

Dear Senators BRACKETT, Johnson, Bock, and
Representatives PALMER, Shepherd, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
State Tax Commission - Motor Fuels Tax:

IDAPA 35.01.05 - Rules Pertaining To The Motor Fuels Tax Administrative Rules (Docket No.
35-0105-1301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/08/2013. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/05/2013.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

FROM: Deputy Division Manager - Eric Milstead

DATE: September 19, 2013

SUBJECT: State Tax Commission - Motor Fuels Tax

IDAPA 35.01.05 - Rules Pertaining To The Motor Fuels Tax Administrative Rules (Docket No. 35-0105-1301)

The State Tax Commission submits notice of proposed rulemaking at IDAPA 35.01.05 -- Rules Pertaining to the Motor Fuels Tax Administrative Rules. The Commission notes that the proposed rule reflects a number of revisions including: conforming with recent statutory changes; better clarifying certain records required; revising certain provisions relating to special fuels power take off; correcting certain citations to existing law; and better clarifying when certain motor oils may be subject to the transfer fee.

Specifically, the proposed rule revises provisions relating to licensed gaseous fuels distributor's reports and also adds a new provision that authorizes the Commission to sell gaseous fuels decals. (See Rule Section 132.) The proposed rule also includes several revisions concerning the types of records required for motor fuels tax refunds. (See Rule Section 270.) The proposed rule also includes revisions to provisions concerning the standard allowances for special fuels power take off. (See Rule Section 292.05.) Finally, the proposed rule revises provisions that govern the applicability of the transfer fee to certain motor oils. (See Rule Section 510.)

The Commission notes that negotiated rulemaking was conducted on all rules in this docket except for Section 410 of the rules which governs the "Adoption of International Fuel Tax Agreement."

The Commission's proposed rule appears to be authorized pursuant to sections 63-105 and 63-2427, Idaho Code.

cc: State Tax Commission - Motor Fuels Tax
Don Williams

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5221(1), 63-105, and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rules 110, 115, and 290, as stated in the Notice of Intent To Promulgate Rules - Negotiated Rulemaking and published in the May 1, 2013, Administrative Bulletin, are not being promulgated and will remain as codified.

Motor Fuels Tax Rule 105 is being amended consistent with House Bill 20 which allows the Tax Commission to sell gaseous fuel decals. Also, changes to clarify records required for exempt sales at manned and unmanned pumps. This rule will be renumbered Motor Fuel Rule 132.

Motor Fuels Tax Rule 270 is being changed to clarify the records required for taxable and nontaxable use from a single storage tank when using the proration percentages provided in subsection (6)(a) or alternate percentages. The proration percentage provided will be reviewed.

Motor Fuels Tax Rule 292 is being reviewed to determine if changes are required to the standard allowances for special fuels power take off (PTO). The review is required due to increased efficiency of special fuels engines.

Motor Fuels Tax Rule 410 is changed to cite the external source according to the Administrative Procedures Act.

Motor Fuels Tax Rule 510 is changed to clarify when motor oils, other than new motor oils, are received in the state and subject to the transfer fee.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on all rules except Motor Fuel Tax Rule 410. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 101 and 102](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Section 63-2442A, Idaho Code, adopts the IFTA Agreement. Motor Fuel Tax Rule 410 previously incorporated the governing documents of the International Fuel Tax Agreement, but did not follow the external source citation requirements of the Administrative Procedures Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Don Williams at (208) 334-7855.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 30th day of August 2013.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7855
Don.williams@tax.idaho.gov
<http://tax.idaho.gov/>

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1301

011. -- ~~104~~. (RESERVED)

[Section 105 is being moved and renumbered to Section 132]

~~106. — 109. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~105~~32. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (RULE ~~105~~32).

01. Monthly Reports. Every licensed gaseous fuels distributor (distributor) shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: ~~(7-1-99)~~()

- a.** The total taxable gallons of gaseous fuels delivered into the supply tank of registered motor vehicles; (3-30-07)
- b.** The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; (4-5-00)
- c.** The tax computation; (7-1-99)
- d.** The bad debt amount, if any. (This credit or debit only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) See Rule 140 of these rules; (4-2-08)
- e.** The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous

fuels permit sold during that month); and (4-5-00)

f. The net tax due; (4-5-00)

g. A receipt schedule reporting the total number of taxable gallons of gaseous fuels sold must be attached to the distributor's report. (4-5-00)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Failure to Pay Tax and Permit Fees. Any ~~gaseous fuels~~ distributor required to pay the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to pay such tax or permit fee shall be liable to the State Tax Commission for the amount of tax or permit fee not paid plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. ~~(4-2-08)~~()

04. Receipt of Gaseous Fuels. The special fuels tax is not imposed on gaseous fuels when the fuels are received in Idaho. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a registered, or required to be registered, motor vehicle. ~~(4-5-00)~~()

~~05. Gaseous Fuels. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the supply tank of a registered, or required to be registered, motor vehicle. (3-30-07)~~

~~06.5. Annual Fees for Gaseous Fuels Permits.~~ Persons operating vehicles powered by gaseous fuels may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. ~~Gaseous fuels d~~Distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires. ~~(4-5-00)~~()

07.6. Documentation of ~~Untaxed~~ Exempt Sales of Gaseous Fuels Delivered into Motor Vehicles. Gaseous fuels delivered into the fuel supply tank of a registered, or required to be registered, motor vehicle are taxable except for: ~~(3-30-07)~~()

a. Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the ~~licensed~~ distributor must record ~~on the document of sale,~~ the name of the governmental entity, the license or identification number, and the type of vehicle on the sales document. ~~(7-1-99)~~()

b. Gaseous Fuels Decal. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the distributor must record the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" must be recorded or the decal number on the sales document. ~~(4-5-00)~~()

c. Manned and Unmanned Stations. A manned station must have a representative at the point of sale to visually inspect the vehicle, including the decal when required, in order to make exempt sales of gaseous fuels. Exempt sales of gaseous fuel from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it must request approval from the State Tax Commission before making exempt sales of gaseous fuels. ()

08.7. Completion of Gaseous Fuels Receipt Book(s). The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold: (4-5-00)

- a. The date; (4-5-00)
- b. The amount; (4-5-00)
- c. One (1) of the following weight classes: (4-5-00)
 - i. Zero - eight thousand pounds (0 - 8,000 lbs.); or (4-5-00)
 - ii. Eight thousand one - sixteen thousand pounds (8,001 - 16,000 lbs.); or (4-5-00)
 - iii. Sixteen thousand one - twenty-six thousand pounds (16,001 - 26,000 lbs.); or (4-5-00)
 - iv. Twenty-six thousand one pounds (26,001 lbs.) and over. (4-5-00)
- d. The current month; (4-5-00)
- e. The annual permit period; (4-5-00)
- f. The customer's name and vehicle license plate number; (4-5-00)
- g. The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)
- h. The signature of the salesperson. (4-5-00)

098. Annual Reconciliation of Gaseous Fuels Receipt Books and Decals. A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)

- a. All unused/unsold gaseous fuels decals; (4-5-00)
- b. All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)
- c. All receipt books (pink copies must be intact); and (4-5-00)
- d. A completed gaseous fuels reconciliation form which includes: (4-5-00)
 - i. The number of decals ordered for the annual permit period; (4-5-00)
 - ii. The number of decals sold for the annual permit period; (4-5-00)
 - iii. The balance of decals at the end of the annual permit period; and (4-5-00)
 - iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)

109. Assessment for Unaccounted for Decals. ~~Two hundred and eight dollars (\$208)~~ An amount equal to the annual fee of the highest weight class will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (4-5-00)()

10. Sales of Gaseous Fuels Decals by The State Tax Commission. The State Tax Commission may act as a seller of gaseous fuels decals. The State Tax Commission will maintain records and report sales of decals in a

manner sufficient to reconcile its accounts. ()

1323. -- 134. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: (4-11-06)

- a. A preprinted identification number; (4-11-06)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. Indian-Owned Retail Outlet. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)

03. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and ~~retained by the seller for at least three (3) years from the date issued.~~ (7-1-98)()

04. Invoice Retention. ~~The~~ Original, altered, or corrected invoices required by ~~Subsection 270.01 of~~ this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)()

05. Refund Documents. ~~For refund claims under Section 63-2410(5)(c), Idaho Code, a~~ An original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the

customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98)()

06. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (4-11-06)

a. Use of Fuel from a Single Storage Tank. Idaho tax-paid fuel ~~(other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules)~~ purchased and delivered into a single bulk storage tank and withdrawn for both ~~non~~taxable and ~~non~~taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. No refund is allowed under this paragraph for fuel purchased for use in: motor vehicles licensed under the authority of the International Fuel Tax Agreement (IFTA); non-IFTA motor vehicles for which a refund for nontaxable use is granted using either Rule 290 or 292 of these rules; or, for diesel when the claimant has both undyed (tax paid) and dyed (untaxed) diesel tanks. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless an alternate percentage is requested by the taxpayer and authorized by Taxpayers may claim a refund using a proration percentage instead of claiming actual use. †The State Tax Commission must authorize a taxpayer's proration percentage before he may receive a refund using any percentage when filing a refund claim. The authorization request shall itemize ~~anticipated~~ all taxable and nontaxable uses by vehicle and type of equipment based on ~~previously~~ experienced or anticipated use. The State Tax Commission will refund fuel taxes paid included on Idaho tax-paid fuel for nontaxable use based on the an authorized percentage of taxed fuel presumed to be exempt which represents the claimant's reasonable nontaxable use. ~~If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. When using an authorized percentage, certain records must be maintained and made available upon request. Acceptable records of refunds based on an authorized percentage include, but are not limited to: fuel purchase invoices and equipment lists. Equipment lists must be supported by documentation. Acceptable equipment list documentation includes, but is not limited to:~~ ()

- i. Equipment purchase; ()
- ii. Sales or rental receipts; and ()
- iii. Depreciation schedules. (3-30-07)()

b. Use of Fuel from Multiple Storage Tanks. When a claimant maintains separate bulk storage tanks ~~are maintained~~ of Idaho tax-paid fuel for ~~both exempt and~~ taxable and nontaxable uses, the claimant must identify which storage tank is for taxable and which is for nontaxable use. The seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Only Idaho tax-paid fuel placed in the nontaxable tank is refundable. Detailed withdrawal records will only be required if fuel ~~is purchased by persons who operate~~ from these tanks are used in motor vehicles that are licensed under IFTA or ~~by persons who operate in~~ non-IFTA motor vehicles ~~who claim refunds~~ for which refunds are granted for nontaxable uses of motor fuels in motor vehicles granted ~~in~~ using either Rule 290 and or Rule 292 of these rules. No refund may be claimed under this paragraph for diesel when the claimant has both undyed (tax-paid) and dyed (untaxed) diesel tanks. All fuel invoices must be retained as required by Subsection 270.03 of this rule. ~~Exempt fuel may not be used in motor vehicles registered or required to be registered.~~ (3-30-07)()

c. Use of Fuel for Other Than Bulk Storage. Idaho tax-paid ~~F~~fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. (3-30-07)()

07. **Untaxed Motor Fuel.** Under the provisions of Section 63-2421, Idaho Code, untaxed motor fuel may not be used in motor vehicles registered or required to be registered unless authorized elsewhere in these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, all fuel tax refund claims are subject to audit by the State Tax Commission and no part of these rules may be construed to imply that an audit may not be performed. Tax-paid motor fuel is no longer exempt from taxes imposed by Chapter 36, Title 63, when the motor fuel tax is refunded to the consumer according to Rule 171. ()

(BREAK IN CONTINUITY OF SECTIONS)

292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).

01. Fuel Records Required for Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 171 of these rules regarding application of Idaho Sales and Use Taxes. (4-6-05)

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard miles per gallon (MPG)” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. (3-15-02)()

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)

05. Power Take-Off (PTO) and Auxiliary Engine Allowances (Allowances). ~~Power take-off (PTO)~~ allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (4-5-00)()

a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No

claim for gasoline is allowed when gasoline is used by the registered motor vehicle's main engine even to operate the motor vehicle's PTO unit. (3-30-07)

c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

i. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(4-11-06)

ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

06. Nonstandard Allowances. A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. *Taxpayers must send requests for approval to:*

*FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P.O. BOX 36
BOISE, ID 83722-0410*

The ~~Idaho~~ State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. (4-6-05)()

07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-International Fuel Tax Agreement (IFTA) licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption (MPG) information. (4-11-06)()

08. IFTA Licensees. An IFTA licensee may ~~Qualifying~~ for ~~Power Take-Off~~ standard or nonstandard

~~(PTO)~~ and auxiliary engine allowances ~~(Allowances)~~. ~~Allowances~~ listed in ~~Subsection 292.05~~ of this rule or ~~established as provided in Subsection 292.06 of this rule may be granted for IFTA licensees~~ authorized by request, by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. ~~(4-6-05)~~()

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, the IFTA licensee will recompute the new fleet miles per gallon MPG. ~~Apply~~ The new fleet miles per gallon MPG is applied to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the IFTA licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. ~~(4-5-00)~~()

b. ~~Additionally,~~ a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. ~~(4-5-00)~~()

c. IFTA licensees that must used an assumed actual MPG when preparing their original IFTA return may not to claim any additional refund. ~~(4-5-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (RULE 410).

Under the authority of Sections 63-2434, 63-3039, 67-5203, and 63-2442A, Idaho Code, the State Tax Commission and motor fuels users licensed or required to be licensed pursuant to the International Fuel Tax Agreement (IFTA), are governed by the provisions of the International Fuel Tax IFTA Articles of Agreement; (Agreement), Article I, Section R120 Governing Documents (revised January 1, 2013). This section is incorporated by reference, including ~~The IFTA Agreement~~, Procedures Manual and Audit Manuals in effect on the effective date of this rule and as subsequently amended are equally binding on all IFTA members jurisdictions and licensees. Motor fuels users who operate under the International Fuel Tax Agreement also an Idaho IFTA license must comply with all applicable rules contained in these rules. ~~(7-1-99)~~()

(BREAK IN CONTINUITY OF SECTIONS)

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180. ~~(7-1-99)~~()

b. The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required to report and pay the transfer fee to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. ~~(6-23-94)~~()

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. Receipt is determined by the movement of petroleum or petroleum products from permanent storage facility (terminal) or crossing the border of this state. Storage of petroleum or petroleum products is incidental to the movement of the petroleum or petroleum products. (7-1-99)()

03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and ~~Shrinkage~~ Two Percent (2%) Allowance Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. ~~The d~~ Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for fuel lost by fire or similar casualty; see Section 63-2407(3), Idaho Code; loss and the two percent (2%) discount for loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; allowance are not deductions applicable to the Petroleum Transfer Fee. (4-2-08)()

05. Petroleum and Petroleum Products. The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Petroleum Transfer Fee. (4-7-11)

06. Exclusion of Petroleum and Petroleum Products on Which The Fee Has Previously Been Paid. Used oil as defined by 40 CFR Part 279 (July 1, 2000) is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor shall not report used oil generated in Idaho on the distributor report nor shall a distributor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor must report and pay the transfer fee unless an exemption or exclusion applies. ()

067. Licensed Distributors and Limited Licenses. Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

078. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

c. The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

~~089~~. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

~~09~~10. Incorporation of Other Relevant Rules. Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)