Excise Tax Financing of Federal Trust Funds

Nonna A. Noto
Specialist in Public Finance
and
Louis Alan Talley
Research Analyst in Taxation
Economics Division

January 5, 1993

93-6 E

SUMMARY

Dedicated excise taxes finance only a small number of the many activities undertaken by the Federal Government. The fourteen trust funds and special funds currently financed by excise taxes can be grouped under four programmatic purposes: nature conservation and recreation, transportation, environmental cleanup, and health damage compensation. In close parallel, the products currently subject to taxation on behalf of trust and special funds can be classified under the categories of hunting and fishing equipment; cargo transport and air passenger transportation; motor fuels; and materials potentially hazardous to the environment or human health.

The excises that finance the nature and transportation programs have often been called "user" or "benefit" taxes. Those that finance the environmental and health programs can be described as "liability" or "damage" taxes. User excise taxes are intended to approximate charges for the services provided by the Government programs. A major criticism is that an excise tax tends by its nature to be only a rough approximation of the appropriate price to be charged to a particular user. A system of user fees could be far more precise than excise taxes but administratively more costly. While the excise tax may be an imperfect charge, in some cases it is considered preferable to having the taxpayers at large bear the financing responsibility, or having no Government program at all.

Liability excise taxes are commonly levied on products closely associated with causing the damage to be remedied or compensated. The overriding rationale for the excise tax is that it is preferable for the burden of financing the cleanup or compensation program to fall on the associated industry and its customers, rather than on the general taxpayer. Not unexpectedly, many of those subject to the tax complain that they should not be held responsible to pay for damages caused by others, especially damages that occurred in the past.

There should be strong policy reasons to justify singling out a particular product for excise taxation. Selective or narrow-based taxes distort the markets surrounding the taxed commodity. By raising prices to buyers, excise taxation typically discourages the consumption of the particular item that is taxed and consequently reduces its production and related employment and profits.

Earmarking revenues to particular programs tends to reduce flexibility in budget allocation. An excise

tax as a dedicated revenue source may acquire its own strong constituency for spending those revenues only on a particular program. But the same excise tax base may be subject to claims from the general fund, other trust funds, or other programs.

Excise taxes are often a compromise financing mechanism. Their use should be reevaluated periodically in the light of improved technical and administrative capabilities to impose fees for services or to collect for past damages, and to implement regulations, fines, penalty taxes, and prefunded insurance programs to help discourage and pay for future damages.

TABLE OF CONTENTS

LIST OF TABLES

3. Reasoning Behind User Taxes and Liability Taxes

Excise taxes are also known as selective sales taxes. An excise tax is levied on a specific commodity or activity, with a separate tax rate established for that particular tax base. Examples include the Federal excise taxes on cigarettes, beer, gasoline, airplane tickets, and telephone services. These contrast with a general sales tax—the kind typically levied by States—where a single tax rate is applied to a broad range of goods and services.

Federal excise taxes have been levied since the early days of the Republic, (1) but their earmarking to special funds or trust funds is a relatively recent phenomenon. Historically, all excise tax revenues went to the general fund of the U.S. Treasury. Between 1937 and 1991, however, Congress established sixteen separate funds financed by Federal excise taxes on designated products.

During the late 1980s, the *Balanced Budget and Emergency Deficit Control Act of 1985* (2) (commonly referred to as the *Gramm-Rudman-Hollings Act* or *GRH)* imposed pressure to reduce the Federal deficit. While President Reagan and subsequently President Bush opposed increases in the income tax, they endorsed user fees for more Federal services, parallel to their support for privatization of Government activities. In reaction to this combination of pressures, the Congress was attracted to "pay-as-you-go" or "deficit-neutral" expenditure proposals which included their own revenue source. The *Budget Enforcement Act of 1990,* (3) to be in effect through FY 1995, placed even greater emphasis on the concept of pay-as-you-go financing.

With the shift to the Clinton Administration, the ideological force behind user fees may or may not diminish, but the budgetary needs and efficiency considerations remain. Proposals to impose new or higher excise taxes in order to finance particular programs may emerge as a consequence of continuing pay-as-you-go pressures. There also may be increased interest during the 1990s in employing excise taxes to regulate, penalize, or otherwise discourage certain types of undesired activities, particularly those thought to damage either the environment or health. And, as in the past, excise taxes remain attractive as possible sources of revenue to help reduce the general fund deficit and relieve the income tax of some of the burden of financing Government activities.

Two basic questions underlying this report are: when is it appropriate to levy an excise tax to finance a particular Government program? And, how does this differ from the reasoning behind general fund excise taxes?

Most trust fund excise taxes are intended to approximate charges for the Government programs they support. These charges are of two quite different types. The first is viewed as a charge for the benefits the taxpayer receives from the Federal program. Examples of these "user taxes" include the taxes on sport fishing equipment and fuel taxes paid into the *Aquatic Resources Trust Fund* and the gasoline taxes paid into the *Highway Trust Fund.* The second type is a charge for a share of the liability (or responsibility) for damages that has been accepted by the Federal Government. Examples of these "liability taxes" include the taxes on crude oil and feedstock chemicals paid into the *Hazardous Substance Superfund* and the taxes on certain vaccines paid into the *Vaccine Injury Compensation Trust Fund.*

One problem with this method of financing is that an excise tax tends to be only a rough approximation of the appropriate price to be charged. A system of user fees could be far more precise than excise taxes in assigning the costs to those who benefit from the Government program. But, in many current situations, fees would be administratively too costly or impractical. While the excise tax may be an imperfect charge, it may be judged preferable to having the taxpayers at large bear the financing responsibility or having no Government program at all. Nevertheless, there should be strong public policy reasons to justify singling out a particular product for excise taxation. By raising the cost of the taxed item, an excise tax is likely to discourage the purchase of that item, and consequently decrease its production and related employment and profits.

This report reviews the current use of Federal excise taxes to finance trust funds and special funds (4) in an effort to identify common characteristics and guidelines for evaluating future proposals. The first section classifies the trust funds according to four programmatic purposes and offers a short description of the stated purpose of each fund and the products taxed to finance it. The second section classifies the products subject to excise taxation, also into four categories. The third section discusses policy concerns related to using earmarked excise taxes as charges for benefits or damages. Appendix A presents a brief description of each of the trust funds financed by excise taxes, including the enacting legislation, the basic purpose of the fund according to its legislative directive, and the main revenue sources dedicated to the fund. Appendix B presents statistics on excise tax revenues received by the individual trust funds and the general fund.

PROGRAMMATIC PURPOSES OF THE TRUST FUNDS

Table 1 lists the trust funds and special funds financed by excise taxes. The funds are presented in chronological order of the year of the legislation that first dedicated excise tax revenues to the program. A glance down the left-hand column of table 1 might suggest that the trust funds and special funds financed by excise taxes have proliferated wildly and cover a vast range of purposes. Closer examination, however, suggests that the programmatic purposes of the trust funds can be grouped under four headings:

- - nature conservation and recreation;
- - transportation;
- - environmental cleanup; and
- - health damage compensation.

NATURE CONSERVATION AND RECREATION

The earliest dedications of excise tax revenue were to nature conservation and recreation programs through special funds, rather than trust funds. The first earmarking was to the *Federal Aid to Wildlife Restoration Projects Fund,* a special fund established within the U.S. Treasury in 1937. The fund makes grants to the States and territories to pay for wildlife restoration and hunter safety and education programs. Monies are collected from excise taxes on sport hunting and fishing equipment, including bows and arrows; pistols, revolvers, and other regular firearms; and ammunition. (5)

In 1950, the Dingell-Johnson Act dedicated monies to a special fund for fish restoration and management programs. In 1984, this fund became the *Sport Fish Restoration Account* within the *Aquatic Resources Trust Fund.* This account provides for restoring and managing fish with material value for sport or recreation in the marine and fresh waters of the United States. It is funded by excise taxes on sport fishing equipment, electric outboard motors, and fish-locating sonar devices, as well as taxes on gasoline and special motor fuels used in motorboats. (6) In 1990, a wetlands restoration program was established within the *Sport Fish Restoration Account,* funded by excise taxes on gasoline used in small-engine outdoor power equipment.

The *Land and Water Conservation Fund* (LWCF) was established as a special fund in 1964. The fund supports both Federal and State programs for land acquisition and administrative expenses for outdoor recreation programs. A small fraction of its revenues comes from motorboat fuels excise taxes. Other small sources of revenue are recreation fees collected by Federal agencies and proceeds from the disposal of surplus Federal real property and related personal property. The major revenue source is Outer Continental Shelf miscellaneous receipts from leases, royalties or the net profit share from oil and gas sales.

TABLE 1. Trust Funds and Special Funds and their Dedicated Excise Taxes*
(in chronological order of the initial legislation dedicating revenue to the fund)

Trust Fund or Special Fund (year of enacting legislation)	Excise Taxes on:
***Federal Aid to Wildlife Restoration Projects Fund,* the "Pittman-Robertson" Fund (1937)**	Bows and arrows along with their parts and accessories Pistols and revolvers Other regular firearms and ammunition (shells and cartridges)
***Aquatic Resources Trust Fund,* the "Wallop-Breaux" Fund (1984)**	Gasoline and special motor fuels used in motorboats
***Boating Safety Account* (1980)**	Gasoline used in small engines
***Sport Fish Restoration Account,* "Dingell-Johnson Act" (1950)**	Sport fishing equipment, electric outboard motors, and fish-locating sonar devices
***Highway Trust Fund* .(1956) *Mass Transit Account* (1982)**	Motor fuels (gasoline, diesel, special motor fuels, with lower excise tax rates on methanol, ethanol, gasohol, dieselhol) Heavy trucks and trailers (on retail price) Use tax on heavy highway vehicles (by weight) Heavy tires for highway vehicles
***Land and Water Conservation Fund* (1965)**	Gasoline and special motor fuels used in motorboats
***Airport and Airway Trust Fund* (1970)**	Air passenger tickets International departures Domestic air cargo waybills Fuels for general aviation
***Abandoned Mine Reclamation Fund* (1977)**	Domestically mined coal
***Black Lung Disability Trust Fund* (1977)**	Domestically mined coal (other than lignite) Penalty excises for misuse of a coal mine operator self-insurance trust (due to self-dealing or expenditures for an improper purpose)
***Inland Waterways Trust Fund* (1978)**	Diesel and other liquid fuels used by vessels in commercial waterway transportation on specified inland and intracoastal waterways
***Deep Seabed Revenue Sharing Trust Fund* (1979) (expired in 1990)**	Imputed value of certain commercially recoveragle hard minerals (no taxes were ever collected because theire had been no mining before the tax expired)
***Hazardous Substance Superfund* (1980)**	Crude oil Feedstock chemicals Imported chemical derivatives
***Post-closure Liability Trust Fund* (1980) (repealed in 1986)**	Hazardous waste
***Leaking Underground Storage Tank Trust Fund* (1986)**	Fuels: gasoline, diesel fuel, special motor fuels, fuels used in aviation, fuels used in commercial transportation on inland waterways

***Oil Spill Liability Trust Fund* (1986)**	Domestic crude oil and imported petroleum products (including imported crude oil)
***Harbor Maintenance Toast Fund* (1986)**	Value of commercial cargo loaded or unloaded
***Vaccine Injury Compensation Trust Fund* (1987)**	Certain vaccines (DPT, DT, MMR, Polio)
***National Recreation Trails Trust Fund* (1991)**	Fuels used by nonhighway recreational vehicles

* Note: Not listed in the table are other revenue sources that some of the trust funds may receive, such as interest earnings, user fees, and taxes other than excises. For a few of the funds, the excise taxes provide only a minority of the financing. Some of the important additional revenue sources, other than interest, are mentioned in the text and appendix A.

A *National Recreational Boating Safety and Facilities Improvement Fund* was established as a special fund in 1980. (7) It became the *Boating Safety Account* within the *Aquatic Resources Trust Fund* in 1984. This account provides public access sites, emergency search-and-rescue assistance, waterway markers and navigation aids, as well as boating safety education and law enforcement. It is financed by excise taxes on gasoline and special fuels used in motorboats.

The National Recreational Trails Trust Fund was established in 1991. Funds are to be allocated to States for such projects as the acquisition of new trails and access areas, maintenance and restoration of existing trails, State environmental protection education programs, and State administrative costs. The program is to be financed by excise taxes on fuels used in nonhighway recreational vehicles and other outdoor recreational equipment. (8)

TRANSPORTATION

The transportation trust funds are second in historical sequence. The *Highway Trust Fund* was the first separate trust fund, established in 1956. It is financed predominantly by excise taxes on gasoline, diesel, and special fuels, as well as taxes on heavy trucks and tires. The latter include an excise tax on the retail price of heavy trucks and trailers, a use tax (levied according to weight) on heavy highway vehicles, and an excise tax on heavy tires for highway vehicles (levied according to tire weight). The *Highway Account* of the trust fund pays for the construction and maintenance of Federal-aid highways, bridge rehabilitation and replacement, highway safety programs, and grants for alternative transportation modes. The *Mass Transit Account* pays for capital expenditures associated with mass transit projects.

The *Airport and Airway Trust Fund* was established in 1970. It is financed by excise taxes on air passenger tickets, domestic air cargo, gasoline and nongasoline fuels used in noncommercial (general) aviation, and a per passenger international departure tax. The trust fund fully finances capital programs of the Federal Aviation Administration (FAA), including airport improvement grants; the modernization of facilities and equipment for the air traffic control system; and research, engineering, and development related to the air traffic control system and national airway system. The trust fund is also permitted to finance approximately half of the FAA's operations account which covers the operation of the air traffic control system and FAA overhead and administration; the remainder of FAA operations is financed by appropriations from the general fund of the U.S. Treasury.

The *Inland Waterways Trust Fund,* established in 1978, is funded by excise taxes on the fuel used in commercial waterway transportation vessels on specified inland or intracoastal waterways. The fund covers up to 50 percent of the construction and rehabilitation expenditures for navigation projects on these waterways.

The *Harbor Maintenance Trust Fund,* established in 1986, is financed by a tax on the value of cargo loaded or unloaded from commercial cargo vessel and on charges for passengers on ships other than ferryboats; it also receives the U.S. portion of Saint Lawrence Seaway tolls. The trust fund pays for operations and maintenance costs of the Saint Lawrence Seaway and up to 40 percent of the costs assigned to commercial navigation for the operations and maintenance costs of harbors within the United States.

ENVIRONMENTAL CLEANUP

Most of the trust funds established between 1977 and 1986 are related to environmental cleanup. The *Abandoned Mine Reclamation Fund,* popularly referred to as the Abandoned Mine Land or *AML Fund,* was established in 1977 as a special fund within the U.S. Treasury. Monies collected from tonnage fees on coal are allocated among the various coal mining States to reclaim lands mined and abandoned prior to the program's enactment. The AML tonnage fee is higher on surface-mined (nonlignite) than underground-mined coal. (9)

The largest environmental cleanup fund is the *Superfund,* established in 1980. Trust fund monies are used to respond to the release of hazardous substances into the environment, including cleanup, removal, remedial action, and health studies. *Superfund is* supported mainly by excise taxes on crude oil and imported petroleum products and on 42 feedstock chemicals and imported chemical derivatives. *Superfund* also receives revenues from an environmental income tax levied on corporate alternative minimum taxable income in all industries. In addition, the trust fund receives some monies from penalties and punitive damages on parties held responsible for environmental damage.

The *Leaking Underground Storage Tank Trust Fund* was established in 1986. The trust fund provides money for the Environmental Protection Agency (EPA) to pay cleanup and related costs involving leaking tanks if no financially solvent owners can be found, or if the owner or operator refuses or is unable to comply with an urgent corrective order. The EPA allocates money to the States to clean up the sites posing the greatest threat to human health and the environment. The trust fund is primarily financed by a 0.1 cent per gallon tax on fuels. Some additional revenue for the trust fund comes from recoveries from parties responsible for leaking tanks under provisions of the *Solid Waste Disposal Act* as amended by the *Superfund Amendments of 1986* (P.L. 99-499).

The *Oil Spill Liability Trust Fund* was established in 1986, but financing was not provided until 1989. The fund pays costs for oil spill removal and certain damage claims. Revenues come primarily from a 5 cents per barrel excise tax on domestic crude oil and imported petroleum products. Some additional revenues come from fines and recoveries from parties found responsible for oil spills and violations.

Two programs never became operational. The *Deep Seabed Revenue Sharing Trust Fund* was established in 1979 but expired in 1990 before any revenues had been collected. The *Post-Closure Liability Trust Fund* was established in 1980 but was repealed in 1986 before any of its revenues were appropriated, and monies already collected were refunded to payors who submitted claims.

The *Deep Seabed Revenue Sharing Trust Fund* was to be financed by an excise tax on the imputed value of certain hard mineral resources removed from the deep seabed. The trust fund was concerned with conservation, environmental, safety, and technological development issues related to deep seabed mining. The primary expenditure purpose of the trust fund was to finance contributions that might be required in order to share the revenue from such mining among the world's nations, should an international deep seabed treaty become effective. The trust fund and tax expired, as scheduled, in 1990. The United States has not yet signed an international deep seabed treaty and the technology needed for commercial deep seabed mining has not yet been developed.

The *Post-Closure Liability Trust Fund* was to be financed by a per ton excise tax on hazardous waste received at qualified hazardous waste disposal facilities. The owner or operator of a hazardous waste disposal facility could transfer liability to the trust fund after complying with certain requirements. Trust fund monies were to be used to pay for the monitoring, care, and maintenance of sites and the costs for governmental response as specified under various environmental laws. The trust fund was repealed as a result of concern for its funding viability, due to difficulties in quantifying the risks associated with closed facilities.

HEALTH DAMAGE COMPENSATION

The category of health damage compensation contains just two trust funds—for black lung and vaccine injury. The *Black Lung Disability Trust Fund* was established in 1977 to help pay for benefits promised in prior legislation. The black lung benefits program pays for medical care and rehabilitation specifically associated with coal miners' black lung disease (pneumoconiosis) and makes disability income payments to eligible miners, their surviving spouses, and dependents. The general fund of the U.S. Treasury is responsible for miners who filed claims on or before June 30, 1973. The trust fund pays benefits to miners whose claims for benefits were filed after that date. For miners whose last day of employment was after January 1, 1970, the trust fund pays benefits if a former employer cannot be held responsible. The trust fund is financed by a tonnage tax on coal, levied at a higher rate on underground compared with surface-mined coal, but capped as a percent of the coal's price.

The *Vaccine Injury Compensation Trust Fund* was established in 1987. The fund collects a per dose tax on the sale of certain commonly administered childhood vaccines. The fund is intended to provide a source of compensation, on a no-fault insurance basis, for individuals who are permanently injured or die as a result of the administration of these vaccines.

PRODUCTS SUBJECT TO EXCISE TAXATION

As summarized in table 2, the types of products subject to excise taxation on behalf of the trust and special funds can similarly be classified under four headings:

- - sport hunting and fishing equipment;
- - cargo transport and air passenger transportation;
- - motor fuels; and
- - materials potentially hazardous to the environment or human health.

Three of the categories of products have a simple correspondence to one programmatic category of trust funds. The taxes on sport hunting and fishing equipment all go to trust funds for nature conservation and recreation. The taxes on air passengers and cargo transport all go to trust funds in the transportation category. And the taxes on materials sometimes hazardous to the environment or human health go to trust funds under the environmental cleanup and the health damage compensation categories.

The taxes on motor fuels finance several different trust funds, falling under three different programmatic categories. By far the largest amount of revenue goes to transportation programs, with lesser amounts going to nature conservation and recreation and to environmental cleanup. Typically, the motor fuels tax revenues are allocated to the nature and transportation trust funds depending upon the type of engine or vehicle for which the fuel was purchased. In addition, most of the motor fuels are subject to a small tax which funds the *Leaking Underground Storage Tank Trust Fund* in the environmental cleanup group.

TABLE 2. Types of Products Subject to Excise Taxation
(on Behalf of which Trust Funds)

Sport hunting and fishing equipment	Passenger and cargo transport	Motor fuels	Materials potentially hazardous to the environment or health
Bows and arrows; pistols, revolvers, and other regular firearms; ammunition *(Federal Aid toWildlife Restoration)* Sport fishing equipment, electric outboard motors and fish-locating sonar devices *(Aquatic Resources)*	Commercial boat cargo *(Harbor Maintenance)* Domestic air cargo, air passenger tickets, international air departures *(Airport and Airway)* Heavy trucks and trailers, heavy highway vehicles, heavy tires for highway vehicles *(Highway)*	*(Aquatic Resources, Highway, Land and Water Conservation, Airport and Airway, Inland Waterways, National Recreation Trails, Leaking Underground Storage Tank)*	Crude oil *(Superfund, Oil Spill Liability Trust Fund)* Fuels *(Leaking Underground Storage Tank Trust Fund)* Feedstock chemicals and imported chemical derivatives *(Superfund)* Hazardous waste *(Post-closure Liability)* (taxes never collected) Certain commercially recoverable hard minerals *(Deep Seabed Revenue Sharing)* (no taxes ever levied) Coal *(Abandoned Mine Reclamation, Black Lung Disability)* Certain vaccines *(Vaccine Injury Compensation)*

POLICY ISSUES

The close correspondence between the types of products taxed and the programmatic categories should not be surprising. Historically, a concerted effort has been made to tax products whose use is closely correlated with use of the services financed by the trust fund or closely associated with causing the damages to be redressed. Indeed, a key factor in establishing a program supported by dedicated excises is likely to be the ability to identify a product that can be taxed on an administratively reasonable basis and with public acceptance of the reasonableness of singling out that specific product for taxation.

The excise taxes dedicated to trust funds are intended to approximate charges directly associated with a particular Government program. Characterizing excise taxes as fees or charges, in turn, leads logically to earmarking those revenues to a particular expenditure program through a trust fund or special fund arrangement.

The current dedicated excise taxes serve two quite different roles. The excise taxes financing the nature-conservation-and-recreation and the transportation categories of trust funds can be described as "user taxes." They reflect the "benefits principle" of taxation. (10) They are intended to tax the current or potential beneficiaries of the Government program.

In contrast, the excise taxes financing the environmental cleanup and health damage compensation categories of trust funds can perhaps be better described as "liability taxes" or "damage taxes." Liability excises are imposed in situations when those actually responsible for the damages cannot be held directly accountable. Instead, taxes are levied on the current production of a product associated with causing the damages that the Government program is trying to rectify.

A serious evaluation of almost any excise tax used as a pricing mechanism is likely to conclude that some taxpayers are overcharged while others in society pay too little in relation to their use of the Government program (in the case of user taxes) or their responsibility for the problems the Government program is addressing (in the case of liability taxes). A major criticism is that an excise tax tends by its nature to be only a rough approximation of the appropriate price. It does not charge the user of the Government service directly, but rather levies an indirect charge by taxing a private sector product that is commonly associated with use of the Government service or with causing the damage to be addressed.

Despite its shortcomings, an excise tax may nonetheless emerge as a compromise financing mechanism. While the excise tax may be recognized as an imperfect charge, in some cases it is viewed as preferable to having the taxpayers at large bear the financing responsibility, or having no Government program at all. Administratively, it may be far more convenient to initiate and collect an excise tax than to implement a system of true user fees.

USER TAXES AS PRICES OR CHARGES

The label of "user charge" is sometimes applied to the dedicated excise taxes referred to here as "user taxes." According to strict economic and legal criteria, however, user fees have a narrow definition. The basic requirement to qualify as a user fee, rather than a tax, is that the monetary amount of the charge to the user should be closely related to the costs incurred by the Government in providing the service to that particular user. (11) If a fee is levied such that an individual is also charged for services provided to the general public, it is considered inequitable as a fee, and the courts view that fee as a tax. (12)

Some excise taxes are crafted to more closely resemble a pricing mechanism. For example, it is generally held that heavier vehicles (such as large tractor-trailer trucks) cause greater damage to roadways and bridges than lighter vehicles such as passenger cars and motorcycles. Several of the *Highway Trust Fund* taxes are targeted at heavy trucks—the retail tax on heavy trucks and trailers, the use tax on highway vehicles (trucks) exceeding 26,000 pounds, and the tax on heavy tires for highway vehicles. These taxes are frequently viewed to as a proxy for highway wear-and-tear charges. Still, these truck and tire taxes currently account for only about 12 percent of the trust fund's revenues, which many analysts consider far below the appropriate share that should be charged to heavy trucks.

Some analysts of highway usage argue that the tax on trucks should reflect distance traveled, in addition to weight (a weight-distance tax). Others would prefer an axle-weight charge to more accurately reflect pavement wear. (13) The taxes on gasoline and diesel fuels are offered as a proxy for distance taxes, for trucks as well as other vehicles. Still, much of the fuel on which tax is paid is used to drive on roads other than federally assisted highways. A system of tolls would be a more precise way of charging, but in many current situations this would be administratively costly and impractical. In the future, the technology may be available to track individual vehicles and charge them for their actual use of particular roads. (14)

The *Intermodal Surface Transportation Efficiency Act of 1991* (ISTEA) (P.L. 102-240) took a significant step toward further supporting user fees to finance transportation projects by permitting the collection of tolls on roads (both privately and publicly sponsored) that receive aid from the *Highway Trust Fund. (15)* This policy may help leverage the *Highway Trust Fund* excise tax revenues by expanding the contribution of toll revenues to the highway system and by increasing the number of partially self-supporting road projects that can be undertaken. (16) In exchange for being permitted to charge tolls, toll roads will receive a lower Federal matching rate. (17)

A Federal excise tax is set on a uniform basis nationwide and cannot be set flexibly to meet local conditions. It is not a suitable mechanism for addressing the congestion problems facing transportation infrastructure. The 1991 transportation act (ISTEA) took a noteworthy step in this regard by establishing a pilot program to experiment with congestion pricing.

The desire to define motor fuel taxes more precisely as user-related charges has led to congressionally required studies of cost allocation among highway users and of the highway excise tax structure. It has also led to tax exemptions for nonhighway use of fuels, including fuel used on a farm or for farming purposes and for such off-highway business use as fuel used in equipment for construction projects. In addition, the tax collections associated with certain uses of fuel have been allocated or transferred to other trust and special funds dedicated to more closely associated purposes. These include the transfer of motorboat fuels taxes to the *Land and Water Conservation Fund* and *the Aquatic Resources Trust Fund* and nonhighway recreational fuels to the *National Recreation Trails Trust Fund.* (18) The *Sport Fish Restoration Account* of the *Aquatic Resources Trust Fund* also receives taxes on gasoline used in small engine outdoor power equipment to fund a wetlands restoration program, although the linkage there is less obvious. (19)

The *Airport and Airway Trust Fund's* tax sources also have been criticized for not well reflecting or allocating the costs imposed by particular users. The trust fund's major revenue source is the air passenger ticket tax, currently levied at 10 percent of the value of commercial airline tickets. Critics argue that general aviation users (such as corporate jets and private planes) are undercharged relative to commercial airline passengers. According to this argument, the tax on general aviation fuels pays for only a small share of the costs imposed on the airport and airway system by noncommercial aviation users. A number of activities are exempted from the aviation fuels taxes on the grounds that they do not use the federally financed airport and airway system (20) and certain users because they are typically treated as exempt from Federal taxes. (21)

None of the aviation trust fund taxes reflects the demand for services at particular airports at certain times of day, as congestion pricing potentially could. The *Omnibus Budget Reconciliation Act of 1990* did permit individual airports to levy passenger facility charges (PFCs) in exchange for a reduction in the airport improvement grants those airports would otherwise receive from the FAA.

Similar criticisms can be made of other trust funds and their revenue sources. (22)

LIABILITY TAXES AS INSURANCE PAYMENTS

Liability excise taxes are employed to finance several insurance-type trust funds established to make payments authorized by the Government to compensate for certain environmental and health damages. In contrast to user taxes which tend to support services that people want to have, liability taxes often pay for things that people wish they did not have to spend money on, to compensate for things most people wish had not happened, and to pay taxes when others theoretically should be held responsible.

Among the trust funds financed by liability excise taxes, the one that most closely resembles an insurance program is the *Vaccine Injury Compensation Trust Fund.* It differs from the other trust funds in the environmental and health damage groups in two important respects. First, the vaccine injury program adheres to the budget principle that the general fund of the U.S. Treasury should bear the responsibility for "retrospective liability," related to events that occurred prior to the establishment of the trust fund program and that the trust fund should only finance "prospective liability," related to events that occur after the program is established. For some other trust funds in the liability category, the taxes are collected to pay in large part for damages that are the result of past activities. This is especially true in the cases of the *Abandoned Mine Reclamation Fund,* the *Black Lung Disability Trust Fund,* and the *Superfund.*

Under the Vaccine Injury Compensation Program, provision was made from general fund revenues to compensate up to 3,500 claimants who suffered injury or death resulting from the administration of a vaccine before the effective date of the program. (23) The excise taxes on vaccines are levied much like an insurance premium. The tax rate per dose is set separately for each vaccine so that revenue collections will approximate the potential future liability of the current group of producers for damages that may be caused by use of that type of vaccine.

Second, the *National Vaccine Injury Compensation Program* is a no-fault program. No attempt is made to assign fault to, or collect damages from, individual vaccine manufacturers. The *Abandoned Mine Land Reclamation* program also operates on a no-fault basis in the sense of not attempting to assign liability.

This contrasts with other trust funds in the environmental cleanup and health damage liability categories for which, in theory, the Government tries to assign liability and collect damages. In practice, however, very little liability has been assigned to responsible parties and even less collected in damages. Damages may be uncollectible because they are attributable to unidentifiable producers, past producers now out of business, or known current producers from whom liability payments cannot be collected because they have insufficient assets or because they are contesting the liability claim. If the Government is able to collect damages from identifiable parties, the monies collected are deposited into the corresponding trust fund in the cases of the *Superfund, Leaking Underground Storage Tank, Oil Spill Liability,* and *Black Lung Disability* trust funds.

The *Black Lung* program has three categories of financial responsibility: one provided on a no-fault basis and financed by the general fund; a second provided on a no-fault basis and financed by the trust fund; and a third where the trust fund pays only if a former employer cannot be held responsible. (24) In practice, relatively few black lung benefits are collected from former employers, leaving the trust fund responsible for paying most benefits.

The inability to identify the responsible parties and hold them accountable is, in fact, one of the prime reasons for the establishment of these Government compensation programs. But the very existence of the trust fund as a safety net may increase its burden by reducing the incentive on the part of damaged parties to pursue the legally responsible parties.

The inability to collect damages from those directly responsible also means that others will have to pay. The liability taxes typically cannot be levied specifically on the parties directly responsible for the damages or in accurate proportion to the damage they caused. Further, many of the companies responsible for causing the damage are no longer in business.

Instead, the liability taxes are commonly levied on a product closely associated with causes of the damage. The overriding rationale is that it is preferable for the burden to fall on the associated industry and its customers rather than on taxpayers at large. Not unexpectedly, there are complaints from producers and consumers in the taxed industry who feel they should not be held responsible for damages caused by others in the past.

The types of issues that surround liability taxes were raised during the July 1992 consideration of the Lead-Based Paint Hazard Abatement Act (H.R. 2922, 102d Congress, 2d session). The bill proposed an excise tax on lead produced in or imported into the United States, in order to finance a trust fund for grants to abate health hazards associated with lead-based paint in low-income housing and day care centers. The bill would have taxed current production and thereby current usage of lead, which bears little relation to the problem being addressed by the expenditure program. Eighty percent of lead consumed in the United States in 1991 was contained in storage batteries; very little is used today in paints. (25)

The problem can be viewed as how to assign financial responsibility for remedying a problem caused by the past common practice of using lead-based paint, specifically to benefit the subset of the population too poor to pay for the remedy privately, as most of the rest of the Nation has. While the taxation (or other regulation) of lead production and consumption may be justifiable on other environmental and health grounds, it does not appear justifiable primarily as a source of revenue for a low-income, lead-based paint removal program.

ECONOMIC AND BUDGETARY EFFECTS OF EXCISE TAXES

The following observations about the economic effects of excise taxes apply whether or not the taxes are earmarked.

There should be strong public policy reasons to justify singling out a particular product for excise taxation. As a general principle of tax policy, it is preferable to avoid selective or narrow-based taxes in favor of broad-based taxes. Raising an equal amount of revenue by using a broader-based tax (such as the existing Federal income tax or payroll tax or a new national sales tax or value-added tax) would have more neutral consequences. A broad-based tax would touch many more sectors of the economy, but each to a lesser degree than would an excise tax narrowly focused on a particular sector. Selective taxes distort the markets surrounding the taxed commodity and give an advantage to untaxed competitors.

By raising the price facing the buyer, excise taxes discourage the purchase of the taxed item and, consequently, its production. In many circumstances, the price to the consumer rises by less than the full amount of the excise tax. Some portion of the tax per item may be borne by the producer in the form of lower after-excise-tax prices and profits and by lower returns to other factors of production, including lower wages, lower rents, and lower returns to financial investors. (26)

Some geographic areas of the country may be hurt more than others by the taxation of a particular item. Those areas where production of the taxed item is concentrated could suffer a decline in employment and related economic activity, while those areas where producers compete with the taxed product are likely to benefit. Areas where residents are heavy consumers of the product will suffer a decrease in purchasing power. (27)

Factors Encouraging the Use of Dedicated Excises

The earmarking of revenues may provide a political buffer for introducing new revenue sources or for raising tax rates on existing sources. Taxpayers may be more sympathetic to a tax if the resulting revenues are to be earmarked for a particular program that is either deemed to be a worthy cause or corresponds to a service that is understandably related to the excise tax in its role as a charge. (28)

Indeed, in some cases, a constitutuency group may actively support a tax on itself if it can be assured that the additional revenues will translate into additional spending for its particular program. (29) To better ensure that end, advocates also would like their earmarked revenue program to be covered by a permanent appropriation so that it can bypass the annual appropriations process. However, among the funds financed by excise taxes, only the *Federal Aid to Wildlife Restoration Fund* and the *Aquatic Resources Trust Fund* have a permanent appropriation. The other funds covered by this report are subject to the annual appropriations process.

A tax may be selected because of its administrative or revenue convenience. A particular excise tax might be attractive because it can generate a large amount of revenue—or a small amount. The tax on motor fuels is a good example of a tax that has achieved an important revenue role because it has a large base and can raise a large amount of revenue at a relatively low tax rate. Another excise tax may be attractive because of its narrow tax base. Under the pay-as-you-go pressure an excise tax may be proposed as the financing mechanism precisely because it generates a relatively small amount of revenue, just sufficient to pay for the specific expenditure program in question.

It may be easier to extend or to raise the rate on a familiar revenue source rather than to introduce new taxes or fees on other activities related to the trust fund's purpose. Although the enacting legislation may call for subsequent evaluation of the appropriateness of a trust fund's revenue structure, it is common for the existing taxes simply to be extended or raised as part of reauthorization. The *Omnibus Budget Reconciliation Act of 1990,* for example, extended the *Superfund* taxes at prior rates and increased the rates on existing aviation taxes and on the highway motor fuels taxes without congressional consideration of alternative tax sources for these trust funds.

The same tax base may be tapped for multiple purposes because it costs less, both administratively and politically, to "piggyback" a small incremental tax rate onto an existing tax base rather than to begin to tax an entirely new tax base. A prime example is the taxation of crude oil and refined motor fuels to finance several trust funds and the general fund. The *Omnibus Budget Reconciliation Act of 1990* temporarily increased the gasoline tax by 5 cents per gallon (for five fiscal years, 1991-95). Half of the increase was assigned to the highway and other trust funds that receive fuels tax revenues and half to the general fund.

Rather than introducing a new revenue source, it may be tempting to earmark for special purposes an excise tax that has traditionally belonged to the general fund. In recent years there have been numerous proposals to dedicate revenues from the cigarette and alcohol excise taxes to health programs of various types. Tobacco excise taxes have been suggested as a funding source for cancer research, smoking cessation programs, as well as a dedicated source of funding for the Medicare and Medicaid programs. Likewise, it has been suggested that alcohol excise taxes be used to fund Medicare and Medicaid, alcohol rehabilitation programs, and a compensation mechanism for victims of drunk driving. Historically, however, Federal "sin" taxes have not been dedicated to particular programs.

Factors Restraining the Spending of Earmarked Revenues

Since the mid-1980s, the overall efforts to reduce the Federal deficit and restrict Federal spending have also restrained expenditures from most of the trust funds and special funds financed by excise taxes. In some years, many of the funds were affected by the sequestration process under the *Gramm-Rudman-Hollings Act (GRH).* Currently, the expenditures for most of the funds are included under the caps on discretionary spending imposed by the *Budget Enforcement Act of 1990.*

The past decade has witnessed particular controversy about both the overall level and the composition of spending of the *Highway* and *Airport and Airway* trust funds. The existence of "cash balances" in these (and other) trust funds has raised concerns in Congress about whether spending for trust fund programs was being restrained in order to help offset the deficit in the general fund. Some argued that if the monies are not being spent currently on the intended trust fund purposes, then the tax rates should be reduced. (Others argued that there were valid reasons why the money could not be effectively spent at the rate previously planned, for example because of delays in the ability to implement new technological developments for the air traffic control system.)

Within the budget of the *Airport and Airway Trust Fund,* there was a longstanding controversy between the executive branch and the Congress, and between the authorizing versus the budget and appropriations committees of Congress over trust fund spending on operations compared with capital expenditures. At one point, the law included an automatic trigger designed to cut the aviation tax rates in half if obligations and appropriations for capital programs did not meet a certain percentage of amounts authorized. (30) In addition, under a legislated cap, trust fund expenditures for FAA operations could not exceed 50 percent of FAA capital expenditures. Under a penalty provision, maximum permissible trust fund expenditures on FAA operations would be reduced by twice the amount by which amounts actually appropriated for capital program fell short of authorized spending levels.

For fiscal years 1982-90, although the authorizing legislation provided for the *Airport and Airway Trust Fund* to finance up to 70 to 75 percent of the total FAA budget and 50 to 55 percent of the FAA operations budget, in practice the trust fund's share was substantially lower, leaving the general fund to support the remainder. The authorization formula enacted in 1990 (31) provided for the trust fund to finance 75 percent of the total FAA budget and, in practical effect, 50 percent of the FAA operations budget. (32) These are approximately the percentages achieved in fiscal years 1991 and 1992 and authorized for FY93.

There may be competition among programs and between trust funds and the general fund for the same excise source. Some feel, for example, that revenues from the taxes currently imposed on pistols and revolvers (popularly referred to as handguns) should be dedicated to programs against drugs and crime rather than wildlife management and hunter education programs. (33)

OBRA90 not only repealed the tax reduction trigger on the aviation taxes mentioned earlier, but also raised the rates on three of the *Airport and Airway Trust Fund* taxes. In a break with recent earmarking tradition, the revenue attributable to all of the higher aviation tax rates during calendar years 1991 and 1992 was to remain in the general fund of the United States Treasury, according to the intention expressed in the statement of managers in the conference report. According to the statutory language actually adopted, however, only the revenues from the increase in the noncommercial aviation fuels taxes remain with the general fund. (34)

As mentioned above, *OBRA90* also temporarily increased the gasoline tax (for five fiscal years), with half of the increase going to the general fund instead of the respective trust funds that typically receive the fuels tax revenues. Congress thus challenged the conventional wisdom that had become entrenched since the establishment of the *Highway Trust Fund,* that the gasoline tax was exclusively a user tax. The gasoline tax, at least in part, was temporarily returned to the role it served prior to 1957 as a general fund revenue source. (35)

Another way of diverting funding away from the original mandate of the trust fund has been to expand the statutory definition of permissible uses. In the case of the *Highway Trust Fund* the concept of user tax has been interpreted more broadly as a benefits tax, including indirect or spillover benefits. A *Mass Transit Account* was established within the *Highway Trust Fund* by the *Highway Revenue Act of 1982* (Title V of P.L. 97-424, the *Surface Transportation Assistance Act of 1982)* to help finance capital expenditures for mass transit; 1.6 cents per gallon of the gasoline tax is currently dedicated to this account. The *Intermodal Surface Transportation Efficiency Act of 1991* (P.L. 102-240, ISTEA) , the 1991 highway appropriations act, permitted the States to spend their *Highway Trust Fund* grants on a broader range of alternative transportation modes and related infrastructure needs. It can be argued that highway users benefit from expenditures on mass transit and other transportation modes because the availability of these travel alternatives reduces congestion on existing highways and the need to build additional roads.

As previously mentioned, some groups of nonhighway users of fuel have succeeded in getting a portion of fuel tax revenues transferred from the *Highway Trust Fund* to other trust and special funds that offer program benefits more closely related to their fuel usage. These include the *Land and Water Conservation Fund* and the *Aquatic Resources Trust Fund* for motorboat fuels, and the *National Recreational Trails Trust Fund* for fuels used in nonhighway recreational vehicles. (36)

THE REASONING BEHIND THE COMPROMISE SOLUTION

The rationale for excise taxes whose revenues flow to the general fund of the U.S. Treasury frequently differs from the reasoning behind employing an excise tax to finance a specific Government program. In the case of a general fund excise tax, there is often a strong public policy reason to tax the particular commodity. It is recognized, if not intended, that the tax may decrease consumption of the item and that both consumers and producers are likely to bear some of the burden of the tax. In many cases, it may be argued that the product imposes costs (negative externalities) on the society as a whole that are not adequately reflected in the market price of the product. Examples include the arguments that use of certain energy sources or chemicals pollutes the environment, that excessive consumption of alcohol contributes to auto accidents, or that smoking imposes health costs on nonsmokers as well as smokers.

In contrast, the rationale for a user or liability excise tax generally starts with the program to be supported and ends with the excise tax as a compromise financing solution. A primary purpose of the trust fund excise taxes is to raise sufficient revenue rather than modify behavior.

The reasoning behind imposing a dedicated excise tax involves at least seven identifiable steps. The nature of the considerations differs slightly between the user and liability taxes, as summarized in table 3.

TABLE 3. Reasoning Behind User Taxes and Liability Taxes

Issues considered	User taxes	Liability taxes
1. The program to be accomplished.	There is a consensus that the program should be provided.	There is agreement that the victims should be compensated or the damages redressed.
2. Reasons for Government intervention.	Due to "market failure," the service is not being provided by the private sector or a lower level of government. If the service is to be provided, intervention by the Federal Government is needed.	In practice, it is difficult to hold the responsible private parties accountable. Collecting damages may take time and/or involve high legal costs. Monies are needed to address problems in the near term.
3. Appropriateness of charging a subset of the population.	The service differs from many other activities provided by the Government in that the people who receive the majority of benefits from the program can be identified as a distinct subgroup of the general public. Further, the beneficiaries are not primarily low income people without the means to pay. Combined, this suggests that it is reasonable to have the subgroup of the population that benefits most directly from the program pay for the program.	Particularly with regard to damages caused in the past, it may be most appropriate for the general fund to absorb the cost of the compensation program. However, there may be a strong desire to assign blame and related costs to a subset of the economy. Even for past damages, it may be considered preferable to have current producers and users of the product bear the costs of the program, rather than taxpayers at large.

4. Preferable financing mechanisms.	A preferable financing mechanism would be a system of user charges that vary to reflect the costs that individual users impose on the government program, at different times, in different situations.	A preferable financing system would assess charges in proportion to the amount of damage caused, or likely to be caused, by the entity being charged. This would be accompanied by laws, regulations, fines, and penalty taxes designed to discourage damaging behavior in the future.
5. Why the theoretically preferable system might notwork.	A system of direct user charges may be impractical or costly— administratively or politically.	Penalty excise taxes are unlikely to provide a stable or adequate source of revenue for the trust fund. Risk-related or experience-related charges may be difficult to quantify and implement. It is especially difficult to assign costs with regard to past damages when many of the responsible parties are no longer in business.
6. The excise tax as a compromise financing mechanism.	A practical alternative method of charging is to place an excise tax on a product whose usage is closely correlated with use of the Government service.	To establish a reliable revenue source, an excise tax is placed on the product or products most closely associated with causing the damage to be redressed.
7. Payers' attitudes.	The payers of the tax are reasonably satisfied that the proceeds of the tax go to finance a program from which they benefit directly.	Those asked to pay even though they are not directly responsible for the damages acknowledge that it is reasonable for the public to associate the taxed product with the problem.

First, in the case of user taxes, there is a consensus that the program should be provided. In the case of liability taxes, there is agreement that the victims should be compensated or that damages be redressed.

Second, there is a consensus that if the service or compensation is to be provided, the Federal Government must intervene. In the case of user taxes, the service may not be provided by the private sector or a lower level of government due to "market failure." Possible reasons for market failure include the large scale of the project, the technological and administrative inability to assess and collect charges, the inability to exclude "free riders" from using the service, and the spillover of benefits to other than direct users—including the general public.

In the case of liability taxes, the main reason for Government intervention is the difficulty in holding responsible private parties accountable. This may be due to weaknesses in the legal system or other enforcement mechanisms, the inability to identify responsible parties, or the inability or unwillingness of responsible parties to pay. The collection of damages may take a long time and/or involve high legal costs.

Third, there is a strong reason for charging a subset of the population, rather than taxpayers at large. In the case of most of the user taxes, the service differs from many other activities provided by the Government in that the people who receive the majority of the benefits from the program can be identified as a distinct subgroup of the general public. Further, the beneficiaries are not primarily low income people without the means to pay. Combined, this suggests that it is appropriate to have the subgroup of the population that benefits most directly from the program pay for the program.

In the case of several of the liability taxes, according to considerations of economic efficiency and equity it may be most appropriate for the general fund to finance the cost of the compensation program, particularly with regard to damages caused in the past. However, there may be a strong political or moral desire to assign blame and related costs to a subset of the economy. Even if the damages were caused in the past, it may be considered preferable to have current producers and users of the product bear the costs of the program, rather than taxpayers at large.

Fourth, there is, in theory at least, a financing mechanism that would be preferable to an excise tax. The mechanism would assign charges more closely in line with costs actually imposed. In the case of user taxes, the preferred financing mechanism would typically be a system of user charges that vary to reflect the costs that individual users impose on the government program, at different times, in different situations.

In the case of liability taxes, the preferred financing system would assess charges corresponding to damage caused in the past and collect fees resembling insurance premiums in proportion to the damage likely to be caused in the future. These would be accompanied by Government regulations, fines, and penalty taxes designed to discourage the damaging behavior in the future.

Fifth, there are serious reasons why the theoretically preferable financing system might not work in practice. In the case of benefits, a system of direct user charges may be impractical or costly —administratively or politically. In the case of damages, penalty excise taxes, fines, and damage collections are unlikely to provide a stable or adequate source of revenue to cover the promised compensation. Risk-related or experience-related charges may be difficult to quantify and implement. It is especially difficult to assign costs with regard to past damages when many of the responsible parties are no longer in business.

Sixth, an excise tax emerges as a compromise financing solution. Placing an excise tax on a product whose usage is closely correlated with use of the Government service is a regarded as a practical alternative to implementing a system of user charges. To establish a reliable revenue source for a damage compensation fund, an excise tax is placed on the product or products most closely associated with causing the damage to be redressed.

Seventh, the payers of the tax should perceive the linkage of the tax to the program being financed and feel that they are being treated reasonably fairly. In the case of user taxes, the payers should be satisfied that the proceeds of the tax go to finance a program from which they benefit directly. In the case of liability taxes, the producers and users most likely to be asked to pay the tax would like the financing spread as broadly as is politically feasible in order to reduce their own share of the costs. Those asked to pay should be able to acknowledge that it is reasonable for the public to associate them with the general problem even though they are not directly responsible for the specific damages to be addressed.

In the cases of both benefit and liability excises, taxing an associated product is at best a proxy for charging for specific usage of Government-provided services or for damages generated. It is important that the revenue sources of trust funds be periodically reexamined for their continued suitability, particularly in conjunction with program reauthorization. Where feasible in light of improved administrative and technical capabilities, efforts should be made to implement true user charges; these could replace or supplement user excise taxes in the interest of achieving greater equity and efficiency in charging for Government services. In the case of liability taxes, supplementary efforts should be made to collect damages from responsible parties; to implement and enforce laws, regulations, fines, or penalty taxes that could help to reduce damaging behavior in the future; and to establish insurance programs that address liability problems in prospect, rather than after the fact.

REFERENCES

U.S. Congress. Joint Committee on Taxation. Schedule of present Federal excise taxes (as of January 1, 1992). Joint Committee Print no. JCS-7-92, 102d Cong., 2d sess., March 27, 1992. Washington, U.S. Govt. Print. Off., 1992. Also, the 1991 edition, Joint Committee Print no. JCS-3-91, 102d Cong., 1st sess., March 4, 1991. Washington, U.S. Govt. Print. Off., 1991.

U.S. Congress. House. Committee on Ways and Means. Overview of entitlement programs. Background material and data on programs within the jurisdiction of the Committee on Ways and Means. Known popularly as the 1992 Green Book. Committee Print WMCP 102-44, 102d Cong., 2d sess., May 15, 1992. Washington, U.S. Govt. Print. Off., 1992. Also, the 1991 Green Book. Committee Print WMCP 102-9, 102d Cong., 1st sess., May 7, 1991. Washington, U.S. Govt. Print. Off., 1991.

----. Overview of the Federal tax system. 1991 edition. Committee Print WMCP 102-7, 102d Cong., 1st sess., April 10, 1991. Washington, U.S. Govt. Print. Off., 1991. Part III, section 5, Federal excise taxes, p. 91-125, and section 6, Trust Funds, p.126-172. Also, the 1990 edition. Committee Print WMCP 101-28, 101st Cong., 2d sess., June 4, 1990. Washington, U.S. Govt. Print. Off., 1990.

U.S. Congressional Budget Office. Paying for highways, airways, and waterways: how can users be charged? Washington, U.S. Govt. Print. Off., May 1992.

U.S. General Accounting Office. Earmarking in the Federal Government. GAO/AFMD-90-8FS, January 1990. Washington, 1990.

-----. Trust funds and their relationship to the Federal budget. GAO/AFMD-88-55, September 1988. Washington, 1988.

U.S. Executive Office of the President. Budget of the United States Government, fiscal year 1993. Washington, U.S. Govt. Print. Off., 1992. Also, the Fiscal Year 1992 Budget.

U.S. Library of Congress. Tax rate increases during the Reagan and Bush Administrations, 1981-89, by Nonna A. Noto and Louis Alan Talley. [Washington] 1990.
(Report no. 90-455 E)

-----. A guide to trust funds, special accounts, and foundations in the fish and wildlife budget, by M. Lynne Corn. [Washington] 1986.
(Report no. 86-722 ENR)

APPENDIX A. BRIEF DESCRIPTION OF THE TRUST FUNDS

This appendix contains a brief description of each trust fund or special fund financed by excise taxes. The description includes the enacting legislation, the trust fund directive, and the primary dedicated revenue sources. The funds are presented in chronological order of the initial legislation that dedicated revenue to the fund, as in table 1 of the text.

FEDERAL AID TO WILDLIFE RESTORATION FUND

In 1937, Congress enacted a cooperative program between the Federal and State Governments for wildlife restoration. The law provides Federal grants to State agencies for conservation through land and water management for game birds and mammals. Commonly known as "Pittman-Robertson," after the names of its sponsors in the Senate and the House of Representatives, this special fund is officially known as the *Federal Aid to Wildlife Restoration Fund.*

Revenues are collected from excise taxes on sports fishing and hunting equipment. The original 1937 act provided for the excise taxes on sporting arms and ammunition (now 11 percent) to be placed into the fund. The 10 percent excise tax on pistols and revolvers was added by the *Federal Aid in Wildlife Restoration Act Amendments of 1970.* The 11 percent excise tax on bows and arrows, along with their parts and accessories, was added by P.L. 92-558, *Bows and Arrows; Tax on Sales,* with receipts going to the fund starting in fiscal year 1975.

Up to 8 percent of collected revenues may be retained by the Federal Government for administration of the program. The remaining monies are apportioned (by formulas reflecting land area, number of hunting licenses, and population) to the States and territories for wildlife restoration and hunter safety and education programs. Wildlife restoration programs receive all funds generated from the excise tax on firearms other than pistols and revolvers and all funds collected from shells and cartridges. One-half of the excise taxes collected from pistols, revolvers, and archery equipment (bows and arrows) goes for wildlife restoration purposes and the remaining half for hunter safety and education programs. The States have been given the prerogative to use hunter safety and education funds for wildlife restoration projects, but funds for wildlife restoration may not be used for hunter safety and education programs. The program is permanently appropriated to the extent of receipts. (37)

AQUATIC RESOURCES TRUST FUND

In 1950, the Congress enacted legislation to provide Federal aid to States for fish restoration and management of their fishery resources. Its common name, Dingell/Johnson, was derived from the names of its sponsors in the House of Representatives and the Senate. The *Deficit Reduction Act of 1984*(P.L. 98-369) established the *Aquatic Resources Trust Fund,* popularly known as the Wallop-Breaux fund, after its Senate and House sponsors. This legislation substantially expanded the Dingell/Johnson Fund and combined it with the *National Recreation Boating Safety and Facilities Improvement Fund.* This new trust fund consists of two separate accounts. The *Sport Fish Restoration Account* provides for restoring and managing fish with material value for sport or recreation in the marine and fresh waters of the United States. The *Boating Safety Account* provides public access sites, emergency search-and-rescue assistance, waterway markers and navigation aids, as well as boating safety education and law enforcement. As part of the *Omnibus Budget Reconciliation Act of 1990 (OBRA90)* (P.L.101-508), a wetlands restoration program was established within the *Sport Fish Restoration Account.* The *Aquatic Resources Trust Fund is* permanently appropriated to the extent of receipts.

The trust fund receives revenues from excise taxes imposed on sport fishing equipment, electric outboard motors, and sonar devices which are suitable for locating fish. Of the 14 cents per gallon excise tax on gasoline and special motor fuels used in motorboats or in small engines, 11.5 cents per gallon goes into the fund. (38) Import duties collected on fishing equipment and on yachts and pleasure craft also go into this fund. *OBRA90* provided funding for the new wetlands restoration program from amounts equivalent to revenues collected from excise taxes imposed on gasoline used in small-engine outdoor power equipment. This includes equipment powered by engines having less than 40 horsepower, such as riding and walk-behind rotary lawn mowers, chain saws, snowblowers, tillers, line trimmers and edgers, log splitters, leaf blowers, lawn vacuums, and leaf shredders and branch grinders. The revenues from small-engine fuels will be transferred from the *Highway Trust Fund* to the *Sport Fish Restoration Account* on behalf of the wetlands program.

HIGHWAY TRUST FUND

The *Federal-Aid Highway Act of 1956* (P.L. 84427) provided for a significant expansion in Federal-aid highway programs and authorized the new interstate highway system in order to assure orderly planning and completion of a network of highways throughout the United States as efficiently and as economically as possible. In order to make this program self-financing, Title II of the Act, known as the *Highway Revenue Act of 1966,* created the *Highway Trust Fund* to which there was to be appropriated from the general fund of the Treasury receipts derived from certain excise taxes designated as highway-user taxes. The *Revenue Act* raised the prior excise tax rates on gasoline, diesel and special motor fuel, on trucks, and on tread rubber, tires, and inner tubes. It also instituted a new highway use tax on heavy highway motor vehicles such as trucks.

Over the years, revenues from additional associated taxes have been added (manufacturers' excise taxes on lubricating oil and truck and bus parts) and some excise tax rates increased (gasoline and diesel fuels). Other taxes have been repealed (manufacturers' tax on buses and the excise taxes on bus parts, tires, and tubes for cars, tread rubber and lubricating oil). Congress has extended the life of the *Highway Trust Fund* and many of the associated highway user taxes numerous times since 1961.

The current mix of taxes dedicated to this trust fund includes excise taxes on gasoline, diesel, special motor fuels and other fuels such as methanol, ethanol, gasohol, and diesohol; a tax on heavy trucks and trailers based on sales price; an excise tax on truck tires; and an annual use tax on heavy trucks.

The gasoline excise tax provides about 70 percent of the revenues dedicated to this trust fund and the diesel fuels tax 21 percent. The trust fund currently receives 11.5 cents per gallon of gasoline, of which 10 cents is to be expended on highway-related programs and 1.5 cents placed into the *Mass Transit Account.* The special *Mass Transit Account* was set up in 1982 for expenditures made under the *Urban Mass Transportation Act of 1964.* Amounts in the *Mass Transit Account* may be used for capital or capital-related expenditures.

The *Intermodal Surface Transportation Efficiency Act of 1991* (P.L. 102-240, ISTEA) expanded the definition of permissible uses of the *Highway Trust Fund* monies by the States to include alternative transportation modes. It also permitted tolls to be collected on privately or publicly sponsored roads that receive Federal assistance. The gasoline excise tax is currently authorized through September 30, 1999.

LAND AND WATER CONSERVATION FUND

The *Land and Water Conservation Fund (LWCF) is* a special account within the U.S. Treasury, established by the *Land and Water Conservation Fund Act of 1965* (P.L. 88-578). The fund supports Federal and State land acquisition, State outdoor recreation grants, and administrative expenses for outdoor recreation programs. At least 40 percent of monies available in the fund are to be used for Federal purposes which include activities and programs of the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, and the National Park Service. Remaining monies go to the States and are apportioned on the basis of statutory formula and criteria.

The *Land and Water Conservation Fund* receives a transfer of up to $1 million per fiscal year from the *Highway Trust Fund* of amounts collected from motorboat fuel taxes. These taxes account for only a tiny fraction of the fund's income. Additional funding sources include recreation fee collections by Federal agencies and proceeds received from disposal of surplus real property and related personal property under the *Federal Property and Administrative Services Act of 1949.* If these sources do not bring the annual income of the fund to $900 million (and historically they have fallen far short), then the difference is credited from revenues due and payable as miscellaneous receipts (from undersea oil and gas exploration, development, and production) under the *Outer Continental Shelf Lands Act.* This Outer Continental Shelf (OCS) allowance provides more revenues than are being appropriated from the fund. In FY91, $885 million in OCS receipts were credited as income to the *LWCF;* appropriations from the fund were $342 million; the year-end balance of the fund reached $7.8 billion.

AIRPORT AND AIRWAY TRUST FUND

The *Airport and Airway Development and Revenue Acts of l970*(P.L.91-258) established the *Airport and Airway Trust Fund* and provided for aviation excise taxes to finance the trust fund. The fund currently receives revenues from four types of excise taxes. The air passenger ticket tax is levied at 10 percent of the price of a ticket on commercial air passenger transportation which both begins and ends within the United States or within the 225-mile zone along U.S. borders. The domestic air cargo tax, also known as the freight waybill tax, is levied at 6.25 percent of the amount paid for the transport of property by air for trips which both begin and end within the United States. The international departure tax is levied as a flat amount of $6 per passenger for persons departing on international flights originating in the United States (except to flights where the domestic ticket tax applies in full). The international departure tax is collected from foreign as well as U.S. passengers, and regardless of whether the ticket is purchased in the United States or in another country. The fuels taxes for noncommercial (general) aviation are collected at 15 cents per gallon of gasoline, 17.5 cents per gallon of non-gasoline jet fuels, 4.56 cents per gallon of ethanol, and 3.89 cents per gallon of other non-ethanol alcohol fuel. These taxes are scheduled to expire on January 1, 1996.

The *Airport and Airway Trust Fund* finances approximately 75 percent of the Federal Aviation Administration (FM) budget overall. The trust fund fully finances the three capital programs of the FM. The airport improvement program provides grants to the operators of local airports for projects involving airport capacity development, safety and security needs, and noise abatement. The facilities and equipment program finances the modernization of facilities and the purchase and installation of equipment intended to improve the FAA's air traffic control, navigation, and aviation communications systems. The research, engineering, and development account finances programs to improve the air traffic control system and generally increase the productivity, safety, and capacity of the national airway system.

In contrast, the trust fund is permitted to finance approximately half of the FM's operations account which includes the air traffic control system, as well as FAA overhead and administration expenses. The remainder of FAA operations is financed by appropriations from the general fund of the U.S. Treasury.

ABANDONED MINE RECLAMATION FUND

The *Surface Mining Control and Reclamation Act* (SMCRA) (P.L.95-87) was enacted on August 3, 1977. The Act created the *Abandoned Mine Reclamation Fund,* a special fund within the U.S. Treasury, commonly referred to as the Abandoned Mine Land or *AML Fund* . Monies collected from tonnage fees on coal were to be allocated among the various coal mining States to reclaim lands mined and abandoned prior to the date of enactment. Surface mining conducted after the enactment date was expected to meet Federal reclamation standards implemented through State regulatory programs. Under current spending allocation rules, half of AML fee collections are to be returned to the State of origin and the other half used for a variety of Federal programs. Abandoned mine sites around the country have been ranked according to a national priority list reflecting the danger they represent to public health and safety.

The *AML Fund* is financed by a per ton charge on all domestically mined coal. Although the charge is functionally equivalent to an excise tax on coal, it is officially labeled as a fee rather than a tax, and the *AML Fund* as a special fund rather than a trust fund. The fee is levied at $.35 per ton on surface-mined coal and $.15 per ton on underground-mined coal, or 10 percent of the value of the coal at the mine. For (surface-mined) lignite the rate is the lesser of $.10 per ton, or 2 percent of the value of the coal at the mine.

The *Comprehensive National Energy Policy Act of 1992* (H.R. 776, P.L.102-486) extended the authorization of the AML fees for nine years, from September 30, 1995, to September 30, 2004. It also authorized the transfer, starting in FY96, of up to $70 million per year, drawn from interest earnings of the Fund, to the United Mine Workers of America Combined Benefit Fund, to help pay for retiree health benefits promised to UMWA coal miners and dependents "orphaned" by their former employer.

BLACK LUNG DISABILITY TRUST FUND

The *Federal Coal Mine Health and Safety Act of 1969* (P.L. 91-173) granted benefits to miners totally disabled by black lung disease and to survivors and dependents of miners who had died from the disease or were totally disabled from the disease at death. Initially, no provision was made for special, separate financing of the black lung program. The *Black Lung Benefits Revenue Act of 1977* (P.L. 95-227) established the *Black Lung Disability Trust Fund* financed primarily by a manufacturers' excise tax on domestically mined coal (other than lignite). The current tax rates are $1.10 per ton of underground-mined coal and $.55 per ton of surface-mined coal, not to exceed 4.4 percent of the price for which the coal is sold.

The 1977 act divided the responsibility for financing black lung benefits between the general fund and the trust fund depending upon whether the date of the miner's last coal mine employment and the date the claim was filed were before or after the dates established for the trust fund program. In addition, it required coal operators henceforth to have insurance for potential future black lung benefit liabilities, either through purchasing insurance or establishing a self-insurance trust. The penalty excise taxes collected for the misuse of these self-insurance trusts (for self-dealing or improper expenditure purpose) provide a small amount of revenue to the *Black Lung Disability Trust Fund.*

The black lung program pays for medical care and rehabilitation specifically associated with miners' black lung disease (pneumoconiosis). It also makes disability income payments to eligible miners, their surviving spouse, and dependents. The trust fund has a large cumulative deficit upon which it owes interest to the general fund.

INLAND WATERWAYS TRUST FUND

The *Inland Waterways Trust Fund* was established in 1978 with the passage of Public Law 95-502. Receipts from taxes levied on the fuel used in commercial waterway transportation vessels on specified inland or intracoastal waterways is deposited in the fund. The original legislation provided a 4 cents per gallon rate with increases of 2 cents on October 1, 1981 (to 6 cents), October 1, 1983 (8 cents), and October 1, 1985 (10 cents). Rates were increased under provisions of the *Water Resources Development Act of 1986* (P.L.99-662). That act provided an increase to 11 cents per gallon on January 1, 1990, 13 cents per gallon on January 1, 1991, and 15 cents per gallon on January 1, 1992. Future increases are scheduled. The rate will increase to 17 cents on January 1, 1993, 19 cents on January 1, 1994, and finally to 20 cents as of January 1, 1995. This tax does not apply to deep-draft ocean-going vessels, passenger or fishing vessels, or certain barges. Revenues are used to cover up to 50 percent of the construction and rehabilitation expenditures for navigation projects on the designated inland and intra-coastal waterways.

DEEP SEABED REVENUE SHARING TRUST FUND

In 1979, the *Deep Seabed Hard Mineral Resources Act* (P.L. 96-283) established an excise tax of 3.75 percent on the imputed value of certain hard mineral resources removed from the deep seabed. Tax receipts were to be dedicated to the *Deep Seabed Revenue Sharing Trust Fund.* The primary expenditure purpose of the trust fund was to finance contributions that might be required if an international deep seabed treaty were to become effective. Such a treaty was expected to provide for sharing the revenue from deep seabed mining among the world's nations. The United States has not yet entered into such a treaty. Other concerns of the trust fund included conservation, environmental, safety, and technological development issues related to deep seabed mining. The excise tax and trust fund expired as scheduled after June 28, 1990. No excise tax revenue was ever collected. No mining took place under deep seabed permits. The technology necessary for commercial recovery of deep seabed minerals has yet to be developed.

HAZARDOUS SUBSTANCE SUPERFUND

The *Hazardous Substance Superfund* was established by the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)* (P.L 96-510). The trust fund and related taxes expired in 1985. They were reestablished, with changes, by the *Superfund Amendments and Reauthorization Act of 1986* (P.L. 99-499). Expenditures from the *Superfund* may be made for releases or threats of releases of hazardous substances into the environment. Current law no longer permits payments for natural resource damage claims. The fund is supported mainly by excise taxes on crude oil and imported petroleum products and on 42 feedstock chemicals (levied when sold by a manufacturer, producer, or importer, but not on exports), and a corporate environmental income tax. *OBRA90* extended the *Superfund* and its taxes through 1995. The ceiling amount of cumulative revenues before these taxes expire was increased from $6.65 billion to $11.97 billion.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

In response to concerns for the cleanup costs associated with leaking underground storage tanks containing petroleum products, Congress established the *Leaking Underground Storage Tank (LUST) Trust Fund* through passage of the *Superfund Revenue Act of 1986,* Title V of P.L. 99-499. This fund receives revenues of 0.1 cent a gallon on gasoline, diesel fuel, special motor fuels, fuels used in aviation, and fuels used in commercial transportation on the inland waterways, as well as a 0.05 cent per gallon tax on methanol.

First effective January 1,1987, the tax was scheduled to expire on the earlier of December 31, 1991, or the last day of the month in which the Secretary of the Treasury estimated that net revenues in the fund were at least $500 million. The tax terminated on August 31, 1990, because the trust fund had reached its net revenue target. (39) Under provisions of the *Revenue Reconciliation Act of 1990 (*P.L. 101-508) the tax was reinstated at the same 0.1 cent per gallon rate, without a revenue ceiling, and scheduled to terminate on December 31, 1995.

Also to be deposited in the trust fund are any monies recovered from parties found responsible for leaking storage tanks, under provisions of the *Solid Waste Disposal Act* as amended by the *Superfund Amendments and Reauthorization Act of 1986* (P.L. 99-499).

POST-CLOSURE LIABILITY TRUST FUND

The *Post-Closure Liability Trust Fund* was also established under provisions of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (P.L.96-150). The justification for this fund was twofold. First, the fund was designed to demonstrate a continuing financial responsibility for maintenance and clean-up to local residents who would otherwise object to having a waste disposal facility locate in their neighborhood. Second, commercial insurance could not be secured; raising capital for dump sites was a problem because of long-term liability problems (disclosed through annual filings with the Securities and Exchange Commission).

Under provisions of the *Solid Waste Disposal Act* (P.L. 96-510), either the owner or operator of a hazardous waste disposal facility could transfer liability to the trust fund after satisfactorily complying with provisions of the Act, its regulations, and authorized State programs. Funds were to be used to pay monitoring, care, and maintenance of sites, costs of governmental response under the *Intervention on* *the High Seas Act,* response costs under the *Clean Water Act,* as well as other costs specified under the *Solid Waste Disposal Act.*

An excise tax was imposed on the receipt of hazardous waste at qualified hazardous waste disposal facilities, at the rate of $2.13 per dry weight ton. The tax became effective after September 30, 1983, and was to remain in effect until September 30 of any subsequent calendar year when the unobligated balance of the fund exceeded $200 million. No tax was to be collected in any year when unobligated balances exceed the $200 million amount.

Under provisions of the *Superfund Amendments and Reauthorization Act of l 986* (P.L.99-499), *the Post-Closure Liability Trust Fund* was repealed effective retroactively to October 1, 1983, the original effective date of the tax. The repeal of the fund was a result of concerns for the funding viability of post-closure liabilities due to difficulties in quantifying the risks associated with closed facilities. Refunds of the taxes paid plus interest were allowed for those who filed claims. This refunding was completed in 1990, and any remaining monies were transferred to the general fund in 1991.

OIL SPILL LIABILITY TRUST FUND

The *Oil Spill Liability Trust Fund* and its accompanying tax were established by the *Omnibus Budget Reconciliation Act of 1986* (P.L. 99409), but no triggering legislation was enacted and the tax was not collected initially. The fund is supported by an excise tax on domestic crude oil received at a refinery and imported petroleum products entering U.S. ports for consumption, use, or warehousing. The tax is levied at a rate of 5 cents per barrel as a result of the *Omnibus Budget Reconciliation Act of 1989* (P.L. 101-239). The tax is scheduled to expire December 31, 1994, but could be temporarily discontinued if the unobligated balance in the trust fund exceeds $1 billion at the end of any quarter. Under the *Oil Pollution Act of 1990* (P.L. 101-380) balances from the *Deepwater Port Liability Fund, Offshore Oil Pollution Compensation Fund,* and *Clean Water Act Section 311(k) Pollution Fund* were consolidated into the *Oil Spill Liability Trust Fund* . The 1990 Act also authorized certain new penalties, to be deposited in the trust fund. The fund pays for oil spill removal costs and certain damage claims, including natural resource damages; personal property losses; loss of use; and loss of tax revenues, profits, and earning capacity.

HARBOR MAINTENANCE TRUST FUND

The *Harbor Maintenance Trust Fund* together with a new excise tax on the value of cargo loaded or unloaded from commercial cargo vessels, was introduced by the *Water Resources Development Act of 1986* (P.L. 99-662). *The Omnibus Budget Reconciliation Act of 1990* (P.L. 101-508) more than tripled the tax rate, from 0.04 percent to .125 percent. The trust fund also collects an excise tax on charges for passengers on ships (other than certain ferryboats) and receives the U.S. portion of Saint Lawrence Seaway tolls. The trust fund pays for operations and maintenance (O&M) costs of the Saint Lawrence Seaway and up to 40 percent of the O&M costs assigned to commercial navigation for coastal and inland harbors within the United States.

VACCINE INJURY COMPENSATION TRUST FUND (40)

The National Vaccine Injury Compensation Program was set up—without funding—by the *National Childhood Vaccine Injury Act of 1986,* Title III of P.L. 99-660, a large omnibus health law. The *Omnibus Budget Reconciliation Act of 1987* (P.L. 100-203) established the *Vaccine Injury Compensation Trust Fund* and introduced the per dose taxes on the sale of certain commonly administered childhood vaccines. *OBRA87* also provided that up to 3,500 claimants who suffered injury or death resulting from the administration of a covered vaccine before the effective date of the trust fund program could be compensated from the general fund budget.

The National Vaccine Injury Compensation Program substituted a new Federal no-fault compensation program for the previous State-law tort and private insurance system as it applied to vaccine manufacturers. The program provided a source of compensation for individuals who are injured or die as a result of the administration of certain popular vaccines. The vaccines are taxed at the following rates per dose: diphtheria, pertussis, and tetanus (DPT), $4.56; diphtheria or tetanus (DT), $0.06; measles, mumps, or rubella (MMR), $4.44; and certain polio vaccines, $0.29. The trust fund and taxes took effect January 1, 1988. Under current law, payments from the trust fund may be made only for vaccine-related injuries or death caused by vaccines administered from October 1, 1988, through September 30, 1992.

The tax is scheduled to terminate after December 31, 1992, if the trust fund has a positive projected balance (including consideration of future liabilities). If the compensation program is terminated prematurely because of an excessive number of awards, the tax will continue until a positive balance has been restored. Provisions to extend the vaccine taxes and compensation program were included in larger tax legislation passed by the Congress but vetoed by the President in 1992.

NATIONAL RECREATIONAL TRAILS TRUST FUND

The *National Recreational Trails Trust Fund* was established by the *Symms National Recreational Trails Act of 1991,* included as part of the *Intermodal Surface Transportation Efficiency Act of 1991* (P.L. 102-240). Funds are to be allocated to States for use on trails and trail-related projects such as the acquisition of new trails and access areas, maintenance and restoration of existing trails, State environmental protection education programs, and State administrative costs. Revenues received from excise taxes on nonhighway recreational fuels are to be transferred to the trails fund from the *Highway Trust Fund.* Nonhighway recreational fuels include gasoline, diesel, and special motor fuels that are used in vehicles on recreational trails or back country terrain, and fuel used in camp stoves, or other nonengine uses in outdoor recreational equipment. Both revenue transfers and expenditure authority are authorized through September 30, 1997.

APPENDIX B. EXCISE TAX REVENUES

Excise taxes dedicated to trust funds are a small part of total Federal revenues. In FY91, they equaled about $24.1 billion or approximately 2 percent of Federal revenues. (41) This is less than half the estimated $58 billion of user fees collected in FY90. (42) And it is minuscule in comparison with the $396.0 billion in social insurance payroll taxes and contributions collected during FY91 to finance the trust funds for social security (OASDI), Medicare hospital insurance, unemployment insurance, Federal employees' retirement contributions, and railroad retirements. Although small in the aggregate revenue picture, dedicated excises are important because of their link to particular programs and their incidence on narrow sectors of the economy.

The percentage of excise taxes earmarked to trust funds rose from zero in fiscal year (FY) 1956 to a peak of 62 percent in FY89. The *Omnibus Budget Reconciliation Act of 1990 (P.L.* 101-508, *OBRA90)* temporarily reversed the upward trend by increasing the tax rates on several important general fund excises. (44) As of FY91, approximately 57.3 percent of excise revenues were earmarked to trust funds, with the percentage projected to fall to 54.6 percent in 1992 and to remain near that level (54.2 percent) in FY93.

The table shows excise tax revenues going to the various trust funds, arranged by programmatic purpose, as well as the general fund. The table presents actual collections for FY91 and projected collections for FY92 and FY93. By far the largest group involves the excise taxes collected on behalf of the *Highway Trust Fund* ($17.0 billion in FY91). A distant second are the taxes collected on behalf of the *Airport and Airway Trust Fund* ($4.9 billion). The excise collections of these two trust funds alone exceed total general fund excises ($18.3 billion). The remaining trust funds each collect less than $1 billion per year in excises.

TABLE A. Excise Tax Receipts of the General Fund and Trust Funds
Fiscal Years 1991-93
(in millions of dollars)

Excise taxes	1991	Fiscal year 1992 (est.)	1993 (est.)
Trust funds			
Transportation	***22,381***	***23,155***	***24,041***
Highway Trust Fund—Total	16,979	17,387	17,712
Gasoline	11,735	12,454	12,454
Diesel fuel used on highways	3,614	3,661	3,830
Trucks and trailers	1,047	1,087	1,320
Tires for highway vehicles	357	277	318
Highway vehicle use tax	575	598	619
Refunds (mostly fuel taxes)	-349	-690	-593
Airport and Airway Trust Fund --Total	4,910	5,193	5,668
Air passenger ticket tax (a)	4,341	4,567	4,971
International departure tax	217	260	280
Domestic air cargo waybill tax (a)	222	237	254
Aviation fuels taxes (net of refunds)	130	129	163
Harbor Maintenance Trust Fund	432	505	578
Inland Waterway Trust Fund	60	70	83
Nature conservation and recreation	***260***	***278***	***300***
Aquatic Resources Trust Fund—Total	260	278	285
Boat motor fuel tax	148	151	157
Sport fish equipment tax	71	77	78
Tax on gasoline used in small engines	41	50	50
National Recreational Trails Trust Fund Nonhighway recreational fuels tax	---	---	15
Environmental cleanup	***1,187***	1,253	***1,263***
Abandoned Mine Reclamation Fund (b)	-	-	-
Hazardous Substance Superfund	810	825	831
Oil Spill Liability Trust Fund	254	283	285

Leaking Underground Storage Tank Trust Fund	123	145	147
Health damage compensation	***733***	***747***	***776.00***
Black Lung Disability Trust Fund—Total	652	627	655
Coal excise tax	652	627	655
Taxes on black lung benefit trusts	(*)	(*)	(*)
Vaccine Injury Compensation Trust Fund	81	120	121
Total trust fund excises	**24,561**	**25,433**	**26,380**
General fund (c)			
Alcohol	7,364	8,219	8,185
Tobacco	4,706	4,897	5,349
Telephone	3,094	3,028	3,227
Ozone-depleting chemicals	562	662	905
Gas guzzler	102	118	125
Luxury	159	287	358
Bows & arrows & firearms (d)	161	149	152
Motor fuels	2,193	3,106	3,183
Aviation (a)	26	26	8
Other (e)	(92)	687	777
Total general fund excises	**18,275**	**21,179**	**22,269**
Total excises	**42,836**	**46,612**	**48,649**
Percent dedicated to trust funds	**57.3%**	**54.6%**	**54.2%**

* Less than $500,000.

a. Due to a technical drafting error in *OBRA90,* the revenues from the increase in the air passenger ticket tax and the domestic air cargo tax which were to go into the general fund through 1992 instead went to the *Airport and Airway Trust Fund.*

b. AML fee collections were $244 million in FY91, and estimated at $238 million in FY92 and $240 million in FY93. *FY93 Budget, p.* Appendix-One-586. These tonnage charges on coal are counted as a governmental receipt rather than an offsetting collection, but classified as a fee rather than an excise tax.

c. Many of the general fund categories contain several specific taxes.

d. The taxes on bows and arrows and firearms are dedicated to the *Federal Aid to Wildlife Restoration Projects Fund,* a special fund.

e. "Other" includes the tax on private foundation net investment income; miscellaneous taxes on foreign insurance policies, wagering taxes, the tax on ship passengers international departures, and penalty excise taxes on employee benefit and pension plans.

Source: Adapted from: U.S. Congress. Joint Committee on Taxation. *Schedule of Present Federal Excise Taxes (as of January 1,* 1992). Joint Committee Print No. JCS-7-92, 102d Cong., 2d sess., March 27, 1992. Washington, U.S. Govt. Print. Off., 1992. Table III, p. 28-31.

Endnotes

1. For example, the first Federal excise tax on distilled spirits was enacted with *the Act of March 3, 1791.* See: U.S. Library of Congress. Congressional Research Service. *Federal Excise Taxes on Alcoholic Beverages: A Summary of Present Law and a Brief History.* Report No. 91-310 A, by Thomas B. Ripy, March 28, 1991. Washington, 1991. 14 p.

2. Title II of P.L. 99-177, as amended.

3. Title XIII of the *Omnibus Budget Reconciliation Act of 1990* (P.L. 101-508).

4. Special funds are designated accounts within the U.S. Treasury, rather than separate trust funds. For simplicity, the term "trust funds" is often used in this report to refer to the group including both special funds and formal trust funds.

5. Import duties on arms and ammunition are dedicated to the *Migratory Bird Conservation Account.*

6. The *Aquatic Resources Trust Fund* also receives on behalf of the *Sport Fish Restoration Account* import duties imposed on fishing equipment and on yachts and pleasure craft.

7. The *Recreational Boating Safety and Facilities Improvement Act of l980* (P.L. 96-451) also created the *Reforestation Trust Fund.* This trust fund would also be grouped in the nature conservation category but is not covered in this report because it is financed by import duties (on lumber and plywood) rather than an excise tax.

8. Nonhighway recreational fuels include gasoline, diesel, and special motor fuels that are used in vehicles on recreational trails or backcountry terrain, and fuel used in camp stoves, or other nonengine uses in outdoor recreational equipment.

9. For official budgetary purposes, the AML charge on coal is classified as a fee rather than a tax; consequently, it is not typically included in the list of excise taxes that finance trust or special funds. In practice, however, the financing mechanism is comparable to the excise tax on coal that finances the *Black Lung Disability Trust Fund.*

10. This contrasts with the "ability to pay principle" upon which the income tax is based. In fact, one of the commonly cited disadvantages of excise taxes— other than luxury taxes—is that they are regressive, taking a larger share of income from lower income than from higher income groups. Excise taxes are not different from market prices in this regard, however.

11. There is a continuing debate about whether Government charges should cover marginal or average costs. U.S. Congressional Budget Office. *Paying for Highways, Airways, and Waterways: How Can Users Be Charged* ? Washington, U.S. Govt. Print. Off., May 1992. p. 1-10.

12. US. Library of Congress. Congressional Research Service. *Application of Constitutional Delegation Standards Based upon the "Fee" or "Tax" Dichotomy.* A report from the American Law Division, by David R. Siddall. Washington, June 23, 1982. For numerous examples of user fees, see: U.S. Library of Congress. Congressional Research Service. *Federal User Fees: An Overview.* Report No. 89425 E, by Julius W. Allen. Washington, 1989.

13. Winston, Clifford. Efficient Transportation Infrastructure Policy. *Journal of Economic Perspectives,* v. 5, no. 1, Winter 1991. p. 113-27.

14. For further discussion, see U.S. Congressional Budget Office. *Paying for Highways, Airways, and Waterways: How Can Users Be Charged ?* Washington, U.S. Govt. Print. Off., May 1992. p. 11-28.

15. For further discussion, see U.S. Library of Congress. Congressional Research Service. *Highway Privatization and ISTEA. Economic Policy and Financing Issues.* Report no. 92-883 E, by J.F. Hornbeck. Washington, 1992. p. 9-12.

16. Previously, roads that received Federal aid were generally not permitted to levy tolls, other than for bridges and tunnels. A project thus had to choose between being totally self-supporting or fully dependent on Federal and State highway funds. Ibid., p. 69.

17. The Federal matching rate will be 50 percent rather than 80 or 90 percent of project costs; toll bridges and tunnels, however, can obtain an 80 percent Federal match.

18. The legislation that created the *National Recreation Trails Trust Fund* also removed the exemption to the motor fuels tax that had previously been available to business uses of nonhighway recreational vehicles. The exemption had not been available to individual users.

19. See appendix A, page 28 for a description of the tax base.

20. Exemptions are provided for aviation fuels used on farms or for farming purposes. Other exemptions are provided for helicopter uses such as transport for individuals, equipment, or supplies involved in the exploration, development, or removal of hard minerals, oil, gas, or the planting, cultivation, cutting, and transportation of trees. An exemption is provided for fuel used in emergency medical transportation, provided that the helicopter does not take off or land or use services from a facility eligible for assistance under the *Airport and Airway Development Act of 1970* or the *Airport and Airway Improvement Act of 1982.*

21. Tax-exempt entities include State and local governments and nonprofit organizations, including aircraft museums.

22. See Congressional Budget Office. *Paying for Highways, Airways, and Waterways: How Can Users Be Charged?*

23. U.S. Congress. Joint Committee on Taxation. *Issues Arising in the Determination of an Appropriate Fund ing Source for the National Vaccine Injury Compensation Program.* Scheduled for a hearing before the Subcommittee on Select Revenue Measures of the Committee on Ways and Means on March 5, 1987. Joint Committee Print JCS-4-97, 100th Cong., 1st sess., March 4, 1987. Washington, U.S. Govt. Print. Off., 1987. p. 11.

24. The distinctions are based on the date of the miner's last employment and the date the claim for benefits was filed.

25. U.S. Congress. Joint Committee on Taxation. *Description of H.R. 2922 ("Lead-Based Paint Hazard Abatement Act").* Scheduled for House Ways and Means Select Revenue Measures Subcommittee Hearing, July 1, 1992. Staff Description, JCX-26-92, 102d Cong., 2d Sess., June 30, 1992. Washington, 1992.

26. The conventional wisdom is that excise taxes are regressive, that is, they place a heavier burden relative to income on low compared with high income people. This is based on the assumption that

excise taxes are fully shifted forward to consumers. This assumption leads to the conclusion that examining consumption patterns across income groups adequately answers the question of incidence and that a system of excise taxation can be made more or less regressive depending upon the products selected for taxation. A more comprehensive tax incidence analysis, which takes into account that the producer and other factors of production may bear some of the burden of the tax, often finds excise taxes to be less regressive than the conventional wisdom would suggest.

27. Regional considerations have been important in the debate over introducing an oil import fee versus increasing the gasoline tax, for example. U.S. Library of Congress. Congressional Research Service. *Energy Taxes: A Comparative Analysis of an Oil Import Tax and a Gasoline Excise Tax and Their Effects on the States.* Report No. 86-637 E, by Salvatore Lazzari. Washington, 1986. p. 3.

28. States have been more prone than the Federal Government to earmark conceptually unrelated revenue sources to a perceived worthy cause, such as dedicating tobacco taxes, alcoholic beverage taxes or lottery proceeds to the State education budget. The Federal Government has stayed closer to charges. See: Snell, Ronald K. Earmarking State Tax Revenues. *Intergovernmental Perspective,* v. 16, no. 4, Fall 1990. p. 14. Based on Fabricius, Martha, and Ronald K. Snell. *Earmarking State Taxes.* Denver, National Conference of State Legislatures, 1990.

29. Strong support from consumers of the taxed products has been noted in the cases of the sport hunting and fishing programs, the Federal Aid to Wildlife Restoration Fund ("Pittman-Robertson") and the sport fish restoration program ("Dingell-Johnson," now part of the *Aquatic Resources Trust Fund).* Support by manufacturers has been mixed.

30. Included in the *Airport and Airway Safety and Capacity Expansion Act of 1987 (P.L.* 100-223). The trigger never took effect.

31. The formula was included in the *Aviation Safety and Capacity Expansion Act of 1990* (Title IX, Subtitle B of the *Omnibus Budget Reconciliation Act of* 1990).

32. The formula expressed the maximum amount that the trust fund could contribute to FAA operating expenses as what remains after one takes the figure for 75 percent of the FAA's total budget and subtracts the expenditures for the three capital programs. Mathematically, the outcome of the new formula would be equivalent to the prior cap (on operations spending as 50 percent of capital spending) if operating expenditures account for 50 percent of the total FM budget and the trust fund finances 50 percent of operations— the approximate proportions authorized by the Congress for fiscal years 1991-93.

33. One proposal would have transferred the revenues generated by the excise tax on pistols and revolvers to a crime victims compensation trust fund. H.R. 1402, 101st Congress, 1st Session, introduced by Representative Marty Russo.

34. Technical corrections legislation introduced in the 102d Congress (H.R. 1555, S. 750) would have restored the intent expressed in the statement of managers to also have revenues from the increases in the air passenger ticket tax and the air cargo tax for 1991 and 1992 go to the general fund. All of the aviation tax revenues collected during calendar years 1993 through 1995 were to go to the trust fund. For further explanation see: U.S. Library of Congress. Congressional Research Service. *Aviation Excise Taxes: Their Role in the Deficit Reduction Effort of 1990.* Report No. 91-309 E, by Nonna A. Noto. Washington, 1991. p. 11-12.

35. U.S. Library of Congress. Congressional Research Service. *Federal Excise Taxes on Gasoline and the Highway Trust Fund: A Short History.* Report No. 91-192 E, by Louis Alan Talley. Washington,

1991. p. 4-5.

36. See the discussion on pages 12-13.

37. The interest accrued on the unspent balance of this special fund is available for appropriation under the *North American Wetlands Conservation Fund,* according to provisions of P.L. 101-233.

38. The remaining 2.5 cents of the 14-cent fuels tax goes to the general fund for deficit reduction under provisions of *OBRA90* in effect through FY95. Of the revenues collected from the 11.5-cent tax on motorboat fuels ($118 million in FY91), $1 million per fiscal year is transferred from the *Highway Trust Fund* to the *Land and Water Conservation Fund; up* to $70 million per year (authorized for fiscal years 1991-95) is allocated to the *Boating Safety Account* of the *Aquatic Resources Trust Fund;* any remaining revenues are allocated to the *Sport Fish Restoration Account.* Before the establishment of the *Boat Safety Fund* in 1980, all revenues attributable to excise taxes on motorboat fuels were periodically transferred from the *Highway Trust Fund* to the *Land and Water Conservation Fund* .

39. Internal Revenue Service Announcement 90-82, released June 27, 1990.

40. U.S, Congress. Joint Committee on Taxation. *Description and Analysis of Tax Provisions Expiring in 1992. Scheduled for Hearings before the House Committee on Ways and Means on January 28-29 and February 26, 1992.* Joint Committee Print JCS-2-92, 102d Cong., 2d Sess., January 27,1992. Washington, U.S. Govt. Print. Off., 1992. p. 106-109. Also, House Committee on Ways and Means, *1992 Green Book,* p. 1747-48.

41. According to the *Budget of the United States Government,* Fiscal Year 1993, Supplement, February 1992, (Part Five-33) trust funds receipts are estimated to grow to $24.928 billion in FY92; $25.802 billion in FY93; $26.754 billion in FY94; $27.725 billion in FY95; $28.757 billion in FY96; and $29.921 billion in FY97.

42. Estimated by the Congressional Budget Office.

43. According to the *Budget of the United States Government,* Fiscal Year 1993, Supplement, February 1992, (Part Five-33) total social insurance taxes and contributions are expected to grow to $410.8 billion in FY92; $446.7 billion in FY93; $479.9 billion in FY94; $508.7 billion in FY95; $540.6 billion in FY96; and $569.9 billion in FY97.

44. There was another temporary setback in the upward trend during the early 1980s, particularly FYs 1981 and 1982, when the authorization for the *Airport and Airway Trust Fund* taxes lapsed and revenues from the crude oil windfall profits tax surged.