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LNG AND LPG EXCISE TAX EQUALIZATION ACT OF 2015

APRIL 14, 2015.—Ordered to be printed

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

R E P O R T

[To accompany S. 917]

The Committee on Finance, having considered an original bill, S. 917, to amend the Internal Revenue Code of 1986 to equalize the excise tax on liquefied petroleum gas and liquefied natural gas, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. LEGISLATIVE BACKGROUND

The Committee on Finance, having considered S. 917, the “LNG and LPG Excise Tax Equalization Act of 2015” to amend the Internal Revenue Code of 1986 to equalize the excise tax on liquefied petroleum gas and liquefied natural gas, reports favorably thereon without amendment and recommends that the bill do pass.

Background and need for legislative action

Based on S. 344 (a bill to equalize the excise tax on liquefied petroleum gas and liquefied natural gas) as introduced by Senators Bennet and Burr, and also on a proposal recommended by Senators Bennet, Burr, Thune, Cardin, and Roberts, the Committee on Finance marked up original legislation (the LNG and LPG Excise Tax Equalization Act of 2015¹) on February 11, 2015, and, with a majority present, ordered the bill favorably reported.

The provisions approved by the Committee reflect the need to establish excise tax rates for both liquefied natural gas (“LNG”) and liquefied petroleum gas that reflect the energy content of the fuel. The tax on LNG and on diesel fuel is set at 24.3 cents per gallon. However, LNG produces less energy per gallon than diesel fuel. It takes approximately 1.7 gallons of LNG to equal the energy in one gallon of diesel fuel, resulting in LNG being taxed at approximately 170 percent of the rate of diesel fuel on an energy equivalent basis. Liquefied petroleum gas and gasoline are both taxed at 18.3 cents per gallon. However, a gallon of liquefied petroleum gas has only 72 percent of the energy content of a gallon of gasoline but is taxed at 138 percent of the rate of gasoline on an energy equivalent basis.

In addition, it has been reported that many thousands of Medicare providers and suppliers have outstanding Federal employment and income tax liability, which contribute to the tax gap. The permissible percentage of payments to a Medicare provider subject to levy should be increased.

Hearings

The committee favorably ordered reported similar provisions as part of the “Preserving America’s Transit and Highways Act of 2014” or PATH Act. The provisions of the PATH Act, as they related to LNG and liquefied petroleum gas, subsequently passed the U.S. Senate as part of the Senate Amendment to H.R. 5021 of the 113th Congress, the Highway Transportation and Funding Act of 2014.

II. EXPLANATION OF THE BILL**A. EQUALIZATION OF EXCISE TAX ON LIQUEFIED NATURAL GAS AND LIQUEFIED PETROLEUM GAS (SEC. 1 OF THE BILL AND SEC. 4041(a)(2) OF THE CODE)****PRESENT LAW**

The Code imposes an excise tax on gasoline, diesel fuel, kerosene, and certain alternative fuels at the following rates:¹

Gasoline	18.3 cents per gallon
Diesel fuel and kerosene	24.3 cents per gallon ²
Alternative fuels	24.3 and 18.3 cents per gallon ³

¹These fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund (secs. 4041(d) and 4081(a)(2)(B)). That tax is imposed as an “add-on” to other existing taxes. Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended (the “Code”).

The Code imposes tax on gasoline, diesel fuel, and kerosene upon removal from a refinery or on importation, unless the fuel is transferred in bulk by registered pipeline or barge to a registered terminal facility.⁴ The imposition of tax on alternative fuels generally occurs at retail when the fuel is sold to an owner, lessee or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat.

Liquefied natural gas (“LNG”) and liquefied petroleum gas (also known as propane) are classified as alternative fuels. LNG is taxed at the same per gallon rate as diesel, 24.3 cents per gallon. According to the Oak Ridge National Laboratory, diesel fuel has an energy content of 128,700 Btu per gallon (lower heating value) and LNG has an energy content of 74,700 Btu per gallon (lower heating value). Therefore, a gallon of LNG produces approximately 58 percent of the energy produced by a gallon of diesel fuel.

Liquefied petroleum gas is taxed at the same per gallon rate as gasoline, 18.3 cents per gallon. According to the Oak Ridge National Laboratory, gasoline has an energy content of 115,400 Btu per gallon (lower heating value), and liquefied petroleum gas has an energy content of 83,500 Btu per gallon (lower heating value).⁵ Therefore, a gallon of liquefied petroleum gas produces approximately 72 percent of the energy produced by a gallon of gasoline.

REASONS FOR CHANGE

LNG is a transportation fuel source used for large trucks and some marine and rail vessels. Currently, the excise tax rate for both LNG and diesel fuel is set at 24.3 cents per gallon. However, LNG produces less energy per gallon than diesel fuel. It takes approximately 1.7 gallons of LNG to equal the energy in one gallon of diesel fuel, resulting in LNG being taxed at approximately 170 percent of the rate of diesel fuel on an energy equivalent basis. The current tax system can result in thousands of dollars of additional cost for companies choosing to utilize LNG. Similarly, liquefied petroleum gas and gasoline are both taxed at 18.3 cents per gallon. However, a gallon of liquefied petroleum gas has only 72 percent of the energy content of a gallon of gasoline but is taxed at 138 percent of the rate of gasoline on an energy equivalent basis. Therefore, the Committee believes it is appropriate to lower the tax rate of both liquefied petroleum gas and LNG, basing the tax rate on the energy content of those fuels as compared with gasoline and diesel, respectively.

EXPLANATION OF PROVISION

The provision changes the tax rate of LNG to a rate based on its energy equivalent of a gallon of diesel (approximately 14.1 cents per gallon) and changes the tax rate of liquefied petroleum gas to

² Diesel-water emulsions are taxed at 19.7 cents per gallon (sec. 4081(a)(2)(D)).

³ The rate of tax is 24.3 cents per gallon in the case of liquefied natural gas, any liquid fuel (other than ethanol or methanol) derived from coal, and liquid hydrocarbons derived from biomass. Other alternative fuels sold or used as motor fuel are generally taxed at 18.3 cents per gallon. “Alternative fuel” also includes compressed natural gas. The rate for compressed natural gas is 18.3 cents per energy equivalent of a gallon of gasoline. See sec. 4041(a)(2) and (3).

⁴ Sec. 4081(a)(1).

⁵ All Btu lower (or “net”) heating values are taken from Appendix B of the Oak Ridge National Laboratories Data Transportation Energy Data Book (Edition 32), *Table B.4, Heat Content for Various Fuels (2013)* http://cta.ornl.gov/data/tedb32/Edition32_Appendix_B.pdf.

a rate based on its energy equivalent of a gallon of gasoline (approximately 13.2 cents per gallon).

Specifically, the provision provides that liquefied petroleum gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. For this purpose, “energy equivalent of a gallon of gasoline” means, with respect to liquefied petroleum gas, the amount of such fuel having a Btu (British Thermal Unit) content of 115,400 (lower heating value). LNG is taxed at 24.3 cents per energy equivalent of a gallon of diesel fuel. For this purpose, “energy equivalent of a gallon of diesel” means, with respect to a liquefied natural gas fuel, the amount of such fuel having a Btu content of 128,700 (lower heating value).

EFFECTIVE DATE

The provision is effective for fuel sold or used in calendar quarters beginning more than 60 days after the date of enactment.

B. INCREASE CONTINUOUS LEVY AUTHORITY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS (SEC. 6331 OF THE CODE)

PRESENT LAW

In general

Levy is the administrative authority of the IRS to seize a taxpayer’s property, or rights to property, to pay the taxpayer’s tax liability.⁶ Generally, the IRS is entitled to seize a taxpayer’s property by levy if a Federal tax lien has attached to such property,⁷ the property is not exempt from levy,⁸ and the IRS has provided both notice of intention to levy⁹ and notice of the right to an administrative hearing (the notice is referred to as a “collections due process notice” or “CDP notice” and the hearing is referred to as the “CDP hearing”)¹⁰ at least 30 days before the levy is made. A levy on salary or wages generally is continuously in effect until released.¹¹ A Federal tax lien arises automatically when: (1) a tax assessment has been made; (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment; and (3) the taxpayer has failed to pay the amount assessed within 10 days after the notice and demand.¹²

The notice of intent to levy is not required if the Secretary finds that collection would be jeopardized by delay. The standard for determining whether jeopardy exists is similar to the standard applicable when determining whether assessment of tax without following the normal deficiency procedures is permitted.¹³

The CDP notice (and pre-levy CDP hearing) is not required if: (1) the Secretary finds that collection would be jeopardized by delay; (2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund; (3) the taxpayer subject to the

⁶ Sec. 6331(a). Levy specifically refers to the legal process by which the IRS orders a third party to turn over property in its possession that belongs to the delinquent taxpayer named in a notice of levy.

⁷ *Ibid.*

⁸ Sec. 6334.

⁹ Sec. 6331(d).

¹⁰ Sec. 6330. The notice and the hearing are referred to collectively as the CDP requirements.

¹¹ Secs. 6331(e) and 6343.

¹² Sec. 6321.

¹³ Secs. 6331(d)(3), 6861.

levy requested a CDP hearing with respect to unpaid employment taxes arising in the two-year period before the beginning of the taxable period with respect to which the employment tax levy is served; or (4) the Secretary has served a Federal contractor levy. In each of these four cases, however, the taxpayer is provided an opportunity for a hearing within a reasonable period of time after the levy.¹⁴

Federal payment levy program

To help the IRS collect taxes more effectively, the Taxpayer Relief Act of 1997¹⁵ authorized the establishment of the Federal Payment Levy Program (“FPLP”), which allows the IRS to continuously levy up to 15 percent of certain “specified payments” by the Federal government if the payees are delinquent on their tax obligations. With respect to payments to vendors of goods, services, or property sold or leased to the Federal government, the continuous levy may be up to 100 percent of each payment.¹⁶ For payments to Medicare providers and suppliers, the levy is up to 15 percent for payments made within 180 days after December 19, 2014. For payments made after that date, the levy is up to 30 percent.¹⁷

Under FPLP, the IRS matches its accounts receivable records with Federal payment records maintained by Treasury’s Bureau of Fiscal Service (“BFS”), such as certain Social Security benefit and Federal wage records. When these records match, the delinquent taxpayer is provided both the notice of intention to levy and the CDP notice. If the taxpayer does not respond after 30 days, the IRS can instruct BFS to levy the taxpayer’s Federal payments. Subsequent payments are continuously levied until such time that the tax debt is paid or the IRS releases the levy.

REASONS FOR CHANGE

It has been reported that many thousands of Medicare providers and suppliers have outstanding Federal employment and income tax liability, which contribute to the tax gap. Consequently, the Committee believes that it is appropriate to increase the permissible percentage of payments to a Medicare provider subject to levy.

EXPLANATION OF PROVISION

The provision provides that the present limitation of 30 percent of certain specified payments be increased by an amount sufficient to offset the estimated revenue loss of the provision described in Part A, above.

EFFECTIVE DATE

The provision is effective for payments made after 180 days after the date of enactment.

¹⁴ Sec. 6330(f).

¹⁵ Pub. L. No. 105–34.

¹⁶ Sec. 6331(h)(3).

¹⁷ Pub. L. No. 113–295, Division B.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, and section 308(a)(1) of the Congressional Budget and Impoundment Control Act of 1974, as amended (the “Budget Act”),¹⁸ the following statement is made concerning the estimated budget effects of the revenue provisions of the “LNG and LPG Excise Tax Equalization Act of 2015” as reported.

¹⁸Pub. L. No. 93-344.

**ESTIMATED BUDGET EFFECTS OF
THE "LNG AND LPG TAX EQUALIZATION ACT OF 2015,"
AS REPORTED BY THE COMMITTEE ON FINANCE**

Fiscal Years 2015 - 2025
[Millions of Dollars]

Provision	Effective	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-20	2015-25
1. Equalization of Excise Tax on Liquefied Natural Gas ("LNG") and Liquefied Petroleum Gas ("LPG");														
a. Decrease the LNG tax rate to 14.1 cents per gallon...	[1]	-1	-3	-3	-3	-3	-3	-3	-3	-4	-4	-4	-17	-35
b. Decrease the LPG tax rate to 13.2 cents per gallon...	[1]	[2]	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-10	-19
2. Increase Continuous Levy Authority to 35% on Payments to Medicare Providers and Suppliers..... pma 180da DOE		---	6	6	6	7	7	7	7	7	7	7	32	67
NET TOTAL		-1	1	1	1	2	2	2	2	2	2	2	5	13

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be April 1, 2015.

Legend for "Effective" column:

- DOE = date of enactment
- pma = payments made after
- 180da = 180 days after

[1] Effective for fuel sold or used in calendar quarters beginning more than 60 days after the date of enactment.
 [2] Loss of less than \$500,000.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the “Budget Act,” the Committee states that no provisions of the bill as reported involve new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(1) of the Budget Act, the Committee states that there are no provisions that affect the levels of tax expenditures.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has not submitted a statement on the bill. The letter from the Congressional Budget Office will be provided separately.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority and quorum present, the “LNG and LPG Excise Tax Equalization Act of 2015” was ordered favorably reported by voice vote on February 11, 2015.

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

Impact on individuals and businesses, personal privacy and paperwork

The bill provides for the conversion of the excise tax on LNG and liquefied petroleum gas to be converted into their energy equivalent amounts of diesel fuel and gasoline, respectively. It also increases the IRS’s continuous levy authority on payments to Medicare providers and suppliers. The provisions of the bill are not expected to impose additional administrative requirements or regulatory burdens on individuals or businesses.

The provisions of the bill do not impact personal privacy.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the tax provisions of the reported bill do not contain Federal private sector mandates or Federal intergovernmental mandates on State, local, or tribal governments within the meaning of Public Law 104–4, the Unfunded Mandates Reform Act of 1995.

C. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small business.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

