

HJR

68



STATE OF ALASKA
HOUSE OF REPRESENTATIVES
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HJR 68
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REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

MEMORANDUM

TO: Members of the Resources Committee
FROM: Representative Davidson *[Signature]*
DATE: March 1, 1988
SUBJECT: Committee legislation

I ask your support in passing a resolution by the Resources Committee.

This resolution requests Congress to preserve the way they collect the fifteen cent per gallon federal excise tax on diesel fuel.

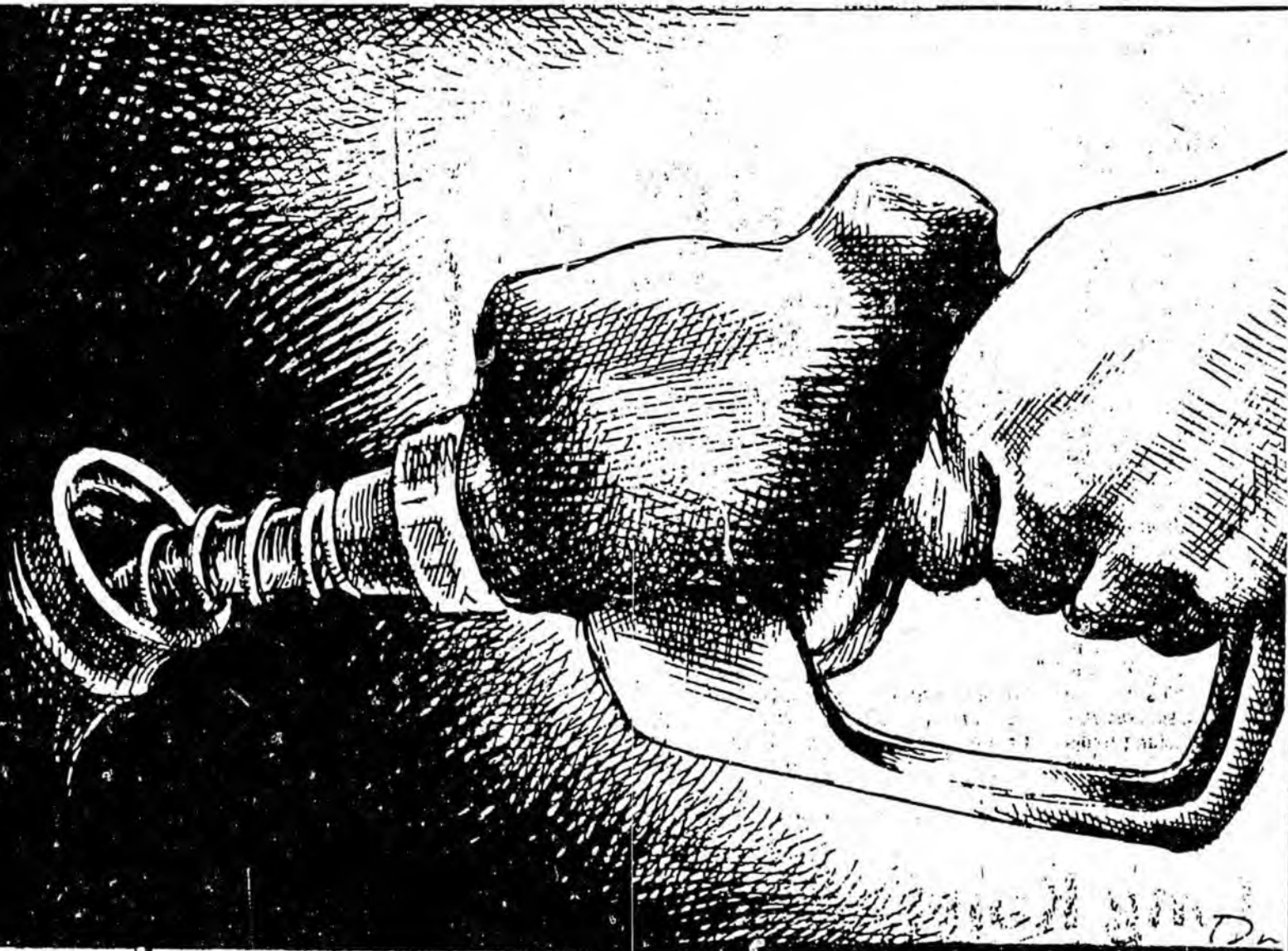
Under legislation passed last December, tax exempt categories must first pay the tax, and apply for a refund later. Under current practice, these tax exempt categories do not pay the tax at all.

While still technically exempt, the way the federal government will collect this tax unnecessarily raises the cost of doing business for many Alaskans. It will restrict their cash flow, increase paperwork and is essentially an interest free loan to the government.

This resolution asks Congress to reinstate the current practice and repeal the proposed changes, which take effect April 1, 1988.

Business

Current IRS regulations require fishermen to maintain complete fuel purchase records, and both buyers and sellers of diesel fuel predict a nightmare of paperwork under the new regulations.



Diesel fuel users sputter over tax changes

By Donald R. Sadtler
Times Staff Writer

Changes in 1988 federal tax law will force users of tax-exempt diesel fuel to wait up to a year for refunds of federal excise taxes, a delay some fishermen say will eat into already-thin operating margins.

Under the change, brought on by the Budget Reconciliation Act of 1987, fishermen, farmers, state and local governments and other tax-exempt users will no longer be able to buy their diesel fuel tax-free at the pump as of April 1.

Instead, they must pay a 15.1 cents-per-gallon excise tax on diesel fuel, then apply for tax credits or refunds. Tax-exempt users of gasoline already began paying a 11.1-cents-per-gallon tax

at the pump Jan. 1.

"Coastal Alaska, not to mention the whole state, runs on diesel fuel, and much of it is tax-free," said Jim Ramaglia, vice president of Kodiak Oil Sales.

"It doesn't take a lot of imagination to see what this expense is going to do to farmers, fishermen, loggers, miners, and ranchers," Ramaglia said.

Under current tax law, these users do not currently pay the 15.1-cent federal excise tax, which raises the cost of a gallon of diesel to about \$1 per gallon. They can either register to buy tax-free fuel at a dealer registered to sell it, or must display an exemption certificate at other dealers.

If fishermen do buy tax-paid fuel, they may claim credit on

their tax returns for the tax paid, or file for refunds, according to IRS Publication 378, "Fuel Tax Credits."

The refund or credit process is similar for off-road users of fuels, such as farmers, loggers, state and local governments and schools. Those paying less than \$1,000 in tax per quarter may file for annual refunds, while those who paid more can seek quarterly refunds.

The need to tie up an extra 15 percent of annual fuel bills could force the commercial fishermen who are his customers to cut back on maintenance, pay, or safety equipment, said Ramaglia.

"Long-lining for cod is a high-volume, low-margin operation, and a lot of these guys are

operating on trip-to-trip basis," Ramaglia said.

"Every fisherman goes through a point either in his career or annually, when every penny counts, and the government adding this expense is going to put a real hardship on them," he said.

IRS officials in Anchorage and Washington said shifting the burden of tax payment from wholesalers to retailers will make it easier to track payment of fuel taxes.

"Before, we had hundreds of thousands, maybe millions of taxpayers," said Don Fidlow, an IRS attorney in Washington, D.C. "But by moving the tax to wholesalers we are limiting it to a handful of taxpayers. In effect it's saving a lot of paperwork and headaches for our taxpayers and the service."

But fishermen say the changes will add paperwork and headaches, and quietly speculate the tax office hopes paperwork will discourage fishermen from filing for refunds.

Sonja Corazza, president of the North Pacific Fisheries Association, operates a 40-foot fishing boat in the Bering Sea with her husband six months a year.

"We try to plan ahead in our year, and usually we know how much a trip will cost us," she said. "And if we have to add that extra cost for fuel, it may have an impact on other equipment."

"A dollar is a dollar, you can only stretch it so far," she said.

Al Burch, director of the Alaska Druggers Association and owner of two Bering Sea druggers, agrees.

"Fishing is a real marginal business, and a fisherman in slow times needs every penny he can get," he said. "There may be only a very short time when he may be making money, but he has to stretch the short good times over bad months."

"The price of fuel will go up

and we'll pay it, we have no choice," he said.

Ramaglia said he expects the tax law change will force him to charge an extra cent or two per gallon of fuel to cover his paperwork and interest costs. He also anticipates being forced, along with other dealers, into giving the government free use of his money while waiting to collect the taxes from customers.

"The fuel companies are required to pay that 15.1 cents (per gallon) to the feds within two weeks of the sale, whether they have collected the tax or

not," he said. "But we usually only collect bills every 30 or 60 days, so we'll be serving as banker for the government."

Current IRS regulations require fishermen to maintain complete fuel purchase records in case of IRS inquiry or audit, and both buyers and sellers of diesel fuel predict a nightmare of paperwork under the new regulations.

"It is going to work a real hardship on small businesses of

See Fuel, page D-5

Tips for property owners

Once you've stopped worrying about the 1987 tax return due April 15, you can start worrying about how to get through 1988 so you won't have so much to worry about at this time next year.

Changes in the law are bringing twists to some familiar features of your federal income tax return.

• **Home mortgages.** Just when you thought this year's home mortgage rules were complicated enough, Congress came along just before Christmas and changed the rules, retroactive to Oct. 13, 1987. It could affect your deductions on your 1988 return.

Under the new law, you can still get a tax break when you borrow up to \$1 million to buy and/or improve a first and second home. And you can still take out a home equity loan and still get a mortgage deduction.

But under the 1988 regulations, the interest on any equity borrowings over \$100,000 will be treated as consumer interest unless it is clearly earmarked for the home.

• **Property sales.** If you plan to sell property this year, weigh the benefits of taking the total payment in cash up front, versus an installment sale, in which you are paid over a period of years.

Alan Weiner, of Holtz Rubenstein, notes that

if you sell a piece of property at \$1 million, a good chunk of the price, maybe \$200,000, will go to the IRS, but you will still have \$800,000 to invest. Using the installment plan may cut your taxes, but your return on the investment may be less.

• **Individual Retirement Account.** If you're no longer eligible to make a tax-reducing contribution to an IRA, don't make one, suggests Michael Borsuk, of accounting firm Coopers & Lybrand. Although some investment experts might disagree, he figures making the extra contributions will complicate your life when it comes to making withdrawals and filing tax returns at that time.

• **Capital gains.** Since there is no longer a separate tax on capital gains, you might want to wait until October or November to sell a stock or other security that has risen in price. By then, you'll be able to make a projection of your income and tax situation for the rest of the year.

• **Rental income.** If you rent your vacation home for less than 15 days a year, you don't have to report it as income, according to the H&R Block Tax Guide. There is a catch, however: You can't claim any upkeep expenses or depreciation. Mortgage interest and property taxes remain deductible.



Fuel: Frustrations

Continued from page D-4

all types, all around the nation, like farmers and fishermen," said Al Cobb, director of legal and political affairs for the Petroleum Marketers Association of America. "The IRS is likely to be overwhelmed by paperwork for these refunds."

"Since we're eligible for the rebates, we don't think it's wise to put the tax on the first place. We've always been exempt in the past," Corazza said.

At least one fishing industry expert, however, said the tax credit change is a bit of a red herring.

"It isn't going to make that much difference," said Craig Wiese, business management specialist at the Marine Advisory Program at University of Alaska Anchorage.

Wiese estimated that an average 42-or 48-foot seining ship operating in Prince William Sound would spend about \$5,000 on fuel a year, only five percent of annual revenue of \$100,000.

Wiese acknowledged that paying the fuel tax up front could make a significant difference in the finances of a family trying to live off a seiner's earnings.

The fuel tax law changes began as an IRS effort to get a better handle on the fuel taxes, said local and national IRS officials.

"The government is trying to force users to leave a paper trail so when we do future audits we can follow where the fuel got sold," the tax attorney Fidlow said.

Marilyn Steen, spokeswoman for the IRS office in Anchorage, said some fuel dealers in U.S. cit-

ies were taking advantage of lax IRS auditing and enforcement to dodge fuel taxes.

But the pressure on Congress to raise revenues without raising taxes during the Budget Reconciliation Act may result in placing an extra burden on fishermen, especially smaller operators, Burch said.

"One thing that will happen is a lot of excellent fishermen will not file for a refund," he said.

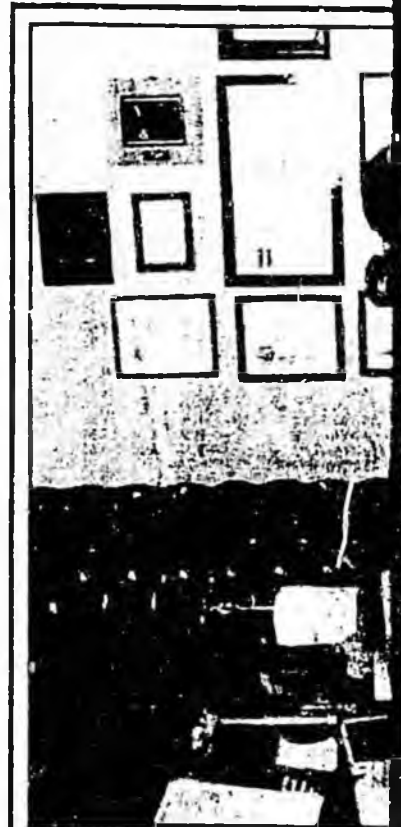
Burch, who spends \$100,000 per year on diesel fuel for his two boats, said accountants will make sure he and other large operators file for tax refunds. "Fishermen, like a lot of businessmen, are undercapitalized, and they'll be caught by having to pay for it up front," Ramaglia said. "They'll have to decide whether to put off maintenance on the engine, or put new cable on the winch, or to maintain their EPIRBs (emergency locator transmitters)."

The new tax laws give the IRS the discretion to allow state and local governments, airplanes, diesel trains, and industrial users of fuel to continue to buy diesel fuel tax-free, Cobb said.

Steen said the tax service would probably preserve the exemptions for diesel fuel, as they do for gasoline.

But until the actual announcement of the regulations, which Steen expects in three weeks, there is no way of knowing for sure which users other than fishermen and farmers will have to pay their taxes up front.

In Alaska, Burch is encouraging members of his druggers' association to write protest letters to the state's congressmen, and Ramaglia said he is encouraging his customers to do the same.



Security measures

Philip W. Little, president of infrared spotting scope. The tries to do for private companies Service does for the president.

UAW sues

KENOSHA, Wis. (AP) — UAW workers Union Local 72 filed a lawsuit against Chrysler Corp., alleging it is breaking federal laws by pulling production from Kenosha and putting it out of work.

In response, Chrysler said a review of the suit indicated it was meritless.

The suit, which also names as the city of Detroit and the U.S. Dept. of Housing and Urban Development, Chrysler obtained about \$50 million in grants to modernize its Jefferson plant in Detroit, said James Eggle, attorney for the union.



NATIONAL FISHERIES INSTITUTE, INC.

2010 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20038 ■ (202) 296-5

February 12, 1988

TAX ALERT

ACTION REQUESTED

NFI VESSEL OPERATORS

Vessel operators should be aware that as of April 1, 1988:

- o The up-front exemption from federal excise taxes will be repealed for diesel fuel purchased by fishery vessels.
- o Diesel fuel used for vessels will continue to be nontaxable, but operators will be required to pay a 15.1 cents per gallon tax when purchasing fuel, then apply to the Treasury Department on a quarterly basis for a refund.

NFI is asking Congress to restore the up-front exemption for our industry. You are urged to contact your Senators and Representatives and urge them to sponsor legislation to permit tax-free sales of diesel fuel for fishery vessels.

BACKGROUND

A provision in the 1987 Budget Reconciliation Act passed in December requires federal excise taxes on diesel fuel to be collected at the wholesale level and repeals exempt sales beyond the wholesale level, except in four circumstances:

- o diesel fuel sold for use as a fuel in a diesel-powered train;
- o commercial aviation fuel;
- o taxable fuel sold for industrial use other than as a motor fuel; and
- o taxable fuel sold for use by a state or a political subdivision of a state.

These exemptions are not across-the-board; rather, they will have to be obtained on a case-by-case basis by each company.

All other current exemptions from the diesel fuels tax, including those for farmers, fishermen and other off-highway business use, have been eliminated. Instead, non-taxable uses will be taxed at time of purchase and refunds made pursuant to applications filed to document the non-taxable use. Although the regulations implementing this change have not been finalized, the Treasury Department indicates that they expect to use a quarterly refund process for amounts in excess of \$1,000 which is similar to the existing refund process for non-taxable gasoline and diesel fuel uses. All refunds less than \$1,000 per quarter will be handled annually.

The changes that were enacted had the objective of deterring tax-evasion schemes which are estimated to cost the Highway Trust Fund several hundred million dollars in lost revenues annually. However, the repeal of the exemption will place a heavy cash-flow burden on the seafood industry, which has legitimate tax exempt uses.

IMPACT

This law becomes effective April 1. The impact on fishery companies includes:

- o added cost for fuel;
- o additional recordkeeping and paperwork to enable recovery of funds through a yet-to-be established refund procedure; and
- o loss of the time value of the funds paid for fuel tax (which may be substantial as federal officials are swamped in an avalanche of refund requests).

LEGISLATIVE ACTIVITY

Several bills have been introduced. Four would restore the exemption for farmers only. These are:

- o H.R. 3850 sponsored by Congressman Jontz (D-IN)
- o H.R. 3844 sponsored by Congressman Daub (R-NE)
- o H.R. 3881 sponsored by Congresswoman Smith (R-NE)
- o S. 2003 sponsored by Senator Gramm (R-TX)

Two bills would restore exemptions for all off-highway uses including vessel operations. These are:

- o H.R. 3865 sponsored by Congressman Combest (R-TX)
- o H.R. 3866 sponsored by Congressman De la Garza (D-TX)

The key committees which will consider this matter are:

SENATE FINANCE COMMITTEE

Lloyd Bentsen, Tex., Chairman	Bob Packwood, Ore., Ranking Minority Member
Spark M. Matsunaga, HI	Robert Dole, Kan.
Daniel P. Moynihan, N.Y.	William V. Roth, Jr. Del.
Max Baucus, Mont.	John C. Danforth, Mo.
David L. Boren, Okla.	John H. Chafee, R.I.
Bill Bradley, N.J.	John Heinz, Pa.
George J. Mitchell, ME	Malcolm Wallop, Wyo.
David Pryor, Ark.	David Durenberger, Minn.
Donald W. Riegle, Jr., Mich.	William L. Armstrong, Colo.
John D. Rockefeller IV, W.Va.	
Thomas A. Daschle, S.D.	

HOUSE WAYS AND MEANS COMMITTEE

MAJORITY MEMBERS

Dan Rostenkowski, Ill. Chairman	Marty Russo, Ill.
Sam M. Gibbons, Fla.	Donald J. Pease, Ohio
J.J. Pickle, TX	Robert T. Matsui, CA.
Charles B. Rangel, NY	Beryl F. Anthony, Jr. Ark.
Fortney H. (Pete) Stark, CA	Ronnie G. Flipppo, Ala.
Andrew Jacobs, Jr., Ind.	Byron L. Dorgan, N.D.
Harold E. Ford, Tenn.	Barbara B. Kennelly, CT.
Ed Jenkins, Ga.	Brian Donnelly, Mass.
Richard A. Gephardt, Mo.	William J. Coyne, Pa.
Thomas J. Downey, N.Y.	Michael A. Andrews, TX.
Frank J. Guarini, N.J.	Sander M. Levin, Mich.
	Jim Moody, Wis.

MINORITY MEMBERS

John J. Duncan, Tenn,
Ranking Minority Member

Bill Archer, Tex.
Guy Vander Jagt, Mich
Philip M. Crane, Il.
Bill Frenzel, Minn.
Richard T. Schulze, Pa.
Willis D. Gradison, Jr. Ohio
William M. Thomas, Calif.
Raymond J. McGrath, N.Y.
Hal Daub, Neb.
Judd Gregg, N.H.
Hank Brown, Colo.
Rod Chandler, Wash.



PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

February 04, 1988

Senator Frank H. Murkowski
United States Senate
709 Hart Building
Washington, D.C.

Dear Senator Frank:

It has come to my attention that Congress passed a Mid-Distillates Fuel Tax Bill in the chaotic and waning hours of December 22, 1987 as a part of the overall U.S. Tax Reduction Act. A close examination of the provisions of the Act have raised serious concerns and accordingly I wish to bring them to your attention.

The Act states that a diesel fuel tax of \$.151 per gallon is to be levied on "any liquid suitable for use as a fuel in a diesel highway vehicle or a diesel powered train (does not apply to fuel for home heating use)". The key word here is "suitable"--whether the product is used as such or not. The collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory on all sales. All tax free sales for certain exempt sales purposes are repealed. Wholesalers can buy diesel fuel for resale provided they are registered and have posted bonds as required by the Treasury.

Petro Marine Services is a marine-oriented fuel distributorship with a majority of our customers being fishing industry related. A recent review of our sales volumes reflect that less than one-percent of our total diesel fuel gallons are taxable highway and off-highway use fuel. Fronting this tax to the Treasury will significantly increase the cost of doing business for our customers by adversely affecting their cash flow and, of consequence, we dealers will be affected likewise. End-use consumers will not be able to apply for a refund of these taxes unless the amount of the tax withheld is over \$1,000 in a quarter. Furthermore, consumers must wait until year end and apply the overpayment to their income tax return as stipulated in the Bill. The Treasury is not obligated to pay interest on the refunds; thus, the collected amounts are, in essence, interest-free loans to the government from marine fuel consumers, many of whom are struggling to derive a living from an uncertain and undercapitalized fishing industry.

Anchorage
(907) 278-7588

Nikiski
(907) 776-8000

Kodiak
(907) 488-3421

Dutch Harbor
(907) 581-1350



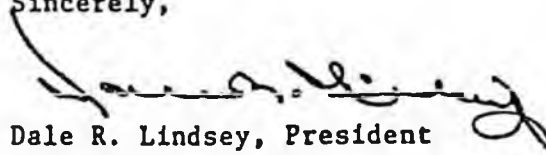
Page 2

In addition this tax will have a negative impact on domestic marine fuel suppliers as opposed to foreign bunkerers and processors many of whom import their fuel and sell to U.S. flag vessels on the high-seas and within our Exclusive Economic Zone (EEZ). With the \$.151 per gallon Federal Excise Tax plus the \$.05 per gallon State of Alaska Marine Fuel Tax, it will be economically impossible to compete against foreign flag operators. I am certain this was not the intent of Congress.

One of the provisions in the law states that "the Treasury has been given discretionary authority to exempt certain sales from tax where the purchaser satisfactorily demonstrates to the Treasury that the fuel will be consumed for use deemed non-taxable in nature, that these parties must also register and post bonds as required by the Treasury". Let me assure you bonding requirements will only impose a further financial hardship on fuel distributorships some of whom are already faced with problems securing basic insurance needs. If indeed, the end-user is included in this Clause, we alone have several hundred customers who would be required to register and post bond with the Treasury in order to be deemed tax-exempt. This stipulation will be very cumbersome and difficult for all affected to comply with. The law further reads that the Treasury is expected to exercise their authority on a "case by case" basis. Inasmuch as our taxable highway use diesel fuel customer base is miniscule as compared to our predominate marine base, it seems reasonable to assume that an overwhelming amount of time and effort will be consumed by the Treasury in rendering these assessments. Under the aforementioned circumstances it would seem that a blanket waiver would be a viable alternative for marine oriented fuel distributors such as ourselves.

Without question the Mid-Distillate Fuel Tax Bill in its present form represents ill-conceived legislation. As a company, Petro Marine Services has consistently supported reasonable regulation at all levels of government; however, this particular Bill serves only to finance and broaden Federal bureaucracy at the expense of fuel dealers and end-use consumers. In view of this fact I respectfully urge that immediate consideration be given to amending those provisions in the Bill which are not applicable to highway diesel fuel use.

Sincerely,


Dale R. Lindsey, President
HARBOR ENTERPRISES, INC.

DRL:tc



FEB 22 1988

ALASKA FACTORY TRAWLER ASSOCIATION
4039 21ST AVE. WEST, SUITE 400
SEATTLE, WASHINGTON 98199
(206) 285-5139
TELEFAX 206-285-1841
TELEX 5106012566, ALASKA TRAWL SEA

The Honorable John Warner
United States Senator
421 Senate Russell Office Building
Washington, D.C. 20510

February 22, 1988

Dear Senator Warner:

The Alaska Factory Trawler Association (AFTA), the trade association which represents the factory trawler fleet operating in the North Pacific groundfish fishery, seeks your assistance in a matter of significant economic importance to us and to other segments of the fishing industry - establishing an up-front exemption for fishing vessels from the 15.1 cent per gallon federal highway excise tax on diesel fuels.

This federal excise tax, passed December 22, 1987, was designed to tax highway users. However, current exemptions from diesel fuel taxes for off-highway users, including fishing vessels, has been eliminated. Loss of this up-front exemption means that fishermen will be required to pay the tax up front, then apply for a refund on a quarterly basis. This needlessly increases the recordkeeping and paperwork for both the fishermen and the government, and costs the fishermen significantly due to the loss of the time value of the money deposited with the government.

While this is a problem for all fishermen, the problem becomes particularly acute for the factory trawler operators. These large American owned and operated vessels participate in high volume, low margin fisheries and must compete in the world market against foreign producers who enjoy lower operating costs. As illustrated in the attached fact sheet, factory trawler operators can expect to have between \$22,500 and \$67,950 awaiting rebate at any time. This amount increases if rebates aren't made in a prompt manner.

At a time when prices for our products have declined and other operating costs have increased, many operators cannot afford this additional drain to their cash flow.

One of the objectives of doing away with the exemption was to deter tax-evasion schemes, in which fuel which is ostensibly purchased for off-highway use is diverted to use in a highway vehicle. Such a scheme is only a remote possibility for an operator of a vessel fishing in the Gulf of Alaska or the Bering Sea, and a burden of the magnitude imposed by this law is unjustified. If deterring such schemes is the goal of Congress, a provision applying the exemption only to fuel pumped directly into the fishing vessel would be appropriate.

You can help with this issue by supporting a bill, such as the one enclosed, which amends the Internal Revenue Code by providing fishing vessels, fish processing vessels, and tender vessels an up-front exemption from this highway tax.

The members of AFTA would like to thank you for the assistance you have given us in the past, and hope that you will work with us to resolve the problem we are facing today.

Sincerely,

William R. Orr

William R. Orr
Director, Government Affairs



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TELEFAX 206-298-1841
TELEDEX 3106012508, ALASKA TRAWL SEA

2/88

FACTORY TRAWLER FUEL CONSUMPTION

An informal survey was conducted among factory trawler operators to determine fuel consumption patterns. The results, which are rough averages, are categorized into three categories: vessels less than 200 feet, vessels 200 - 250 feet, and vessels greater than 250 feet. The number of vessels include vessels which will enter the fishery this year.

Factory Trawlers less than 200 feet

Number of vessels:	16
Fuel carrying capacity:	75,000 - 100,000 gallons
Daily fuel consumption:	2000 gallons/day
Quarterly fuel consumption:	150,000 gallons
Quarterly tax @ \$.151/gal :	\$22,500

Factory Trawlers between 200 and 250 feet

Number of vessels:	14
Fuel carrying capacity:	150,000 gallons
Daily fuel consumption:	2600 gallons/day
Quarterly fuel consumption:	200,000 gallons
Quarterly tax @ \$.151/gal :	\$30,200

Factory Trawlers larger than 250 feet

Number of vessels:	10
Fuel carrying capacity:	200,000 to 325,000 gallons
Daily fuel consumption:	6000 gallons/day
Quarterly fuel consumption:	450,000 gallons
Quarterly tax @ \$.151/gal :	\$67,950

Nearly all of the fuel is taken at Alaskan ports. The average price of fuel (#2 diesel) purchased in Alaska is \$.75/gallon. (A quarter is figured as 75 days of operation.)

MOEN

100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-495

Fuel Tax Report Language.

OMNIBUS BUDGET RECONCILIATION ACT
OF 1987

CONFERENCE REPORT

TO ACCOMPANY

H.R. 3545



DECEMBER 21, 1987.—Ordered to be printed

maximum reduction in estate taxes to \$750,000, (5) imposes holding period requirements for the decedent and the ESOP, (6) prohibits the deduction in the case of securities acquired with assets transferred from another plan of the employer, and (7) imposes certain excise taxes on an ESOP or worker-owned cooperative for a failure to satisfy the allocation and holding period requirements.

The confirmation of the IRS Notice is effective as if included in the Tax Reform Act of 1986. The other provisions are effective with respect to sales of securities to ESOPs after February 26, 1987, except that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 26, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Senate amendment

The Senate amendment is the same as the House bill, except that the provisions (other than the confirmation of the IRS Notice) are effective with respect to sales of securities to ESOPs after February 27, 1987, and that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 27, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Conference agreement

The conference agreement follows the House bill.

V. EXCISE TAXES; USER FEES

A. EXCISE TAXES

1. Telephone excise tax: 3-year extension

Present law

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletype-writer exchange service. This tax is scheduled to expire after December 31, 1987.

House bill

The House bill extends the present 3-percent telephone excise tax for 3 years, through December 31, 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. Collection of diesel fuel and sales tax

Present law

The excise taxes on diesel fuel and aviation fuel generally are collected by a retail dealer to the consumer (Section 4041). Under an exception, retail sale distributors collect and pay the tax on fuel sold to the retailer.

House bill

The excise tax on taxable fuel (taxable special fuels, and nongasoline fuel) imposed on sale of the fuels to any person (other than a retailer) is repealed. Taxable special fuels include: (1) gasoline or diesel fuel that are sold to a motorboat, and (2) nongasoline fuel which tax would be imposed if it were gasoline or diesel fuel used in commercial aviation.

Collection of the excise tax on taxable special fuels by wholesale dealers is made mandatory. The provisions of present law permitting tax-exemption for certain purposes are repealed.

Any taxable fuel that is held in inventory is subject to a floor stock tax on the sale of that fuel.

The provision is effective on 1/1/88.

Senate amendment

The Senate amendment generally follows the House bill with the following differences.

The Treasury Department is required to report to Congress for purposes of making refunds for the excise taxes on line fuels. In addition, the Treasury Department is required to report on the distribution chain of these fuels to prevent evasion of the tax.

The Senate amendment also provides that revenues raised by the floor stock tax on taxable fuel be deposited in the Highway Trust Fund or the (LUST) Trust Fund.

The provision is effective on 1/1/88.

Conference agreement

The conference agreement follows the Senate amendment, but the excise tax on special motor fuels is imposed at the retail level. In the case of the tax on aviation fuels, tax technically is imposed on a taxable fuel by the producer, but the conference agreement provides, however, to include immediate persons in the chain of distribution and persons who are producers of

more than \$750,000, (5) imposes holding period requirements on the ESOP, (6) prohibits securities acquired with assets transferred from an employer, and (7) imposes certain shareholder-owned cooperative for a failure during period requirements.

Notice is effective as if included in the other provisions are effective with respect to ESOPs after February 26, 1987. The holding period requirement generally applies to the ESOP after February 26, 1987. ESOP holding period requirements are which for this purpose includes employment before February 27, 1987, for which a deduc-

the same as the House bill, except for the confirmation of the IRS Notice) sales of securities to ESOPs after February 26, 1987. The holding period requirement generally applies to the ESOP after February 26, 1987. The holding period requirements for securities, which for this purpose includes employment before February 27, 1987, for which a deduc-

allows the House bill.

TAXES; USER FEES

EXCISE TAXES

Excise tax: 8-year extension

Excise tax imposed on amounts paid for local telephone service, and teletype service. The tax is scheduled to expire after December 31, 1990.

The present 3-percent telephone excise tax expires on December 31, 1990.

The same as the House bill.

allows the House bill and the Senate

* 2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

Present law

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

House bill

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in non-commercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

Senate amendment

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.² As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

3. Extension of termination date for coal excise tax rate

Present law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

² States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy tax-free under present law (sec. 4221(a)(4)). The conferees are aware that repeal of automatic tax-free sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general concerns about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement reconciles these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

the Black Lung Disability Trust Fund on such advances.

Amounts equal to the revenues are appropriated automatically to authorize repayable advances from the Fund. The Trust Fund pays certain cases where no coal mine operator is liable for the individual miner's disease.

House bill

No provision.

Senate amendment

The Senate amendment extends the present-law coal excise tax rate from (1) January 1, 2014 or (2) the date of termination of the program (as defined under the present law). The extension of the termination date of the coal excise tax rate is effective from the date of enactment of this Act, subject to earlier termination as described above.

Conference agreement

The conference agreement follows:

4. Highway excise tax exemption

Present law

Receipts from excise taxes on motor fuels are deposited in the Highway Trust Fund. Receipts from excise taxes on finance expenditures which are deposited in the Highway Trust Fund. Exemptions from the tax apply to certain private school buses and certain private school 501(c)(3) organizations.

Private bus operators are exempt from the 9-cents-per-gallon tax on interstate common carrier buses. Intercity common carrier buses are exempt from the 9-cents-per-gallon special motor fuels. Qualified local buses receive a 12-cents-per-gallon tax on 15-cents-per-gallon highway diesel fuel tax. Buses engaged in transportation along regular routes, unless the bus carries at least 20 adults (not including the driver).

House bill

The House bill repeals the motor fuel tax exemptions for buses, including bus tax exemptions. This repeal does not affect tax on privately owned and operated mass transit buses.

This provision is effective on the date of enactment of this Act.

used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) ORDERING RULE.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(e)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence."

"(e) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) DISPOSITION TO MEET DIVERSIFICATION REQUIREMENTS.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERMS USED IN SECTION 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) QUALIFIED EMPLOYER SECURITIES.—The term 'qualified employer securities' has the meaning given such term by section 2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative,

which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978A(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986) occurring after February 26, 1987.

Subtitle E.—Provisions Relating to Excise Taxes and User Fees

PART I—EXCISE TAXES

SEC. 4091. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

SEC. 4092. DIESEL FUEL AND AVIATION FUEL TAXES IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

"Subpart B—Diesel Fuel and Aviation Fuel

"Sec. 4091. Imposition of tax.

"Sec. 4092. Definitions.

"Sec. 4093. Exemptions; special rule.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel, and

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), except as provided in subsection (c), the Highway Trust Fund financing rate is 15 cents per gallon.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR DIESEL FUEL IN ALCOHOL MIXTURE, ETC.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(A) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the diesel fuel in such mixture was not taxed under subparagraph (B), and

"(B) 10 cents per gallon in the case of the sale of diesel fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the diesel fuel from a mixture of the diesel fuel and alcohol on which tax was imposed under subsection (a) at a Highway Trust Fund financing rate equivalent to 9 cents a gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such diesel fuel. The amount of tax imposed on any sale of such diesel fuel by such person shall be 5 cents per gallon.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"(d) EXEMPTION FROM TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall not apply to the sale of—

"(A) any mixture of aviation fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), or

"(B) any aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which the Airport and Airway Trust Fund financing rate did not apply by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(2)), such person shall be treated as the producer of such aviation fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"SEC. 4092. DEFINITIONS.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) diesel fuel, and

"(B) aviation fuel.

"(2) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(3) AVIATION FUEL.—The term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) who elects to register under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, commender, blender, or wholesale distributor of a taxable fuel, or

"(ii) a dealer selling any taxable fuel exclusively to producers of such taxable fuel.

"(C) TAX-FREE PURCHASERS TREATED AS PRODUCERS.—Any person to whom any taxable fuel is sold tax-free under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells a taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding

*** Indention wrong in copy on this sentence.

the term 'wholesale distributor' from paragraph (1) is a producer or importer.

NEW 1991 EXEMPTIONS: SPECIAL RULE

"(a) HEATING OIL.—The tax imposed by section 4091 shall not apply in the case of sales of any taxable fuel which the Secretary determines is destined for use as heating oil.

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

"(c) AUTHORITY TO EXEMPT CERTAIN OTHER USES.—Subject to such terms and conditions as the Secretary may provide (including the application of section 4101), the Secretary may by regulation provide that—

"(1) the Highway Trust Fund financing rate under section 4091 shall not apply to diesel fuel sold for use by any purchaser as a fuel in a diesel-powered train,

"(2) the Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use by any purchaser as a fuel in an aircraft not in non-commercial aviation (as defined in section 4041(c)(4)),

"(3) the tax imposed by section 4091 shall not apply to taxable fuel sold for use by any purchaser other than as a motor fuel, and

"(4) the tax imposed by section 4091 shall not apply to taxable fuel sold for the exclusive use of any State, any political subdivision of a State, or the District of Columbia.

"(d) SPECIAL ADMINISTRATIVE RULES.—The Secretary may require—

"(1) information reporting by each remitter of the tax imposed by section 4091, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subpart.

"(e) CROSS REFERENCES.—

"(1) For imposition of tax where certain uses of diesel fuel or aviation fuel occur before imposition of tax by section 4091, see subsections (a)(1) and (c)(1) of section 4041.

"(2) For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

(b) RETAIL DIESEL FUEL AND AVIATION FUEL TAXES TO BE RESIDUAL TAXES.—

"(1) Paragraph (1) of section 4041(a) is amended—

(A) by striking out "DIESEL FUEL" in the heading and inserting in lieu thereof "TAX ON DIESEL FUEL WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(2) Paragraph (1) of section 4041(c) is amended—

(A) by striking out "IN GENERAL" in the heading and inserting in lieu thereof "TAX ON NONGASOLINE FUELS WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(3) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) TAX ON SALES AND USES SUBJECT TO TAX UNDER SUBSECTION (a).—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cent a gallon on the sale or use of any liquid (other than li-

quid petroleum gas) if tax is imposed by subsection (a) on such sale or use.

"(2) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than a product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

"(3) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c), there is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(4) Subsection (n) of section 4041 is hereby repealed.

(c) AMENDMENTS RELATING TO CREDITS AND REFUNDS.—

"(1) Section 6427 is amended by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and by inserting after subsection (k) the following new subsection:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraph (3) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

"(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft."

"(2) Paragraph (1) of section 6427(b) is amended—

(A) by striking out "subsection (a) of section 4041" the first place it appears and inserting in lieu thereof "section 4041(a) or 4091", and

(B) by striking out "subsection (a) of section 4041" the second place it appears and inserting in lieu thereof "section 4041(a) or 4091, as the case may be".

"(3) Subsection (b) of section 6427(e)(1) is amended by inserting "or 4091" after "section 4091".

"(4) Subsection (f) of section 6427 is amended to read as follows:

"(1) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—Except as provided in subsection (k)—

"(1) GASOLINE AND DIESEL FUELS.—

"(A) IN GENERAL.—If any gasoline or diesel fuel on which tax was imposed by section 4081 or 4091 at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund financing rate with respect to such fuel.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR HIGHWAY TRUST FUND FINANCING RATE.—The term 'regular Highway Trust Fund financing rate' means—

"(I) 9 cents per gallon in the case of gasoline, and

"(II) 15 cents per gallon in the case of diesel fuel.

"(ii) INCENTIVE HIGHWAY TRUST FUND FINANCING RATE.—The term 'incentive Highway Trust Fund financing rate' means—

"(I) 3½ cents per gallon in the case of gasoline, and

"(II) 10 cents per gallon in the case of diesel fuel.

"(C) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subparagraph (A) with respect to any gasoline or diesel fuel with respect to which an amount is payable under subsection (d), (e), or (f) of this section or under section 6420 or 6421.

"(2) AVIATION FUEL.—If any aviation fuel on which tax was imposed by section 4091 is used by any person in producing a mixture at least 10 percent of which is alcohol (as defined in section 4061(e)(3)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of tax (attributable to the Airport and Airway Trust Fund financing rate) imposed on such fuel under section 4091.

"(3) TERMINATION.—Paragraphs (1) and (2) shall not apply with respect to any mixture sold or used after September 30, 1993."

"(5)(A) Paragraph (1) of section 6427(l) is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (i)".

"(B) Clause (i) of section 6427(l)(2)(A) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (i)".

"(6) Subsection (o) of section 6427 (as redesignated by paragraph (1)) is amended to read as follows:

"(o) TERMINATION OF CERTAIN PROVISIONS.—Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (i) shall only apply with respect to fuels purchased before October 1, 1993."

"(d) OTHER CONFORMING AMENDMENTS.—

"(1) Subsection (c) of section 40 is amended by striking out "or section 4081(c)" and inserting in lieu thereof "section 4081(c), or section 4091(c)".

"(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least \$500,000,000 from taxes imposed by section 4041(d) and

taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091" after "section 4081".

(4) Subsection (a) of section 4221 is amended by striking out "(other than" and all that follows through "sale by the manufacturer" and inserting in lieu thereof "(other than under section 4121, 4081, or 4091) on the sale by the manufacturer".

(5) Section 6208 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Paragraph (2) of section 6416(b) is amended—

(A) by striking out "(other than coal taxable under section 4121)", and

(B) by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of any tax paid under section 4091 or 4121."

(7) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any fuel taxable under section 4091" after "section 4081".

(8) Subparagraph (B) of section 6416(b)(3) is amended by striking out ", such gasoline" and inserting in lieu thereof "or any fuel taxable under section 4091, such gasoline or fuel".

(9) Subparagraph (C) of section 6421(e)(2) is hereby repealed.

(10) The subsection (j) of section 6421 relating to cross references is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(11) Section 6652 is amended by striking out the subsection (j) added by section 1702(b) of the Tax Reform Act of 1986 and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(12) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and"

(13) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) section 4091 (relating to tax on diesel fuel), and"

(14) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall not be taken into account the taxes imposed by sections 4041(d), and

"(B) there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(15) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4041, 4081, and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4041, 4081, or 4091".

(16) Subsection (b) of section 9508 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) taxes received in the Treasury under section 4091 (relating to tax on diesel fuel and aviation fuel) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section."

(17) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34, with respect to the taxes imposed by section 4041(d) or by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such sections)."

(18) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Diesel fuel and aviation fuel."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after March 31, 1988.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable fuel which on April 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERPAYMENT OF FLOOR STOCKS TAXES, ETC.—Sections 6418 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this subsection so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such sections. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) DUE DATE OF TAX.—The taxes imposed by this subsection shall be paid before June 16, 1988.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE FUEL.—

(i) IN GENERAL.—The term "taxable fuel" means any taxable fuel (as defined in section 4092 of such Code, as added by this section) on which no tax has been imposed under section 4041 of such Code.

(ii) EXCEPTION FOR FUEL HELD FOR NONTAXABLE USES.—The term "taxable fuel" shall not include fuel held exclusively for any use which is a nontaxable use (as defined in section 6427(i) of such Code, as added by this section).

(B) TAXABLE PERSON.—The term "taxable person" means any person other than a producer (as defined in section 4092 of such Code, as so added) or importer of taxable fuel.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) SPECIAL RULE FOR FUEL HELD FOR USE IN TRAINS AND COMMERCIAL AIRCRAFT.—Only the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 of such Code shall apply for purposes of this subsection with respect to—

(A) diesel fuel held exclusively for use as a fuel in a diesel-powered train, and

(B) aviation fuel held exclusively for use as a fuel in an aircraft not in noncommercial aviation (as defined in section 4641(c)(4) of such Code).

(6) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

(g) COORDINATION WITH AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987.—If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted, effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code (as added by this section) are each amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".

SEC. 10501. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

PART II—TAX-RELATED USER FEES

SEC. 10511. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

(A) shall vary according to categories (or subcategories) established by the Secretary.

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion.....	\$250
Exempt organization ruling.....	\$350
Employee plan determination.....	\$300
Exempt organization determination.....	\$275
Chief counsel ruling.....	\$200.

(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 10512. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) OCCUPATIONAL TAXES ON DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, BREWERIES, ETC.—

(1) DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, ETC.—

(A) IN GENERAL.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

*** Copy read "taxable fuel".

*** Copy read "1991", and".



NEWS

DON YOUNG CONGRESSMAN FOR ALL ALASKA

March 3, 1988
FOR IMMEDIATE RELEASE
CONTACT: Steve Hansen (202) 225-5765

CONGRESSMAN YOUNG CO-SPONSORS BILL TO STOP UP-FRONT DIESEL FUEL EXCISE TAX PAYMENTS

WASHINGTON, D.C. - Alaska Congressman Don Young is supporting legislation to put a stop to "the needless up-front diesel tax payments now required by the federal government."

Young is a co-sponsor of H.R. 3865, which will reverse the up-front payments required under last year's budget reconciliation act.

"The current law requires that wholesalers rather than retailers collect the excise tax on off-highway diesel users," Young said. "Because of this, the off-road diesel users have to pay the excise tax up-front and then apply for a refund at the end of the year. This is wrong and adds an unnecessary financial burden on Alaska's diesel users.

"By rescinding this law, we'll get rid of the needless bureaucratic red tape and paperwork now required of Alaska's industries and small businessmen."

Young added that the new bill would restore the exemption that off-highway users presently have without any ultimate reduction in the amount of diesel fuel excise tax collected by the government.

"This new legislation will help solve the problem for Alaska's agricultural, timber, maritime and fishing industries and all other users of diesel fuel. In addition, oil field refineries and their suppliers will benefit," Young added.

"This is good legislation for Alaska and I'm confident that we'll be successful in getting this passed by Congress and signed by the President."



NEWS

DON YOUNG CONGRESSMAN FOR ALL ALASKA

March 3, 1988
FOR IMMEDIATE RELEASE
CONTACT: Steve Hansen (202) 225-5765

CONGRESSMAN YOUNG INTRODUCES SPORT FISHING, BOAT SAFETY BILL

WASHINGTON, D.C. - Alaska Congressman Don Young and four other members of the Merchant Marine and Fisheries Committee have introduced legislation to provide funds for recreational boat safety programs and sport fishing restoration.

Young also serves as Vice Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, which will consider the reauthorization bill.

"For the past several years, our nation's boaters and anglers have contributed to programs through excise taxes imposed on motorboat fuel and sport fishing equipment," Young said.

"This bill will ensure that those funds continue to be used for the purposes intended by Congress - to provide for the enhancement of sport fishing programs and boating safety programs.

"Alaska has been a major beneficiary of the sport fish restoration funds, having received over \$7 million in Fiscal Year 1987 - the most of all 50 states," Young added. "Alaska would receive additional funding if the state were to participate in the boating safety program, as is now being considered by the state legislature."

The other sponsors of H.R. 3918 are Congressmen Walter Jones (D-N.C.), Robert Davis (R-Mich.), Earl Hutto (D-Fla.), and Mario Biaggi (D-N.Y.).

#

DIESEL FUEL TAX

Jim Ramaglia called. The fees passed December 22nd a 15 cent tax on every gallon of diesel fuel sold... under Omnibus Budget Reconciliation. Means fishermen will have to pay 15 cents on every gallon (S of Ak, C of Kodiak, etc. included also) of fuel they purchase. Case by case exemptions apply.

Ramaglia is going to send what hard copy he has. ~~Wants us to look into legislation~~, make phone calls, whatever we can do to help get rid of it or delay it for 6 months.

Dis.
put in
Stucky's
HJR 68 File
Thy

S

Carol Lindsay —
224-3190

RECEIVED FEB 16 1988

2-16-88
DATE

TO: Rep Cliff Davidson ⁴⁶⁵⁻²⁴⁸⁷ Attn. Stephanie Love

FROM: Jim Ramaglia

NUMBER OF PAGES (INCLUDING COVER SHEET): 9

THIS IS BEING SENT BY THE
LEGISLATIVE INFORMATION OFFICE,
KODIAK, ALASKA

Please note that we have a Rapicom 200 Auto-Telecopier. This machine transmits pages up to 8 1/2 X 14 inches. Our telecopier direct line is (907) 486-5264.

PLEASE TELEPHONE (907) 486-8116 IF ANY PAGES ARE MISSING OR ILLEGIBLE.

BILLING NUMBER: _____



As of April 1, 1988 the Federal Government is changing the way they collect the .15 per gallon Federal Excise Tax on diesel fuel. In the past uses of diesel fuel for Fishing, Marine Transportation, Farming, State Govt. and Local Govt. were considered exempt from Federal Tax so you did not have to pay the tax.

But the U.S. Congress has changed the rules of the game. The new rules are real simple. EVERYBODY PAYS THE TAX at the time of purchase. Then if you are a tax exempt user you can apply for a refund.

THE REFUND PROCESS:

Fishing, Marine Transportation etc. will be considered tax exempt users so they will be eligible for a refund. Simply stated, the rules for a refund are as follows:

- 1) If you pay more than \$1,000 tax in one calendar quarter you can apply for a refund at the end of the quarter. (This is the tax on approx 6700 gallons)
- 2) If you pay less than \$1,000 in a quarter you must wait till the end of the year to apply.
- 3) You can't include 2 quarters together to come up with the \$1,000 and apply before the end of the year.

Some of the still unresolved questions are; How in fact you prove you are tax exempt and how long do you have to wait to receive your refund. Remember you are "standing in line with 52 state governments, 80,000 City Governments, and who can guess how many other Farmers, Fishermen and other tax exempt users around the United States.

All this adds up to increased costs and maybe the ability to stay in business in lean times or developing fisheries.

SO WHAT CAN YOU DO ABOUT IT?

The IRS says the law has been laid down by Congress and all they do is enforce it. To change things Congress has to change the law. You need to let our representatives in Washington D.C. know how you feel. The more people that contact them the better.

WHAT DO YOU WRITE YOUR REPRESENTITIVES?

Fishing Organizations, Governments, Farming Groups etc. will cover in detail what the problems caused by the tax are. So a few simple hand written words from you will carry a lot of weight, you don't need to write a big long letter.

In general a Senator or Congressman equates 1 handwritten letter

to 400 person concerned with an issue. This rule may not carry that much weight in Alaska, but your personal comments are more important than just signing a petition or having your fishing Association do all the work. When you write these people they will answer your letters.

WHERE DO YOU WRITE?

Here are the mailing address.

SENATOR TED STEVENS
522 HART BUILDING
WASHINGTON D.C. 20510

CONGRESSMAN DON YOUNG
2331 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON D.C. 20515

SENATOR FRANK MURKOWSKI
709 HART BUILDING
WASHINGTON D.C. 20510



Legislative ALERT

PETROLEUM MARKETERS ASSOCIATION OF AMERICA
1120 Vermont Ave., NW • Washington, DC 20005
(202) 331-1188

~~FEDERAL~~
~~GASOLINE & DIESEL FUEL~~
~~EXCISE TAX INFO.~~
February 2, 1988 JG.

***IMMEDIATE ACTION REQUIRED**

Dear Fellow Marketer:

One of PMAA's top priorities over the last two years has been to clean up some of the mess created by Congress and the IRS when they changed the excise tax collection procedure on gasoline. We thought we had made major progress in this regard last October when the House of Representatives adopted the so-called "Pickle Amendment" which would have allowed marketers to continue to remit the federal gasoline excise tax directly to the IRS based on the marketer's purchases at the wholesale rack.

Unfortunately, the Pickle Amendment and numerous other provisions included in the House bill were victims of the White House-Congressional budget negotiations which included an agreement that only provisions which increase revenue to the federal government would be contained in the final package.

Since that time the situation has gotten worse, not better. IRS has issued proposed regulations which confuse considerably the gasoline excise tax collection process, particularly as it regards payment of the tax on gasohol. In addition, a provision which Congress overlooked in enacting the gasoline collection change has now been discovered which will allow state and local governments, at the marketer's option, to purchase gasoline tax exempt. This provision, of course, gives our refiner-suppliers a considerable competitive advantage in serving those accounts. Finally, ~~_____~~

→ ~~_____~~ Under this provision, farmers and other traditional off-road users will now be required to pay the tax and apply for a refund or tax credit.

At PMAA's recently completed Winter Board of Directors Meeting and Washington Legislative Rally, there was an extremely high level of Congressional concern. What started 18 months ago as a marketer problem, has now become a major issue for farmers, highway contractors, state and local governments, gasohol blenders and ethanol manufacturers.

This increased interest in the issue provides PMAA with an opportunity to obtain substantive changes in the collection process, but we need your help. You need to write your Congressman and Senators to alert them to the problems you face with the new collection process for gasoline and diesel fuel and urge immediate Congressional action on these problems. Secondly, you should write each of your affected customers a letter explaining the changes in the law and urging that they also write their federal legislators seeking changes.

SAMPLE LETTER TO FARMERS AND
OTHER OFF-ROAD DIESEL PURCHASERS

Dear (Farmer, Contractor etc.):

As a valued customer, I must advise you of a change in the diesel fuel excise tax collection procedure included as part of the Omnibus Budget Reconciliation Act (P.L. 100 - 203). In the past you have been able to purchase diesel fuel from me for off road use without paying the 15.1 cent per gallon tax. However, under the provision of this new law, effective April 1, 1988, you will be required to pay me the full amount of the tax and either apply later to the IRS for a refund or take a credit on your income tax return. Home heating oil is exempt from the tax.

The precise mechanism for obtaining your refund is unclear at this point. The IRS has said they will issue proposed regulations in late February which, among other things, will clarify the refund procedure. One procedure IRS may follow is to create a refund mechanism similar to that which some farmers now use who buy gasoline tax paid. This mechanism allows farmers to take a refund or credit for those gallons used for off-highway use. Once this refund mechanism is announced, I will advise you how to take advantage of it.

I recognize this doesn't make much sense, but when has Washington ever done anything that did? I would recommend, in response to this, you do two things: First, let our Congressmen and Senators in Washington know how outraged you are by this action. Tell him or her how many dollars this means to you in a year (15.1 cents x the number of gallons of diesel fuel used for off-road use) and ask why the IRS should be allowed to hold your tax dollars for their use. Remember, this provision is effective April 1 so it is necessary you let both U.S. Senators and Congressman _____ know your views. My trade association in Washington, the Petroleum Marketers Association of America (PMAA), is working to change this law but they will only be able to do so if federal legislators hear from people directly affected by this change.

Secondly, in anticipation of the change, you may wish to stock up on diesel fuel prior to April 1. The law authorizes IRS to collect a floor stocks tax on all taxable gallons in inventory as of April 1, but it also allows IRS to exempt from that tax any gallons in inventory which will be for off-road use and thus not subject to the tax.

Again, thank you for allowing us to serve you and, hopefully, by working together we will get this situation changed.

Sincerely,

Marketers Name

224-3140 PM

IRS

Frank Boland
202-566-3410

Bill Jackson
202-566-3287

Over \$1,000 Apply that quarter
Under \$1000 Apply end of year
on a quarter By Quarta Basis

[Redacted]

IRS

Laura Shaw

Room 4116

111 Constitution Ave

Wash DC, 20224

Letter on concerns as a
Mtr Fuel Dealer that requirements
NOT include Bonding etc

Don Youngs

Steve Boldorjack

202-225-576

Stevens

224-3001

Chuck
~~Stevens~~ Konigsba

Youngs

225-5765

Murkowski 224-6665

Sent

MON., FEBRUARY 1, 1988

TO: LEGISLATIVE INFORMATION CENTER, KODIAK, ALASKA
FROM: LAUREN BROWN, OFFICE OF SENATOR TED STEVENS,
WASHINGTON, D.C. 202/224-1046

SEVEN PAGES FOLLOW. THEY'RE FOR MR. JIM RAMAGLIA
(907/486-3245). HE'S BEEN NOTIFIED AND SHOULD BE IN TO PICK
UP THIS INFORMATION SOMETIME TODAY.

THANK YOU.

2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

Present law

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

House bill

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in non-commercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

Senate amendment

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the nongasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leading Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

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Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.³ As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed, as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

8. Extension of termination date for coal excise tax rate

Present law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

³ States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy tax-free under present law (sec. 4231(a)). The conferees are aware that repeal of automatic tax-free sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost to certain of these entities, but determined that general concern about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement recognizes these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

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PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

February 04, 1988

Senator Frank H. Murkowski
United States Senate
709 Hart Building
Washington, D.C.

Dear Senator Frank:

It has come to my attention that Congress passed a Mid-Distillates Fuel Tax Bill in the chaotic and waning hours of December 22, 1987 as a part of the overall U.S. Tax Reduction Act. A close examination of the provisions of the Act have raised serious concerns and accordingly I wish to bring them to your attention.

The Act states that a diesel fuel tax of \$.151 per gallon is to be levied on "any liquid suitable for use as a fuel in a diesel highway vehicle or a diesel powered train (does not apply to fuel for home heating use)". The key word here is "suitable"--whether the product is used as such or not. The collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory on all sales. All tax free sales for certain exempt sales purposes are repealed. Wholesalers can buy diesel fuel for resale provided they are registered and have posted bonds as required by the Treasury.

Petro Marine Services is a marine-oriented fuel distributorship with a majority of our customers being fishing industry related. A recent review of our sales volumes reflect that less than one-percent of our total diesel fuel gallons are taxable highway and off-highway use fuel. Fronting this tax to the Treasury will significantly increase the cost of doing business for our customers by adversely affecting their cash flow and, of consequence, we dealers will be affected likewise. End-use consumers will not be able to apply for a refund of these taxes unless the amount of the tax withheld is over \$1,000 in a quarter. Furthermore, consumers must wait until year end and apply the overpayment to their income tax return as stipulated in the Bill. The Treasury is not obligated to pay interest on the refunds; thus, the collected amounts are, in essence, interest-free loans to the government from marine fuel consumers, many of whom are struggling to derive a living from an uncertain and undercapitalized fishing industry.

Anchorage
(907) 278-7586

Nikiski
(907) 776-8000

Kodiak
(907) 486-3421

Dutch Harbor
(907) 581-1350



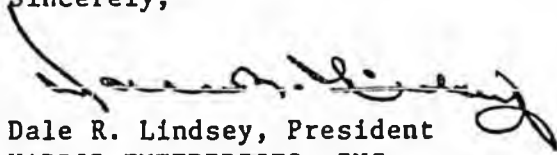
Page 2

In addition this tax will have a negative impact on domestic marine fuel suppliers as opposed to foreign bunkerers and processors many of whom import their fuel and sell to U.S. flag vessels on the high-seas and within our Exclusive Economic Zone (EEZ). With the \$.151 per gallon Federal Excise Tax plus the \$.05 per gallon State of Alaska Marine Fuel Tax, it will be economically impossible to compete against foreign flag operators. I am certain this was not the intent of Congress.

One of the provisions in the law states that "the Treasury has been given discretionary authority to exempt certain sales from tax where the purchaser satisfactorily demonstrates to the Treasury that the fuel will be consumed for use deemed non-taxable in nature, that these parties must also register and post bonds as required by the Treasury". Let me assure you bonding requirements will only impose a further financial hardship on fuel distributorships some of whom are already faced with problems securing basic insurance needs. If indeed, the end-user is included in this Clause, we alone have several hundred customers who would be required to register and post bond with the Treasury in order to be deemed tax-exempt. This stipulation will be very cumbersome and difficult for all affected to comply with. The law further reads that the Treasury is expected to exercise their authority on a "case by case" basis. Inasmuch as our taxable highway use diesel fuel customer base is miniscule as compared to our predominate marine base, it seems reasonable to assume that an overwhelming amount of time and effort will be consumed by the Treasury in rendering these assessments. Under the aforementioned circumstances it would seem that a blanket waiver would be a viable alternative for marine oriented fuel distributors such as ourselves.

Without question the Mid-Distillate Fuel Tax Bill in its present form represents ill-conceived legislation. As a company, Petro Marine Services has consistently supported reasonable regulation at all levels of government; however, this particular Bill serves only to finance and broaden Federal bureaucracy at the expense of fuel dealers and end-use consumers. In view of this fact I respectfully urge that immediate consideration be given to amending those provisions in the Bill which are not applicable to highway diesel fuel use.

Sincerely,


Dale R. Lindsey, President
HARBOR ENTERPRISES, INC.

DRL:tc

2/18/88
DATE

TO: Rep. Cliff Davidson

FROM: Jim Ramaglia

NUMBER OF PAGES (INCLUDING COVER SHEET): 5

THIS IS BEING SENT BY THE
LEGISLATIVE INFORMATION OFFICE,
KODIAK, ALASKA

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ARE MISSING OR ILLEGIBLE.

BILLING
NUMBER: _____

2-18-88

Cliff:

Here are some ideas for a resolution, please excuse the spelling and grammer. I appreciate you getting this done it's very important to the economy of Kodiak and Coastal Alaska, the whole state for that matter.

Jim Ramaglia
486-3245 (work)
486-4247 (home)

RESOLUTION OF THE ALASKA STATE LEGISLATURE REGARDING THE
IMPOSITION OF THE FEDERAL EXCISE TAX ON DIESEL FUEL FOR TAX
EXEMPT USERS

POSSIBLE WHEREAS'S

*Diesel fuel is vital to industry in Alaska.

*Much if not all of the Diesel Fuel Used for; Commerical Fishing, Marine Transportation, Timber, Minning, farming, ranching, Rural Electrical Generation, State Govt. and Local govt.. Is used for "off road" uses and therefore is tax exempt.

*All the diesel used for Commerical Fishing and Marine Transportation is Tax Exempt.

*Much of the employment in Alaska depends on these industrys.

*The added expense of this tax will stiefel new growth in Fisheries such as groundfish, and make fishing in poor years unprofitable.

*Many of the Commerical Fishing, Minning, Timber, Farming, and ranching operations in the State are small underfiananced ventures operating on very slim profit margins the added expense of this tax will cause business failures.

*The cost of living and doing business in Alaska are much higher than the rest of the United States. The added expense of this tax will be extremely burdensome.

*Many necessary business expences will have to be delayed so the governemt can collect its tax. These include maintenance of equipment, replacement of worn out equipment.

* Maintenance and replacement survival equipment on fishing vessels, may have to be delayed so the vessel operator can pay the excise tax on a fuel use which is "tax exempt". (there may be a better way to state this.

Possible now therefore be it resolved:

The Alaska State Legislature asks that the U.S. Congress and Senate restore the "UP FRONT" exemption from Diesel Fuel Tax for tax exempt uses such as: Commerical Fishing, Marine Transportation, Farming, Ranching, Mining, Timber industry, and other Tax exempt uses.

(2)



NATIONAL FISHERIES INSTITUTE, INC.

2000 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20036 ■ (202) 296-5090

February 12, 1988

TAX ALERT

ACTION REQUESTED

NFI VESSEL OPERATORS

Vessel operators should be aware that as of April 1, 1988:

- o The up-front exemption from federal excise taxes will be repealed for diesel fuel purchased by fishery vessels.
- o Diesel fuel used for vessels will continue to be nontaxable, but operators will be required to pay a 15.1 cents per gallon tax when purchasing fuel, then apply to the Treasury Department on a quarterly basis for a refund.

NFI is asking Congress to restore the up-front exemption for our industry. You are urged to contact your Senators and Representatives and urge them to sponsor legislation to permit tax-free sales of diesel fuel for fishery vessels.

BACKGROUND

A provision in the 1987 Budget Reconciliation Act passed in December requires federal excise taxes on diesel fuel to be collected at the wholesale level and repeals exempt sales beyond the wholesale level, except in four circumstances:

- o diesel fuel sold for use as a fuel in a diesel-powered train;
- o commercial aviation fuel;
- o taxable fuel sold for industrial use other than as a motor fuel; and
- o taxable fuel sold for use by a state or a political subdivision of a state.

These exemptions are not across-the-board; rather, they will have to be obtained on a case-by-case basis by each company.

All other current exemptions from the diesel fuels tax, including those for farmers, fishermen and other off-highway business use, have been eliminated. Instead, non-taxable uses will be taxed at time of purchase and refunds made pursuant to applications filed to document the non-taxable use. Although the regulations implementing this change have not been finalized, the Treasury Department indicates that they expect to use a quarterly refund process for amounts in excess of \$1,000 which is similar to the existing refund process for non-taxable gasoline and diesel fuel uses. All refunds less than \$1,000 per quarter will be handled annually.

The changes that were enacted had the objective of deterring tax-evasion schemes which are estimated to cost the Highway Trust Fund several hundred million dollars in lost revenues annually. However, the repeal of the exemption will place a heavy cash-flow burden on the seafood industry, which has legitimate tax exempt uses.

IMPACT

This law becomes effective April 1. The impact on fishery companies includes:

- o added cost for fuel;
- o additional recordkeeping and paperwork to enable recovery of funds through a yet-to-be established refund procedure; and
- o loss of the time value of the funds paid for fuel tax (which may be substantial as federal officials are swamped in an avalanche of refund requests).

LEGISLATIVE ACTIVITY

Several bills have been introduced. Four would restore the exemption for farmers only. These are:

- o H.R. 3850 sponsored by Congressman Jontz (D-IN)
- o H.R. 3844 sponsored by Congressman Daub (R-NE)
- o H.R. 3881 sponsored by Congresswoman Smith (R-NE)
- o S. 2003 sponsored by Senator Gramm (R-TX)

Two bills would restore exemptions for all off-highway uses including vessel operations. These are:

- o H.R. 3865 sponsored by Congressman Combest (R-TX)
- o H.R. 3866 sponsored by Congressman De la Garza (D-TX)

The key committees which will consider this matter are:

SENATE FINANCE COMMITTEE

Lloyd Bentsen, Tex.,
Chairman
Spark M. Matsunaga, HI
Daniel P. Moynihan, N.Y.
Max Baucus, Mont.
David L. Boren, Okla.
Bill Bradley, N.J.
George J. Mitchell, ME
David Pryor, Ark.
Donald W. Riegle, Jr., Mich.
John D. Rockefeller IV, W.Va.
Thomas A. Daschle, S.D.

Bob Packwood, Ore.,
Ranking Minority Member
Robert Dole, Kan.
William V. Roth, Jr. Del.
John C. Danforth, Mo.
John H. Chafee, R.I.
John Heinz, Pa.
Malcolm Wallop, Wyo.
David Durenberger, Minn.
William L. Armstrong, Colo.

HOUSE WAYS AND MEANS COMMITTEE

MAJORITY MEMBERS

Dan Rostenkowski, Ill.
Chairman
Sam M. Gibbons, Fla.
J.J. Pickle, TX
Charles B. Rangel, NY
Fortney H. (Pete) Stark, CA
Andrew Jacobs, Jr., Ind.
Harold E. Ford, Tenn.
Ed Jenkins, Ga.
Richard A. Gephardt, Mo.
Thomas J. Downey, N.Y.
Frank J. Guarini, N.J.

Marty Russo, Ill.
Donald J. Pease, Ohio
Robert T. Matsui, CA.
Beryl F. Anthony, Jr. Ark.
Ronnie G. Flipppo, Ala.
Byron L. Dorgan, N.D.
Barbara B. Kennelly, CT.
Brian Donnelly, Mass.
William J. Coyne, Pa.
Michael A. Andrews, TX.
Sander M. Levin, Mich.
Jim Moody, Wis.

MINORITY MEMBERS

John J. Duncan, Tenn,
Ranking Minority Member

Bill Archer, Tex.
Guy Vander Jagt, Mich
Philip M. Crane, Il.
Bill Frenzel, Minn.
Richard T. Schulze, Pa.
Willis D. Gradison, Jr. Ohio
William M. Thomas, Calif.
Raymond J. McGrath, N.Y.
Hal Daub, Neb.
Judd Gregg, N.H.
Hank Brown, Colo.
Rod Chandler, Wash.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: Urging Congress to restore the BRU: Division of Business Development
exemption from federal excise tax/certain diesel fuel users
 Sponsor: House Resource Committee Components: _____
 Requester: House Resource Committee

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Larry Mercurieff, Director
 Division: Business Development

Phone: 465-2017
 Date: March 8, 1988

Approved by Commissioner: J. Anthony Smith
 Agency: Department of Commerce and Economic Development

Date: March 8, 1988

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

MEMORANDUM

TO: Representative Adelheid Herrmann
Co-Chair, House Resources Committee

FROM: Deborah L. Greenberg
Professional Assistant

DATE: March 8, 1988

SUBJECT: Purpose of HJR 68/Diesel Fuel Tax

As I understand it, "HJR 68 Urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users" does the following:

- 1) There used to be a federal tax-exemption for off-road users when they purchased diesel fuel. (This applied to commercial fishermen, timber, mining, and other operators).
- 2) When the operators bought diesel they didn't pay the tax.
- 3) Effective April 1, 1988 the federal government is requiring that these operators pay the tax, and then file paperwork to get a refund.
- 4) Many fishermen and others are upset because they say it will increase their costs of doing business to have to go through record keeping and paperwork of filing an exemption.
- 5) So the resolution is asking that it goes back to the way it was where they don't pay the tax at the pump.

DATE: 3/9/88

The Resources Committee has considered HJR 68
Urging Congress to restore the exemption from the federal excise tax on
taxable fuels for certain diesel fuel users.

RECOMMENDS:

- replace with CS Res the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Adelheid Herrmann
Jan Gots
Dink Shuts
Cliff Davidson
James L. Grand
[Signature]

Adelheid Herrmann
 Chairman's signature

0985D-4/030888a




STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Box V, Juneau, Alaska 99811
(907) 465-2487 • 465-2478

REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

MEMORANDUM

TO: Members of the Resources Committee
FROM: Representative Davidson 
DATE: March 1, 1988
SUBJECT: Committee legislation

I ask your support in passing a resolution by the Resources Committee.

This resolution requests Congress to preserve the way they collect the fifteen cent per gallon federal excise tax on diesel fuel.

Under legislation passed last December, tax exempt categories must first pay the tax, and apply for a refund later. Under current practice, these tax exempt categories do not pay the tax at all.

While still technically exempt, the way the federal government will collect this tax unnecessarily raises the cost of doing business for many Alaskans. It will restrict their cash flow, increase paperwork and is essentially an interest free loan to the government.

This resolution asks Congress to reinstate the current practice and repeal the proposed changes, which take effect April 1, 1988.