

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 362

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO GASOLINE TAX REFUNDS; AMENDING SECTION 63-2410, IDAHO CODE,  
TO AUTHORIZE GREATER FLEXIBILITY IN THE TIMING OF GASOLINE TAX REFUND  
CLAIMS BY THOSE WHO ARE NOT REQUIRED TO FILE AN INCOME TAX RETURN 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 pur-  
chases fifty (50) gallons or more, and uses the gasoline in motor vehicles  
operated on highways outside of the state of Idaho where a duplicate tax is  
assessed for the same gasoline, 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. A claimant shall present to the commission a statement  
accompanied by a verification of the use determined by an audit of his oper-  
ations 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 purchases within any one (1) ~~calendar~~ year fifty (50)  
gallons or more of gasoline used for the purposes described in this subsec-  
tion 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~~ that are not licensed or re-  
quired to be licensed for operation on a highway;
- (c) Operating commercial motor boats; and
- (d) Propelling an all-terrain vehicle that is not required to be regis-  
tered 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~~  
that is:

- (a) Used in motor vehicles required to be licensed or used in any mo-  
tor vehicle exempt from registration by reason of the ownership or resi-  
dence; ~~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

1 (d) Used in noncommercial motor boats or in boats operated by a govern-  
2 mental entity.

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

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

23 (b) If a claimant is not required to file an income tax return, the  
24 claimant will file claims using a ~~calendar year~~ filing cycle on forms  
25 and in the manner as the commission may provide. The refund claim  
26 must be for taxes paid on gasoline actually purchased in the ~~calendar~~  
27 year preceding the filing and the refund claim will be due ~~on or before~~  
28 ~~the fifteenth day of April following the close of the calendar year~~  
29 according to income tax payment requirements in section 63-3085, Idaho  
30 Code. Refund claims may be submitted and paid for any period not greater  
31 than one (1) year or less than one (1) month.

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

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

1 shall be prepared in ink, or double-spaced carbon shall be used between  
2 the original and first duplicate.

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

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

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