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IRS Rules Change Regarding Diesel Fuel Purchases

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Hot Topics for Tennessee cities and towns

January 13, 1994 #2

IRS Rules Change Regarding Diesel Fuel Purchases

Your municipality won't have to get a refund from the Internal Revenue Service (IRS) anymore for paying federal excise taxes on diesel fuel. Now you can buy the fuel tax-free to start with.

Gasoline, diesel, and certain other fuels purchased for the exclusive use of a state or local government are exempt from the federal excise taxes on those fuels (24.4 cents per gallon for diesel fuel, 18.4 cents per gallon for gasoline). In the past, the IRS had procedures for governments that pay federal tax on diesel fuel at the point of purchase to claim a refund. (The rules for gasoline and diesel were different.)

The Omnibus Budget Reconciliation Act (P.L. 103-66), enacted in August 1993, changed the collection point for the excise taxes on diesel fuel to the same as gasoline. The act also provided that diesel fuel dyed in accordance with IRS regulations may be sold at a tax-excluded price if the fuel is for a nontaxable use (e.g., the exclusive use of a state or local government). These changes, which were effective Jan. 1, have changed the rules governing the purchase of diesel fuel for state and local governments.

Now, state and local governments will be able to buy dyed diesel fuel (blue for high-sulfur fuel for use in off-highway vehicles and red for low-sulfur fuel for use in motor vehicles) at a price *that excludes the federal excise tax*. The fuel may be purchased from any vendor who sells the dyed fuel. The vendor will post a notice stating: DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE. This notice will appear on retail pumps, all bills, shipping paper, etc. If your local government purchases these *dyed* fuels, you won't need to provide an exemption certificate.

The new rules provide that there will be only one way to purchase *undyed* diesel fuel without paying taxes. As of Jan. 1, the vendor -- and only the vendor -- becomes responsible for seeking a refund in excise taxes from the IRS. To do this, the vendor must be a "registered ultimate vendor" and the local government must supply the vendor with an "exemption certificate." (A sample copy is on the back of this page.) Through March 31, 1994, the "exemption certificate" can be the government's unexpired "exemption certificate for purchaser of diesel fuel" if it was obtained before Dec. 31, 1993. Any purchases after March 31 must use this sample "exemption certificate." If your local government doesn't have an unexpired certificate on file with the vendor prior to last Dec. 31, use this sample.

Vendors who are a Form 637 registrant with the IRS as of Dec. 31, 1993, will be considered an "ultimate vendor" until Jan. 1, 1995. Those vendors who didn't have a Form 637 may apply under a new registration category "UV" on Form 637. These forms are available from the IRS.

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Model Exemption Certificate
(provided in IRS temporary regulations)
"CERTIFICATE OF FARMER OR STATE OR LOCAL GOVERNMENTAL UNIT"
(To support vendor's claim for a credit or payment under Section 6427 of the Internal Revenue Code.)

Name, address, and employer identification number of seller.

_____

_____

_____

The undersigned buyer ("buyer") hereby certifies the following under penalties of perjury:

Buyer will use the diesel fuel to which this certificate relates either-(check one)

_____ On a farm for farming purposes (as that term is defined in Sec.48.6420-4 of the Manufacturers and Retailers Excise Tax Regulations); or

_____ For the exclusive use of a state, political subdivision of a state, or the District of Columbia.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here____and enter:

1. Invoice or delivery ticket number._____
2. _____ (number of gallons).

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date _____
2. Expiration date _____ (period not to exceed one year after the effective date)
3. Buyer account or order number _____

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If buyer uses the diesel fuel to which this certificate relates for a purpose other than stated in the certificate, buyer will be liable for the tax.

Buyer understands that the fraudulent use of this certificate may subject buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

Clip and Post by Your Phone

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The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee's Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League in providing technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, communications, ordinance codification, and wastewater management.

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