



Environmental Protection Charge - Future Repeal

ISSUE

The Environmental Protection Charge (EPC) on Petroleum Diminution was initiated by the State on July 1, 1989, and is scheduled to sunset June 30, 2016. As originally enacted, the EPC funded Iowa's program to clean up environmental contamination from leaking underground petroleum storage tanks. The EPC produced \$21.3 million in revenue for the Road Use Tax Fund (RUTF) during FY 2014.

AFFECTED AGENCIES AND FUNDS

Road Use Tax Fund

State and Local Road Fund Budgets

Underground Storage Tank Fund Board

CODE AUTHORITY

[Iowa Code chapter 424](#) – Environmental Protection Charge

[Iowa Code chapter 455G](#) – Underground Storage Tank (UST) Remediation Program

[Iowa Code section 321.145\(2\)](#) – Statutory Allocations Fund

BACKGROUND

The EPC was created in HF 447 (Petroleum Underground Storage Tank Act of 1989). As originally enacted, the EPC did not sunset. A sunset date of June 30, 2014, was added by the 2003 General Assembly and that date was extended by the 2004 General Assembly. The sunset date is now June 30, 2016.

As originally enacted, the EPC was deposited in the Underground Storage Tank Fund and the revenue was to be used to retire bonds that were issued to provide initial funding for UST remediation and insurance programs. In response to concerns that the EPC might be deemed a tax on motor vehicle fuel and therefore subject to Constitutional restrictions,¹ HF 2552 (Petroleum UST Act of 1990, section 13) changed the deposit destination for the EPC to

¹ Article VII, Section 8 of the Iowa Constitution provides that “motor vehicle registration fees and all licenses and excise taxes on motor vehicle fuel, except cost of administration, shall be used exclusively for the construction, maintenance and supervision of the public highways exclusively within the state or for the payment of bonds issued or to be issued for the construction of such public highways and the payment of interest on such bonds.”

the RUTF. In return, the UST Program was provided an annual allocation of vehicle use tax.² With the 1990 change, there is no longer a financial connection between the EPC and the UST Program and the sunset of the EPC only impacts the RUTF.

The EPC is collected by the depositor of petroleum when it is deposited into underground storage tanks and the EPC is paid to the depositor by the receiver. The depositor remits the collected revenue to the Department of Revenue and the Department deposits the revenue in the RUTF.

The EPC is a tax on petroleum diminution and diminution is defined as the petroleum released into the environment prior to its intended beneficial use. By Iowa Code definition, the rate of petroleum diminution is one-tenth of 1.0% of the total deposited volume of petroleum. For example, if 10,000 gallons are deposited in an underground storage tank, the amount of diminution subject to tax is 10,000 gallons times 0.001, or 10.0 gallons.

While the UST Program does not receive revenue from the EPC, the UST Board is required to set the tax rate.³ The rate is required to equal the greater of “either an amount reasonably calculated to generate an annual average revenue...of seventeen million dollars,...or ten dollars (per gallon).” Since inception, the EPC has always been set at \$10 per gallon of petroleum diminution. Based on the definition of the diminution rate and the tax rate of \$10 per gallon, the final effective tax rate for the EPC has always been \$0.01 per gallon of motor fuel.

BUDGET IMPACT

A sunset of the EPC will reduce annual RUTF revenue by approximately \$21.3 million beginning in FY 2017. The EPC equaled approximately 1.8% of all revenue deposited to the RUTF during FY 2014.

Once the EPC sunsets, the retail price of motor fuel in Iowa should be \$0.01 per gallon below where it would be if the EPC had remained in place.

The pending sunset of the EPC does not impact the UST Program.

Ten Year History Environmental Protection Charge Revenue in Millions	
	Deposited to the RUTF
FY 2005	\$ 21.1
FY 2006	21.3
FY 2007	21.3
FY 2008	21.1
FY 2009	20.6
FY 2010	20.9
FY 2011	17.7
FY 2012	24.9
FY 2013	20.8
FY 2014	21.3

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² See Iowa Code section 423.24 as enacted by HF 2552 (Petroleum UST Act of 1990, section 8). Later legislation (SF 2420 - Transportation Fees, Funds, and Revenue Sources Act of 2008) changed the UST Program funding from vehicle use tax to an annual allocation from the Statutory Allocations Fund. The Statutory Allocations Fund provides funding for the UST Program, the renewable Fuels Infrastructure Program, public transit assistance, motorcycle rider education, and specialty license plates. Remaining funds at the end of a fiscal year are transferred to the RUTF.

³ The Board requirement to set the tax rate is found in [Iowa Code section 424.3\(5\)](#).