

107TH CONGRESS
1ST SESSION

H. R. 3116

To amend the Internal Revenue Code of 1986 to eliminate tax subsidies
for ethanol fuel.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2001

Mr. BENTSEN introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to eliminate
tax subsidies for ethanol fuel.

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

3 **SECTION 1. ELIMINATION OF TAX SUBSIDIES FOR ETH-**

4 **ANOL FUEL.**

5 (a) **ELIMINATION OF CREDIT FOR ALCOHOL USED**

6 **AS FUEL.—**

7 (1) **IN GENERAL.—**Subpart D of part IV of

8 subchapter A of chapter 1 of the Internal Revenue

9 Code of 1986 is amended by striking section 40 (re-

10 lating to alcohol used as fuel).

1 (2) CLERICAL AND CONFORMING AMEND-
2 MENTS.—

3 (A) Subsection (b) of section 38 of such
4 Code (relating to general business credit) is
5 amended by striking paragraph (3) and by re-
6 designating paragraphs (4) through (15) as
7 paragraphs (3) through (14), respectively.

8 (B) Paragraph (3) of section 38(d) of such
9 Code (relating to credits no longer listed) is
10 amended by striking “and” at the end of sub-
11 paragraph (A), by striking the period at the
12 end of subparagraph (B) and inserting “, and”,
13 and by adding at the end the following new sub-
14 paragraph:

15 “(C) the credit allowable by section 40, as
16 in effect on the day before the date of the en-
17 actment of this subparagraph (relating to alco-
18 hol used as fuel) shall be treated as referred to
19 after the last paragraph of subsection (b) and
20 after any credits treated as referred to by rea-
21 son of subparagraph (A).”

22 (C) The table of sections for subpart D of
23 part IV of subchapter A of chapter 1 of such
24 Code is amended by striking the item relating
25 to section 40.

1 (D)(i) Part II of subchapter B of chapter
2 1 of such Code is amended by striking section
3 87 (relating to alcohol fuel credit).

4 (ii) The table of sections for part II of sub-
5 chapter B of chapter 1 of such Code is amend-
6 ed by striking the item relating to section 87.

7 (iii) Subsection (a) of section 56 of such
8 Code (relating to adjustments in computing al-
9 ternative minimum taxable income) is amended
10 by striking paragraph (7) (relating to section
11 87 not applicable).

12 (E) Subsection (c) of section 196 of such
13 Code (relating to qualified business credits) is
14 amended by striking paragraph (3) and redesign-
15 ating paragraphs (4) through (10) as para-
16 graphs (3) through (9), respectively.

17 (F) Section 6501(m) of such Code (relat-
18 ing to deficiencies attributable to election of
19 certain credits) is amended by striking “40(f),”.

20 (b) REDUCTIONS OF OTHER INCENTIVES FOR ETH-
21 ANOL FUEL.—

22 (1) REPEAL OF REDUCED RATE ON ETHANOL
23 FUEL NOT PRODUCED FROM PETROLEUM OR NAT-
24 URAL GAS.—Subsection (b) of section 4041 of such
25 Code is amended to read as follows:

1 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
2 USE.—

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

6 “(2) TAX WHERE OTHER USE.—If a liquid on
7 which no tax was imposed by reason of paragraph
8 (1) is used otherwise than in an off-highway busi-
9 ness use, a tax shall be imposed by paragraph
10 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
11 (whichever is appropriate) and by the corresponding
12 provision of subsection (d)(1) (if any).

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

19 (2) REPEAL OF REDUCED RATE ON ETHANOL
20 FUEL PRODUCED FROM NATURAL GAS.—

21 (A) Paragraph (1) of section 4041(m) of
22 such Code is amended by striking “or ethanol”
23 in the material preceding subparagraph (A).

24 (B) Clause (i) of section 4041(m)(1)(A) of
25 such Code is amended by striking “2005—”

1 and all that follows and inserting “2005, 9.15
2 cents per gallon, and”.

3 (C) Clause (ii) of section 4041(m)(1)(A) of
4 such Code is amended by striking “2005—”
5 and all that follows and inserting “2005, 2.15
6 cents per gallon, and”.

7 (D) Paragraph (2) of section 4041(m) of
8 such Code is amended—

9 (i) by striking “or ethanol” each place
10 it appears in the heading and text,

11 (ii) by striking “, ethanol,” and

12 (iii) by inserting “(other than eth-
13 anol)” after “alcohol”.

14 (c) TAX OF FUEL ALCOHOL TO SAME EXTENT AS
15 OTHER MOTOR FUELS.—

16 (1) TREATMENT AS TAXABLE FUEL.—Para-
17 graph (1) of section 4083(a) of such Code (defining
18 taxable fuel) is amended by striking “and” at the
19 end of subparagraph (B), by striking the period at
20 the end of subparagraph (C) and inserting “, and”,
21 and by adding at the end the following:

22 “(D) fuel alcohol.”

23 (2) DEFINITION OF FUEL ALCOHOL.—Sub-
24 section (a) of section 4083 of such Code is amended
25 by adding at the end the following new paragraph:

1 “(4) FUEL ALCOHOL.—The term ‘fuel alcohol’
2 means any alcohol (including ethanol and meth-
3 anol)—

4 “(A) which is produced other than from
5 petroleum, natural gas, or coal (including peat),
6 and

7 “(B) which is withdrawn from the distillery
8 where produced free of tax under chapter 51 by
9 reason of section 5181 or so much of section
10 5214(a)(1) as relates to fuel use.”

11 (3) RATE OF TAX.—Clause (i) of section
12 4081(a)(2)(A) of such Code is amended by striking
13 “(other than aviation gasoline)” and inserting
14 “(other than aviation gasoline) and fuel alcohol”.

15 (4) SPECIAL RULES FOR IMPOSITION OF TAX.—
16 Paragraph (1) of section 4081(a) of such Code is
17 amended by adding at the end the following new
18 subparagraph:

19 “(C) SPECIAL RULES FOR FUEL ALCO-
20 HOL.—In the case of fuel alcohol—

21 “(i) the distillery where produced shall
22 be treated as a refinery, and

23 “(ii) subparagraph (B) shall be ap-
24 plied by including transfers by truck or rail

1 in excess of such minimum quantities as
2 the Secretary shall prescribe.”

3 (5) REPEAL OF REDUCED RATES ON ALCOHOL
4 FUELS.—

5 (A) Section 4041 of such Code is amended
6 by striking subsection (k).

7 (B) Section 4081 of such Code is amended
8 by striking subsection (c).

9 (C) Section 4091 of such Code is amended
10 by striking subsection (c).

11 (6) CONFORMING AMENDMENTS.—

12 (A) Subparagraph (A) of section
13 4041(a)(2) of such Code is amended—

14 (i) by inserting “other than fuel alco-
15 hol” after “any product”, and

16 (ii) by adding at the end the following
17 flush sentence:

18 “No tax shall be imposed by this paragraph on
19 the sale or use of any fuel alcohol if tax was im-
20 posed on such alcohol under section 4081 and
21 the tax thereon was not credited or refunded.”

22 (B) Section 6427 of such Code is amended
23 by striking subsection (f).

24 (C) Subsection (i) of section 6427 of such
25 Code is amended by striking paragraph (3).

1 (D) Paragraph (2) of section 6427(k) of
2 such Code is amended by striking “(3),”.

3 (E)(i) Paragraph (1) of section 6427(l) of
4 such Code is amended by striking “or” at the
5 end of subparagraph (A), by redesignating sub-
6 paragraph (B) as subparagraph (C), and by in-
7 serting after subparagraph (A) the following
8 new subparagraph:

9 “(B) any fuel alcohol (as defined in section
10 4083) on which tax has been imposed by sec-
11 tion 4041 or 4081, or”.

12 (ii) Paragraph (2) of section 6427(l) of
13 such Code is amended by striking “and” at the
14 end of subparagraph (A), by redesignating sub-
15 paragraph (B) as subparagraph (C), and by in-
16 serting after subparagraph (A) the following
17 new subparagraph:

18 “(B) in the case of fuel alcohol (as so de-
19 fined), any use which is exempt from the tax
20 imposed by section 4041(a)(2) other than by
21 reason of a prior imposition of tax, and”.

22 (iii) The heading of subsection (l) of sec-
23 tion 6427 of such Code is amended by inserting
24 “, FUEL ALCOHOL,” after “KEROSENE”.

1 (F) Sections 9503(b)(1)(D) and
2 9508(b)(2) of such Code are each amended by
3 striking “and kerosene” and inserting “ker-
4 osene, and fuel alcohol”.

5 (G) Subsection (e) of section 9502 of such
6 Code is amended by striking paragraph (2).

7 (H) Paragraph (4) of section 9503(b) of
8 such Code is amended by adding “and” at the
9 end of subparagraph (C), by striking the
10 comma at the end of subparagraph (D) and in-
11 serting a period, and by striking subparagraphs
12 (E) and (F).

13 (I) Subsection (b) of section 9503 of such
14 Code is amended by striking paragraph (5) and
15 by redesignating paragraph (6) as paragraph
16 (5).

17 (d) EFFECTIVE DATES.—

18 (1) GENERAL RULE.—Except as provided in
19 paragraph (2), the amendments made by this section
20 shall take effect on the date of the enactment of this
21 Act.

22 (2) ELIMINATION OF SECTION 40 CREDIT.—The
23 amendments made by subsection (a) shall apply to
24 alcohol produced after the date of the enactment of
25 this Act.

1 (e) FLOOR STOCK TAXES.—

2 (1) IMPOSITION OF TAX.—In the case of fuel al-
3 cohol which is held on the date of the enactment of
4 this Act by any person, there is hereby imposed a
5 floor stocks tax of 18.4 cents per gallon.

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

8 (A) LIABILITY FOR TAX.—A person hold-
9 ing fuel alcohol on the date of the enactment of
10 this Act to which the tax imposed by paragraph
11 (1) applies shall be liable for such tax.

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

15 (C) TIME FOR PAYMENT.—The tax im-
16 posed by paragraph (1) shall be paid on or be-
17 fore the date which is 6 months after the date
18 of the enactment of this Act.

19 (3) DEFINITIONS.—For purposes of this
20 subsection—

21 (A) FUEL ALCOHOL.—The term “fuel alco-
22 hol” has the meaning given such term by sec-
23 tion 4083 of the Internal Revenue Code of
24 1986, as amended by this section.

1 (B) HELD BY A PERSON.—Fuel alcohol
2 shall be considered as “held by a person” if
3 title thereto has passed to such person (whether
4 or not delivery to the person has been made).

5 (C) SECRETARY.—The term “Secretary”
6 means the Secretary of the Treasury or his del-
7 egate.

8 (4) EXCEPTION FOR EXEMPT USES.—The tax
9 imposed by paragraph (1) shall not apply to fuel al-
10 cohol held by any person exclusively for any use to
11 the extent a credit or refund of the tax imposed by
12 section 4081 of the Internal Revenue Code of 1986
13 is allowable for such use.

14 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
15 TANK.—No tax shall be imposed by paragraph (1)
16 on fuel alcohol held in the tank of a motor vehicle
17 or motorboat.

18 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
19 FUEL.—

20 (A) IN GENERAL.—No tax shall be im-
21 posed by paragraph (1) on fuel alcohol held on
22 the date of the enactment of this Act by any
23 person if the aggregate amount of fuel alcohol
24 held by such person on such date does not ex-
25 ceed 2,000 gallons. The preceding sentence

1 shall apply only if such person submits to the
2 Secretary (at the time and in the manner re-
3 quired by the Secretary) such information as
4 the Secretary shall require for purposes of this
5 paragraph.

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

11 (C) CONTROLLED GROUPS.—For purposes
12 of this paragraph—

13 (i) CORPORATIONS.—

14 (I) IN GENERAL.—All persons
15 treated as a controlled group of cor-
16 porations shall be treated as 1 person.

17 (II) CONTROLLED GROUP OF
18 CORPORATIONS.—The term “con-
19 trolled group of corporations” has the
20 meaning given to such term by sub-
21 section (a) of section 1563 of such
22 Code; except that for such purposes
23 the phrase “more than 50 percent”
24 shall be substituted for the phrase “at

1 least 80 percent” each place it ap-
2 pears in such subsection.

3 (ii) NONINCORPORATED PERSONS
4 UNDER COMMON CONTROL.—Under regula-
5 tions prescribed by the Secretary, prin-
6 ciples similar to the principles of clause (i)
7 shall apply to a group of persons under
8 common control where 1 or more of such
9 persons is not a corporation.

10 (7) OTHER LAWS APPLICABLE.—All provisions
11 of law, including penalties, applicable with respect to
12 the taxes imposed by section 4081 of such Code
13 shall, insofar as applicable and not inconsistent with
14 the provisions of this subsection, apply with respect
15 to the floor stock taxes imposed by paragraph (1) to
16 the same extent as if such taxes were imposed by
17 such section 4081.

○