

**DESCRIPTION OF THE CHAIRMAN’S MARK
OF S.____,
THE “HIGHWAY INVESTMENT, JOB CREATION
AND ECONOMIC GROWTH ACT OF 2012”**

Scheduled for Markup
By the
SENATE COMMITTEE ON FINANCE
on February 7, 2012

Prepared by the Staff
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INTRODUCTION

The Senate Committee on Finance has scheduled a markup on February 7, 2012, of S. _____, the “Highway Investment, Job Creation and Economic Growth Act of 2012,” a bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust fund expenditures, to provide revenues for highway programs, and for other purposes.¹ This document,² prepared by the staff of the Joint Committee on Taxation, describes the provisions of the bill.

¹ Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

² This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman’s Mark of S. _____, The “Highway Investment, Job Creation and Economic Growth Act of 2012”* (JCX-9-12), February 3, 2012.

I. EXTENSION OF TAXES AND TRUST FUNDS

A. Extension of Highway Trust Fund Expenditure Authority and Related Taxes

Present-Law Highway Trust Fund excise taxes

In general

Six separate excise taxes are imposed to finance the Federal Highway Trust Fund program. Three of these taxes are imposed on highway motor fuels. The remaining three are a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles. A substantial majority of the revenues produced by the Highway Trust Fund excise taxes are derived from the taxes on motor fuels. The annual use tax on heavy vehicles expires October 1, 2012. Except for 4.3 cents per gallon of the Highway Trust Fund fuels tax rates, the remaining taxes are scheduled to expire after March 31, 2012. The 4.3-cents-per-gallon portion of the fuels tax rates is permanent.³ The six taxes are summarized below.

Highway motor fuels taxes

The Highway Trust Fund motor fuels tax rates are as follows:⁴

Gasoline	18.3 cents per gallon
Diesel fuel and kerosene	24.3 cents per gallon
Special motor fuels	18.3 cents per gallon generally ⁵

Non-fuel Highway Trust Fund excise taxes

In addition to the highway motor fuels excise tax revenues, the Highway Trust Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

1. A 12-percent excise tax imposed on the first retail sale of heavy highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds);⁶

³ This portion of the tax rates was enacted as a deficit reduction measure in 1993. Receipts from it were retained in the General Fund until 1997 legislation provided for their transfer to the Highway Trust Fund.

⁴ Secs. 4081(a)(2)(A)(i), 4081(a)(2)(A)(iii), 4041(a)(2), 4041(a)(3), and 4041(m). Some of these fuels also are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank Trust Fund (secs. 4041(d) and 4081(a)(2)(B)).

⁵ See secs. 4041(a)(2), 4041(a)(3), and 4041(m).

⁶ Sec. 4051.

2. An excise tax imposed on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 0.945 cents per pound of excess;⁷ and
3. An annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more.⁸ (The maximum rate for this tax is \$550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

The taxable year for annual use tax is from July 1st through June 30th of the following year. For the period July 1, 2012, through September 30, 2012, the amount of the annual use tax is reduced by 75 percent.

Present-law Highway Trust Fund Expenditure Provisions

In general

Under present law, revenues from the highway excise taxes, as imposed through March 31, 2012, generally are dedicated to the Highway Trust Fund. Dedication of excise tax revenues to the Highway Trust Fund and expenditures from the Highway Trust Fund are governed by the Code.⁹ The Code authorizes expenditures (subject to appropriations) from the Highway Trust Fund through March 31, 2012, for the purposes provided in authorizing legislation, as such legislation was in effect on the date of enactment of the Surface Transportation Extension Act of 2011, Part II.

Highway Trust Fund expenditure purposes

The Highway Trust Fund has a separate account for mass transit, the Mass Transit Account.¹⁰ The Highway Trust Fund and the Mass Transit Account are funding sources for specific programs.

Highway Trust Fund expenditure purposes have been revised with each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are specified by the Code as Highway Trust Fund expenditure purposes.¹¹ The Code provides that the authority to make expenditures from the Highway Trust

⁷ Sec. 4071.

⁸ Sec. 4481.

⁹ Sec. 9503. The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

¹⁰ Sec. 9503(e)(1).

¹¹ The authorizing Acts that currently are referenced in the Highway Trust Fund provisions of the Code are: the Highway Revenue Act of 1956; Titles I and II of the Surface Transportation Assistance Act of 1982; the Surface Transportation and Uniform Relocation Act of 1987; the Intermodal Surface Transportation Efficiency Act of 1991; the Transportation Equity Act for the 21st Century, the Surface Transportation Extension Act of 2003, the Surface Transportation Extension Act of 2004; the Surface Transportation Extension Act of 2004, Part II; the Surface Transportation Extension Act of 2004, Part III; the Surface Transportation Extension Act of 2004, Part IV;

Fund expires after March 31, 2012. Thus, no Highway Trust Fund expenditures may occur after March 31, 2012, without an amendment to the Code.

S.1813. Moving Ahead for Progress for the 21st Century (MAP-21)

On November 9, 2011, the Senate Environment and Public Works Committee passed MAP-21, a two-year reauthorization of Highway Trust Fund programs. Among other purposes, the bill reauthorizes the Federal highway, public transportation, highway safety, and motor carrier safety programs for fiscal year 2012 through fiscal year 2013.

Description of Proposal

The expenditure authority for the Highway Trust Fund is extended through September 30, 2013. The Code provisions governing the purposes for which monies in the Highway Trust Fund may be spent are updated to include the reauthorization bill, S. 1813, Moving Ahead for Progress for the 21st Century (MAP-21).¹²

The proposal extends the motor fuel taxes, and all three non-fuel excise taxes at their current rates through September 30, 2015.¹³ The proposal resolves the projected deficit in the Highway Trust Fund, assures a cushion of \$2.8 billion in each account of the Highway Trust Fund, and creates a solvency account available for use by either highways or mass transit.

Effective Date

The proposal is effective on April 1, 2012.

the Surface Transportation Extension Act of 2004, Part V; the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; the SAFETEA-LU Technical Corrections Act of 2008; the Surface Transportation Extension Act of 2010; the Surface Transportation Extension Act of 2010, Part II; the Surface Transportation Extension Act of 2011; and the Surface Transportation Extension Act of 2011, Part II.

¹² The proposal also replaces cross-references to the Surface Transportation Extension Act of 2011, Part II, with MAP-21, and replaces April 1, 2012 references with October 1, 2013 in the Code provisions governing the Leaking Underground Storage Tank Trust Fund, and the Sport Fish Restoration and Boating Trust Fund.

¹³ The Leaking Underground Storage Tank Trust Fund financing rate of 0.1 cent per gallon also is extended through September 30, 2015.

II. REVENUE PROVISIONS

A. Leaking Underground Storage Tank Trust Fund

Present Law

Leaking Underground Storage Tank Trust Fund financing rate

Fuels of a type subject to other trust fund excise taxes generally are subject to an add-on excise tax of 0.1 cent per gallon to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund.¹⁴ For example, the LUST excise tax applies, to gasoline, diesel fuel, kerosene, and most alternative fuels subject to highway and aviation fuels excise taxes, and to fuels subject to the inland waterways fuel excise tax. This excise tax is imposed on both uses and parties subject to the other taxes, and to situations (other than export) in which the fuel otherwise is tax-exempt. For example, off-highway business use of gasoline and off-highway use of diesel fuel and kerosene generally are exempt from highway motor fuels excise tax. Similarly, States and local governments and certain other parties are exempt from such tax. Nonetheless, all such uses and parties are subject to the 0.1-cent-per-gallon LUST excise tax.

Liquefied natural gas, compressed natural gas, and liquefied petroleum gas are exempt from the LUST tax. Additionally, methanol and ethanol fuels produced from coal (including peat) are taxed at a reduce rate of 0.05 cents per gallon.

The LUST tax is scheduled to expire after March 31, 2012.¹⁵

Overview of Leaking Underground Storage Tank Trust Fund expenditure provisions

Amounts in the LUST Trust Fund are available, as provided in appropriations Acts, for purposes of making expenditures to carry out sections 9003(h)-(j), 9004(f), 9005(c), and 9010-9013 of the Solid Waste Disposal Act, as in effect on the date of enactment of Public Law 109-168. Any claim filed against the LUST Trust Fund may be paid only out of such fund, and the liability of the United States for claims is limited to the amount in the fund.

The monies in the LUST Trust Fund are used to pay expenses incurred by the Environmental Protection Agency (the “EPA”) and the States for preventing, detecting, and cleaning up leaks from petroleum underground storage tanks, as well as programs to evaluate the compatibility of fuel storage tanks with alternative fuels, MTBE additives, and ethanol and biodiesel blends.

The EPA makes grants to States to implement the program, and States use cleanup funds primarily to oversee and enforce corrective actions by responsible parties. States and EPA also use cleanup funds to conduct corrective actions where no responsible party has been identified, where a responsible party fails to comply with a cleanup order, in the event of an emergency, and

¹⁴ Secs. 4041, 4042, and 4081.

¹⁵ For Federal budget scorekeeping purposes, the LUST Trust Fund tax, like other excise taxes dedicated to trust funds, is assumed to be permanent.

to take cost recovery actions against parties. In 2005, Congress authorized EPA and States to use trust fund monies for non-cleanup purposes as well, specifically for administration and enforcement of the leak prevention requirements of the UST program.¹⁶

Description of Proposal

The proposal transfers \$3 billion from the LUST Trust Fund to the Highway Trust Fund. The proposal also provides that .033 cent of the 0.1 cent LUST Trust Fund financing rate is dedicated to the Highway Trust Fund.¹⁷

Effective Date

The proposal is effective on the date of enactment.

¹⁶ Pub. L. No. 109-58.

¹⁷ As noted above, the Leaking Underground Storage Tank Trust Fund financing rate of 0.1 cent per gallon is also extended through September 30, 2015.

B. Claims and Credit Carryovers Related to Unprocessed and Excluded Fuels

Present Law

Cellulosic biofuel producer credit

The “cellulosic biofuel producer credit” is a nonrefundable income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit is generally \$1.01 per gallon.¹⁸

“Qualified cellulosic biofuel production” is any cellulosic biofuel which is produced by the taxpayer and which is: (1) sold by the taxpayer to another person (a) for use by such other person in the production of a qualified cellulosic biofuel mixture in such person’s trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or (c) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person; or (2) used by the producer for any purpose described in (1)(a), (b), or (c).

“Cellulosic biofuel” means any liquid fuel that (1) is produced in the United States and used as fuel in the United States, (2) is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and (3) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency (“EPA”) under section 211 of the Clean Air Act. Cellulosic biofuel does not include fuels that (1) are more than four percent (determined by weight) water and sediment in any combination, (2) have an ash content of more than one percent (determined by weight), or (3) have an acid number greater than 25 (“unprocessed or excluded fuels”).¹⁹

The cellulosic biofuel producer credit cannot be claimed unless the taxpayer is registered by the Internal Revenue Service (“IRS”) as a producer of cellulosic biofuel. The IRS permits a taxpayer to register as a cellulosic biofuel producer after the cellulosic biofuel has been produced. Thus, a person may register as a cellulosic biofuel producer in 2010 for cellulosic biofuel produced in 2009 and then claim the credit.

¹⁸ In the case of cellulosic biofuel that is alcohol, the \$1.01 credit amount is reduced by the credit amount of the alcohol mixture credit, and for ethanol, the credit amount for small ethanol producers, as in effect at the time the cellulosic biofuel fuel is produced.

¹⁹ Section 40(b)(6)(e)(iii). Water content (including both free water and water in solution with dissolved solids) is determined by distillation, using for example ASTM method D95 or a similar method suitable to the specific fuel being tested. Sediment consists of solid particles that are dispersed in the liquid fuel and is determined by centrifuge or extraction using, for example, ASTM method D1796 or D473 or similar method that reports sediment content in weight percent. Ash is the residue remaining after combustion of the sample using a specified method, such as ASTM D3174 or a similar method suitable for the fuel being tested.

Cellulosic biofuel eligible for the section 40 credit is precluded from qualifying as biodiesel, renewable diesel, or alternative fuel for purposes of the applicable income tax credit, excise tax credit, or payment provisions relating to those fuels.²⁰

Because it is a credit under section 40(a), the cellulosic biofuel producer credit is part of the general business credits in section 38. However, the credit can only be carried forward three taxable years after the termination of the credit. The credit is also allowable against the alternative minimum tax. Under section 87, the credit is included in gross income. The cellulosic biofuel producer credit terminates on December 31, 2012.

The kraft process for making paper produces a byproduct called black liquor, which has been used for decades by paper manufacturers as a fuel in the papermaking process. Black liquor is composed of water, lignin and the spent chemicals used to break down the wood. The amount of the biomass in black liquor varies. The portion of the black liquor that is not consumed as a fuel source for the paper mills is recycled back into the papermaking process. Black liquor has ash content (mineral and other inorganic matter) significantly above that of other fuels.

In informal guidance, the IRS concluded that black liquor is a liquid fuel from biomass and may qualify for the cellulosic biofuel producer credit, as well as the refundable alternative fuel mixture credit.²¹ A taxpayer cannot claim both the alternative fuel mixture credit and the cellulosic biofuel producer credit. The alternative fuel credits and payment provisions expired December 31, 2011.

Alternative fuel mixture credit and payment

The Code provided for a tax credit of 50 cents for each gallon of alternative fuel used to produce an alternative fuel mixture that is used or sold for use as a fuel.²² Under Notice 2006-92, an alternative fuel mixture is a mixture of alternative fuel and a taxable fuel (such as diesel) that contains at least 0.1 percent taxable fuel. Liquid fuel derived from biomass is an alternative fuel.²³ Diesel fuel has been added to black liquor to qualify for the alternative mixture credit and the mixture is burned in a recovery boiler as fuel. Persons that have an alternative fuel mixture credit amount in excess of their taxable fuel excise tax liability may make a claim for payment from the Treasury in the amount of the excess under section 6427 for black liquor fuel mixtures produced before January 1, 2010.²⁴ If a timely claim has not been made under section 6427, alternatively, a taxpayer may use section 34 (a refundable income tax credit) to make a claim in the amount of the alternative fuel mixture credit payable under section 6427(e).

²⁰ See secs. 40A(d)(1), 40A(f)(3), and 6426(h).

²¹ Chief Counsel Advice 200941011 (June 30, 2009).

²² Sec. 6426(e).

²³ Sec. 6426(d)(2)(G).

²⁴ For fuel sold or used after December 31, 2009, alternative fuel does not include any fuel derived from the production of paper or pulp. Sec. 6426(d)(2) (flush language).

Description of Proposal

The proposal prohibits taxpayers from claiming the cellulosic biofuels credit (including any portion of the unused general business credit carryover attributable to such credit, or section 34 credits) for unprocessed or excluded fuels, as defined in section 40(b)(6)(e)(iii), such as black liquor, sold or used before January 1, 2010. Under the proposal, out of money in the Treasury not otherwise appropriated amounts equivalent to the revenue resulting from the proposal are transferred to the Highway Trust Fund.

Effective Date

The proposal is effective for claims (including returns and amended returns) made on or after February 3, 2012.

C. Dedication of Gas Guzzler Tax to the Highway Trust Fund

Present Law

Under present law, the Code imposes a tax (“the gas guzzler tax”) on automobiles that are manufactured primarily for use on public streets, roads, and highways and that are rated at 6,000 pounds unloaded gross vehicle weight or less.²⁵ The tax is imposed on the sale by the manufacturer of each automobile of a model type with a fuel economy of 22.5 miles per gallon or less. The tax range begins at \$1,000 and increases to \$7,700 for models with a fuel economy less than 12.5 miles per gallon.

Emergency vehicles and non-passenger automobiles are exempt from the tax. The tax also does not apply to non-passenger automobiles. The Secretary of Transportation determines which vehicles are “non-passenger” automobiles, thereby exempting these vehicles from the gas guzzler tax based on regulations in effect on the date of enactment of the gas guzzler tax.²⁶ Hence, vehicles defined in Title 49 C.F.R. sec. 523.5 (relating to light trucks) are exempt. These vehicles include those designed to transport property on an open bed (e.g., pick-up trucks) or provide greater cargo-carrying than passenger carrying volume including the expanded cargo-carrying space created through the removal of readily detachable seats (e.g., pick-up trucks, vans, and most minivans, sports utility vehicles and station wagons). Additional vehicles that meet the “non-passenger” requirements are those with at least four of the following characteristics: (1) an angle of approach of not less than 28 degrees; (2) a breakover angle of not less than 14 degrees; (3) a departure angle of not less than 20 degrees; (4) a running clearance of not less than 20 centimeters; and (5) front and rear axle clearances of not less than 18 centimeters each. These vehicles would include many sports utility vehicles.

Description of Proposal

The proposal requires that amounts equivalent to the gas guzzler taxes received in the Treasury be transferred to the Highway Trust Fund.

Effective Date

The proposal is effective on the date of enactment.

²⁵ Sec. 4064.

²⁶ Sec. 4064(b)(1)(A).

D. Revocation or Denial of Passport in Case of Certain Tax Delinquencies

Present Law

The administration of passports is the responsibility of the Department of State.²⁷ State may refuse to issue or renew a passport if the applicant owes child support in excess of \$2,500 or owes certain types of Federal debts, such as expenses incurred in providing assistance to an applicant to return to the United States. The scope of this authority does not extend to rejection or revocation of a passport on the basis of delinquent Federal taxes. Issuance of a passport does not require the applicant to provide a social security number or taxpayer identification number.

Returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to such information except as provided in the Internal Revenue Code.²⁸ There are a number of exceptions to the general rule of nondisclosure that authorize disclosure in specifically identified circumstances, including disclosure of information about Federal tax debts for purposes of reviewing an application for a Federal loan²⁹ and for purposes of enhancing the integrity of the Medicare program.³⁰

Description of Proposal

If the Commissioner of Internal Revenue certifies to the Secretary of the Treasury the identity of persons who have seriously delinquent Federal taxes, the Secretary of Treasury or his delegate is authorized to transmit such certification to the Secretary of State for use in determining whether to issue, deny, renew or revoke a passport to an applicant. Applicants whose names are included on the certifications provided to the Secretary of State are ineligible for a passport. The provision bars the Secretary of State from issuing a passport to any individual who has a seriously delinquent tax debt. It also requires revocation of a passport previously issued to any such individual. Exceptions are permitted for emergency or humanitarian circumstances, as well as short term use of a passport for return travel to the United States by the delinquent taxpayer.

A seriously delinquent tax debt generally includes any outstanding debt for Federal tax in excess of \$50,000, including interest and any penalties, for which a notice of lien or a notice of levy has been filed. The \$50,000 amount is to be adjusted for inflation annually. Even if a tax debt otherwise meets the statutory threshold, it may not be considered seriously delinquent if (1) the debt is being paid in a timely manner pursuant to an installment agreement or offer-in-compromise, or (2) collection action with respect to the debt is suspended because a collection due process hearing or innocent spouse relief has been requested or is pending.

²⁷ "Passport Act of 1926," 22 U.S.C. sec. 211a et seq.

²⁸ Sec. 6103.

²⁹ Sec. 6103(1)(3).

³⁰ Sec. 6103(1)(22).

Effective Date

The proposal is effective on January 1, 2013.

E. Increase Levy Authority for Payments to Medicare Providers with Delinquent Tax Debt

Present Law

In general

Levy is the IRS's administrative authority to seize a taxpayer's property, or rights to property, to pay the taxpayer's tax liability.³¹ Generally, the IRS is entitled to seize a taxpayer's property by levy if a Federal tax lien has attached to such property,³² and the IRS has provided both notice of intention to levy³³ 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")³⁴ at least 30 days before the levy is made. 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.³⁵

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.³⁶

The CDP notice (and pre-levy CDP hearing) is not required if the Secretary finds that collection would be jeopardized by delay or the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund. In addition, a levy issued to collect Federal employment taxes is excepted from the CDP notice and the pre-levy CDP hearing requirement if the taxpayer subject to the 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. In each of these three cases, however, the taxpayer is provided an opportunity for a hearing within a reasonable period of time after the levy.³⁷

³¹ 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.

³² *Ibid.*

³³ Sec. 6331(d).

³⁴ Sec. 6330. The notice and the hearing are referred to collectively as the CDP requirements.

³⁵ Sec. 6321.

³⁶ Secs. 6331(d)(3), 6861.

³⁷ Sec. 6330(f).

Federal payment levy program

To help the IRS collect taxes more effectively, the Taxpayer Relief Act of 1997³⁸ 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,” such as government payments to Federal contractors (including vendors) that are delinquent on their tax obligations. With respect to Federal payments to vendors of goods, services, or property, the continuous levy may be up to 100 percent of each payment.³⁹ The levy (either up to 15 percent or up to 100 percent) generally continues in effect until the liability is paid or the IRS releases the levy.

Under FPLP, the IRS matches its accounts receivable records with Federal payment records maintained by the Department of the Treasury’s Financial Management Service (“FMS”), 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 FMS to levy the taxpayer’s Federal payments. Subsequent payments are continuously levied until such time that the tax debt is paid or IRS releases the levy.

In 2008, the Government Accountability Office (“GAO”) found that over 27 thousand Medicare providers (i.e., about six percent of all such providers) owed more than \$2 billion of tax debt, consisting largely of individual income and payroll taxes.⁴⁰ In one case, a home health company received over \$15 million in Medicare payments but did not pay \$7 million in federal taxes.⁴¹ As of 2008, The Centers for Medicare & Medicaid Services (“CMS”) had not incorporated most of its Medicare payments into the continuous levy program. Thus, for calendar year 2006, the government lost the chance to possibly collect over \$140 million in unpaid Federal taxes.⁴² The GAO noted that CMS officials promised to incorporate about 60 percent of all Medicare fee-for-service payments into the levy program by October 2008 and the remaining 40 percent in the next several years.

Following the GAO study, Congress directed CMS to participate in the FPLP and ensure that all Medicare provider and supplier payments are processed through it, in specified graduated percentages, by the end of fiscal year 2011.⁴³

³⁸ Pub. L. No. 105-34.

³⁹ Sec. 6331(h)(3). The word “property” was added to “goods or services” in section 301 of the “3% Withholding Repeal and Job Creation Act,” Pub. L. No. 112-56.

⁴⁰ Government Accountability Office, *Medicare: Thousands of Medicare Providers Abuse the Federal Tax System*, GAO-08-618 (June 13, 2008).

⁴¹ *Ibid.*, p. 4.

⁴² *Ibid.*

⁴³ Medicare Improvement for Patients and Providers Act of 2008, Pub. L. No. 110-275, sec. 189.

Description of Proposal

The proposal allows Treasury to levy up to 100 percent of a payment to a Medicare provider to collect unpaid taxes.

Effective Date

The proposal is effective for payments made after the date of enactment.

F. Appropriations to the Highway Trust Fund of Certain Import Tariffs

Present Law

Customs duties are deposited into the general fund of the Treasury of the United States. This includes customs duties collected on imported vehicles classified under Chapter 87 of the Harmonized Tariff Schedule of the United States (HTSUS).

Description of Proposal

The proposal would appropriate from the General Fund and deposit into the Highway Trust Fund amounts equivalent to amounts received in the General Fund, for fiscal year 2012 through fiscal year 2014, on articles classified under subheadings 8703.22.00 and 8703.24.00 of Chapter 87.

Effective Date

The proposal is effective on the date of enactment.