

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 42

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO FUELS TAX; AMENDING SECTION 63-2410, IDAHO CODE, TO REVISE PROVISIONS RELATING TO GASOLINE TAX REFUND PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who ~~shall~~ purchases fifty (50) gallons or more, and use the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, ~~shall~~ will be entitled to a refund when a claim is presented to the commission in the manner required in subsection (5) (c) of this section. Claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the state tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who ~~shall~~ purchases within any one (1) calendar year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

(a) Operating stationary gasoline engines;

(b) Propelling equipment or vehicles which are not licensed or required to be operated licensed for operation on a highway;

(c) Operating commercial motor boats; and

(d) Propelling an all-terrain vehicle that is not required to be registered pursuant to chapter 4, title 49, Idaho Code, or chapter 71, title 67, Idaho Code.

(3) No refund of gasoline tax shall be allowed for any gasoline which is:

(a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence; or

(b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section 63-2405, Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft, the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section 63-2408, Idaho Code; or

(c) Used in recreational vehicles except all-terrain vehicles exempted as provided in subsection (2) (d) of this section; or

(d) Used in noncommercial motor boats or in boats operated by a governmental entity.

1 (4) Any licensed distributor paying the gasoline tax and/or aircraft
2 engine fuel tax to the state of Idaho erroneously shall be allowed a credit or
3 refund of the amount of tax paid by him if a written claim for credit or re-
4 fund is filed with the commission within three (3) years after the date those
5 taxes were paid. Such credit or refund shall include interest at the rate es-
6 tablished in section 63-3045, Idaho Code, computed from the date taxes to be
7 refunded or credited were paid to the commission.

8 (5) (a) All claims for refund of gasoline taxes arising under subsec-
9 tion (1), (2) or (3) (b) of this section ~~shall~~ may be filed separately
10 or in conjunction with the claimant's income tax return due pursuant to
11 chapter 30, title 63, Idaho Code. When filed in conjunction with the
12 income tax return, the refund will be a refundable credit to income tax.
13 The gasoline tax refund claimed shall must be for tax paid on gasoline
14 actually purchased during the taxable year to which the income tax re-
15 turn relates. The gasoline tax refund due ~~shall~~ will be offset against
16 any other taxes, penalties or interest due before any balance is re-
17 funded by the commission to the claimant. Subject to a limitation as to
18 the amount of refund to be claimed as the commission may provide by rule,
19 refund claims may be submitted and paid ~~on a~~ for any period not greater
20 than one (1) year or less than one (1) monthly basis and reconciled on
21 the income tax return when it is filed.

22 (b) If a claimant is not required to file an income tax return, the
23 ~~refund claim shall be made~~ claimant will file claims using a calen-
24 dar year filing cycle on forms and in the manner as the commission may
25 provide. The refund claim shall ~~relate to~~ must be for taxes paid on
26 gasoline actually purchased in the calendar year preceding the filing
27 and the refund claim shall will be due on or before the fifteenth day of
28 April 15 following the close of the calendar year. Refund claims may be
29 submitted and paid for any period not greater than one (1) year or less
30 than one (1) month.

31 (c) Claims for refunds under subsection (1) or (2) of this section
32 shall be filed in the manner prescribed in section 63-3072, Idaho Code.
33 Such credit or refund shall include interest at the rate established in
34 section 63-3045, Idaho Code, computed from sixty (60) days following
35 the later of the due date of the claimed refund under ~~subsection (5)~~
36 ~~paragraph (a) or (5) (b)~~ of this subsection or the filing of the claim.
37 No refund ~~shall~~ will be paid under this section unless a written claim
38 for such refund has been filed with the commission within three (3)
39 years after the due date, including extensions, of the income tax return
40 in regard to which the claim relates or the due date of the claim estab-
41 lished in paragraph (b) of this subsection ~~(5)~~.

42 (d) The commission may require that all claims be accompanied by the
43 original signed invoice or invoices issued to the claimant, showing the
44 total amount of gasoline on which a refund is claimed and the reason, the
45 amount of the tax and any additional information required by the commis-
46 sion. Each separate delivery shall constitute a purchase and a separate
47 invoice shall be prepared, at least in duplicate, to cover the delivery.
48 All invoices, except those prepared by a computer or similar machine,
49 shall be prepared in ink or double-spaced carbon shall be used between
50 the original and first duplicate.

1 (6) (a) Should the commission find that the claim contains errors, it
2 may correct the claim and approve it as corrected, or the commission
3 may require the claimant to file an amended claim. The commission may
4 require any person who makes a claim for refund to furnish a statement
5 under oath, giving his occupation, description of the machine or equip-
6 ment in which the gasoline was used, the place where used and any other
7 information as the commission may require. If the commission deter-
8 mines that any claim has been fraudulently presented, or is supported
9 by an invoice or invoices fraudulently made or altered, or that any
10 statement in the claim or affidavit is willfully false and made for the
11 purpose of misleading, the commission may reject the claim in full. If
12 the claim is rejected, the commission may suspend the claimant's right
13 to any refund for purchases made during a period not to exceed one (1)
14 year beginning with the date the rejected claim was filed, and it shall
15 take all other action deemed appropriate.

16 (b) The commission has authority, in order to establish the validity of
17 any claim, to examine the books and records of the claimant for that pur-
18 pose, and failure of the claimant to accede to the demand for the exami-
19 nation may constitute a waiver of all rights to the refund claimed.

20 (7) In the event of the loss or destruction of the original invoice or
21 invoices, the person claiming a refund may submit a duplicate copy of the in-
22 voice certified by the vendor, but payment based on the duplicate invoice
23 shall not be made until one (1) year after the date on which the gasoline was
24 purchased.