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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R.

To amend the Internal Revenue Code of 1986 to provide for a suspension of the highway fuel tax and to impose a temporary fee on excess oil profits.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCHIFF introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for a suspension of the highway fuel tax and to impose a temporary fee on excess oil profits.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Gas Tax Sus-
5 pension and Windfall Profits Tax Act of 2022”.

6 **SEC. 2. HIGHWAY FUEL TAX SUSPENSION.**

7 (a) TEMPORARY SUSPENSION OF HIGHWAY FUEL
8 TAXES ON GASOLINE.—

1 (1) IN GENERAL.—Section 4081 of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(f) TEMPORARY SUSPENSION OF TAXES ON GASO-
5 LINE.—

6 “(1) IN GENERAL.—During the applicable pe-
7 riod, the rate of tax otherwise applicable to gasoline
8 under subsection (a)(2)(A)(i), determined with re-
9 gard to subsection (a)(2)(B), shall be reduced to
10 zero cents per gallon.

11 “(2) APPLICABLE PERIOD.—For purposes of
12 this subsection, the term ‘applicable period’ means
13 the period beginning on the date of the enactment
14 of this subsection and ending on December 31,
15 2023.

16 “(3) MAINTENANCE OF TRUST FUND DEPOS-
17 ITS.—In determining the amounts to be appro-
18 priated to the Highway Trust Fund under section
19 9503 and to the Leaking Underground Storage
20 Tank Trust Fund under 9508, an amount equal to
21 the reduction in revenues to the Treasury by reason
22 of this subsection shall be treated as taxes received
23 in the Treasury under this section or section 4041.”.

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

4 (b) FLOOR STOCK REFUNDS.—

5 (1) IN GENERAL.—If—

6 (A) before the tax suspension date, a tax
7 referred to in section 4081(f)(2) of the Internal
8 Revenue Code of 1986 has been imposed under
9 such Code on any liquid, and

10 (B) on such date such liquid is held by a
11 dealer and has not been used and is intended
12 for sale,

13 there shall be credited or refunded (without interest)
14 to the person who paid such tax (hereafter in this
15 subsection referred to as the “taxpayer”), against
16 the taxpayer’s subsequent semi-monthly deposit of
17 such tax, an amount equal to the excess of the tax
18 paid by the taxpayer over the amount of such tax
19 which would be imposed on such liquid had the tax-
20 able event occurred on the tax suspension date.

21 (2) TIME FOR FILING CLAIMS; CERTIFICATIONS
22 NECESSARY TO FILE CLAIMS.—

23 (A) IN GENERAL.—No credit or refund
24 shall be allowed or made under this sub-
25 section—

1 (i) unless claim therefore is filed with
2 the Secretary before the date which is 6
3 months after the tax suspension date, and

4 (ii) in any case where liquid is held by
5 a dealer (other than the taxpayer) on the
6 tax suspension date, unless the taxpayer
7 files with the Secretary—

8 (I) a certification that the tax-
9 payer has given a credit to such deal-
10 er with respect to such liquid against
11 the dealer's first purchase of liquid
12 from the taxpayer subsequent to the
13 tax suspension date, and

14 (II) a certification by such dealer
15 that such dealer has given a credit to
16 a succeeding dealer (if any) with re-
17 spect to such liquid against the suc-
18 ceeding dealer's first purchase of liq-
19 uid from such dealer subsequent to
20 the tax suspension date.

21 (B) REASONABLENESS OF CLAIMS CER-
22 TIFIED.—Any certification made under sub-
23 paragraph (A) shall include an additional cer-
24 tification that the claim for credit was reason-
25 ably based on the taxpayer's or dealer's past

1 business relationship with the succeeding deal-
2 er.

3 (3) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) the terms “dealer” and “held by a
6 dealer” have the respective meanings given to
7 such terms by section 6412 of such Code; ex-
8 cept that the term “dealer” includes a pro-
9 ducer, and

10 (B) the term “tax suspension date” means
11 the date of the enactment of this Act.

12 (4) CERTAIN RULES TO APPLY.—Rules similar
13 to the rules of subsections (b) and (c) of section
14 6412 of such Code shall apply for purposes of this
15 subsection.

16 (c) FLOOR STOCKS TAX.—

17 (1) IMPOSITION OF TAX.—In the case of any
18 liquid on which tax would have been imposed under
19 section 4081 of the Internal Revenue Code of 1986
20 during the applicable period but for the amendment
21 made by subsection (a), and which is held on the
22 floor stocks tax date by any person, there is hereby
23 imposed a floor stocks tax in an amount equal to the
24 tax which would be imposed on such liquid had the
25 taxable event occurred on the floor stocks tax date.

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

3 (A) LIABILITY FOR TAX.—A person hold-
4 ing a liquid on the floor stocks tax date to
5 which the tax imposed by paragraph (1) applies
6 shall be liable for such tax.

7 (B) METHOD OF PAYMENT.—The tax im-
8 posed by paragraph (1) shall be paid in such
9 manner as the Secretary shall prescribe.

10 (C) TIME FOR PAYMENT.—The tax im-
11 posed by paragraph (1) shall be paid on or be-
12 fore the date which is 6 months after the floor
13 stocks tax date.

14 (3) DEFINITIONS.—For purposes of this sub-
15 section—

16 (A) HELD BY A PERSON.—A liquid shall
17 be considered as “held by a person” if title
18 thereto has passed to such person (whether or
19 not delivery to the person has been made).

20 (B) GASOLINE.—The term “gasoline” has
21 the respective meaning given such term by sec-
22 tion 4083 of such Code.

23 (C) FLOOR STOCKS TAX DATE.—The term
24 “floor stocks tax date” means January 1, 2024.

1 (D) APPLICABLE PERIOD.—The term “ap-
2 plicable period” means the period described in
3 section 4081(f)(3) of such Code.

4 (4) EXCEPTION FOR EXEMPT USES.—The tax
5 imposed by paragraph (1) shall not apply to gasoline
6 held by any person exclusively for any use to the ex-
7 tent a credit or refund of the tax imposed by section
8 4081 of such Code is allowable for such use.

9 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
10 TANK.—No tax shall be imposed by paragraph (1)
11 on gasoline held in the tank of a motor vehicle.

12 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
13 FUEL.—

14 (A) IN GENERAL.—No tax shall be im-
15 posed by paragraph (1) on gasoline (other than
16 aviation gasoline) held on the floor stocks tax
17 date by any person if the aggregate amount of
18 gasoline held by such person on such date does
19 not exceed 4,000 gallons. The preceding sen-
20 tence shall apply only if such person submits to
21 the Secretary (at the time and in the manner
22 required by the Secretary) such information as
23 the Secretary shall require for purposes of this
24 subparagraph.

1 (B) EXEMPT FUEL.—For purposes of sub-
2 paragraph (A), there shall not be taken into ac-
3 count fuel held by any person which is exempt
4 from the tax imposed by paragraph (1) by rea-
5 son of paragraph (4) or (5).

6 (C) CONTROLLED GROUPS.—For purposes
7 of this paragraph—

8 (i) CORPORATIONS.—

9 (I) IN GENERAL.—All persons
10 treated as a controlled group shall be
11 treated as 1 person.

12 (II) CONTROLLED GROUP.—The
13 term “controlled group” has the
14 meaning given to such term by sub-
15 section (a) of section 1563 of such
16 Code; except that for such purposes
17 the phrase “more than 50 percent”
18 shall be substituted for the phrase “at
19 least 80 percent” each place it ap-
20 pears in such subsection.

21 (ii) NONINCORPORATED PERSONS
22 UNDER COMMON CONTROL.—Under regula-
23 tions prescribed by the Secretary, prin-
24 ciples similar to the principles of clause (i)
25 shall apply to a group of persons under

1 common control where 1 or more of such
2 persons is not a corporation.

3 (7) OTHER LAW APPLICABLE.—All provisions of
4 law, including penalties, applicable with respect to
5 the taxes imposed by section 4081 of such Code
6 shall, insofar as applicable and not inconsistent with
7 the provisions of this paragraph, apply with respect
8 to the floor stock taxes imposed by paragraph (1) to
9 the same extent as if such taxes were imposed by
10 such section 4081.

11 (d) SECRETARY.—For purposes of this section, the
12 term “Secretary” means the Secretary of the Treasury or
13 the Secretary’s delegate.

14 (e) SENSE OF CONGRESS.—It is the senses of Con-
15 gress that—

16 (1) consumers immediately receive the benefit
17 of the reduction in taxes resulting from the amend-
18 ment made by subsection (a), and

19 (2) transportation motor fuels producers and
20 other dealers take such actions as necessary to re-
21 duce transportation motor fuels prices to reflect
22 such reduction, including immediate credits to cus-
23 tomer accounts representing tax refunds allowed as
24 credits against excise tax deposit payments under
25 the floor stocks refund provisions of subsection (b).

1 **SEC. 3. TEMPORARY OIL PROFIT FEE.**

2 (a) IN GENERAL.—Subtitle E of the Internal Rev-
3 enue Code of 1986 is amended by adding at the end there-
4 of the following new chapter:

5 **“CHAPTER 56—TEMPORARY FEE ON**
6 **EXCESS OIL PROFIT**

“Sec. 5896. Imposition of fee.

“Sec. 5897. Excess profit; etc.

“Sec. 5898. Special rules and definitions.

7 **“SEC. 5896. IMPOSITION OF FEE.**

8 “(a) IN GENERAL.—In addition to any other tax im-
9 posed under this title, there is hereby imposed on any ap-
10 plicable taxpayer an excise fee in an amount equal to 50
11 percent of the excess profit of such taxpayer for such tax-
12 payer’s first taxable year beginning after December 31,
13 2021.

14 “(b) APPLICABLE TAXPAYER.—For purposes of this
15 chapter, the term ‘applicable taxpayer’ means any inte-
16 grated oil company (as defined in section 291(b)(4)).

17 **“SEC. 5897. EXCESS PROFIT; ETC.**

18 “(a) GENERAL RULE.—For purposes of this chapter,
19 the term ‘excess profit’ means the excess of the adjusted
20 taxable income of the applicable taxpayer for the taxable
21 year over the reasonably inflated average profit for such
22 taxable year.

23 “(b) ADJUSTED TAXABLE INCOME.—For purposes of
24 this chapter, with respect to any applicable taxpayer, the

1 adjusted taxable income for any taxable year is equal to
2 the taxable income for such taxable year (within the mean-
3 ing of section 63 and determined without regard to this
4 subsection) increased by any interest expense deduction,
5 charitable contribution deduction, and any net operating
6 loss deduction carried forward from any prior taxable
7 year. In the case of any applicable taxpayer which is a
8 foreign corporation, the adjusted taxable income shall be
9 determined with respect to such income which is effectively
10 connected with the conduct of a trade or business in the
11 United States.

12 “(c) REASONABLY INFLATED AVERAGE PROFIT.—
13 For purposes of this chapter, with respect to any applica-
14 ble taxpayer, the reasonably inflated average profit for any
15 taxable year is an amount equal to the average of the ad-
16 justed taxable income of such taxpayer for taxable years
17 beginning during the 2015–2019 taxable year period (de-
18 termined without regard to the taxable year with the high-
19 est adjusted taxable income in such period) plus 10 per-
20 cent of such average.

21 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

22 “(a) WITHHOLDING AND DEPOSIT OF FEE.—The
23 Secretary shall provide such rules as are necessary for the
24 withholding and deposit of the fee imposed under section
25 5896.

1 “(b) RECORDS AND INFORMATION.—Each taxpayer
2 liable for tax under section 5896 shall keep such records,
3 make such returns, and furnish such information as the
4 Secretary may by regulations prescribe.

5 “(c) RETURN OF FEE.—The Secretary shall provide
6 for the filing and the time of such filing of the return of
7 the fee imposed under section 5896.

8 “(d) CRUDE OIL.—The term ‘crude oil’ includes
9 crude oil condensates and natural gasoline.

10 “(e) BUSINESSES UNDER COMMON CONTROL.—For
11 purposes of this chapter, all members of the same con-
12 trolled group of corporations (within the meaning of sec-
13 tion 267(f)) and all persons under common control (within
14 the meaning of section 52(b) but determined by treating
15 an interest of more than 50 percent as a controlling inter-
16 est) shall be treated as 1 person.

17 “(f) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be necessary or appropriate to
19 carry out the purposes of this chapter.”.

20 (b) CLERICAL AMENDMENT.—The table of chapters
21 for subtitle E of such Code is amended by adding at the
22 end the following new item:

 “CHAPTER 56—TEMPORARY FEE ON EXCESS OIL PROFIT”.

23 (c) DEDUCTIBILITY OF FEE.—The first sentence of
24 section 164(a) of such Code is amended by inserting after
25 paragraph (4) the following new paragraph:

1 “(5) The fee imposed by section 5896.”.

2 (d) **EFFECTIVE DATE.**—The amendments made by
3 this section shall apply to taxable years beginning after
4 the date of the enactment of this Act.