

BILL INTRODUCED TO MAKE BONUS DEPRECIATION PERMANENT

On Wednesday, Senator Pat Roberts (R-KS) along with Senators Johnny Isakson (R-GA), Roy Blunt (R-MO), and Pat Toomey (R-PA), introduced legislation to permanently extend bonus depreciation on new equipment and property purchases. Bonus depreciation allows businesses to deduct 50 percent of the cost upfront.

The legislation also expands the definition of qualifying property under bonus depreciation to include retail and restaurant improvements, and, the legislation will allow businesses to claim unused Corporate Alternative Minimum Tax credits and use these credits for capital investment.

Upon introduction, Sen. Roberts, who is a member of the Senate Finance Committee said, "Bonus depreciation has been extended and expired many times (it was first enacted in 2002), and it is time we make this permanent to give businesses more predictability in an already overly complex tax code." Roberts also pointed out that The Tax Foundation found that a permanent extension would boost GDP by one percent, lift investment three percent, and create 200,000 jobs.

PMAA supports making bonus depreciation permanent and included this request in a letter to Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR) earlier this year.

PMAA TESTIFIES BEFORE EPA RFS HEARING

Yesterday, Ron Leone, Executive Director of the Missouri Petroleum Marketers and Convenience Store Association (MPCA), represented PMAA at an EPA public hearing in Kansas City, Kansas regarding the proposed RFS volumes for 2014-2016. EPA's RFS proposed rule moves ethanol blends from 13.25 billion gallons in 2014 to 13.4 billion gallons in 2015 to 14 billion gallons in 2016, a one billion gallon decrease over the 2016 statutory blending mandate. The agency also proposed volume requirements for biodiesel through 2017.

PMAA was pleased that the EPA lowered the proposed 2014, 2015 and 2016 corn-based ethanol volumes after acknowledging that most existing gas station equipment is not made or warranted to store or dispense ethanol blends greater than 10 percent. Mr. Leone expressed PMAA's concerns with the proposed 2016 ethanol mandate and preferred a volume below 14 billion gallons to prevent breaching the 10 percent ethanol blend wall. Mr. Leone also made the point that 60 percent of the gasoline stations are single-store owned and the average cost to retrofit a gasoline station with E15 compatible equipment is \$200,000 which would increase pump prices and force many retailers, especially in rural areas, to close.

Furthermore, PMAA contested the E15 proponents' assertion that lucrative RIN values will lure retailers into compatible infrastructure investments to sell higher level ethanol blends. Unfortunately, the majority of retailers do not have the ability to participate in the RINs market since over 95 percent of all gasoline that passes over the terminal rack is already pre-blended with ethanol and no longer generates RINs which leaves retailers with few viable options to invest in upgraded infrastructure.

In its written statement, PMAA supported the biodiesel proposed volumes for 2014-2017 because the biodiesel mandate supports BioHeat®, which at a 12 percent blend coupled with ultra-low sulfur heating oil (ULSHO), is cleaner than natural gas.

A final 2014 – 2017 RFS rule is expected by November 30, 2015.

GASBUDDY PROVIDES INFORMATION ON STATE GASOLINE TAXES

On Thursday, GasBuddy released a report tracking states that have or plan to have increased gasoline taxes. [Click here](http://www.pmaa.org/weeklyreview/attachments/GasBuddy.TaxUpdate.pdf) (<http://www.pmaa.org/weeklyreview/attachments/GasBuddy.TaxUpdate.pdf>) to read the report.

CONGRESS AGAIN TRIES TO SOLVE THE HIGHWAY FUNDING DILEMMA

Congress continues to vet proposals for funding the Highway Trust Fund (HTF) in which both highway policy and HTF spending authority are set to expire on July 31. The Congressional Budget Office (CBO) projects a \$168 billion shortfall in the HTF over the next 10 years. Still it is likely that there will be another extension through the end of the year in order to give Congress more time to find revenue to pay for a long term highway policy bill. Particularly since Congress left town yesterday with much negotiation yet to take place, and, the House and Senate tax writers are pursuing different paths while Senate Democrats are demanding a multiyear bill.

This week began with the Senate Environment and Public Works (EPW) Committee approving the recently released

“Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act” in a 20-0 vote. S. 1647 would authorize \$278 billion for transportation programs over six years, boost funding levels at an annual average of 3 percent, create a dedicated freight program in fiscal year 2016 and create a competitive grant program for major infrastructure projects which would be approved by Congress. Senate EPW Chairman James Inhofe (R-OK) expects the bill to go the full Senate for a vote before the August recess. PMAA is currently reviewing the bill in detail and will have more information next week.

In the meantime, there is no movement in the House toward an authorization bill, with the Transportation Committee’s Highways Subcommittee Chairman Sam Graves (R-MO), stating that they are ready to pass another patch and are not ready to introduce a multiyear highway bill. However, EPW ranking member Barbara Boxer (D-CA) reported during the markup that House Speaker John Boehner (R-OH) told her that he supports the six-year bill.

The tax committees have the unenviable task of determining how to actually fund the infrastructure priorities. On Wednesday, the House Ways & Means Subcommittee on Select Revenue Measures, held a hearing in which Subcommittee Chairman Dave Reichert (R-WA) noted, “What we know to be true is that repatriation cannot be done as a standalone; it must be part of a transition to a more competitive system. I expect to hear today that, taken outside of the context of a transition, mandatory repatriation would be a tax increase. A tax increase that American companies would be forced to pay unlike their foreign competitors.” The committee heard from the following: Tom Barthold, Chief of Staff, Joint Committee on Taxation; Dirk Suringa, Partner, Covington & Burling LLP; Curtis Dubay, Tax & Economic Policy Research Fellow, The Heritage Foundation; and Jane Gravelle, Senior Specialist in Economic Policy, Congressional Research Service. The National Association of Manufacturers, the Business Roundtable, the RATE Coalition and the Alliance for Competitive Taxation all oppose using “a special tax on companies’ overseas earnings to produce the revenue needed to finance a long-term highway spending bill.”

On Thursday, the Senate Finance Committee held a hearing “Unlocking the Private Sector: State Innovations in Financing Transportation Infrastructure.” This hearing focused on how states have tapped the private sector for financing transportation infrastructure. It was clear that Republicans are looking for ways to redirect funds from other parts of the budget to keep the HTF solvent.

S CORP MODERNIZATION ACT INTRODUCED

Recently, Reps. Dave Reichert (R-WA) and Ron Kind (D-WI) introduced the S Corp Modernization Act (H.R. 2788). This bipartisan bill is sure to be of particular interest to many petroleum marketers. The S Corp Modernization Act, among other things:

- Permanently reduces the recognition period during which an S Corporation that has converted from a corporation is subject to corporate tax of built in gains to 5 years. Currently the reduced 5 year recognition period is an extender item that has been renewed annually to prevent the recognition period from reverting to 10 years.
- Eliminates the rule that previously terminated an S corporation election if the corporation’s passive investment income exceeded 25 percent of gross income for three consecutive years during which the corporation had accumulated earnings and profits.
- Increases the threshold of when an S Corp will be subject to tax on passive investments. Under the Act, S Corps will be subject to the tax when passive investment exceeds 60 percent of gross receipts (under existing law this threshold is 25 percent).
- Expands the law to include IRAs as eligible shareholders in an S corporation.
- Makes permanent the temporary rule that currently allows shareholders in an S corporation to account for their pro rata share of the corporation’s charitable deductions (i.e. a basis adjustment).

TRANSPORTATION APPROPRIATIONS BILL CONTINUES TO MOVE

On Thursday, the Senate Transportation Appropriations Committee approved a \$55.6 billion Transportation-HUD spending bill that would make highway funding a priority while cutting new transit projects and low-income housing funds.

PMAA will review the bill once available and will report on language of importance to petroleum marketers. We know that the bill retains language limiting regulations on trucker hours of service, pending a FMCSA study ordered last year. The bill would require the Federal Motor Carrier Safety Administration to mandate the use of speed limiters on all trucks weighing more than 26,000 pounds, and require drivers to use electronic logging devices to record how many hours they are on the road without a break. PMAA has had concerns with the mandated use of electronic logging devices in the past because the cost of installing an EOBR is estimated to be between \$1,000 and \$1,500 per vehicle, with additional monthly costs to keep the recorder in-service and operational. Any benefit gained from an EOBR mandate on carriers is marginal at best, as the FMCSA itself acknowledged in a Regulatory Impact Analysis.

An amendment introduced by Senator Richard Shelby (R-AL) was also approved which would allow truck lengths to grow to 33 feet from 28 feet and contains provisions providing states with more flexibility, including the ability to prohibit longer trailers from driving on local roads, and allowing states to seek exemptions for highway portions that state police cannot safely accommodate. Also DOT would have to conduct a three-year crash data study comparing 28-foot to 33-foot length trucks.

Two weeks ago, the House passed its Transportation-Housing spending bill which included some of the provisions mentioned above.

MANY PMAA RECOMMENDATIONS ADOPTED BY EPA IN NEW UST RULE

EPA announced its final UST system testing and inspection regulations on Monday. The rule adopts many of the changes PMAA has been pushing hard for over the past two years. EPA called PMAA immediately prior to the release of the final rule to discuss a few of its provisions.

The big news is that the final rule eliminates the single most onerous provision in the proposed rule – integrity testing for interstitial spaces in tanks, piping and containment sumps. PMAA argued that interstitial spaces were not designed to be pressurized for integrity testing and could damage equipment, cause leaks, and void manufacturer warranties. Interstitial integrity testing would also present significant technical challenges, is prohibitively expensive and a powerful disincentive for tank owners to upgrade with secondarily contained equipment.

EPA also told PMAA that it would not adopt monthly inspection of sump areas but require annual inspection instead, another major concession to PMAA's position. PMAA argued that monthly inspection of sump areas was too frequent, unnecessary, and raised an array of safety issues for c-store employees that ran contrary to OSHA workplace safety regulations.

EPA indicated it adopted many of PMAA positions in part or in whole but did not elaborate further about which parts of the rule were changed. PMAA will report on the entirety of the rule once it is fully compared with PMAA's recommendations.

PMAA challenged the EPA testing and inspection proposal from the outset when it was first published two years ago. PMAA argued that the EPA underestimated the cost of the proposed rule on small business petroleum marketers as required by law. PMAA formed a UST Task Force made up of marketers to address the many technical concerns with the proposed rule. The PMAA UST Task Force analyzed the true cost of EPA's proposal and drafted an alternative, less onerous regulatory framework for the agency to consider. The UST Task Force also met with the EPA Office of Underground Storage Tanks frequently over the past two years to discuss its concerns, enlisted the support of House and Senate Small Business Committees, the House Energy and Commerce Committee, and the U.S. Small Business Administration's Office of Small Business Advocacy, and met with the White House Office of Management and Budget, the ultimate regulatory authority for all federal rulemakings.

The bottom line is the final rule is a major accomplishment for PMAA and petroleum marketers. PMAA will issue a Regulatory Report on all the provisions contained in the final rule soon.

EPA PROPOSES HEAVY DUTY FUEL EFFICIENCY RULE

Last Friday, EPA issued a proposed rule that would significantly increase fuel efficiency in heavy duty trucks. The proposed rule is important to petroleum marketers not only because it would reduce diesel fuel consumption in heavy duty trucks by 33 percent but also add \$10,000 to \$12,000 onto the cost of new cargo tank trucks.

According to the proposal, the rule will apply to trucks built between 2019 and 2027, and is expected to achieve reductions of about one billion tons of greenhouse gases. In addition, the proposed rule will set emissions targets for other types of trucks larger than light-duty pickups, including delivery vehicles, dump trucks and buses. Fuel efficiency for heavy duty trucks would rise from a current average of 6 MPG to 9 MPG under the rule.

The trucking industry is divided over the proposed rule. Some truck engine manufacturers are skeptical of aspects of the proposal, including the technical feasibility of making such a large leap in fuel efficiency over a short period of time. However, other engine manufacturers, including Cummings, support the proposed rule. In response to the trucking industry's concerns, the EPA is completing a new "truck treadmill" testing lab in Michigan specifically intended to handle the testing of big rigs, and to guide development of the new regulations. The proposal to be announced on Friday will be open to public comment. The EPA, in conjunction with the National Highway Traffic Safety Administration, is expected to release a final version of the rule next year.

PMAA will closely analyze the proposed rule and formulate a response that reflects the interests of petroleum marketers.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 16 – 18, 2016 - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada

August 5 – 7, 2015 - Idaho (IPM&CSA) Convention - Sun Valley Lodge - Sun Valley, Idaho

August 17-19, 2015 – New Mexico (NMPMA) - Marriott Pyramid North – Albuquerque, New Mexico

September 15-17, 2015 - Utah (UPMRA) Convention - Park City Marriott - Park City, Utah

August 3 – 5, 2016 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

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Petro Pete: “Everybody’s a critic, and I don’t think they’re doing it right.”

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