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### **CLIENT ALERT**

## **Expiration of Air Transportation Excise Tax and Fuel Tax by Chris Younger**

The Federal excise tax on commercial air transportation (FET) and the additional fuel tax on noncommercial aviation (Fuel Tax) expired as of midnight on July 22 due to the failure of Congress to pass a bill extending the Federal Aviation Administration's (FAA) programs, taxes and fees. The U.S. House of Representatives passed a bill to temporarily extend these programs, taxes and fees on July 20, but Senate lawmakers refused to consider the measure due to certain non-tax provisions contained in it. Until Congress passes a bill extending these programs, taxes, and fees and that bill is signed into law by the President, any company that normally collects FET should cease such collections effective as of 12:01 a.m. on July 23. Furthermore, additional fuel tax for noncommercial aviation should not be imposed after July 22 and anyone who pays such tax may be able to claim a refund of the additional fuel tax paid.

The air transportation and fuel excise tax rates that expired at midnight on July 22, 2011 are:

- Percentage Taxes - 7.5% Excise /6.5% Cargo
- Domestic Segment Fee - \$3.70
- International Arrival/Departure Head Tax - \$16.30
- Hawaii/Alaska Flight Tax - \$8.20
- Jet A Fuel Tax (non-commercial operations) - \$0.175 per gallon
- AvGas Fuel Tax (non-commercial operations) - \$0.15 per gallon

While it is possible that any bill to reinstate the FET and additional fuel taxes could be made retroactive to the July 22 expiration date, until such a bill becomes law these taxes are not effective and may not be imposed or collected. Commercial operators and purchasers of aviation fuel should consult with their tax advisors about what options they may have to address issues relating to the expiration of the FET and fuel excise taxes and the potential retroactive application of those taxes to flights occurring and to aviation fuel purchased after the expiration date.

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