

HJR

68



## NATIONAL FISHERIES INSTITUTE, INC.

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

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- o The up-front exemption from federal excise taxes will be repealed for diesel fuel purchased by fishery vessels.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.

SENATE COMMITTEE REPORT

FURTHER

FINANCE

3/14/88

DATE TURNED INTO OFFICE 3/31/88

Mr. President:

Transportation Committee considered CSHJR 68 (TRSP)

Urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users

and recommended

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[ ] do pass

[ ] do not pass

[ ] no recommendation

individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee  attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or  previous

[ ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten signature]*  
Chairman signature and recommendation

[ ] Committee Backup attached



# STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

## M E M O R A N D U M

TO: Senator Lloyd Jones  
Chairman, Senate Transportation Committee

FROM: Representative Cliff Davidson

DATE: March 14, 1988

SUBJECT: House Joint Resolution 68

Today in the Senate, House Joint Resolution 68 was assigned the Transportation and Finance Committees.

This resolution requests Congress to preserve the diesel fuel tax-exemption for "off-road" vehicles and fishing vessels. Under legislation passed last December, Congress mandated an across-the-board tax collection.

This requirement would hurt Alaskan fishermen, miners, farmers or any person in Alaska who relies on the tax-free sale of diesel fuel to operate.

Starting next month, these tax-exempt categories must pay the tax upfront. Refunds would not be available until the end of the year.

Because this requirement becomes effective April 1, it is urgent this resolution be considered at your earliest possible convenience.

Thank you.

# Alaska State Legislature

## House of Representatives

### Committee on Transportation

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858



Rep. Bette Cato, Chairman

March 9, 1988

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#### COMMITTEE CALENDAR:

HB 448: "An Act relating to outdoor political advertising."

HJR 68: Urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users.

An Overview by the Commonwealth North Railroad Committee

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on HB 448 that includes:

- item #1: HB 448
- #2: a statement from Rep. Frank
- #3: a sectional analysis
- #4: a proposed amendment
- #5: information re political signs
- #6: required form for filing candidacy
- #7: statutes
- #8: position paper - Division of Elections
- #9: fiscal note & position paper - DOT/PF

a folder on HJR 68 that includes:

- item #1: HJR 68
- #2: fiscal note - Depart. of Comm. & Economic Dev.
- #3: statement from Rep. Davidson
- #4: tax alert from National Fisheries Institute
- #5: Omnibus Reconciliation Act - an excerpt
- #6: House Congressional Record - an excerpt
- #7: letters of support
- #8: newspaper articles
- #9: press release from Rep. Don Young



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## M E M O R A N D U M

TO: Representative <sup>Bette</sup> Bette Cato, Chair  
House Transportation Committee

FROM: Representative Cliff Davidson <sup>Davidson</sup>

DATE: March 2, 1988 <sup>Davidson</sup>

SUBJECT: House Joint Resolution 68 by the Resources Committee

Enclosed is a copy of House Joint Resolution 68, which was introduced today and assigned the Resources and Transportation Committees.

It will be heard on Wednesday, March 9 in the Resources Committee. May I request a hearing on this piece of legislation as soon as possible pending referral? There is a rush on getting HJR 68 to Congress before April 1, 1988.

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 then 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.

Thank you for your support.

MOEN

100TH CONGRESS  
1st Session

HOUSE OF REPRESENTATIVES

REPORT  
100-495

*Fuel Tax Report Language.*

OMNIBUS BUDGET RECONCILIATION ACT  
OF 1987

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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 c sales to

#### *Present law*

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

#### *House bill*

The excise tax on taxable fuel, taxable special fuels, and nongasoline taxed on sale of the fuels to any

Taxable special fuels include: (line or diesel fuel) that are sold to a motorboat. Nongasoline: which tax would be imposed if commercial aviation.

Collection of the excise tax by wholesale dealers is made mandatory under present law permitting tax-exemptions are repealed.

Any taxable fuel that is held in stock is subject to a floor stock tax in addition to that fuel.

The provision is effective on

#### *Senate amendment*

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

The Treasury Department is required to make refunds of line fuels excise taxes. In addition, the Treasury Department must acquire information reporting on the distribution chain of these fuels to prevent evasion of the tax.

The Senate amendment also requires that revenues raised by the floor stock tax be deposited in the Highway Trust Fund or the L (LOST) Trust Fund.

The provision is effective on

#### *Conference agreement*

The conference agreement follows the Senate amendment, but it exempts the tax on special motor fuels from the floor stock tax. In the case of the tax on special motor fuels, tax technically is imposed on a taxable fuel by the producer, but the conference agreement is amended, however, to include wholesale and immediate persons in the chain of distribution who are producers of

axes to \$750,000, (5) imposes holding period and the ESOP, (6) prohibits securities acquired with assets transferred by employer, and (7) imposes certain requirements for a failure 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. The ESOP holding period requirements which for this purpose includes amendments 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 ESOP holding period requirement generally applies to the ESOP after February 26, 1987, for which a deduc-

follows the House bill.

#### TAXES; USER FEES

##### EXCISE TAXES

Excise tax: 3-year extension

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

Excise tax: present 3-percent telephone excise tax expires December 31, 1990.

Excise tax: same as the House bill.

Excise tax: follows 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.<sup>3</sup> 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

<sup>3</sup> 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. 422(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 I on such advances.

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

#### *House bill*

No provision.

#### *Senate amendment*

The Senate amendment extends present-law coal excise tax rate from (1) January 1, 2014 or (2) the date of the termination of the trust fund (as defined under the present law) (whichever is later). The extension of the termination date of the coal excise tax rate is effective from January 1, 2014, 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 in the Highway Trust Fund. Receipts from excise taxes on motor fuels are used to finance expenditures which are authorized from the Highway Trust Fund. Exemptions from the tax on motor fuels, including buses and certain private school buses and certain private school organizations.

Private bus operators are exempt from the 9-cents-per-gallon tax on special motor fuels. Qualified local government buses receive a 12-cents-per-gallon tax on 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 operators. This repeal does not affect tax on privately owned and operated mass transit buses. This provision is effective on January 1, 1988.

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

"(d) ORDERING RULES.—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(c)(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 4978(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 28, 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, compounder, 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

\*\*\* Indentation wrong in copy on this sentence.

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

**(b)(1) 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:

"(1) 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) Subparagraph (B) of section 6427(c)(1) is amended by inserting "or 4091" after "section 4041".

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

"(f) GASOLINE, DIESEL FUEL AND AVIATION FUEL USED TO<sup>14</sup> 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)—

"(1) 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.

"(2) 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 4081(c)(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 (1) 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(c)(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 \$500,000.00 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(c), 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 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 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 6416 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(l) 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 4041(c)(4) of such Code).

(8) 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".<sup>116</sup>

SEC. 1050L. 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. 1051I. 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. 1051J. 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:

<sup>116</sup> Copy read "taxable fuel".

<sup>117</sup> Copy read "1991, and".



# 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

*Letter*



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

# Omnibus Budget Reconciliation Act

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## 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

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## Omnibus Reconciliation Act

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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.<sup>1</sup> 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-1986 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

<sup>1</sup> 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 fuel for use under present law (sec. 431(a)(4)). The members are aware of a repeal of automatic tax-free sales of these fuels to States and local governments only, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general approval 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 members 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.



ALASKA FACTORY TRAWLER ASSOCIATION

4009 21ST AVE. WEST, SUITE 400  
SEATTLE, WASHINGTON 98199  
(206) 286-6139

TELEFAX 206-285-1841  
TELEX 6106012606, 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.

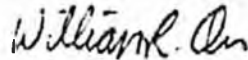
At a time when prices for our products have declined and other operating costs have increased, many operators cannot afford this additional drain to their cash flow.

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  
Director, Government Affairs



ALASKA FACTORY TRAWLER ASSOCIATION  
4000 21ST AVE. WEST, SUITE 400  
SEATTLE, WASHINGTON 98199  
(206) 266-5139  
TELEFAX: 206-266-1841  
TELEX: 8106012668, 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

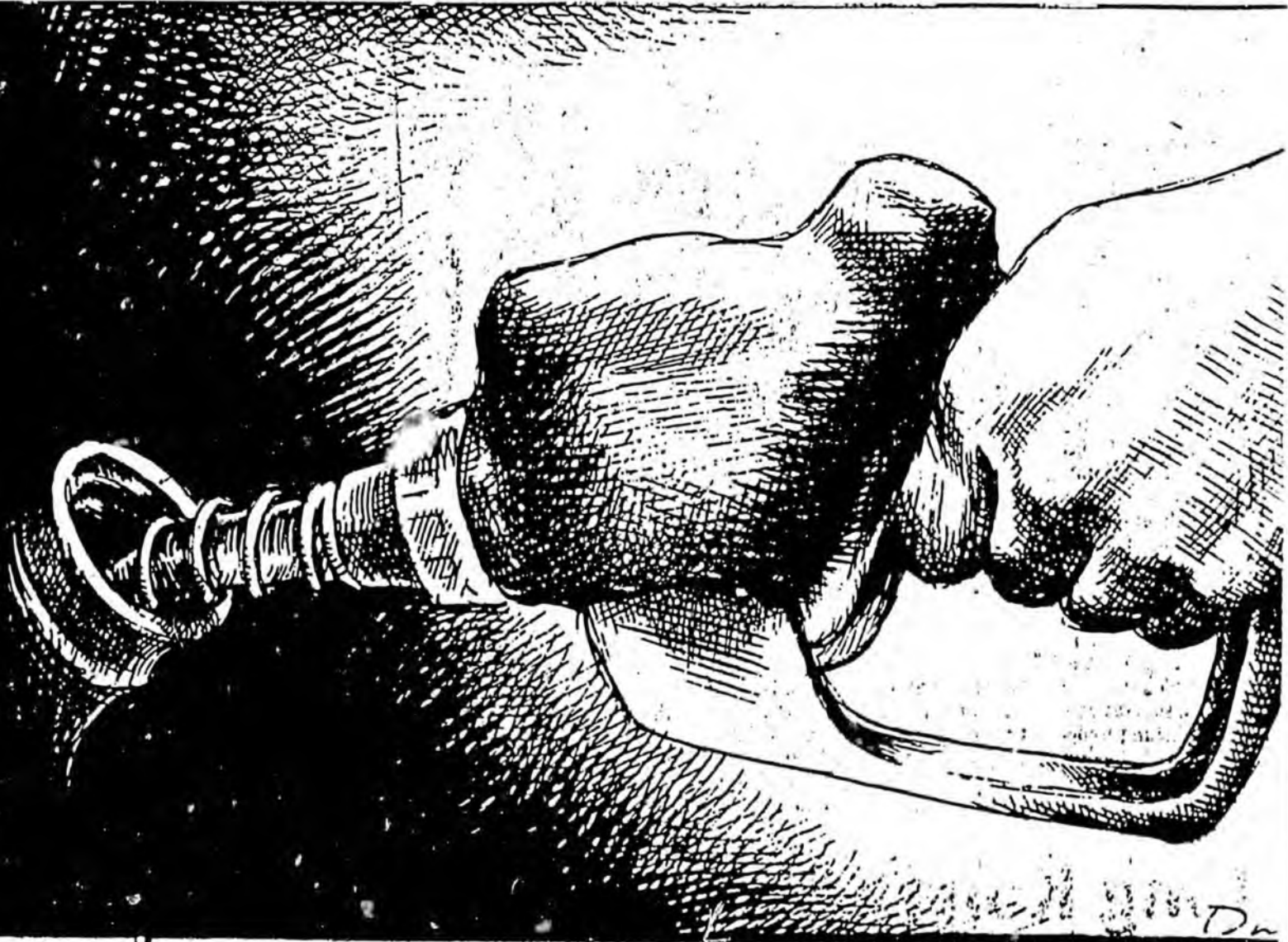
#### Factory Trawlers larger than 250 feet

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.)

# 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 Daniel R. Sadtler  
Times Business 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 9.1-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 both 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 Dragger's Association and owner of two Bering Sea draggers, 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 the 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.

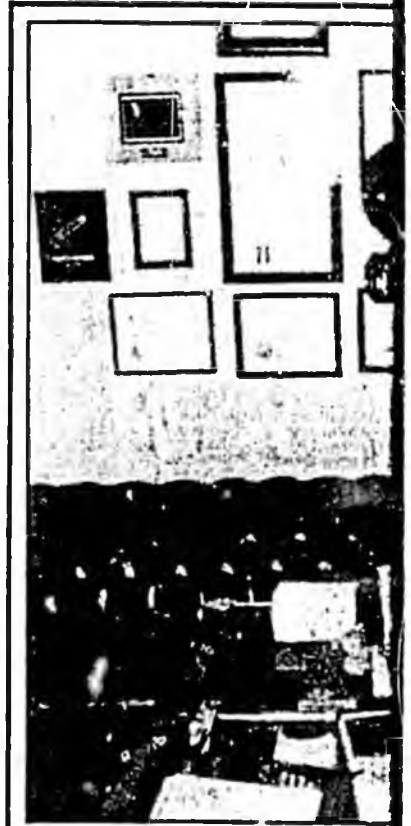
Burch, who spends \$100,000 per year on diesel fuel for his two boats, said accountants will make sure he and other large operators file for tax refunds. "Fishermen, like a lot of businessmen, are undercapitalized, and they'll be caught by having to pay for it up front," Ramaglia said. "They'll have 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 draggers' association to write protest letters to the state's congressmen, and Ramaglia said he is encouraging his customers to do the same.



## Security measures

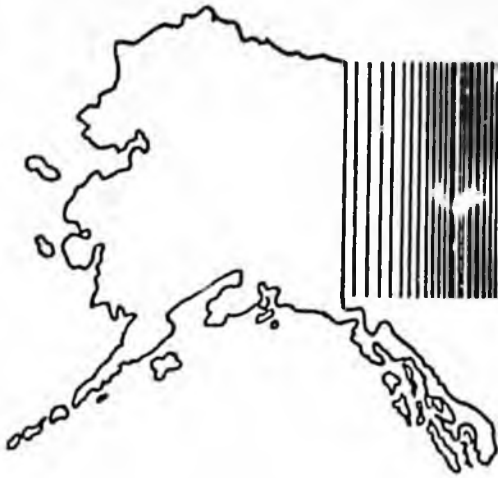
Philip W. Little, president of infrared spotting scope. The tries to do for private comparison Service does for the president.

## 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 people out of work.

In a response, Chrysler said a review of the suit indicated it was without merit.

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



# 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.).

# Congressional Delegation Respond to Lindsay; Work to Fix Fuel Tax

3/10/88 AG

Since Dale Lindsay, president of Harbor Enterprises, issued his "tax alert" warning users of marine fuel that they will have to front the federal government \$16 a gallon for marine diesel beginning April 1, there has been some action in Washington D.C. by the members of Alaska's congressional delegation.

Congressman Young is co-sponsor of HB 3865, which basically throws out the new fuel tax -- passed by Congress in its waning minutes last December. Senator Ted Stevens is in the process of drafting a similar bill, to be introduced in the Senate as soon as it's ready. And Senator Frank Murkowski is working with the Internal Revenue Service, trying to straighten out some of the technicalities of the bill as passed with the goal of preventing its impacts from falling on Alaskans.

No one in the congressional delegation is optimistic, however, that anything can be done before April 1. Lindsay had hoped that, at least, the IRS could be persuaded to delay its implementation of the new law for sixty days beyond April 1 to allow investigation of its adverse impacts on Alaskan users of marine diesel fuel. According to Senator Stevens, such a delay is highly unlikely. He said the IRS believes the situation with the new law is trying to deal with involves large numbers of flagrant abusers, and it is eager to stem the loss of tax revenues.

The new tax is \$151 of tax per gallon on "any liquid suitable for use as a fuel in a diesel highway vehicle or a diesel powered train." The IRS believes that, at present, people are buying marine (or agricultural or timber) fuel, which is tax exempt, and converting it for use on the road. The IRS wants, and the new law requires, wholesalers to pay the tax upfront. Then, if they can prove the fuel was actually used for marine (or agricultural or timber industry) purposes, they can get their money back in the form of tax credits on other taxes they do pay.

Such taxes are passed along all the way to the pump. That means that anyone who buys marine fuel and uses it for marine purposes is going to pay 15¢ a gallon more for it beginning April 1.

Vessel owners/operators -- ultimately the tax payers -- can get their money back by deducting the amount of the tax

they have paid from their federal income taxes. Or they can undertake extensive paperwork, post a bond, and become exempt from paying the tax as they purchase fuel.

Lindsay says such procedures are burdensome for people who shouldn't really be affected by the tax at all, and unfair as well.

What it amounts to, according to Lindsay, is small businesspeople being required to make interest-free loans to the U.S. government, with a corresponding rise in their costs. Furthermore, says Lindsay, the added cost will have the additional effect of causing fishermen to buy their fuel from tankers on the high seas, where they neither have to pay the higher costs nor undertake the paperwork to get their money back later.

Lindsay became aware of the new tax about a month ago when the IRS notified him and his company about having to collect it. The president of Harbor Enterprises, which does business in Dutch Harbor, Kodiak, Nikolski and Seward and villages around Kodiak island and the west Peninsula as Petro Marine, immediately asked Senators Stevens and Murkowski and Congressman Young to get to work to amend the bill so that marine users are clearly unaffected, and therefore neither have to pay the tax, apply for refunds, nor post bond to become exempt.

In commenting on the unlikelihood of the IRS's being willing to postpone implementation of the new law as Lindsay had hoped, Senator Stevens said he thinks "we'll have to live with the law for this year. It's very important for everyone to keep good records of paying the tax so they'll be able to get their money back."

## Fishermen face 20-cent fuel cost rise

By KAREN DURR  
Staff Writer

Between the state and the federal governments, commercial fishermen can expect to pay 20 cents more per gallon of diesel fuel.

Late last year, the state dropped its nickel-a-gallon rebate on its marine fuel tax for vessels that burn the fuel more than three miles offshore, outside Alaska's territorial limit.

And now the federal government apparently is going to change the way its 15 cents per gallon diesel fuel tax is collected, eliminating the exemption commercial fishermen had enjoyed along with farmers, freight vessels, tug boats and state and local governments.

Instead of charging wholesale fuel merchants the tax when they purchase fuel from refineries, now the tax will be col-

lected across the board at the pumps.

The new collection method came to the attention of City Councilman Jim Ramaglia, who also owns Kodiak Oil Sales.

Ramaglia brought up the information at Council Committee meetings during Thursday night's meeting, saying when the exemptions are dropped on April 1, "the impact will be quite tremendous."

Noting that some fishermen are on the borderline between profit and ruin, he said the increase in tax and the elimination of the state rebate "will be terrific pressure that could knock some guys out of business."

Although he says he is having difficulty in pinpointing details on the matter from the Internal Revenue Service, Ramaglia says he is concerned

about the impact the fuel tax changes will have on coastal communities. Instead of coming in to buy fuel, vessels will rendezvous with tanker vessels off shore and avoid paying the state tax, as well as spending money for other items while in port.

A federal rebate program will refund the fuel tax, but he says he understands the refund won't be money in anyone's pocket, but a credit on federal income tax.

A similar change in how a 9 cent per gallon tax on gasoline is collected went into effect Jan. 1, Ramaglia says.

"I think it's real important we contact our Congressional representatives and let them know loud and clear that it's going to be hard on the economy of Alaska and every other state in the union," he says.

# Tax exemption change hurts new fisheries

2/17/88 KOM  
By SUZANNE HANCOCK  
Staff Writer

A \$9 billion revenue enhancement package has a hidden price tag in it for Alaskan fishermen and others who use diesel fuel, special fuels and aviation fuel.

The package is part of the overall budget reconciliation.

Fishermen will still be exempt from the 15 cent Federal Excise Tax, but instead of enjoying this exemption up front, exempt users will have to pay the tax and be reimbursed later.

Marketers such as Kodiak Oil Sales/North Pacific Fuel's Jim Ramaglia are not looking forward to the change for themselves and their clients. The marketer has to pay the tax collected within two weeks of the sales which will add to paperwork and the cost of doing business.

Ramaglia figures that this added expense will kill marginal and pioneer fisheries. Worse than that, Ramaglia sees the added expense as being life threatening because rather than putting money into repairs and equipment, it will be paying for fuel.

If a business is exempt from the tax, it is entitled to a refund. The tax is for road maintenance and only road-use diesel is taxed. But the tax is collected by the Internal Revenue Service and application for the exemption must be made to it.

Users that the type of tax is put out on audits and following exemptions

and making decisions. He also says that it is possible a refund will be a long time coming, especially at first while the new system gets put into motion.

Fishing, marine transportation, and some other areas unrelated to road use will be considered tax exempt and must follow these rules to get a refund:

- if a business or individual pays more than \$1,000 in one calendar quarter, they can apply for a refund at the end of the quarter. This is the tax on approximately 6,700 gallons.

- if a business or individual pays less than \$1,000 in a quarter, they must wait until the end of the year to apply.

- a business or individual may not combine two quarters to come up with the \$1,000 in order to apply before the end of the year.

The law has been passed and now the IRS is writing regulations to implement it. It goes into effect April 1. According to Ramaglia, the IRS says the law has been laid down by Congress and all they will be doing is enforcing it. Marilyn Steen, spokesperson for the IRS, said the refund could be applied against other taxes owed the IRS.

In order to change things now, Congress has to revise the law. Ramaglia suggests that individuals write our representatives in Washington, D.C. about their concerns.

"American industry depends on diesel," said Ramaglia. "In general a Senator or Congressman equates one handwritten letter to 400 persons concerned with an issue."

Ramaglia says that personal comments are more important than just signing a petition or having a fishing association do all the work. When an individual writes, they receive a response.

Our Congressional delegation is:

- 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

News article - Tax exemption change

## Diesel users' complaints force new fuel tax ideas

*Would affect oil drillers, loggers, farmers, fishers*

WASHINGTON (AP) - The Senate Finance Committee, flooded by complaints from farmers, fishermen and mining companies, voted Monday to allow some sales of diesel fuel without the payment of tax.

The relief would be financed by doubling the tax on gas-guzzling cars and closing a loophole that has allowed a handful of distilleries to dodge part of the liquor tax by watering down some of their booze.

Because of the drive to reduce the budget deficit, farmers and others who buy diesel for off-road use may not get their relief until Oct. 1. Unless some bookkeeping trick can be found quickly, they will have to pay the 15.1-cent-a-gallon tax and then apply for a refund when they file their income tax returns next year.

The committee is restrained by an agreement between Congress and the

Reagan administration which requires that each dollar of tax relief be offset by a dollar of tax increase.

**Pay, then ask refund**

As part of the deficit-reduction law passed last December, farmers and other off-the-road diesel users are required to pay the tax, beginning April 1, and then apply for a refund. Congress found there had been a considerable amount of evasion because of the difficulty in policing so many retail outlets. The new law requires the tax be collected by wholesalers or producers.

Farmers accused the government of trying to balance the budget on their backs, contending there is no reason that Washington should have interest-free use of their money - an average of about \$320 per farmer per year - for as much as 12 months. Similar complaints have come from timber companies, mine operators, fishermen and oil drillers.

The Finance Committee put together this package, which is subject to approval in the Senate and House:

-To allow all diesel bought for any off-road use from wholesalers to escape the tax altogether. Tax-

exempt buyers of off-road diesel from retailers would have to pay the tax and get a refund next year. This would cost the government \$543 million through 1993.

-To approve a "taxpayer bill of rights," which would clamp down on what are perceived to be abuses of taxpayers by the Internal Revenue Service. This would lose \$517 million over five years, due chiefly to a drop in compliance.

**Holding back refunds**

-To extend through June 30, 1989, the expiring authority for the IRS to withhold tax refunds from people who owe student loans, farm loans and other federal debts. This would raise about \$400 million.

-To double the tax on new cars whose fuel efficiency does not meet federal standards, raising \$375 million through 1993.

-To limit use of a "wine flavors credit" under which some manufacturers of distilled spirits avoid a significant share of the \$12.50-a-gallon liquor tax by mixing some products with a grape-based alcohol. This is expected to raise \$360 million over five years.

*News article - Diesel users' complaints*

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHJR 68(RES)  
PUBLISH DATE: HOUSE 3/9/88

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-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

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 Phone: 465-2017  
Division: Business Development Date: March 8, 1988  
Approved by Commissioner: J. Anthony Smith Date: March 8, 1988  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

MEMORANDUM

TO: Lloyd  
FROM: Ray  
DATE: 3/14/88  
SUBJECT: HJR 68

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This resolution has just come into committee, and Rep. Davidson requests that it be heard next week.

Apparently Federal Law that was passed last year will repeal the diesel fuel tax exemption for off road use. This includes fishing vessels, and any off road user of diesel fuel. This resolution asks the Alaska Congressional Delegation to sponsor legislation to repeal this portion of the law and allow the exemption to continue. Under the new law, users of the fuel would still get the exemption, but they would first pay the tax up front and then get a refund at the end of the year.

The law goes into effect April 1, 1988, so if we want the resolution to be effective it will need to be passed soon. It has a Finance referral after our committee. The resolution was introduced in the House on March 2, 1988.

neers from across the country with the same problem.

Now Peratrovich holds a position on the board of directors of a new insurance firm set up to exclusively cater to his industry. The move has sliced his insurance bill by two-thirds.

The new firm, Architects and Engineers Insurance Company (AEIC), was made possible by the Risk Retention Act of 1986, which allowed self-insurance. Peratrovich said, that as far as he knew, AEIC is one of the first of its kind.

Bar associations are another working to get their own insurance firm, banking reportedly already has its own company and the Alaska Municipal League is also looking into the prospect.

Just eight months after an informal organizational meeting last May, the company obtained its conditional license Jan. 2. AEIC operates under

try. The corporate office in Chicago fields 20 to 30 calls a day on the average, he says.

"We're in it together to solve a problem," Peratrovich said. "Even the thousands we've spent (to develop the company) are still a savings."

Peratrovich said most A/E firms that have had an insurance problem have heard of the new company.

The firm, with a man by the name of Roy Vince at the helm, intends to capture one-tenth of the market. To succeed, the company institutes a thorough screening process before allowing a firm to join and buy its products.

It sells professional liability insurance which could be termed the malpractice insurance of engineering and architecture.

Peratrovich's association with the

See SELF, Page 24

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## Withdrawal of non-roadway users fuel tax exemption would hurt fish, timber and ag

By IMRE NEMETH (m:ta)

The probable intent of legislation stuck in 1987's year-end budget reconciliation bill agreed to by the White House and Congress was probably to save the country money by enforcing greater control over fuel taxes.

Jim Ramaglia calls the actual result a free loan to the government that could put many in the fishing, timber and agricultural industries out of business.

The dispute concerns a measure that would disallow current exemption of the 18-cent-per-gallon tax by industries not using the roadways. If instituted, wholesalers would have to charge their patrons the added tax after April 15.

Under the new law, those businesses holding an exemption in the past would be able to apply for a refund at the end of the year.

"When people have to pay this tax, that means they are going to have to extend maintenance schedules, put off replacement of parts and worn out equipment," Ramaglia said. "In the commercial fishing industry, this might mean delaying the purchase or repair of life saving equipment such as survival suits or life rafts. I'm sure a similar situation exists in other industries such as farming and logging."

Ramaglia has reason to be concerned. As vice president and man-

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## Journal increases its tax lien coverage

The Alaska Journal of Commerce has made a major addition to its "On The Record" coverage with state and federal tax lien and lien release filings from Alaska's First Judicial District (Southeast).

"We've carried tax lien and lien release coverage for many years from the Second (Fairbanks and Interior) and Third (Anchorage, MatSu, Kenna Peninsula, Kodiak Island and Aleutian Chain) Judicial Districts and we just recently began carrying the filings for the Fourth Judicial District (Barrow, Northwest Alaska, Nome)," said AJC Publisher Jim Martin. "Now our coverage of state and federal tax liens is statewide."

"Following the liens" has always been an important tool for credit-wise companies, even in the best of

economic times, Martin said, "and in a tough economic environment, it can be crucial."

"Should the IRS or state departments of Revenue or Labor place a tax lien against one of your customers, you should definitely reassess your relationship with that customer," Martin said. "In fact, some CPAs suggest putting that customer on a cash-up-front basis until you can be assured of the economic viability of that business."

A lien is one of the first pieces of hard evidence that a company may be in serious financial trouble. "Catching early signs early will increase your chances of either collecting an outstanding debt or protecting yourself on new orders from an possibly insolvent customer."

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For Heather Bradner

# • Exemption loss "throws wrench at the little guy"

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ager of Kodiak Oil Sales, Inc., in Kodiak, he's the one who must levy the tax. It's a job he doesn't really care for.

Since learning of the measure in an industry weekly review two months ago, the fuel distributor has organized fishermen on his island and made waves in Washington D.C.

"A bill has come about in the last couple of weeks to address the issue," said Steve Bolderjack, staff attorney at Rep. Don Young's Washington D.C. office. "It was introduced by a Congressman from Texas and already has 60 cosponsors."

Bolderjack said the change in the exemption process would affect a lot of people. The bill countering the eradication of the exemption (HR 3865) would preserve the prior practice, he said.

"If we can get any action before (April 15), I don't know," said the Congressional attorney. "It would be nice if we could get it through but

they're going to have to come up with a lot more support" to get it resolved in that short of time.

Bolderjack said Young himself had supported initial versions of the reconciliation package but refrained from voting yes on the final version because of amendments, like the tax issue, added right before passage.

Ramaglia said fuel costs for his fishermen (many of whom are already strapped for cash for whatever reason) will be pushed from 72 cents to 90 cents.

"Fuel is one of the single most expensive costs on a fishing boat," Ramaglia said. "And bottomfishing is very fuel intensive."

With more and more Alaska fishermen dragging large nets across the bottom of the ocean floor, their fuel costs have exceeded past usages. It could throw a wrench in a developing industry for the little guy, Ramaglia warns.

"For the fishing industry to put that money up front considering how much fuel they already buy could be a disaster," said Chris Blackburn, executive director of the Alaska Groundfish Data Bank.

Industry watcher Blackburn point-

ed out that none of the paperwork necessary for such an undertaking by the federal government appears to exist, nor do the forms for getting reimbursed toward year's end. She said Kodiak has been mobilized and many fishermen have contacted their associations spreading the word ever farther down the political channels.

One Anchorage petroleum distributor said that for the government to send that money back a whole new department would have to be set up

to handle the auditory processes necessary to keep everybody honest. It would cost more than they would save, he said.

The Kodiak distributor called everybody in his business in the state to warn them of the upcoming change in procedure. Of 10 he got ahold of, only three knew of the tax implementation, he said.

"I see it as having a real devastating effect on Alaska industry in general," he said.



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# • Self insurance

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venture began in April of last year when he received a letter in the mail. It informed him of a movement within his industry to start an insurance company run by and for engineers. As it turned out, Peratrovich knew the man responsible and decided to give him a call.

Together with a number of other senior partners of their own firms, some \$600,000 has been invested to get the new company going.

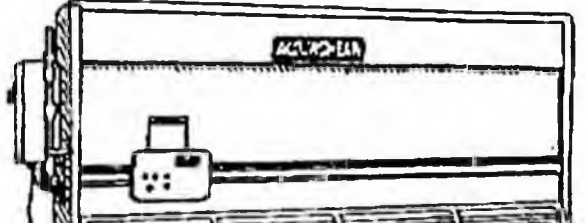
"Even the thousands we've spent are still a savings," Peratrovich said

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