National Air Transportation Association
The Voice of Aviation Business

Background

The 2005 Highway Bill contained a provision, known as the fuel fraud provision, altering the collection of fuel taxes for business and general aviation fuel providers, which has had a significant financial impact on the aviation industry. Before enactment of the Highway Bill, jet fuel intended for noncommercial use was taxed at a rate of 21.9-cents per gallon (CPG). While the tax on aviation jet fuel remains 21.9 CPG, the Highway Bill mandated that all taxes on aviation jet fuel be collected at the same rate as the tax for highway diesel fuel, 24.4 CPG. Aviation fuel providers must register with the Internal Revenue Service (IRS) as an "ultimate registered vendor" and file claims with the IRS to be reimbursed for the 2.5 CPG difference between the amount of taxes paid and the amount actually owed. The change was made amid concerns that highway truck drivers were buying aviation jet fuel and mixing that fuel with another substance to make it operable in highway trucks, thus avoiding the higher taxes on the purchase of highway diesel fuel. **However, there has been no documented evidence of widespread fuel fraud of this nature.**

Issue

The fuel fraud provision also changed the collection of fuel taxes by depositing the taxes for business and general aviation fuel providers into the Highway Trust Fund instead of the Airport and Airway Trust Fund. Only when a fuel provider applies to the IRS for the 2.5-cent refund do the remaining 21.9 cents transfer from the Highway Trust Fund into the Airport and Airway Trust Fund.

Due to the administrative and financial burden of becoming an ultimate registered vendor and collecting and retaining affidavits from all of their commercial customers, many aviation fuel vendors have chosen not to participate in the refund process since it is voluntary. When this occurs, the Airport and Airway Trust Fund receives no revenue from the collected taxes as the funds remain in the Highway Trust Fund. This diversion of aviation fuel taxes is costing the Airport and Airway Trust Fund approximately $50 million per year.

The purpose of this provision was to curb the fraudulent sale of jet fuel at airports for purposes other than aviation even though evidence to support the claim of this practice has never been presented. In fact, it is highly unlikely that large scale fraud of this type could occur. On-airport fuel vendors are under close scrutiny by both their airport management, usually local government, as well as their own fuel provider. For fraud such as this to be widespread, where over-the-road trucks or farm equipment are consistently being fueled or receiving jet fuel from an airport, both the local airport management, local government and national fuel company would have to be turning a blind eye and exposing themselves to significant financial and criminal liability. What this provision has actually accomplished is the transfer of tax revenue collected from aviation operations to the Highway Trust Fund.

NATA Position

The fuel fraud provision is a solution in search of a problem that does not and likely could not exist on any statistically significant scale. What the fuel fraud provision has accomplished is the imposition of significant financial and administrative burdens on small businesses across the country, all while depriving our national airspace system of funds needed to increase the safety and efficiency of transportation by air.

NATA is requesting your support for a provision in H.R. 7, the American Energy and Infrastructure Jobs Act of 2012 to repeal the fuel fraud provision.