

Excise Taxes and the Airport and Airway Trust Fund, 1970-2002

by Eric Henry

Federal receipts from aviation-related excise taxes for the Airport and Airway Trust Fund reached a level of \$9.1 billion for Fiscal Year (FY) 2002. The FY 2002 receipts represented 13.1 percent of all excise taxes as compared to 3.3 percent for FY 1971 [1]. The Airport and Airway Trust Fund excise taxes were a reliable source of revenue for the Nation's aviation systems during the latter part of the 20th century. Receipts from these taxes continue to be the major source of revenue for the Federal Aviation Administration (FAA).

Legislative History

In 1970, Congress passed the Airport and Airway Development Act and the Airport and Airway Revenue Act. Congress initiated these two acts to deal with the inadequacy of the Nation's airport and airway systems in meeting current and future projected growth in aviation. The Airport and Airway Trust Fund, also known as the Aviation Trust Fund, was enacted by the latter act and was effective on July 1, 1970 [2,3]. The Airport and Airway Development Act of 1970 authorized Federal funds, \$280 million a year for 5 years for airport development, and at least \$250 million a year for 5 years for acquiring, establishing, and improving air navigational facilities. The Airport and Airway Revenue Act of 1970 authorized the Aviation Trust Fund to be comprised of aviation-related excise taxes to finance these activities. The excise taxes on aviation for the Airport and Airway Trust Fund included the existing taxes on aviation gasoline and passenger tickets on domestic flights, and three new taxes. The excise tax on aviation gasoline was created with the Revenue Act of 1932 (with a rate of 1 cent per gallon), and the excise tax on passenger tickets on domestic flights was created with the Revenue Act of 1941 (with a rate of 5 percent of the ticket) [4]. Both of these excise taxes were previously deposited into the general fund before the Airport and Airway Trust Fund was established. The three new taxes were on international passenger tickets, air-freight waybills (transportation of property by air, i.e, cargo), and annual aircraft registration.

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The next major piece of legislative history came with the passage of the Airport Improvement Act of 1982 (Title V of the Tax Equity and Fiscal Responsibility Act of 1982). This was a crucial law for several

reasons. First, the Airport and Airway Trust Fund had run its course of 10 years after amendments had lengthened its initial existence. Next, after October 9, 1980, aviation-related excise taxes could no longer be transferred to the Trust Fund, leaving the Fund to survive based only on its accumulated surplus from prior years (Figures A, B, and C). The Airport Improvement Act reestablished the Airport and Airway Trust Fund and placed \$134 million into the fund, inasmuch as it could no longer receive monies from aviation excise taxes. The 1982 Act, along with subsequent legislation, also adjusted certain limitations and penalties, while still continuing to permit payments from the Trust Fund for operating and maintaining air navigation facilities. In addition, the act contained a provision allowing available funds to be used for noise compatibility planning and for carrying out noise compatibility programs previously authorized by the Aviation Safety and Noise Abatement Act of 1979.

The Omnibus Budget Reconciliation Act of 1990 increased aviation excise tax rates for transporting persons from 8 percent to 10 percent of the fare [5]. Rates for transporting property (cargo) increased from 5 percent to 6.25 percent of the fare. The effective date for these changes was November 30, 1990. This Act also increased the rate for noncommercial jet fuel from 14 cents to 17.5 cents per gallon.

The Taxpayers Relief Act

The Taxpayers Relief Act of 1997, effective October 1, 1997, extended aviation-related excise taxes for 10 more years (until September 30, 2007), providing a more stable source of revenue for the Airport and Airway Trust Fund. The Act also included other provisions as follows:

- The domestic passenger tax:
 - October 1, 1997, the rate was 9 percent of the fare, plus \$1 per domestic flight segment.

The Airport and Airway Trust Fund excise taxes were a reliable source of revenue for the Nation's aviation systems during the latter part of the 20th century.

Excise Taxes and the Airport and Airway Trust Fund, 1970-2002

Figure A

Selected Legislative History of the Airport and Airway Trust Fund, 1970-2001

Year	Statute	Provisions
1970	Airport and Airway Revenue Act of 1970, Public Law 91-258	Created the Airport and Airway Trust Fund and appropriated aviation-related excise taxes to it. Also, authorized expenditures from the Airport and Airway Trust Fund, authorized expenditures under: (A) Airport and Airway Development Act, which included Airport and Airway Development Programs; (B) Federal Aviation Act of 1958, for planning, research and development, construction, or operation and maintenance of--(i) air traffic control; (ii) air navigation; (iii) communication; and (iv) supporting services for the airway system; or (C) for Department of Transportation administrative expenses attributed to these activities.
1980	Airport and Airway Trust Fund-Extension of Taxes, Public Law 96-298	Extended the transfer of aviation-related revenues to the Airport and Airway Trust Fund from July to October 1980.
1980	(Transfer of aviation-related excise taxes to the Airport and Airway Trust Fund was terminated on October 9, 1980.)	
1982	Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248	Reauthorized the Airport and Airway Trust Fund and appropriated aviation-related excise taxes to it.
1987	Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100-223	Extended the authorization for expenditures from the Airport and Airway Trust Fund until October 1, 1992.
1989	Omnibus Reconciliation Act of 1989, Public Law 101-239	Raised the international departure tax from \$3.00 to \$6.00 per passenger.
1990	Omnibus Reconciliation Act of 1990, Public Law 101-508	Increased the excise tax rates for transportation of persons from 8 percent to 10 percent of the fare and of property from 5 percent to 6.25 percent of the fare. Also increased the aviation fuel tax from 14 to 17.5 cents per gallon.
1994	Federal Aviation Administration Authorization Act of 1994, Public Law 103-305	Extended the authorization for expenditures from the Airport and Airway Trust Fund from October 1, 1995, to October 1, 1996.
1996	Federal Aviation Reauthorization Act of 1996, Public Law 104-264	Extended expenditure authority from the Airport and Airway Trust Fund from October 1, 1996, to October 1, 1998.
1996	(Transfer of aviation-related excise taxes to the Airport and Airway Trust Fund was terminated on January 1, 1997.)	
1997	Taxpayers Relief Act of 1997, Public Law 105-34	Included a timeline for when and how much aviation-related excise taxes would increase, added a new international arrival tax to be deposited in the Airport and Airway Trust Fund for an additional 10 years, until September 30, 2007.
2000	Aviation Investment and Reform Act for the 21st Century, Public Law 106-181	Extended the expenditure authority from the Airport and Airway Trust Fund from October 1, 1998, to October 1, 2004.
2001	Air Transportation Safety and System Stabilization Act, Public Law 107-42	Enacted the extension of excise tax payments due by air carriers from September 10, 2001, until January 15, 2002.

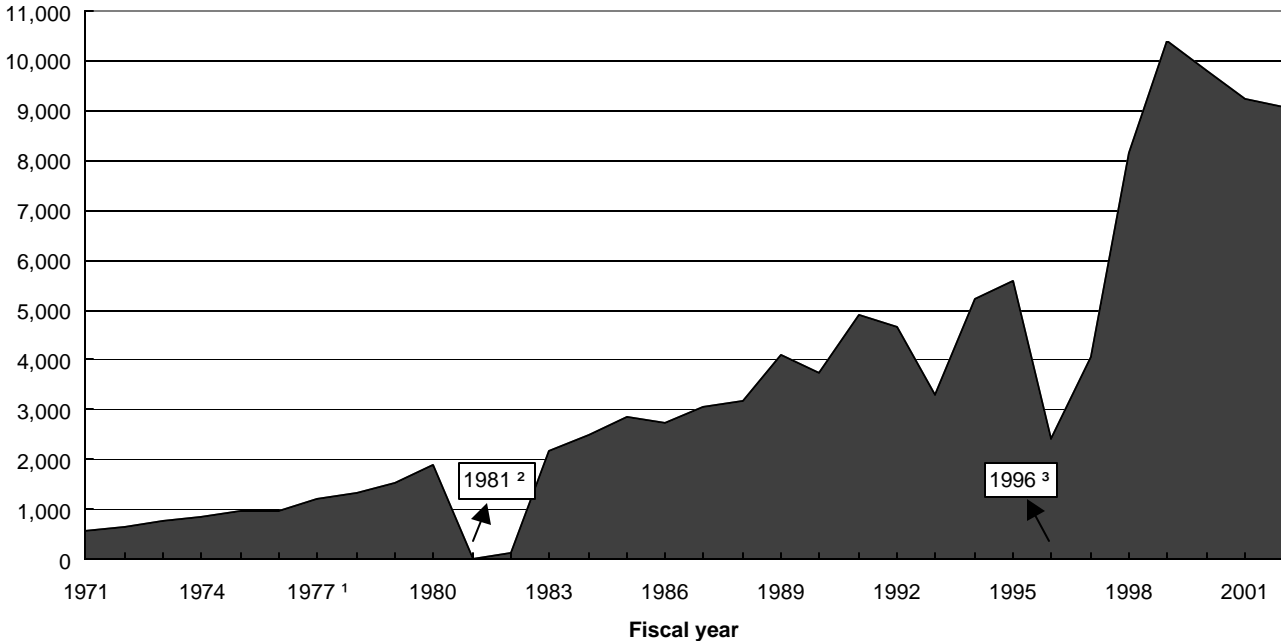
Source: Internal Revenue Code

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Figure B

Aviation-Related Excise Taxes Deposited into the Airport and Airway Trust Fund, Fiscal Years 1971-2002

Millions of dollars



NOTE: See footnotes to Figure C.

- October 1, 1998, the rate was 8 percent of the fare, plus \$2 per domestic flight segment.
 - September 30, 1999 to December 31, 1999, the rate was 7.5 percent of the fare, plus \$2.25 per domestic flight segment.
 - January 1, 2000, the ticket tax remained at 7.5 percent, but with \$2.50 per domestic flight segment.
 - January 1, 2001, the ticket tax remained at 7.5 percent, but with \$2.75 per domestic flight segment.
 - January 1, 2002, the ticket tax remained at 7.5 percent, but with \$3.00 per domestic flight segment.
 - January 1, 2003, the \$3.00 per domestic flight segment rate was indexed for inflation to the Consumer Price Index (CPI).
- ☐ The international passenger tax:
 - October 1, 1997, the international departure tax was \$12.00 per passenger.
- October 1, 1997, a new international arrival tax was set at \$12.00 per passenger.
 - January 1, 1999, both taxes were indexed to the CPI.
- ☐ Rural passenger taxes:
 - October 1, 1997, followed the same fare rate as domestic passenger tax with no flight segment rate imposed on eligible flight segments.
 - ☐ Special taxes for flights to Hawaii and Alaska:
 - \$6.00 per passenger rate applicable to the international airspace component of flights between the mainland and Alaska and Hawaii (including flights between Alaska and Hawaii). Indexed to the CPI, effective January 1, 1999.
 - ☐ Payments to airlines for air travel under credit cards and similar arrangements:
 - 7.5-percent tax on awarding air travel ben-

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Figure C

Aviation-Related Excise Taxes Compared to Total Federal Excise Taxes, Fiscal Years 1971-2002

[Money amounts are in millions of dollars]

Fiscal year	Total U.S. excise taxes	Aviation-related excise taxes	Percentage of total
	(1)	(2)	(3)
1971.....	16,872	564	3.3
1972.....	16,847	650	3.9
1973.....	16,572	760	4.6
1974.....	17,110	842	4.9
1975.....	16,848	964	5.7
1976.....	17,398	963	5.5
1977 ¹	18,376	1,193	6.5
1978.....	18,665	1,328	7.1
1979.....	19,049	1,528	8.0
1980.....	24,619	1,877	7.6
1981 ²	41,171	25	0.1
1982.....	36,661	134	0.4
1983.....	35,724	2,165	6.1
1984.....	1,855	2,501	6.6
1985.....	36,665	2,856	7.8
1986.....	33,706	2,743	8.1
1987.....	33,350	3,066	9.2
1988.....	36,441	3,195	8.8
1989.....	36,348	4,117	11.3
1990.....	37,374	3,718	9.9
1991.....	43,374	4,919	11.3
1992.....	46,961	4,660	9.9
1993.....	48,949	3,276	6.7
1994.....	56,783	5,217	9.2
1995.....	59,298	5,573	9.4
1996 ³	56,027	2,405	4.3
1997.....	58,690	4,044	6.9
1998.....	59,231	8,154	13.8
1999.....	72,076	10,395	14.4
2000.....	70,648	9,784	13.8
2001.....	68,241	9,244	13.5
2002.....	69,171	9,090	13.1

¹ The Congressional Budget Act of 1974 was effective in FY 1977, which changed the beginning and ending dates for fiscal years from July 1 through June 30 to October 1 through September 30.

² Legislation authorizing tax receipts transferred to the Airport and Airway Trust Fund expired in October 1980. Therefore, Fiscal Year 1981 activity represents adjustments to prior-year reporting.

³ Legislation authorizing transfer of tax receipts to the Airport and Airway Trust Fund expired temporarily from January through August, 1996.

Source: Monthly Treasury Statement, Fiscal Years 1971-2002

efits. Examples of such taxable payments include: (1) payments for frequent flyer miles purchased by credit card companies and telephone companies, and (2) amounts received by air carriers pursuant to joint venture credit card arrangements.

Other excise taxes:

- Air cargo waybill tax--6.25 percent on domestic air freight.

- Noncommercial jet fuel--17.5 cents per gallon.
- Noncommercial gasoline--15 cents per gallon.

- The Act also shifted the 4.3-cents-per-gallon aviation fuel tax to the Aviation Trust Fund from the General Fund.
- The Passenger Facility Charges (PFC's)--although not an excise tax, are fees charged by individual airports. Under the 1997 law, no airport could charge a PFC more than \$3.00 per passenger, and no passenger could pay more than \$12.00 in PFC's per his or her round trip flight. If a medium or large hub airport (consisting of 100,000 or more passengers departing from the airport during the second preceding calendar year) did charge a PFC, then it had to forgo a portion, up to half, of its Airport Improvement Program (AIP) entitlement issued by the FAA. The PFC penalty fee monies were then included in the fund for nonhub and general aviation airports [6,7].

The Wendell H. Ford Aviation Investment and Reform Act

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, known as Air-21, was enacted in April 2000. This act extended the Aviation Trust Fund's expenditure authority, the ability to help fund the FAA, from October 1, 1998, to October 1, 2004. Air-21 was considered landmark legislation because it boosted FAA appropriation levels from the Aviation Trust Fund and essentially guaranteed that revenues channeled into the Fund would be used for their intended purpose--aviation--at least through FY 2003. Increasing AIP funding was a major benefit for smaller airports, although raising the limits on the PFC's also helped fund the larger airports.

Increasing AIP funding changes through Air-21:

- Ensured that all of the Aviation Trust Fund revenues were spent on aviation programs and that the AIP is funded at its authorized levels.
- Allowed airports to raise the PFC to \$4.50, and that limited the amount any one person would have to pay to \$18.00.

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- ❑ Increased the maximum amount of annual funding that a large airport could receive from passenger entitlements from \$22 million to \$26 million and raised the minimum amount from \$500,000 to \$1 million.
- ❑ Raised the State apportionment from 18.5 percent to 20.0 percent of the AIP and, for the first time, provided guaranteed funding to general aviation airports [8].

The tragic events of September 11, 2001, affected the Airport and Airway Trust Fund by allowing excise tax payments from the airlines to the Trust Fund to be postponed as authorized by the Air Transportation Safety and System Stabilization Act of 2001. Airlines were supposed to submit payments twice a month for airline-related deposits, but, because of the events of September 11, legislation was passed, stating that an eligible air carrier's payments otherwise due between September 10 and November 15, 2001, would be treated as timely if they were made on or before November 15, 2001. However, the Secretary of the Treasury could substitute January 15, 2002, or an earlier date after November 15, 2001. The Secretary of the Treasury subsequently

prescribed the date as January 15, 2002, instead of any earlier eligible date.

Trust Fund

The Airport and Airway Trust Fund is made up of several aviation-related excise taxes (FY 2002 aviation-related excise taxes and rates can be seen in Figure D). These taxes are first deposited into a General Fund and then transferred by the Department of Treasury to the Airport and Airway Trust Fund. Transferred funds are equivalent to taxes received from transportation of persons and property by air, gasoline and jet fuel used in commercial and noncommercial aircraft, and an international departure/arrival tax levied as a kind of user fee [9].

Trend Data

As shown in Figure B, monies in the Aviation Trust Fund dipped in FY 1981 compared to prior years. This was because the ability to transfer aviation-related excise taxes to the Trust Fund had expired. This continued well into FY 1982 as seen by the slight increase in aviation-related excise tax receipts in that year. Another dip occurred in FY 1996, again because of the inability to transfer aviation-related taxes to the fund. With the passage of the Taxpay-

Figure D

Federal Aviation-Related Excise Taxes and Tax Rates, Fiscal Year 2002

Airport and Airway Trust Fund Taxes	Tax rates
Passenger ticket tax	7.5 percent of the fare on all domestic airline tickets
Segment tax	\$2.75 flight segment for nonrural airports ¹
Waybill tax	6.25 percent cargo waybill (transportation of property by air, i.e., cargo) tax on the fare
Fuel tax	19.3 cents/gallon on aviation gasoline ² 21.8 cents/gallon on noncommercial aviation use of jet fuel ² 4.3 cents/gallon on commercial aviation use of jet fuel ²
International departure/arrival tax	\$12.80 per person for the use of international air facilities, and \$6.40 for domestic segments beginning or ending in Alaska or Hawaii (applies only to departures) ³
Frequent flyer awards tax	7.5 percent of the regular fare on payments to commercial airlines with respect to awards of free or reduced rate air transportation

¹ Flight segment for nonrural (consisting of 100,000 commercial passengers departing from the airport during the second preceding calendar year) airport increased from \$2.75 to \$3.00, effective January 1, 2002.

² Fuel tax does not include the 0.1-cent tax for the nonaviation Leaking Underground Storage Tank (LUST) Trust Fund.

³ Taxes on the use of international air facilities increased from \$12.80 to \$13.20 per passenger, and domestic segments beginning or ending in Alaska or Hawaii (applies only to departures) increased from \$6.40 to \$6.60 per passenger, effective January 1, 2002.

Source: Internal Revenue Code

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ers Relief Act of 1997 and with the economy expanding, there was a sharp increase in aviation-related excise tax receipts.

Figure C shows the receipts from aviation-related excise taxes as compared to total Federal excise tax receipts, and the percentage of the aviation excise taxes versus Federal excise tax receipts in Fiscal Years 1971-2002. The Fund started with \$564 million deposited in FY 1971, which was 3.3 percent of all excise tax receipts deposited in that fiscal year. The Aviation Trust Fund reached its lowest levels in FY 1981 and 1982, again due to the expiration of the law that allowed these taxes to be transferred into the Fund. The Airport and Airway Trust Fund peaked, both in receipts and as a percentage of total Federal excise taxes in FY 1999, with \$10,395 million deposited and accounting for 14.4 percent of the total excise taxes collected, even though the total of all Federal excise taxes also peaked in FY 1999 at \$72,076 million.

Figure D shows the Airport and Airway Trust Fund aviation-related excise taxes and tax rates for FY 2002 [9].

Figure E is a summary analysis of the Airport and Airway Trust Fund in FY 2002. It includes the excise taxes transferred to the fund, the interest earned from investments that were deposited into the fund prior to their distribution to the FAA, and the expenditures from both the Aviation Trust Fund and the General Fund to the FAA in FY 2002.

Federal Aviation Administration appropriations can be seen in Figure F. The Trust Fund covers 100 percent of FAA airport grants-in-aid; facilities and equipment; and research, engineering, and development [10,11]. The Aviation Trust Fund also helps support the operations and maintenance portion of FAA's budget, with the rest coming from the General Fund; in recent prior years, the Airport and Airway Trust Fund was the majority source of its money.

Summary

The Airport and Airway Trust Fund was instituted on July 1, 1970, to meet the Nation's current and future aviation needs. There have been many revisions of the original legislation. These included terminating the Aviation Trust Fund in 1980, then recreating it in the Airport Improvement Act of 1982. Further changes in legislation were made in 1990. Excise tax transfers into the Aviation Trust Fund were termi-

nated in 1996, but resumed under the Taxpayers Relief Act of 1997. This act also provided for a revised tax structure, including a schedule of how and when aviation-related excise taxes would increase, and added a new international passenger arrival tax. The Aviation Investment and Reform Act for the 21st Century (Air-21) again revised the Fund in 2000. Although there was no increase in aviation-related excise taxes, the Passenger Facility Charge was increased along with standards introduced on how the Aviation Trust Fund was to perform. Air-21 also brought guaranteed revenue into the Federal Aviation Administration's budget. The events of September 11, 2001, seriously hurt the airline industry and resulted in passage of the Air Transportation Safety and System Stabilization Act of 2001, under which airlines were able to postpone excise tax payments due between September 10, 2001, and January 15, 2002, until the latter of the two dates. The net effect of all these changes was to increase receipts from aviation-related excise taxes from \$564 million in FY 1971 to \$9,090 million in FY 2002, with a peak of \$10,395 million in FY 1999. Without this Aviation Trust Fund, U.S. airports would not be as equipped and safe as they are today.

Figure E

Summary Analysis for the Airport and Airway Trust Fund and the FAA, Fiscal Year 2002

[Money amounts are in millions of dollars]

Item	Amount
Calculation of ending Airport and Airway Trust Fund cash balance:	
Beginning cash balance.....	14,482
Plus: Excise tax revenue net transfer.....	9,031
Interest revenue.....	860
Miscellaneous adjustments	3
Minus: Outlays.....	11,734
Equals: Ending cash balance.....	12,642
Summary of Federal Aviation Administration (FAA) budget:	
Total appropriated for FAA programs.....	13,803
From Airport and Airway Trust Fund.....	12,699
From General Fund.....	1,104
Total FAA operations and maintenance program appropriated from the Airport and Airway Trust Fund and General Fund.....	7,078
Percentage of FAA budget from Airport and Airway Trust Fund.....	92.0
Percentage of FAA budget from General Fund.....	8.0
Percentage of FAA operation and maintenance program from the Aviation Trust Fund	84.4

Source: FY2004 President's Budget

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Figure F

Federal Aviation Administration Appropriations from the Airport and Airway Trust Fund and the General Fund, Fiscal Years 1989-2002

[Money amounts are in millions of dollars]

Appropriations	1989	1990	1991	1992	1993	1994	1995
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total	6,389	7,140	8,137	8,887	8,862	8,579	8,234
Aviation Trust Fund, total.....	3,415	4,123	6,103	6,637	6,611	6,294	6,112
Airport grants-in-aid.....	1,400	1,425	1,800	1,900	1,800	1,690	1,450
Facilities and equipment.....	1,384	1,721	2,095	2,409	2,302	2,055	1,960
Research, engineering, and development.....	160	170	205	218	230	254	252
Operations and maintenance (part).....	471	807	2,003	2,110	2,279	2,295	2,450
General Fund:							
Operations and maintenance (part).....	2,974	3,017	2,034	2,250	2,251	2,285	2,122
Appropriations	1996	1997	1998	1999	2000	2001	2002
	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Total	8,134	8,561	9,137	9,530	10,044	12,637	13,803
Aviation Trust Fund, total.....	5,714	5,306	5,702	8,056	10,044	10,439	12,699
Airport grants-in-aid.....	1,450	1,460	1,700	1,565	1,896	3,196	3,475
Facilities and equipment.....	1,855	1,938	1,901	2,195	2,034	2,651	3,006
Research, engineering, and development.....	186	208	199	174	156	187	245
Operations and maintenance (part).....	2,223	1,700	1,902	4,122	5,958	4,405	5,973
General Fund:							
Operations and maintenance (part).....	2,420	3,255	3,435	1,474	--	2,198	1,104

Source: FAA Budget, various years.

Explanation of Terms

Airport Improvement Program (AIP) Grants.--Federal grants, paid through the FAA from the Aviation Trust Fund, are spent on projects that support aircraft operations, such as runway and taxiway construction, noise abatement, land purchase, and installation of safety measures.

Airline-related deposits.--Federal excise taxes paid relating to transportation by air and with respect to employees engaged in a trade or business related to aviation.

Domestic flight segment.--Consists of a single takeoff and a single landing.

Eligible air carrier.--Any domestic corporation engaged in the trade or business of transporting (for hire) persons by air, if such transportation is available to the general public.

Federal Aviation Administration (FAA).--The U.S. Federal Aviation Administration has primary responsibility for the safety and protection of civil aviation. The FAA was originally designated as the Federal Aviation Agency in 1958 under the Federal Aviation Act of 1958, and adopted its present name

in 1967 when it became part of the Department of Transportation.

Passenger Facility Charge (PFC).--A fee charged by individual airports, usually those that are classified as a medium or large hub, to raise more revenue than they would by just using the Airport Improvement Program (AIP) grants. For those airports that do charge a PFC, a portion, up to half, of their (AIP) entitlement issued by the FAA is denied. Monies from this penalty fee are then included in a fund for nonhub and general aviation airports.

Receipts.--Aviation-related excise taxes collected before subtracting refunds.

Rural airports.--An airport is a rural airport for a calendar year if it satisfies both of the following requirements.

- 1) Fewer than 100,000 commercial passengers departed from the airport during the second preceding calendar year.
- 2) Either of the following statements is true.
 - a) The airport is not located within 75 miles of another airport from which 100,000 or more commercial pas-

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sengers departed during the second preceding calendar year.

- b) The airport was receiving essential air service subsidies as of August 5, 1997.

Notes and References

- [1] U.S. Department of the Treasury, Financial Management Service, *Monthly Treasury Statement of Receipts and Outlays of the United States Government*, FY 1971-2002.
- [2] Congressional Research Service (CRS) Report for Congress, *Airport and Airway Trust Fund Issues in the 106th Congress*, 2000.
- [3] Internal Revenue Code sections 4041, 4081, 4091, 4092, and 4093.
- [4] Internal Revenue Code, 1939 edition.
- [5] U.S. House of Representatives, Committee on Ways and Means, *Solvency of the Airport and Airway Trust Fund*, 105th Congress, February 5, 1997.
- [6] U.S. Congress, Joint Committee on Taxation, *Schedule of Present Federal Excise Taxes*, March 29, 1999.
- [7] Congressional Research Service, *Issue Brief for Congress, Airport Improvement Program*, February 26, 2001.
- [8] Congressional Research Service, *Report for Congress, Aviation Taxes and Fees: Major Issues*, May 9, 2003.
- [9] Aviation-related excise tax collections deposited by type are shown in historical Table 21 at the end of this report. Discrepancies between these taxes that are reported to or collected by the Internal Revenue Service (IRS), Alcohol and Tobacco Tax and Trade Bureau, and Customs Service as shown in this article and in Table 21 are due to timing differences.
- [10] U.S. General Accounting Office, *Statistics on the Airport and Airway Trust Fund*, 1996 and 1999.
- [11] U.S. Department of Transportation, *FAA Budget in Brief, Fiscal Years 1999-2003*.
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