

EXEMPTION FROM FUEL AND AIRCRAFT USE EXCISE
TAXES FOR CERTAIN AIRCRAFT MUSEUMS

SEPTEMBER 28 (legislative day, SEPTEMBER 24), 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 10101]

The Committee on Finance, to which was referred the bill (H.R. 10101) to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes, having considered same, reports favorably with amendments and recommends that the bill as amended do pass.

I. SUMMARY

The House-passed bill exempts aircraft museums from the manufacturers and retailers taxes on gasoline and special fuels used by the museums' aircraft and also from the aircraft use tax on the museums' aircraft. The committee bill is the same as the House-passed bill except that it added an amendment to provide that any refund of the aircraft use tax is to be made without interest.

II. GENERAL STATEMENT

I. EXEMPTION FROM FUEL TAXES (FIRST SEC. OF THE BILL AND SECS.
4041 AND 6427 OF THE CODE)*Present law*

Under present law (secs. 4041 and 4081) gasoline and special fuels used in noncommercial aviation, including use by aircraft museums, are subject to manufacturers and retailers excise taxes totalling 7 cents per gallon of gasoline or special fuel.¹ Exemptions from the gasoline

¹ Under schedules in present law, on July 1, 1980, the manufacturers tax on gasoline is to be 1½ cents per gallon and the retailers taxes on gasoline and special fuels for noncommercial aviation are to expire.

and special fuels taxes are provided where the aircraft is used by commercial airlines, for farming, in foreign trade, by a State or local government, or by a nonprofit educational organization.²

Present law provides mechanisms for credits or refunds of these taxes—

(1) if the gasoline or special fuel is used by an exempt user (sec. 6416);

(2) in the case of the manufacturer's excise tax, if the gasoline is used in commercial aviation (sec. 6421(a)); and

(3) in the case of the retailers' excise taxes, if the special fuels or gasoline is used for a nontaxable purpose (sec. 6427).

The revenues from these taxes (less the credits or refunds described above) go to the Airport and Airway Trust Fund (through June 30, 1980).

Reasons for change

Several "flying aircraft museums" operate in the United States. They maintain and operate vintage airplanes either at fixed locations or at displays and airshows in various parts of the country. The aircraft are flown a limited number of times each year. The flying aircraft museums, which are exempt from income taxes,³ are generally funded largely by membership dues and outside contributions.

A considerable part of the expense of maintaining and operating these aircraft museums consists of Federal fuels excise taxes and aircraft use taxes, despite the fact that these types of aircraft make only limited, or no use, of aircraft aids, such as radar and instrument landing systems, provided by the Federal Government and funded through the fuels and aircraft use taxes. For example, the committee understands that the annual tax in the case of a B-29 (the "flying fortress" bomber used in World War II) is more than \$13,000. The committee concluded that these flying aircraft museums should be exempt from the fuel taxes (and, as described below under item 2, from the aircraft use tax).

Explanation of provision

Under the bill, the retailers excise tax is not to apply to gasoline or special fuels sold for use or used by an aircraft museum. Registration procedures are authorized so that the museums will be able to purchase these fuels free of the retailers taxes. Refund procedures are provided for the manufacturers excise tax on gasoline and for any retailers taxes that may have been paid on these fuels. Such refunds are to be paid, without interest, in amounts equal to the aggregate of the manufacturers and retailers excise taxes that have been paid on these fuels.

As in the case of the fuels taxes described above, the revenues from this aircraft use tax go to the Airport and Airway Trust Fund (through June 30, 1980).

² An educational organization for these purposes is in general, one which maintains a faculty and curriculum to conduct on-site educational activities.

³ Although these organizations are educational organizations, they do not maintain facilities and curricula to conduct on-site educational activities, and so do not qualify under present law for fuels taxes exemptions. See footnote 2, above.

Reasons for change

For the reasons described above in connection with the fuel taxes, the committee has concluded that these flying aircraft museums should be exempt from the annual aircraft use tax.

Explanation of provision

The bill provides that an aircraft owned by an aircraft museum (described above, in the discussion regarding fuels taxes) is not subject to the aircraft use tax, so long as it is used exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II. Any use of the aircraft other than in carrying out these purposes is a taxable use, which subjects the aircraft to the aircraft use tax as though that taxable use were the first use during the year.

Effective date

This exemption from the aircraft use tax takes effect on July 1, 1976. If a tax has already been incurred with respect to a particular aircraft because of one or more uses that are taxable under present law but that are made exempt by this bill, then (1) if the tax has not yet been paid, it is to be abated, and (2) if the tax has been paid, it is to constitute an overpayment which is to be refunded without interest by the Treasury Department.

In order to qualify as an "aircraft museum" under these provisions, the organization must be exempt from income tax as an organization described in section 501(c) (3) (relating to educational, etc., organizations). Also, the organization must be operated as a museum under State (or District of Columbia) charter and must be operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

For the exemption or refund to be available, the fuel must be used in an aircraft or vehicle (such as a ground servicing vehicle for aircraft) which is owned by an aircraft museum and is used exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

Effective date

The exemption and refund provisions apply to fuel sold or used on or after October 1, 1976.

2. EXEMPTION FROM AIRCRAFT USE TAX (SEC. 2 OF THE BILL AND SEC. 4492 OF THE CODE)

Present law

Present law imposes an annual excise tax upon the use of civil aircraft (through June 30, 1980). This tax (under sec. 4491) is based largely upon the weight of the aircraft.*

This annual use tax represents an "entry fee" to be paid each year that the aircraft uses the system (i.e., flies in the navigable air space of the United States). The amount of the tax does not depend upon the

*The annual tax rate is \$25, plus 2 cents per pound of takeoff weight over 2,500 pounds in the case of a nonturbine-powered aircraft, and 3½ cents per pound in the case of a turbine-powered aircraft.

number or length of the flights. If the aircraft is flown once during the month of July, the entire year's tax must be paid. Lesser, prorated amounts are required to be paid if the first use occurs later in the year.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING H.R. 10101, AS AMENDED

Revenue cost

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out the committee's amendment to H.R. 10101. The committee estimates that this bill, as amended, will result in a reduction in revenues (to the Airport and Airway Trust Fund) of about \$50,000 per year. The Treasury Department agrees with this statement. The Director of the Congressional Budget Office has not made a statement on the cost of this bill, but agrees with the committee's methods and dollar estimates resulting therefrom.

Vote of the committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill. H.R. 10101, as amended by the committee, was ordered reported by a voice vote.

IV. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

