, in which case those manufacturers' competitive position relative to imported cars would not be harmed.

Under either the per-car tax or the fleet-average tax, two points should be considered in order to structure the tax to maximize energy conservation. First, the amount of tax based on any single car line mileage (or on any manufacturer's average fuel mileage) should increase steadily as the fuel economy decreases. Otherwise, the amount of incentive is minimized even if the amount of the tax is relatively

[4] It should be noted that, under present law, a tax paid by the manufacturer would be deductible as a business expense, while a fine would not, so that any monetary sanctions in the form of taxes should be larger than penalties to have the same impact.

large. For example, a flat tax of $500 on all cars which obtain less than 20 miles per gallon would conserve relatively little energy, because manufacturers would have no incentive to improve a 15-mpg automobile to 18 mpg (if that is the maximum improvement which is feasible) or a 22-miles-per-gallon car to 24 mpg. In such a case, the incentive effect would operate only at the margin; that is, there would be an incentive to improve the mpg ratings of only those lines of automobiles that were sufficiently close to the 20-mpg level so that they could be brought up to that level. For this reason, a tax which increases in increments of each mpg under a per-car tax, and each 0.1 mpg under a fleet-average tax, would maximize the gasoline conservation effect.

Second, any tax should be concentrated on improving the fuel economy of the most inefficient automobiles rather than the fuel economy of those cars which are already relatively efficient. For example, if a car is assumed to be driven 75,000 miles over its lifetime, improving the fuel economy of that car from 10 mpg to 11 mpg will reduce gasoline consumption from 7,500 gallons to 6,818 gallons, a saving of 682 gallons over the car's lifetime. Improving the fuel economy of another car from 20 mpg to 21 mpg, however, would lower gasoline consumption from 3,750 gallons to only 3,571 gallons over the same 75,000-mile lifetime, a saving of only 179 gallons. Thus, the major energy savings are achieved by improving the mileage of the very inefficient cars. Under a fleet-average tax, the added energy savings which can be achieved by concentrating on the low gas mileage cars can be taken into account by calculating average fuel economy according to the "harmonic mean" method of averaging. Under a per-car tax, this effect can be taken into account by having larger tax differentials on cars with gas mileage in the 12–16 mpg range than on cars which achieve better gas mileage.

Other issues which face the committee under either a per-car tax or a fleet-average tax relate to which vehicles are to be subject to the tax and how those vehicles are to be tested. First, virtually all automobile vehicles and trucks which are competitive with automobiles (for example, many trucks rated under 6,000 lbs. gross vehicle weight are often used in place of cars) probably should be made subject to the tax. However, the committee might consider establishing separate standards for heavier pickup trucks, multi-purpose trucks and recreational vehicles, as well as for certain special purpose automobiles (such as airport limousines or certain taxicabs) which promote fuel efficiency by carrying a larger number of passengers even though the mpg rating of the vehicles may not be especially high.

Second, the various mpg levels which manufacturers must achieve or which individual cars must attain could be modified to the extent that automobile emission standards are modified in future years. For example, under the House-passed bill if it is determined by the Secretary of Transportation that a change from the 1975 auto-emission standards has affected fuel economy, then the mpg standards in the bill are to be decreased to the extent of any decline in average fuel economy caused by the change in auto emissions standards. Alternatively, the committee might consider modifying any standards or per-car tax-rate brackets only if the effect resulting from the change in auto-emission standards reduces overall fuel economy by more than one mile per gallon. In this way, small changes in fuel economy would not force a substantial revision of the entire system.

Third, the overall tax probably should be administered by the Secretary of the Treasury as part of the overall tax system. However, the Environmental Protection Agency does currently conduct fuel economy testing as a byproduct of its auto-emission testing procedures and the legislation could provide for the Secretary of the Treasury to delegate to EPA authority to conduct tests and to determine the test results to the extent feasible and consistent with the purposes of the legislation. The tests could then be conducted along the same lines as under current EPA testing procedures. The EPA tests have been subject to some criticism (primarily because they are done on a dynamometer machine rather than by actual road testing), but the tests are the most sophisticated ones conducted by a government agency and could be improved and refined if necessary. The tests would be subject to judicial review as would the regulations establishing the test procedures and the methods for determining the fuel economy of any particular car or class of cars. If a per-car tax is adopted, the committee may also wish to consider providing for class action suits so that consumers could challenge the amount of any tax on vehicles in cases where the manufacturer has failed to file suit on its own behalf.

Another question is how far into the future the automobile efficiency standards should continue to apply. It is difficult at this date to project with confidence fuel economy standards for automobiles into the 1980's since the technology that will be available at that time is not now known. However, there is also some advantage in establishing levels as goals for future years, if the goals could be modified should it become apparent that they will be too stringent or that more stringent goals can be met. Thus, perhaps the committee would be interested in considering establishing its tax rates through 1985 but including a provision for the Secretary of the Treasury to review (in 1979 or 1980) the level of the standards to be applied in years after 1980 and to report to the Congress on whether in his view the standards and taxes to be applied are appropriate. Congress could then by resolution vote to delay the establishment of higher standards for one or more years. In this way, Congress would maintain its control over the requirements of the tax system, but some flexibility would be introduced to allow for the possibility of situations which cannot at this time be anticipated.

Alternative proposals

If the committee decides to adopt a per-car tax, it might consider a schedule somewhat along the following lines:

If the fuel mileage rating (in miles per gallon) of the automobile is—	And the model year is—			
	1977	1978	1979	1980 thereafter
	Then the amount of the tax is—			
20 or more				0
19 or more but less than 20			0	$100
18 or more but less than 19		0	$100	200
17 or more but less than 18	0	$100	200	300
16 or more but less than 17	$100	200	300	450
15 or more but less than 16	200	350	450	650
14 or more but less than 15	350	500	650	850
13 or more but less than 14	550	700	900	1,100
Less than 13	800	1,000	1,200	1,400

Note: This tax would result in a saving of 0.6 mbd in 1980 and 1.2 mbd in 1985.

Of course, the 1977 schedule could be dropped or the entire schedule could be moved back one year if the committee believes that imposing the tax in 1977 does not give manufacturers sufficient time to adjust to the tax. Many other variations could also be made.

In general, this tax schedule has the advantage of placing a relatively heavy tax on the most inefficient cars, but imposing no tax on the relatively efficient cars of U.S. manufacturers, which cars must compete with imports. Thus, the tax tends to maximize energy conservation while minimizing the possibility of harming U.S. domestic auto sales.

If the committee decides to adopt the fleet-average tax approach, the fleet average standards could be established along the following lines:

	Miles per gallon		*Miles per gallon*
1977	16.5	1982	24.0
1978	18.0	1983	25.5
1979	19.5	1984	27.0
1980	21.0	1985	28.0
1981	22.5		

The standards outlined here would appear to be standards which could be met with some effort on the part of the industry. If this should prove to be incorrect in the later years, where there is the least certainty, the standards could be changed in subsequent legislative action.

Again, the 1977 standard could be dropped or reduced by a half mile per gallon (without altering the standards for other years) if the committee feels that manufacturers do not have sufficient time to adjust their operations by that year. However, a 16.5 miles per gallon average for 1977 is not much greater than the auto manufacturers' own estimate of what their average mileage will be in that year. Further, the bill could provide that the standards for years after 1980 can be delayed by the Congress if it appears that meeting them is beyond reasonable expectation. For years beyond 1980, it is difficult to know with any certainty at this time whether the standards can realistically be met (or even can too easily be met) because it is impossible to anticipate technological breakthroughs that may be available to the industry. However, establishing some standards at this time for years through 1985 at least serves the function of providing goals which indicate a national intention to improve auto fuel efficiency, and the standards can always be delayed or altered if they prove to be unrealistic.

Under this (and any other) proposal for fleet average standards, the amount of the tax for failure to meet the standards should be substantial if manufacturers are to be induced to make a maximum effort to meet the standards. Since a tax would ordinarily be deductible, a tax of $10 for each 1/10th mile per gallon that a manufacturer misses the standard (multiplied by all of the manufacturer's production) would be the tax equivalent of the civil penalties contained in the House-passed bill. This is probably the minimum level of tax which would be an effective incentive. The committee may also wish to consider applying the penalty only on those cars which fall below the standard (rather than on all cars produced by the manufacturer)

so that it does not appear that the tax is being attributed to the relatively fuel-efficient cars of a manufacturer which exceed the standard. In this case the minimum effective penalty should probably be increased to at least $20 per 1/10th mile per gallon. With a $10 penalty (per 1/10 of an m.p.g.) applied to all cars, or a $20 penalty applied to cars below the standard, the energy saving would be approximately the same as in the House bill (660,000 barrels per day by 1985). With a $20 penalty applied to all cars, the energy saving is estimated at 1.14 mbd by 1985.

The committee might also wish to consider adopting both the per-car and the fleet average taxes. The two proposals do overlap considerably (in the sense that most of the effort which would be required to minimize the impact of the per-car tax would also be required to meet the annual standards), so that adopting both proposals will not place a substantial additional burden on domestic manufacturers. But the adoption of both proposals will provide a means for insuring that U.S. manufacturers produce their new, more efficient cars in the U.S. and not abroad (by setting fleet standards which must be met separately for a manufacturer's domestic production), while at the same time applying a per-car tax to give consumers an incentive against buying inefficient cars (whether or not the manufacturer meets the fleet average standard).

Alternative approaches which others have discussed would impose a per-car tax on fuel inefficient cars and allow a credit against income tax for more efficient cars. The credit element in these proposals presents a number of problems. If a credit against income tax were extended to both U.S. and foreign-manufactured cars, the revenue cost of the credit would be substantial, and, since most of the cars which would receive credit would be foreign cars, U.S. manufacturers would be placed at a substantial competitive disadvantage. Sales and employment in the U.S. auto industry would probably be damaged.

If the committee is interested in establishing a per-car tax and some tax credit but doing so in a way that does not provide substantial encouragement to imports, a proposal under which a credit is allowed only against a per-car auto tax (and not against income tax) could be adopted. For example, the per-car tax schedule discussed above could be established, but a credit could be allowed against that tax to the extent the manufacturer of a car had over the past year substantially improved the average fuel economy of all of the cars it produced (in comparison with the industry's average fuel economy in earlier years). This type of credit would not be an incentive to imports because most foreign manufacturers would have little per-car tax against which to apply the credit (their cars being sufficiently fuel efficient to avoid any tax). Nevertheless, the U.S. manufacturers who would be subject to the tax would be allowed a credit to reduce or eliminate the tax on most cars if in each year that manufacturer made significant progress in improving its fuel economy. Such a proposal could be drafted so that little net revenue would result, thus having little or no effect on overall automobile sales. However, the proposal could produce a substantial energy savings.

C. OTHER

a. Intercity Buses

Present law

Present law imposes a 10-percent manufacturers excise tax on the sale of buses having a gross vehicle weight of more than 10,000 pounds (sec. 4061).[1] However, present law (sec. 4063(a)(6)) provides for an exemption from this tax for "local transit buses"; that is, those "which are to be used predominantly by the purchaser in mass transportation services in urban areas."

House bill

The House bill repeals the manufacturers excise tax on intercity buses, effective upon date of enactment. The bill achieves this by expanding the present exemption for buses used in local mass transit operations, also to cover buses which are to be used "predominantly by the purchaser in public passenger transportation service." This extends the exemption to buses used by regulated common carrier companies in intercity bus operations. The House Committee Report (p. 45) defines "predominantly" as use of a bus which is at least 50 percent in "public passenger transportation service." Thus, the House bill would not exempt a bus if it is to be used for charter service for more than 50 percent of its operation.

Revenue effect of House bill

The repeal of the excise tax on intercity buses is estimated to reduce tax liability by $5 million for the remainder of calendar 1975, and by $9 million in 1976. These revenues would otherwise go into the Highway Trust Fund (through September 30, 1977).

Staff analysis

It appears appropriate to repeal the excise tax on intercity buses in order to remove the tax distinction between local transit buses and intercity buses, and to encourage more use of intercity bus transportation (in place of automobiles). The limitation of the exemption under the House bill to intercity buses used "predominantly" (i.e., 50 percent or more) in "public passenger transportation service" may involve some administrative difficulty in determining the use of a particular bus in public transportation service or in charter service; however, that determination already must be made with regard to the present law's exemption for buses to be used "predominantly" in mass transit. In general, use of charter bus service for transporting tourists, etc., is a more efficient mode of transporting than by automobiles.

Alternative proposals

Some have suggested that in order to reduce the administrative burden of determining which buses are used in public transportation and which in charter service, as well as to encourage more use of bus transportation for tourist travel, the exemption from the 10-percent

[1] This tax is scheduled to drop to 5 percent on and after October 1, 1977. At that time, the revenues from this tax would go into the general fund rather than the Highway Trust Fund as at present.

excise tax might be expanded to include all buses. Some would even go further, to repeal the 8-percent excise tax on bus parts and accessories.

In order to forestall deferral of purchases of buses, the committee may wish to consider making the repeal effective for sales after the date the bill passed the House or the day the Finance Committee makes its decision on this part of the energy bill.

b. Radial Tires

Present law

Present law imposes a manufacturers excise tax of 10 cents per pound on rubber tires of the type used on highway vehicles [2] (sec. 4071(a)(1)) and a manufacturers excise tax of 5 cents per pound on tread rubber [3] (sec. 4071(a)(4)). Radial tires are taxed under these provisions according to the weight of the tire or the weight of the rubber used in retreading.

House bill

The House bill repeals the excise tax on radial tires and the tax on tread rubber used to recap or retread radial tires. For purposes of these provisions, a radial tire is a tire, of the type used on highway vehicles, in which the ply cords extending to the bead of the tire are laid at substantially 90 degrees to the center line of the tire tread. This is to distinguish such tires from "bias-ply" tires, where the corresponding ply cords are laid at substantially 45 degrees to the center line.

The repeal of the tax applies to radial tires (and related tread rubber) sold after March 17, 1975. The bill makes provision for floor stocks refunds with respect to radial tires in dealers' inventories on March 18, 1975. This floor stocks refund (or credit) is available with respect to radial tires sold by the manufacturer or importer before March 18, 1975, which were still held by the dealer on that date, and which had not been used, but were intended for sale by the dealer. The credit or refund for these floor stocks must be claimed by the manufacturer or importer before January 1, 1976, based upon reports submitted to him from the dealer before October 1, 1975. Also, before January 1, 1976, the manufacturer or importer must have reimbursed the dealer for the tax or obtained his written consent to the allowance of the refund or credit. In addition, the manufacturer or importer must have in his possession evidence of the inventories on which the credit or refund is claimed (to the extent required by Treasury regulations).

Revenue impact of House bill

It is estimated that the repeal of the 10-cents-per-pound excise tax on radial tires and the 5-cents-per-pound excise tax on tread rubber for radial tires will reduce tax liability by $75 million for the first full year. These revenues would otherwise have gone into the Highway Trust Fund (through September 30, 1977).

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[2] This tax is scheduled to drop 5 cents per pound on and after October 1, 1977 (sec. 4071(d)(1)).

[3] This tax is scheduled to expire on and after October 1, 1977 (sec. 4071(d)(3)).

Staff analysis

It appears appropriate to repeal the excise tax on radial tires (and the tax on related tread rubber), since it is estimated that the use of radial tires on highway vehicles reduces fuel consumption by 3 to 5 percent. The effective date in the House bill for repeal of the tax (March 17, 1975) was chosen because of the introduction date of the proposed repeal and because consumers might defer purchases of radial tires if the tax were not repealed until enactment. (The tax is estimated to average about $3 per tire.) The bill provides for floor stocks refunds for dealer inventories held on March 18, 1975. This follows prior practice when an excise tax has been repealed on an item, as it avoids creating competitive disadvantages because of the relative sizes of dealers' inventories.

Some would prefer that the tax be repealed on a gradual basis to lessen the possible negative impact on sales of other tires with similar prices. However, few bias-type tires are priced competitively with radial tires. Also, a gradual repeal would tend to complicate the provision.

c. Electric Motor Vehicles

Present law

Present law provides no income tax credit, or other special tax incentive (other than the investment credit, in the case of business property), to aid in the development of electric motor vehicles.

House bill

A House floor amendment added to the bill an income tax credit of 25 percent of expenditures up to $3,000 (a maximum credit of $750) for buying electric highway motor vehicles. The provision applies only to purchases of new vehicles made between June 3, 1975, and January 1, 1979, and then only if the purchase is for the personal use of the taxpayer or a member of his family.

Staff analysis

The supporters of the House floor amendment maintained that electric cars powered by lead batteries are capable of being sold in commercially viable quantities in the next few years for use as second cars for families living in urban areas. They stated that for prices beginning from $2,500 up to $15,000, these vehicles could be driven a range of up to 50 miles between battery charges and could achieve a top speed of 50 to 55 miles per hour. It was argued that encouraging the manufacture and sale of these types of automobiles would lead to a reduction of noise and air pollution in urban areas, and, since the car batteries would be charged during nonpeak load periods for local utility companies, use of the vehicles could produce some energy conservation.

However, whether or not electric vehicles powered by batteries could save any signficant amounts of energy over the three-year life of the tax credit is uncertain. In that time period, many utilities will still be using residual oil or natural gas to generate the electricity required to power the cars. In these cases, the amount of fuel required

to generate electricity for electric cars is not much greater than the amount required to power a gasoline-powered automobile which has the same size, speed, and acceleration characteristics. For this reason the Federal Energy Administration believes that a tax credit for electric cars will not result in a significant energy conservation over the three-year term of the tax credit. The committee, therefore, could consider deleting this provision.

Alternative proposals

If the committee is interested in aiding the development of electric motor vehicles, the committee may wish to consider making trust fund monies available for this purpose rather than establishing an income tax credit. Even if these cars do not save much energy, they will pollute less than conventional cars. Various committees of Congress are presently considering proposals for an electric vehicle demonstration act, under which monies could be appropriated to provide low interest loans or other types of aid for the production and sale of electric vehicles. Financing this type of legislation out of the trust fund could be an effective and appropriate use of those funds. Moreover, using this form of Government incentive rather than a tax incentive has the advantage of enabling the Congress to focus the incentive on overcoming the specific problems which are delaying or preventing the development of electric vehicles. In this way, the total cost of the program may well be reduced without reducing its effectiveness. Also, a tax incentive, unlike other incentives, tends to primarily benefit those more well to do taxpayers who can be expected to account for most of the purchases of these vehicles.

The Energy Trust Fund as adopted in the House-passed bill does not specifically list electric automobiles as one example of possible uses for trust funds (although basic and applied research programs could be supported under sec. 312(a)(1)(C) ("advanced transportation power systems") and development and demonstration programs could be supported under sec. 312(a)(2)(G) ("engines for efficient pollution-free automobiles")). If the committee desires, this use could be included as an example of possible uses, or can even be included as a required use for some portion of the fund if the committee believes that some funds must be spent for the development of electric motor vehicles.

d. Rerefined Lubricating Oil

Present law

Under Treasury regulations (§ 48.4091-2(b)(2)(iii)), blending new lubricating oil with previously used oil that has been reclaimed is not manufacturing, and, therefore, the manufacturers' excise tax of six cents per gallon on sales of lubricating oil (imposed by sec. 4091 of the Code) does not apply to sales of the blended oil. Nevertheless, the tax is imposed on the new oil used in the blending itself since the tax law (sec. 4218(a)) requires that the tax be applicable to a company's use of lubricating oil. The use of lubricating oil to blend with previously used oil is such a taxable use. No tax is placed on the use of the reclaimed oil because the Treasury regulations do not regard the reclaiming process as manufacturing (§ 48.4091-2(b)(2)(ii)).

In the case of a manufacturer's sale to a blender, no tax exemption is provided (under sec. 4093) because these sales are for further manufacturing, not for resale.

The Code (sec. 6424) grants a repayment of the amount of the tax if the lubricating oil is used other than in a highway motor vehicle. The Internal Revenue Service, however, does not consider the use of new oil blended with reclaimed oil as a "use" for purposes of that repayment provision. Therefore, there is a tax, but no repayment, for the new oil used in the blending.

There is also no payment of the tax placed on the "new oil" portion of the blend if the blended oil is used in a nonhighway use. This is because the repayment provision does not apply to previously used oil. The Service regards the new oil placed in the blend as "previously used oil" (because it was used in the blending). The net result is a tax preference for entirely new oil over a blend of new and reclaimed oil, if both are used for a nonhighway purpose, since the tax on the new oil is then entirely repaid, while the tax on the new oil portion of the blended oil is not repaid.

House bill

The House bill exempts new oil mixed with waste or rerefined oil under certain circumstances. If the resulting mixture contains up to 55 percent new oil, then all of this new oil in the mixture is to be tax exempt. If the mixture contains more than 55 percent new oil, the rerefiner is still to be exempt from tax on so much of the new oil as does not exceed 55 percent of the mixture. However, in order to insure that this provision operates in a manner which requires the use of a significant amount of waste or rerefined lubricating oil, the tax exemption for new oil is available only if 25 percent or more of the mixture consists of waste or rerefined oil.

Administration proposal

The Administration has presented no proposal regarding rerefined lubricating oil during this session of Congress.

Staff analysis

Both to further the nation's energy program and because of environmental considerations, it appears appropriate to modify the provision in existing law which prefers the use of entirely new lubricating oil in nonhighway uses to the use of reclaimed and blended oil. The intent of the House bill is to go one step further and provide an incentive for the reuse of "old" oil.

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