

**AMENDMENT TO H.R. 3550, AS REPORTED
OFFERED BY MR. THOMAS OF CALIFORNIA**

At the end of the bill, add the following new title
(and amend the table of contents accordingly):

1 **TITLE IX—TAX PROVISIONS**

2 **SEC. 9000. SHORT TITLE, ETC.**

3 (a) SHORT TITLE.—This title may be cited as the
4 “Highway Reauthorization Tax Act of 2004”.

5 (b) AMENDMENT OF 1986 CODE.—Except as other-
6 wise expressly provided, whenever in this title an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference
9 shall be considered to be made to a section or other provi-
10 sion of the Internal Revenue Code of 1986.

11 **Subtitle A—Highway Trust Fund**
12 **Extension**

13 **SEC. 9101. EXTENSION OF HIGHWAY-RELATED TAXES AND**
14 **TRUST FUND.**

15 (a) EXTENSION OF TAXES.—

16 (1) IN GENERAL.—The following provisions of
17 the Internal Revenue Code of 1986 are each amend-
18 ed by striking “2005” each place it appears and in-
19 serting “2011”:

1 (A) Section 4041(a)(1)(C)(iii)(I) (relating
2 to rate of tax on certain buses).

3 (B) Section 4041(a)(2)(B) (relating to rate
4 of tax on special motor fuels).

5 (C) Section 4051(e) (relating to termi-
6 nation of tax on heavy trucks and trailers).

7 (D) Section 4071(d) (relating to termi-
8 nation of tax on tires).

9 (E) Section 4081(d)(1) (relating to termi-
10 nation of tax on gasoline, diesel fuel, and ker-
11 osene).

12 (F) Section 4481(e) (relating to period tax
13 in effect).

14 (G) Section 4482(c)(4) (relating to taxable
15 period).

16 (H) Section 4482(d) (relating to special
17 rule for taxable period in which termination
18 date occurs).

19 (2) FLOOR STOCKS REFUNDS.—Section
20 6412(a)(1) of such Code (relating to floor stocks re-
21 funds) is amended—

22 (A) by striking “2005” each place it ap-
23 pears and inserting “2011”, and

24 (B) by striking “2006” each place it ap-
25 pears and inserting “2012”.

1 (b) EXTENSION OF CERTAIN EXEMPTIONS.—The fol-
2 lowing provisions of such Code are each amended by strik-
3 ing “2005” and inserting “2011”:

4 (1) Section 4221(a) (relating to certain tax-free
5 sales).

6 (2) Section 4483(g) (relating to termination of
7 exemptions for highway use tax).

8 (c) EXTENSION OF DEPOSITS INTO TRUST FUNDS.—

9 (1) IN GENERAL.—Subsection (b), and para-
10 graphs (2) and (3) of subsection (c), of section 9503
11 of such Code (relating to the Highway Trust Fund)
12 are each amended—

13 (A) by striking “2005” each place it ap-
14 pears and inserting “2011”, and

15 (B) by striking “2006” each place it ap-
16 pears and inserting “2012”.

17 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
18 TRANSFERS.—

19 (A) IN GENERAL.—Paragraphs (4)(A)(i)
20 and (5)(A) of section 9503(c) of such Code are
21 each amended by striking “2005” and inserting
22 “2011”.

23 (B) CONFORMING AMENDMENTS TO LAND
24 AND WATER CONSERVATION FUND.—Section
25 201(b) of the Land and Water Conservation

1 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
2 amended—

3 (i) by striking “2003” and inserting
4 “2009”, and

5 (ii) by striking “2004” each place it
6 appears and inserting “2010”.

7 (d) EXTENSION AND EXPANSION OF EXPENDITURES
8 FROM TRUST FUNDS.—

9 (1) HIGHWAY TRUST FUND.—

10 (A) HIGHWAY ACCOUNT.—Paragraph (1)
11 of section 9503(c) of such Code is amended—

12 (i) in the matter before subparagraph
13 (A), by striking “May 1, 2004” and insert-
14 ing “October 1, 2009”,

15 (ii) by striking “or” at the end of sub-
16 paragraph (F),

17 (iii) by striking the period at the end
18 of subparagraph (G) and inserting “, or”,

19 (iv) by inserting after subparagraph
20 (G), the following new subparagraph:

21 “(H) authorized to be paid out of the
22 Highway Trust Fund under the Transportation
23 Equity Act: A Legacy for Users.”, and

24 (v) in the matter after subparagraph
25 (H), as added by clause (iv), by striking

1 “Surface Transportation Extension Act of
2 2004” and inserting “Transportation Eq-
3 uity Act: A Legacy for Users”.

4 (B) MASS TRANSIT ACCOUNT.—Paragraph
5 (3) of section 9503(e) of such Code is
6 amended—

7 (i) in the matter before subparagraph
8 (A), by striking “May 1, 2004” and insert-
9 ing “October 1, 2009”,

10 (ii) in subparagraph (D), by striking
11 “or” at the end of such subparagraph,

12 (iii) in subparagraph (E), by inserting
13 “or” at the end of such subparagraph,

14 (iv) by inserting after subparagraph
15 (E) the following new subparagraph:

16 “(F) the Transportation Equity Act: A
17 Legacy for Users,” and

18 (v) in the matter after subparagraph
19 (F), as added by clause (iv), by striking
20 “Surface Transportation Extension Act of
21 2004” and inserting “Transportation Eq-
22 uity Act: A Legacy for Users”.

23 (C) LIMITATION ON TRANSFERS.—Sub-
24 paragraph (B) of section 9503(b)(5) of such

1 Code is amended by striking “May 1, 2004”
2 and inserting “October 1, 2009”.

3 (2) AQUATIC RESOURCES TRUST FUND.—

4 (A) SPORT FISH RESTORATION AC-
5 COUNT.—Paragraph (2) of section 9504(b) of
6 such Code is amended by striking “Surface
7 Transportation Extension Act of 2004” each
8 place it appears and inserting “Transportation
9 Equity Act: A Legacy for Users”.

10 (B) BOAT SAFETY ACCOUNT.—Subsection
11 (c) of section 9504 of such Code is amended—

12 (i) by striking “May 1, 2004” and in-
13 serting “October 1, 2009”, and

14 (ii) by striking “Surface Transpor-
15 tation Extension Act of 2004” and insert-
16 ing “Transportation Equity Act: A Legacy
17 for Users”.

18 (C) EXCEPTION TO LIMITATION ON TRANS-
19 FERS.—Paragraph (2) of section 9504(d) of
20 such Code is amended by striking “May 1,
21 2004” and inserting “October 1, 2009”.

1 **Subtitle B—Restructuring of**
2 **Incentives for Alcohol Fuels, Etc.**

3 **SEC. 9201. REDUCED RATES OF TAX ON GASOHOL RE-**
4 **PLACED WITH EXCISE TAX CREDIT; REPEAL**
5 **OF OTHER ALCOHOL-BASED FUEL INCEN-**
6 **TIVES; ETC.**

7 (a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIX-
8 TURES.—

9 (1) IN GENERAL.—Subsection (f) of section
10 6427 is amended to read as follows:

11 “(f) ALCOHOL FUEL MIXTURES.—

12 “(1) IN GENERAL.—The amount of credit
13 which would (but for section 40(c)) be determined
14 under section 40(a)(1) for any period—

15 “(A) shall, with respect to taxable events
16 occurring during such period, be treated—

17 “(i) as a payment of the taxpayer’s li-
18 ability for tax imposed by section 4081,
19 and

20 “(ii) as received at the time of the
21 taxable event, and

22 “(B) to the extent such amount of credit
23 exceeds such liability for such period, shall (ex-
24 cept as provided in subsection (k)) be paid sub-

1 ject to subsection (i)(3) by the Secretary with-
2 out interest.

3 “(2) SPECIAL RULES.—

4 “(A) ONLY CERTAIN ALCOHOL TAKEN
5 INTO ACCOUNT.—For purposes of paragraph
6 (1), section 40 shall be applied—

7 “(i) by not taking into account alcohol
8 with a proof of less than 190, and

9 “(ii) by treating as alcohol the alcohol
10 gallon equivalent of ethyl tertiary butyl
11 ether or other ethers produced from such
12 alcohol.

13 “(B) TREATMENT OF REFINERS.—For
14 purposes of paragraph (1), in the case of a
15 mixture—

16 “(i) the alcohol in which is described
17 in subparagraph (A)(ii), and

18 “(ii) which is produced by any person
19 at a refinery prior to any taxable event,
20 section 40 shall be applied by treating such per-
21 son as having sold such mixture at the time of
22 its removal from the refinery (and only at such
23 time) to another person for use as a fuel.

24 “(3) MIXTURES NOT USED AS FUEL.—Rules
25 similar to the rules of subparagraphs (A) and (D)

1 of section 40(d)(3) shall apply for purposes of this
2 subsection.

3 “(4) TERMINATION.—This section shall apply
4 only to periods to which section 40 applies, deter-
5 mined by substituting in section 40(e)—

6 “(A) ‘December 31, 2010’ for ‘December
7 31, 2007’, and

8 “(B) ‘January 1, 2011’ for ‘January 1,
9 2008’.”

10 (2) REVISION OF RULES FOR PAYMENT OF
11 CREDIT.—Paragraph (3) of section 6427(i) is
12 amended to read as follows:

13 “(3) SPECIAL RULE FOR ALCOHOL MIXTURE
14 CREDIT.—

15 “(A) IN GENERAL.—A claim may be filed
16 under subsection (f)(1)(B) by any person for
17 any period—

18 “(i) for which \$200 or more is pay-
19 able under such subsection (f)(1)(B), and

20 “(ii) which is not less than 1 week.

21 In the case of an electronic claim, this subpara-
22 graph shall be applied without regard to clause
23 (i).

24 “(B) PAYMENT OF CLAIM.—Notwith-
25 standing subsection (f)(1)(B), if the Secretary

1 has not paid pursuant to a claim filed under
2 this section within 45 days of the date of the
3 filing of such claim (20 days in the case of an
4 electronic claim), the claim shall be paid with
5 interest from such date determined by using the
6 overpayment rate and method under section
7 6621.

8 “(C) TIME FOR FILING CLAIM.—No claim
9 filed under this paragraph shall be allowed un-
10 less filed on or before the last day of the first
11 quarter following the earliest quarter included
12 in the claim.”

13 (b) REPEAL OF OTHER INCENTIVES FOR FUEL MIX-
14 TURES.—

15 (1) Subsection (b) of section 4041 is amended
16 to read as follows:

17 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
18 USE.—

19 “(1) IN GENERAL.—No tax shall be imposed by
20 subsection (a) or (d)(1) on liquids sold for use or
21 used in an off-highway business use.

22 “(2) TAX WHERE OTHER USE.—If a liquid on
23 which no tax was imposed by reason of paragraph
24 (1) is used otherwise than in an off-highway busi-
25 ness use, a tax shall be imposed by paragraph

1 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
2 (whichever is appropriate) and by the corresponding
3 provision of subsection (d)(1) (if any).

4 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—
5 For purposes of this subsection, the term ‘off-high-
6 way business use’ has the meaning given to such
7 term by section 6421(e)(2); except that such term
8 shall not, for purposes of subsection (a)(1), include
9 use in a diesel-powered train.”

10 (2) Section 4041(k) is hereby repealed.

11 (3) Section 4081(c) is hereby repealed.

12 (4) Section 4091(c) is hereby repealed.

13 (c) TRANSFERS TO HIGHWAY TRUST FUND.—Para-
14 graph (4) of section 9503(b) is amended by adding “or”
15 at the end of subparagraph (B), by striking the comma
16 at the end of subparagraph (C) and inserting a period,
17 and by striking subparagraphs (D), (E), and (F).

18 (d) CONFORMING AMENDMENTS.—

19 (1) Subsection (c) of section 40 is amended to
20 read as follows:

21 “(c) COORDINATION WITH EXCISE TAX BENE-
22 FITS.—The amount of the credit determined under this
23 section with respect to any alcohol shall, under regulations
24 prescribed by the Secretary, be properly reduced to take

1 into account the benefit provided with respect to such alco-
2 hol under section 6427(f).”

3 (2) Subparagraph (B) of section 40(d)(4) is
4 amended by striking “under section 4041(k) or
5 4081(e)” and inserting “under section 6427(f)”.

6 (e) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided by para-
8 graph (2), the amendments made by this section
9 shall apply to fuel sold or used after September 30,
10 2004.

11 (2) SUBSECTION (c).—The amendments made
12 by subsection (c) shall apply to taxes imposed after
13 September 30, 2003.

14 **SEC. 9202. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL**
15 **FUND.**

16 (a) TRANSFERS TO FUND.—Section 9503(b)(1) is
17 amended by adding at the end the following new flush sen-
18 tence:

19 “For purposes of this paragraph, the amount of
20 taxes received under section 4081 shall include any
21 amount treated as a payment under section
22 6427(f)(1)(A) and shall not be reduced by the
23 amount paid under section 6427(f)(1)(B).”.

24 (b) TRANSFERS FROM FUND.—Subparagraph (A) of
25 section 9503(c)(2) is amended by adding at the end the

1 following new sentence: “Clauses (i)(III) and (ii) shall not
2 apply to claims under section 6427(f)(1)(B).”

3 (c) EFFECTIVE DATE.—

4 (1) SUBSECTION (a).—The amendment made by
5 subsection (a) shall apply to taxes received after
6 September 30, 2004.

7 (2) SUBSECTION (b).—The amendment made by
8 subsection (b) shall apply to amounts paid after
9 September 30, 2004, and (to the extent related to
10 section 34 of the Internal Revenue Code of 1986) to
11 fuel used after such date.

12 **Subtitle C—Reduction of Fuel Tax** 13 **Evasion**

14 **SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR** 15 **MOBILE MACHINERY.**

16 (a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND
17 TRAILERS SOLD AT RETAIL.—

18 (1) IN GENERAL.—Section 4053 (relating to ex-
19 emptions) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(8) MOBILE MACHINERY.—Any vehicle which
22 consists of a chassis—

23 “(A) to which there has been permanently
24 mounted (by welding, bolting, riveting, or other
25 means) machinery or equipment to perform a

1 construction, manufacturing, processing, farm-
2 ing, mining, drilling, timbering, or similar oper-
3 ation if the operation of the machinery or
4 equipment is unrelated to transportation on or
5 off the public highways,

6 “(B) which has been specially designed to
7 serve only as a mobile carriage and mount (and
8 a power source, where applicable) for the par-
9 ticular machinery or equipment involved, wheth-
10 er or not such machinery or equipment is in op-
11 eration, and

12 “(C) which, by reason of such special de-
13 sign, could not, without substantial structural
14 modification, be used as a component of a vehi-
15 cle designed to perform a function of trans-
16 porting any load other than that particular ma-
17 chinery or equipment or similar machinery or
18 equipment requiring such a specially designed
19 chassis.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall take effect on the day after
22 the date of the enactment of this Act.

23 (b) EXEMPTION FROM TAX ON USE OF CERTAIN VE-
24 HICLES.—

1 (1) IN GENERAL.—Section 4483 (relating to ex-
2 emptions) is amended by redesignating subsection
3 (g) as subsection (h) and by inserting after sub-
4 section (f) the following new subsection:

5 “(g) EXEMPTION FOR MOBILE MACHINERY.—No tax
6 shall be imposed by section 4481 on the use of any vehicle
7 described in section 4053(8).”.

8 (2) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect on the day after
10 the date of the enactment of this Act.

11 (c) EXEMPTION FROM TAX ON TIRES.—

12 (1) IN GENERAL.—Section 4072(b)(2) is
13 amended by adding at the end the following flush
14 sentence: “Such term shall not include tires of a
15 type used exclusively on vehicles described in section
16 4053(8).”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection shall take effect on the day after
19 the date of the enactment of this Act.

20 (d) REFUND OF FUEL TAXES.—

21 (1) IN GENERAL.—Section 6421(e)(2) (defining
22 off-highway business use) is amended by adding at
23 the end the following new subparagraph:

24 “(C) USES IN MOBILE MACHINERY.—

1 “(i) IN GENERAL.—The term ‘off-
2 highway business use’ shall include any use
3 in a vehicle which meets the requirements
4 described in clause (ii).

5 “(ii) REQUIREMENTS FOR MOBILE
6 MACHINERY.—The requirements described
7 in this clause are—

8 “(I) the design-based test, and

9 “(II) the use-based test.

10 “(iii) DESIGN-BASED TEST.—For pur-
11 poses of clause (ii)(I), the design-based
12 test is met if the vehicle consists of a
13 chassis—

14 “(I) to which there has been per-
15 manently mounted (by welding, bolt-
16 ing, riveting, or other means) machin-
17 ery or equipment to perform a con-
18 struction, manufacturing, processing,
19 farming, mining, drilling, timbering,
20 or similar operation if the operation of
21 the machinery or equipment is unre-
22 lated to transportation on or off the
23 public highways,

24 “(II) which has been specially de-
25 signed to serve only as a mobile car-

1 riage and mount (and a power source,
2 where applicable) for the particular
3 machinery or equipment involved,
4 whether or not such machinery or
5 equipment is in operation, and

6 “(III) which, by reason of such
7 special design, could not, without sub-
8 stantial structural modification, be
9 used as a component of a vehicle de-
10 signed to perform a function of trans-
11 porting any load other than that par-
12 ticular machinery or equipment or
13 similar machinery or equipment re-
14 quiring such a specially designed chas-
15 sis.

16 “(iv) USE-BASED TEST.—For pur-
17 poses of clause (ii)(II), the use-based test
18 is met if the use of the vehicle on public
19 highways was less than 7,500 miles during
20 the taxpayer’s taxable year.”.

21 (2) NO TAX-FREE SALES.—Subsection (b) of
22 section 4082, as amended by section 9302, is
23 amended by inserting before the period at the end
24 “and such term shall not include any use described
25 in section 6421(e)(2)(C)”.

1 (3) ANNUAL REFUND OF TAX PAID.—Section
2 6427(i)(2) (relating to exceptions) is amended by
3 adding at the end the following new subparagraph:

4 “(C) NONAPPLICATION OF PARAGRAPH.—
5 This paragraph shall not apply to any fuel used
6 solely in any off-highway business use described
7 in section 6421(e)(2)(C).”.

8 (4) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to taxable years begin-
10 ning after the date of the enactment of this Act.

11 **SEC. 9302. TAXATION OF AVIATION-GRADE KEROSENE.**

12 (a) RATE OF TAX.—

13 (1) IN GENERAL.—Subparagraph (A) of section
14 4081(a)(2) is amended by striking “and” at the end
15 of clause (ii), by striking the period at the end of
16 clause (iii) and inserting “, and”, and by adding at
17 the end the following new clause:

18 “(iv) in the case of aviation-grade ker-
19 osene, 21.8 cents per gallon.”.

20 (2) COMMERCIAL AVIATION.—Paragraph (2) of
21 section 4081(a) is amended by adding at the end the
22 following new subparagraph:

23 “(C) TAXES IMPOSED ON FUEL USED IN
24 COMMERCIAL AVIATION.—In the case of avia-
25 tion-grade kerosene which is removed from any

1 refinery or terminal directly into the fuel tank
2 of an aircraft for use in commercial aviation,
3 the rate of tax under subparagraph (A)(iv) shall
4 be 4.3 cents per gallon.”.

5 (3) CERTAIN REFUELER TRUCKS, TANKERS,
6 AND TANK WAGONS TREATED AS TERMINAL.—Sub-
7 section (a) of section 4081 is amended by adding at
8 the end the following new paragraph:

9 “(3) CERTAIN REFUELER TRUCKS, TANKERS,
10 AND TANK WAGONS TREATED AS TERMINAL.—

11 “(A) IN GENERAL.—In the case of avia-
12 tion-grade kerosene which is removed from any
13 terminal directly into the fuel tank of an air-
14 craft (determined without regard to any re-
15 fueler truck, tanker, or tank wagon which meets
16 the requirements of subparagraph (B)), a re-
17 fueler truck, tanker, or tank wagon shall be
18 treated as part of such terminal if—

19 “(i) such truck, tanker, or wagon
20 meets the requirements of subparagraph
21 (B) with respect to an airport, and

22 “(ii) except in the case of exigent cir-
23 cumstances identified by the Secretary in
24 regulations, no vehicle registered for high-

1 way use is loaded with aviation-grade ker-
2 osene at such terminal.

3 “(B) REQUIREMENTS.—A refueler truck,
4 tanker, or tank wagon meets the requirements
5 of this subparagraph with respect to an airport
6 if such truck, tanker, or wagon—

7 “(i) is loaded with aviation-grade ker-
8 osene at such terminal located within such
9 airport and delivers such kerosene only
10 into aircraft at such airport,

11 “(ii) has storage tanks, hose, and cou-
12 pling equipment designed and used for the
13 purposes of fueling aircraft,

14 “(iii) is not registered for highway
15 use, and

16 “(iv) is operated by—

17 “(I) the terminal operator of
18 such terminal, or

19 “(II) a person that makes a daily
20 accounting to such terminal operator
21 of each delivery of fuel from such
22 truck, tanker, or wagon.

23 “(C) REPORTING.—The Secretary shall re-
24 quire under section 4101(d) reporting by such
25 terminal operator of—

1 “(i) any information obtained under
2 subparagraph (B)(iv)(II), and

3 “(ii) any similar information main-
4 tained by such terminal operator with re-
5 spect to deliveries of fuel made by trucks,
6 tankers, or wagons operated by such ter-
7 minal operator.”.

8 (4) LIABILITY FOR TAX ON AVIATION-GRADE
9 KEROSENE USED IN COMMERCIAL AVIATION.—Sub-
10 section (a) of section 4081 is amended by adding at
11 the end the following new paragraph:

12 “(4) LIABILITY FOR TAX ON AVIATION-GRADE
13 KEROSENE USED IN COMMERCIAL AVIATION.—For
14 purposes of paragraph (2)(C), the person who uses
15 the fuel for commercial aviation shall pay the tax
16 imposed under such paragraph. For purposes of the
17 preceding sentence, fuel shall be treated as used
18 when such fuel is removed into the fuel tank.”.

19 (5) NONTAXABLE USES.—

20 (A) IN GENERAL.—Section 4082 is amend-
21 ed by redesignating subsections (e) and (f) as
22 subsections (f) and (g), respectively, and by in-
23 serting after subsection (d) the following new
24 subsection:

1 “(e) AVIATION-GRADE KEROSENE.—In the case of
2 aviation-grade kerosene which is exempt from the tax im-
3 posed by section 4041(c) (other than by reason of a prior
4 imposition of tax) and which is removed from any refinery
5 or terminal directly into the fuel tank of an aircraft, the
6 rate of tax under section 4081(a)(2)(A)(iv) shall be zero.”.

7 (B) CONFORMING AMENDMENTS.—

8 (i) Subsection (b) of section 4082 is
9 amended by adding at the end the fol-
10 lowing new flush sentence:

11 “The term ‘nontaxable use’ does not include the use of
12 aviation-grade kerosene in an aircraft.”.

13 (ii) Section 4082(d) is amended by
14 striking paragraph (1) and by redesignig-
15 nating paragraphs (2) and (3) as para-
16 graphs (1) and (2), respectively.

17 (6) NONAIRCRAFT USE OF AVIATION-GRADE
18 KEROSENE.—

19 (A) IN GENERAL.—Subparagraph (B) of
20 section 4041(a)(1) is amended by adding at the
21 end the following new sentence: “This subpara-
22 graph shall not apply to aviation-grade ker-
23 osene.”.

24 (B) CONFORMING AMENDMENT.—The
25 heading for paragraph (1) of section 4041(a) is

1 amended by inserting “AND KEROSENE” after
2 “DIESEL FUEL”.

3 (b) COMMERCIAL AVIATION.—Section 4083 is
4 amended by redesignating subsections (b) and (c) as sub-
5 sections (c) and (d), respectively, and by inserting after
6 subsection (a) the following new subsection:

7 “(b) COMMERCIAL AVIATION.—For purposes of this
8 subpart, the term ‘commercial aviation’ means any use of
9 an aircraft in a business of transporting persons or prop-
10 erty for compensation or hire by air, unless properly allo-
11 cable to any transportation exempt from the taxes imposed
12 by sections 4261 and 4271 by reason of section 4281 or
13 4282 or by reason of section 4261(h).”.

14 (c) REFUNDS.—

15 (1) IN GENERAL.—Paragraph (4) of section
16 6427(l) is amended to read as follows:

17 “(4) REFUNDS FOR AVIATION-GRADE KER-
18 OSENE.—

19 “(A) NO REFUND OF CERTAIN TAXES ON
20 FUEL USED IN COMMERCIAL AVIATION.—In the
21 case of aviation-grade kerosene used in com-
22 mercial aviation (as defined in section 4083(b))
23 (other than supplies for vessels or aircraft with-
24 in the meaning of section 4221(d)(3)), para-

1 graph (1) shall not apply to so much of the tax
2 imposed by section 4081 as is attributable to—

3 “(i) the Leaking Underground Stor-
4 age Tank Trust Fund financing rate im-
5 posed by such section, and

6 “(ii) so much of the rate of tax speci-
7 fied in section 4081(a)(2)(A)(iv) as does
8 not exceed 4.3 cents per gallon.

9 “(B) PAYMENT TO ULTIMATE, REG-
10 ISTERED VENDOR.—With respect to aviation-
11 grade kerosene, if the ultimate purchaser of
12 such kerosene waives (at such time and in such
13 form and manner as the Secretary shall pre-
14 scribe) the right to payment under paragraph
15 (1) and assigns such right to the ultimate ven-
16 dor, then the Secretary shall pay the amount
17 which would be paid under paragraph (1) to
18 such ultimate vendor, but only if such ultimate
19 vendor—

20 “(i) is registered under section 4101,
21 and

22 “(ii) meets the requirements of sub-
23 paragraph (A), (B), or (D) of section
24 6416(a)(1).”.

1 (2) TIME FOR FILING CLAIMS.—Subparagraph
2 (A) of section 6427(i)(4) is amended—

3 (A) by striking “subsection (l)(5)” both
4 places it appears and inserting “paragraph
5 (4)(B) or (5) of subsection (l)”, and

6 (B) by striking “the preceding sentence”
7 and inserting “subsection (l)(5)”.

8 (3) CONFORMING AMENDMENT.—Subparagraph
9 (B) of section 6427(l)(2) is amended to read as fol-
10 lows:

11 “(B) in the case of aviation-grade
12 kerosene—

13 “(i) any use which is exempt from the
14 tax imposed by section 4041(c) other than
15 by reason of a prior imposition of tax, or

16 “(ii) any use in commercial aviation
17 (within the meaning of section 4083(b)).”.

18 (d) REPEAL OF PRIOR TAXATION OF AVIATION
19 FUEL.—

20 (1) IN GENERAL.—Part III of subchapter A of
21 chapter 32 is amended by striking subpart B and by
22 redesignating subpart C as subpart B.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Section 4041(c) is amended to read as
25 follows:

1 “(c) AVIATION-GRADE KEROSENE.—

2 “(1) IN GENERAL.—There is hereby imposed a
3 tax upon aviation-grade kerosene—

4 “(A) sold by any person to an owner, les-
5 see, or other operator of an aircraft for use in
6 such aircraft, or

7 “(B) used by any person in an aircraft un-
8 less there was a taxable sale of such fuel under
9 subparagraph (A).

10 “(2) EXEMPTION FOR PREVIOUSLY TAXED
11 FUEL.—No tax shall be imposed by this subsection
12 on the sale or use of any aviation-grade kerosene if
13 tax was imposed on such liquid under section 4081
14 and the tax thereon was not credited or refunded.

15 “(3) RATE OF TAX.—The rate of tax imposed
16 by this subsection shall be the rate of tax specified
17 in section 4081(a)(2)(A)(iv) which is in effect at the
18 time of such sale or use.”.

19 (B) Section 4041(d)(2) is amended by
20 striking “section 4091” and inserting “section
21 4081”.

22 (C) Section 4041 is amended by striking
23 subsection (e).

24 (D) Section 4041 is amended by striking
25 subsection (i).

1 (E) Sections 4101(a), 4103, 4221(a), and
2 6206 are each amended by striking “, 4081, or
3 4091” and inserting “or 4081”.

4 (F) Section 6416(b)(2) is amended by
5 striking “4091 or”.

6 (G) Section 6416(b)(3) is amended by
7 striking “or 4091” each place it appears.

8 (H) Section 6416(d) is amended by strik-
9 ing “or to the tax imposed by section 4091 in
10 the case of refunds described in section
11 4091(d)”.

12 (I) Section 6427(j)(1) is amended by strik-
13 ing “, 4081, and 4091” and inserting “and
14 4081”.

15 (J)(i) Section 6427(l)(1) is amended to
16 read as follows:

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection and in subsection (k), if any
19 diesel fuel or kerosene on which tax has been im-
20 posed by section 4041 or 4081 is used by any person
21 in a nontaxable use, the Secretary shall pay (without
22 interest) to the ultimate purchaser of such fuel an
23 amount equal to the aggregate amount of tax im-
24 posed on such fuel under section 4041 or 4081, as

1 the case may be, reduced by any payment made to
2 the ultimate vendor under paragraph (4)(B).”.

3 (ii) Paragraph (5)(B) of section 6427(l) is
4 amended by striking “Paragraph (1)(A) shall
5 not apply to kerosene” and inserting “Para-
6 graph (1) shall not apply to kerosene (other
7 than aviation-grade kerosene)”.

8 (K) Subparagraph (B) of section
9 6724(d)(1) is amended by striking clause (xv)
10 and by redesignating the succeeding clauses ac-
11 cordingly.

12 (L) Paragraph (2) of section 6724(d) is
13 amended by striking subparagraph (W) and by
14 redesignating the succeeding subparagraphs ac-
15 cordingly.

16 (M) Paragraph (1) of section 9502(b) is
17 amended by adding “and” at the end of sub-
18 paragraph (B) and by striking subparagraphs
19 (C) and (D) and inserting the following new
20 subparagraph:

21 “(C) section 4081 with respect to aviation
22 gasoline and aviation-grade kerosene, and”.

23 (N) The last sentence of section 9502(b) is
24 amended to read as follows:

1 “There shall not be taken into account under paragraph
2 (1) so much of the taxes imposed by section 4081 as are
3 determined at the rate specified in section
4 4081(a)(2)(B).”.

5 (O) Subsection (b) of section 9508 is
6 amended by striking paragraph (3) and by re-
7 designating paragraphs (4) and (5) as para-
8 graphs (3) and (4), respectively.

9 (P) Section 9508(c)(2)(A) is amended by
10 striking “sections 4081 and 4091” and insert-
11 ing “section 4081”.

12 (Q) The table of subparts for part III of
13 subchapter A of chapter 32 is amended to read
14 as follows:

“Subpart A. Motor and aviation fuels.
“Subpart B. Special provisions applicable to fuels tax.”.

15 (R) The heading for subpart A of part III
16 of subchapter A of chapter 32 is amended to
17 read as follows:

18 **“Subpart A—Motor and Aviation Fuels”.**

19 (S) The heading for subpart B of part III
20 of subchapter A of chapter 32, as redesignated
21 by paragraph (1), is amended to read as fol-
22 lows:

1 **“Subpart B—Special Provisions Applicable to Fuels**
2 **Tax”.**

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to aviation-grade kerosene re-
5 moved, entered, or sold after September 30, 2004.

6 (f) FLOOR STOCKS TAX.—

7 (1) IN GENERAL.—There is hereby imposed on
8 aviation-grade kerosene held on October 1, 2004, by
9 any person a tax equal to—

10 (A) the tax which would have been imposed
11 before such date on such kerosene had the
12 amendments made by this section been in effect
13 at all times before such date, reduced by

14 (B) the tax imposed before such date
15 under section 4091 of the Internal Revenue
16 Code of 1986, as in effect on the day before the
17 date of the enactment of this Act.

18 (2) LIABILITY FOR TAX AND METHOD OF PAY-
19 MENT.—

20 (A) LIABILITY FOR TAX.—The person
21 holding the kerosene on October 1, 2004, to
22 which the tax imposed by paragraph (1) applies
23 shall be liable for such tax.

24 (B) METHOD AND TIME FOR PAYMENT.—
25 The tax imposed by paragraph (1) shall be paid
26 at such time and in such manner as the Sec-

1 retary of the Treasury (or the Secretary's dele-
2 gate) shall prescribe, including the nonapplica-
3 tion of such tax on de minimis amounts of ker-
4 osene.

5 (3) TRANSFER OF FLOOR STOCK TAX REVE-
6 NUES TO TRUST FUNDS.—For purposes of deter-
7 mining the amount transferred to any trust fund,
8 the tax imposed by this subsection shall be treated
9 as imposed by section 4081 of the Internal Revenue
10 Code of 1986—

11 (A) at the Leaking Underground Storage
12 Tank Trust Fund financing rate under such
13 section to the extent of 0.1 cents per gallon,
14 and

15 (B) at the rate under section
16 4081(a)(2)(A)(iv) to the extent of the remain-
17 der.

18 (4) HELD BY A PERSON.—For purposes of this
19 section, kerosene shall be considered as held by a
20 person if title thereto has passed to such person
21 (whether or not delivery to the person has been
22 made).

23 (5) OTHER LAWS APPLICABLE.—All provisions
24 of law, including penalties, applicable with respect to
25 the tax imposed by section 4081 of such Code shall,

1 insofar as applicable and not inconsistent with the
2 provisions of this subsection, apply with respect to
3 the floor stock tax imposed by paragraph (1) to the
4 same extent as if such tax were imposed by such
5 section.

6 **SEC. 9303. DYE INJECTION EQUIPMENT.**

7 (a) IN GENERAL.—Section 4082(a)(2) (relating to
8 exemptions for diesel fuel and kerosene) is amended by
9 inserting “by mechanical injection” after “indelibly dyed”.

10 (b) DYE INJECTOR SECURITY.—Not later than 180
11 days after the date of the enactment of this Act, the Sec-
12 retary of the Treasury shall issue regulations regarding
13 mechanical dye injection systems described in the amend-
14 ment made by subsection (a), and such regulations shall
15 include standards for making such systems tamper resist-
16 ant.

17 (c) PENALTY FOR TAMPERING WITH OR FAILING TO
18 MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL
19 DYE INJECTION SYSTEMS.—

20 (1) IN GENERAL.—Part I of subchapter B of
21 chapter 68 (relating to assessable penalties) is
22 amended by adding after section 6715 the following
23 new section:

1 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
2 **SECURITY REQUIREMENTS FOR MECHAN-**
3 **ICAL DYE INJECTION SYSTEMS.**

4 “(a) IMPOSITION OF PENALTY—

5 “(1) TAMPERING.—If any person tampers with
6 a mechanical dye injection system used to indelibly
7 dye fuel for purposes of section 4082, such person
8 shall pay a penalty in addition to the tax (if any).

9 “(2) FAILURE TO MAINTAIN SECURITY RE-
10 QUIREMENTS.—If any operator of a mechanical dye
11 injection system used to indelibly dye fuel for pur-
12 poses of section 4082 fails to maintain the security
13 standards for such system as established by the Sec-
14 retary, then such operator shall pay a penalty in ad-
15 dition to the tax (if any).

16 “(b) AMOUNT OF PENALTY.—The amount of the
17 penalty under subsection (a) shall be—

18 “(1) for each violation described in paragraph
19 (1), the greater of—

20 “(A) \$25,000, or

21 “(B) \$10 for each gallon of fuel involved,
22 and

23 “(2) for each—

24 “(A) failure to maintain security standards
25 described in paragraph (2), \$1,000, and

1 after the date on which the Secretary issues the regula-
2 tions described in subsection (b).

3 **SEC. 9304. AUTHORITY TO INSPECT ON-SITE RECORDS.**

4 (a) IN GENERAL.—Section 4083(d)(1)(A) (relating
5 to administrative authority), as previously amended by
6 this Act, is amended by striking “and” at the end of clause
7 (i) and by inserting after clause (ii) the following new
8 clause:

9 “(iii) inspecting any books and
10 records and any shipping papers pertaining
11 to such fuel, and”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act.

15 **SEC. 9305. REGISTRATION OF PIPELINE OR VESSEL OPERA-**
16 **TORS REQUIRED FOR EXEMPTION OF BULK**
17 **TRANSFERS TO REGISTERED TERMINALS OR**
18 **REFINERIES.**

19 (a) IN GENERAL.—Section 4081(a)(1)(B) (relating
20 to exemption for bulk transfers to registered terminals or
21 refineries) is amended—

22 (1) by inserting “by pipeline or vessel” after
23 “transferred in bulk”, and

24 (2) by inserting “, the operator of such pipeline
25 or vessel,” after “the taxable fuel”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on October 1, 2004.

3 (c) PUBLICATION OF REGISTERED PERSONS.—Be-
4 ginning on July 1, 2004, the Secretary of the Treasury
5 (or the Secretary’s delegate) shall periodically publish a
6 current list of persons registered under section 4101 of
7 the Internal Revenue Code of 1986 who are required to
8 register under such section.

9 **SEC. 9306. DISPLAY OF REGISTRATION.**

10 (a) IN GENERAL.—Subsection (a) of section 4101
11 (relating to registration) is amended—

12 (1) by striking “Every” and inserting the fol-
13 lowing:

14 “(1) IN GENERAL.—Every”, and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2) DISPLAY OF REGISTRATION.—Every oper-
18 ator of a vessel required by the Secretary to register
19 under this section shall display proof of registration
20 through an electronic identification device prescribed
21 by the Secretary on each vessel used by such oper-
22 ator to transport any taxable fuel.”.

23 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY REG-
24 ISTRATION.—

1 (1) IN GENERAL.—Part I of subchapter B of
2 chapter 68 (relating to assessable penalties) is
3 amended by inserting after section 6716 the fol-
4 lowing new section:

5 **“SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON**
6 **VESSELS.**

7 “(a) FAILURE TO DISPLAY REGISTRATION.—Every
8 operator of a vessel who fails to display proof of registra-
9 tion pursuant to section 4101(a)(2) shall pay a penalty
10 of \$500 for each such failure. With respect to any vessel,
11 only one penalty shall be imposed by this section during
12 any calendar month.

13 “(b) MULTIPLE VIOLATIONS.—In determining the
14 penalty under subsection (a) on any person, subsection (a)
15 shall be applied by increasing the amount in subsection
16 (a) by the product of such amount and the aggregate num-
17 ber of penalties (if any) imposed with respect to prior
18 months by this section on such person (or a related person
19 or any predecessor of such person or related person).

20 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
21 shall be imposed under this section with respect to any
22 failure if it is shown that such failure is due to reasonable
23 cause.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions for part I of subchapter B of chapter 68 is

1 amended by inserting after the item relating to sec-
2 tion 6716 the following new item:

“Sec. 6717. Failure to display tax registration on vessels.”.

3 (c) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—The amendments made
5 by subsection (a) shall take effect on October 1,
6 2004.

7 (2) SUBSECTION (b).—The amendments made
8 by subsection (b) shall apply to penalties imposed
9 after September 30, 2004.

10 **SEC. 9307. PENALTIES FOR FAILURE TO REGISTER AND**
11 **FAILURE TO REPORT.**

12 (a) INCREASED PENALTY.—Subsection (a) of section
13 7272 (relating to penalty for failure to register) is amend-
14 ed by inserting “(\$10,000 in the case of a failure to reg-
15 ister under section 4101)” after “\$50”.

16 (b) INCREASED CRIMINAL PENALTY.—Section 7232
17 (relating to failure to register under section 4101, false
18 representations of registration status, etc.) is amended by
19 striking “\$5,000” and inserting “\$10,000”.

20 (c) ASSESSABLE PENALTY FOR FAILURE TO REG-
21 ISTER.—

22 (1) IN GENERAL.—Part I of subchapter B of
23 chapter 68 (relating to assessable penalties) is
24 amended by inserting after section 6717 the fol-
25 lowing new section:

1 **“SEC. 6718. FAILURE TO REGISTER.**

2 “(a) FAILURE TO REGISTER.—Every person who is
3 required to register under section 4101 and fails to do
4 so shall pay a penalty in addition to the tax (if any).

5 “(b) AMOUNT OF PENALTY.—The amount of the
6 penalty under subsection (a) shall be—

7 “(1) \$10,000 for each initial failure to register,
8 and

9 “(2) \$1,000 for each day thereafter such person
10 fails to register.

11 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
12 shall be imposed under this section with respect to any
13 failure if it is shown that such failure is due to reasonable
14 cause.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions for part I of subchapter B of chapter 68 is
17 amended by inserting after the item relating to sec-
18 tion 6717 the following new item:

“Sec. 6718. Failure to register.”.

19 (d) ASSESSABLE PENALTY FOR FAILURE TO RE-
20 PORT.—

21 (1) IN GENERAL.—Part II of subchapter B of
22 chapter 68 (relating to assessable penalties) is
23 amended by adding at the end the following new sec-
24 tion:

1 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
2 **SECTION 4101.**

3 “(a) IN GENERAL.—In the case of each failure de-
4 scribed in subsection (b) by any person with respect to
5 a vessel or facility, such person shall pay a penalty of
6 \$10,000 in addition to the tax (if any).

7 “(b) FAILURES SUBJECT TO PENALTY.—For pur-
8 poses of subsection (a), the failures described in this sub-
9 section are—

10 “(1) any failure to make a report under section
11 4101(d) on or before the date prescribed therefor,
12 and

13 “(2) any failure to include all of the informa-
14 tion required to be shown on such report or the in-
15 clusion of incorrect information.

16 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
17 shall be imposed under this section with respect to any
18 failure if it is shown that such failure is due to reasonable
19 cause.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for part II of subchapter B of chapter 68 is
22 amended by adding at the end the following new
23 item:

“Sec. 6725. Failure to report information under section 4101.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to penalties imposed after Sep-
3 tember 30, 2004.

4 **SEC. 9308. COLLECTION FROM CUSTOMS BOND WHERE IM-
5 PORTER NOT REGISTERED.**

6 (a) TAX AT POINT OF ENTRY WHERE IMPORTER
7 NOT REGISTERED.—Subpart B of part III of subchapter
8 A of chapter 32, as redesignated by section 9302(d), is
9 amended by adding after section 4103 the following new
10 section:

11 **“SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IM-
12 PORTER NOT REGISTERED.**

13 “(a) IN GENERAL.—The importer of record shall be
14 jointly and severally liable for the tax imposed by section
15 4081(a)(1)(A)(iii) if, under regulations prescribed by the
16 Secretary, any other person that is not a person who is
17 registered under section 4101 is liable for such tax.

18 “(b) COLLECTION FROM CUSTOMS BOND.—If any
19 tax for which any importer of record is liable under sub-
20 section (a), or for which any importer of record that is
21 not a person registered under section 4101 is otherwise
22 liable, is not paid on or before the last date prescribed
23 for payment, the Secretary may collect such tax from the
24 Customs bond posted with respect to the importation of
25 the taxable fuel to which the tax relates. For purposes of

1 determining the jurisdiction of any court of the United
2 States or any agency of the United States, any action by
3 the Secretary described in the preceding sentence shall be
4 treated as an action to collect the tax from a bond de-
5 scribed in section 4101(b)(1) and not as an action to col-
6 lect from a bond relating to the importation of merchan-
7 dise.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
9 tions for subpart B of part III of subchapter A of chapter
10 32, as redesignated by section 9302(d), is amended by
11 adding after the item related to section 4103 the following
12 new item:

“Sec. 4104. Collection from Customs bond where importer not
registered.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to fuel entered after
15 September 30, 2004.

16 **SEC. 9309. MODIFICATIONS OF TAX ON USE OF CERTAIN VE-**
17 **HICLES.**

18 (a) PRORATION OF TAX WHERE VEHICLE SOLD.—

19 (1) IN GENERAL.—Subparagraph (A) of section
20 4481(e)(2) (relating to where vehicle destroyed or
21 stolen) is amended by striking “destroyed or stolen”
22 both places it appears and inserting “sold, de-
23 stroyed, or stolen”.

1 (2) CONFORMING AMENDMENT.—The heading
2 for section 4481(c)(2) is amended by striking “DE-
3 STROYED OR STOLEN” and inserting “SOLD, DE-
4 STROYED, OR STOLEN”.

5 (b) REPEAL OF INSTALLMENT PAYMENT.—

6 (1) Section 6156 (relating to installment pay-
7 ment of tax on use of highway motor vehicles) is re-
8 pealed.

9 (2) The table of sections for subchapter A of
10 chapter 62 is amended by striking the item relating
11 to section 6156.

12 (c) ELECTRONIC FILING.—Section 4481 is amended
13 by redesignating subsection (e) as subsection (f) and by
14 inserting after subsection (d) the following new subsection:

15 “(e) ELECTRONIC FILING.—Any taxpayer who files
16 a return under this section with respect to 25 or more
17 vehicles for any taxable period shall file such return elec-
18 tronically.”.

19 (d) REPEAL OF REDUCTION IN TAX FOR CERTAIN
20 TRUCKS.—Section 4483 is amended by striking subsection
21 (f).

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable periods beginning after
24 the date of the enactment of this Act.

1 **SEC. 9310. MODIFICATION OF ULTIMATE VENDOR REFUND**
2 **CLAIMS WITH RESPECT TO FARMING.**

3 (a) IN GENERAL.—

4 (1) REFUNDS.—Section 6427(1) is amended by
5 adding at the end the following new paragraph:

6 “(6) REGISTERED VENDORS PERMITTED TO AD-
7 MINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL
8 FUEL AND KEROSENE SOLD TO FARMERS.—

9 “(A) IN GENERAL.—In the case of diesel
10 fuel or kerosene used on a farm for farming
11 purposes (within the meaning of section
12 6420(c)), paragraph (1) shall not apply to the
13 aggregate amount of such diesel fuel or ker-
14 osene if such amount does not exceed 250 gal-
15 lons (as determined under subsection
16 (i)(5)(A)(iii)).

17 “(B) PAYMENT TO ULTIMATE VENDOR.—
18 The amount which would (but for subparagraph
19 (A)) have been paid under paragraph (1) with
20 respect to any fuel shall be paid to the ultimate
21 vendor of such fuel, if such vendor—

22 “(i) is registered under section 4101,
23 and

24 “(ii) meets the requirements of sub-
25 paragraph (A), (B), or (D) of section
26 6416(a)(1).”.

1 (2) FILING OF CLAIMS.—Section 6427(i) is
2 amended by inserting at the end the following new
3 paragraph:

4 “(5) SPECIAL RULE FOR VENDOR REFUNDS
5 WITH RESPECT TO FARMERS.—

6 “(A) IN GENERAL.—A claim may be filed
7 under subsection (l)(6) by any person with re-
8 spect to fuel sold by such person for any
9 period—

10 “(i) for which \$200 or more (\$100 or
11 more in the case of kerosene) is payable
12 under subsection (l)(6),

13 “(ii) which is not less than 1 week,
14 and

15 “(iii) which is for not more than 250
16 gallons for each farmer for which there is
17 a claim.

18 Notwithstanding subsection (l)(1), paragraph
19 (3)(B) shall apply to claims filed under the pre-
20 ceding sentence.

21 “(B) TIME FOR FILING CLAIM.—No claim
22 filed under this paragraph shall be allowed un-
23 less filed on or before the last day of the first
24 quarter following the earliest quarter included
25 in the claim.”.

1 (3) CONFORMING AMENDMENTS.—

2 (A) Section 6427(l)(5)(A) is amended to
3 read as follows:

4 “(A) IN GENERAL.—Paragraph (1) shall
5 not apply to diesel fuel or kerosene used by a
6 State or local government.”.

7 (B) The heading for section 6427(l)(5) is
8 amended by striking “FARMERS AND”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to fuels sold for nontaxable use
11 after the date of the enactment of this Act.

12 **SEC. 9311. DEDICATION OF REVENUES FROM CERTAIN PEN-**
13 **ALTIES TO THE HIGHWAY TRUST FUND.**

14 (a) IN GENERAL.—Subsection (b) of section 9503
15 (relating to transfer to Highway Trust Fund of amounts
16 equivalent to certain taxes) is amended by redesignating
17 paragraph (5) as paragraph (6) and inserting after para-
18 graph (4) the following new paragraph:

19 “(5) CERTAIN PENALTIES.—There are hereby
20 appropriated to the Highway Trust Fund amounts
21 equivalent to the penalties paid under sections 6715,
22 6715A, 6717, 6718, 6725, 7232, and 7272 (but only
23 with regard to penalties under such section related
24 to failure to register under section 4101).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) The heading of subsection (b) of section
2 9503 is amended by inserting “AND PENALTIES”
3 after “TAXES”.

4 (2) The heading of paragraph (1) of section
5 9503(b) is amended by striking “IN GENERAL” and
6 inserting “CERTAIN TAXES”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to penalties assessed after October
9 1, 2004.

10 **Subtitle D—Other Excise Tax** 11 **Provisions**

12 **SEC. 9401. TAXABLE FUEL REFUNDS FOR CERTAIN ULTI-** 13 **MATE VENDORS.**

14 (a) IN GENERAL.—Paragraph (4) of section 6416(a)
15 (relating to abatements, credits, and refunds) is amended
16 to read as follows:

17 “(4) REGISTERED ULTIMATE VENDOR TO AD-
18 MINISTER CREDITS AND REFUNDS OF GASOLINE
19 TAX.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, if an ultimate vendor purchases any
22 gasoline on which tax imposed by section 4081
23 has been paid and sells such gasoline to an ulti-
24 mate purchaser described in subparagraph (C)
25 or (D) of subsection (b)(2) (and such gasoline

1 is for a use described in such subparagraph),
2 such ultimate vendor shall be treated as the
3 person (and the only person) who paid such tax,
4 but only if such ultimate vendor is registered
5 under section 4101. For purposes of this sub-
6 paragraph, if the sale of gasoline is made by
7 means of a credit card, the person extending
8 the credit to the ultimate purchaser shall be
9 deemed to be the ultimate vendor.

10 “(B) TIMING OF CLAIMS.—The procedure
11 and timing of any claim under subparagraph
12 (A) shall be the same as for claims under sec-
13 tion 6427(i)(4), except that the rules of section
14 6427(i)(3)(B) regarding electronic claims shall
15 not apply unless the ultimate vendor has cer-
16 tified to the Secretary for the most recent quar-
17 ter of the taxable year that all ultimate pur-
18 chasers of the vendor covered by such claim are
19 certified and entitled to a refund under sub-
20 paragraph (C) or (D) of subsection (b)(2).”.

21 (b) CREDIT CARD PURCHASES OF DIESEL FUEL OR
22 KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Sec-
23 tion 6427(l)(5)(C) (relating to nontaxable uses of diesel
24 fuel, kerosene, and aviation fuel) is amended by adding
25 at the end the following new flush sentence: “For purposes

1 of this subparagraph, if the sale of diesel fuel or kerosene
2 is made by means of a credit card, the person extending
3 the credit to the ultimate purchaser shall be deemed to
4 be the ultimate vendor.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on October 1, 2004.

7 **SEC. 9402. TWO-PARTY EXCHANGES.**

8 (a) IN GENERAL.—Subpart B of part III of sub-
9 chapter A of chapter 32, as amended by this Act, is
10 amended by adding after section 4104 the following new
11 section:

12 **“SEC. 4105. TWO-PARTY EXCHANGES.**

13 “(a) IN GENERAL.—In a two-party exchange, the de-
14 livering person shall not be liable for the tax imposed
15 under section 4081(a)(1)(A)(ii).

16 “(b) TWO-PARTY EXCHANGE.—The term ‘two-party
17 exchange’ means a transaction, other than a sale, in which
18 taxable fuel is transferred from a delivering person reg-
19 istered under section 4101 as a taxable fuel registrant fuel
20 to a receiving person who is so registered where all of the
21 following occur:

22 “(1) The transaction includes a transfer from
23 the delivering person, who holds the inventory posi-
24 tion for taxable fuel in the terminal as reflected in
25 the records of the terminal operator.

1 “(2) The exchange transaction occurs before or
2 contemporaneous with completion of removal across
3 the rack from the terminal by the receiving person.

4 “(3) The terminal operator in its books and
5 records treats the receiving person as the person
6 that removes the taxable fuel across the terminal
7 rack for purposes of reporting the transaction to the
8 Secretary.

9 “(4) The transaction is the subject of a written
10 contract.”.

11 (b) CONFORMING AMENDMENT.—The table of sec-
12 tions for subpart B of part III of subchapter A of chapter
13 32, as amended by this Act, is amended by adding after
14 the item relating to section 4104 the following new item:

 “Sec. 4105. Two-party exchanges.”.

15 (c) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 9403. SIMPLIFICATION OF TAX ON TIRES.**

19 (a) IN GENERAL.—Subsection (a) of section 4071 is
20 amended to read as follows:

21 “(a) IMPOSITION AND RATE OF TAX.—There is here-
22 by imposed on taxable tires sold by the manufacturer, pro-
23 ducer, or importer thereof a tax at the rate of 9.4 cents
24 (4.7 cents in the case of a biasply tire) for each 10 pounds

1 so much of the maximum rated load capacity thereof as
2 exceeds 3,500 pounds.”

3 (b) TAXABLE TIRE.—Section 4072 is amended by re-
4 designating subsections (a) and (b) as subsections (b) and
5 (c), respectively, and by inserting before subsection (b) (as
6 so redesignated) the following new subsection:

7 “(a) TAXABLE TIRE.—For purposes of this chapter,
8 the term ‘taxable tire’ means any tire of the type used
9 on highway vehicles if wholly or in part made of rubber
10 and if marked pursuant to Federal regulations for high-
11 way use.”

12 (c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT
13 OF DEFENSE.—Section 4073 is amended to read as fol-
14 lows:

15 **“SEC. 4073. EXEMPTIONS.**

16 “The tax imposed by section 4071 shall not apply to
17 tires sold for the exclusive use of the Department of De-
18 fense or the Coast Guard.”

19 (d) CONFORMING AMENDMENTS.—

20 (1) Section 4071 is amended by striking sub-
21 section (c) and by moving subsection (e) after sub-
22 section (b) and redesignating subsection (e) as sub-
23 section (c).

1 (2) The item relating to section 4073 in the
2 table of sections for part II of subchapter A of chap-
3 ter 32 is amended to read as follows:

“Sec. 4073. Exemptions.”

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to sales in calendar years begin-
6 ning more than 30 days after the date of the enactment
7 of this Act.

8 **Subtitle E—Small Business** 9 **Expensing**

10 **SEC. 9501. 2-YEAR EXTENSION OF INCREASED EXPENSING** 11 **FOR SMALL BUSINESS.**

12 Subsections (b), (c), and (d) of section 179 (as
13 amended by the Jobs and Growth Tax Relief Reconcili-
14 ation Act of 2003) are each amended by striking “2006”
15 each place it appears and inserting “2008”.

16 **Subtitle F—Alternative Minimum** 17 **Tax Relief**

18 **SEC. 9601. NET OPERATING LOSSES AND FOREIGN TAX** 19 **CREDIT UNDER ALTERNATIVE MINIMUM TAX.**

20 (a) NET OPERATING LOSSES.—

21 (1) IN GENERAL.—Subparagraph (A) of section
22 56(d)(1) is amended to read as follows:

23 “(A) the amount of such deduction shall
24 not exceed the applicable percentage (deter-
25 mined under paragraph (3)) of the alternative

1 minimum taxable income determined without
2 regard to such deduction, and”.

3 (2) APPLICABLE PERCENTAGE.—Subsection (d)
4 of section 56 is amended by adding at the end the
5 following new paragraph:

6 “(3) APPLICABLE PERCENTAGE.—For purposes
7 of paragraph (1)(A)—

“For taxable years beginning in calendar year—	The applicable percentage is—
2006, 2007, or 2008	92
2009 or 2010	94
2011	96
2012	98
2013 or thereafter	100.”

8 (b) FOREIGN TAX CREDIT.—

9 (1) Subsection (a) of section 59 is amended by
10 striking paragraph (2) and by redesignating para-
11 graphs (3) and (4) as paragraphs (2) and (3), re-
12 spectively.

13 (2) Section 53(d)(1)(B)(i)(II) is amended by
14 striking “and if section 59(a)(2) did not apply”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2005.

18 **SEC. 9602. EXPANSION OF EXEMPTION FROM ALTERNATIVE**
19 **MINIMUM TAX FOR SMALL CORPORATIONS.**

20 (a) IN GENERAL.—Subparagraphs (A) and (B) of
21 section 55(e)(1) are each amended by striking

1 “\$7,500,000” each place it appears and inserting
2 “\$20,000,000”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2005.

6 **SEC. 9603. INCOME AVERAGING FOR FARMERS NOT TO IN-**
7 **CREASE ALTERNATIVE MINIMUM TAX.**

8 (a) IN GENERAL.—Subsection (c) of section 55 (de-
9 fining regular tax) is amended by redesignating paragraph
10 (2) as paragraph (3) and by inserting after paragraph (1)
11 the following new paragraph:

12 “(2) COORDINATION WITH INCOME AVERAGING
13 FOR FARMERS.—Solely for purposes of this section,
14 section 1301 (relating to averaging of farm income)
15 shall not apply in computing the regular tax liabil-
16 ity.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to taxable years beginning after
19 December 31, 2003.