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UPDATE ON TECHNICAL BULLETIN 31

(State And Federal Petroleum Tax Refunds and Exemption
Options For Local Governments)

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REVENUE RECONCILIATION ACT OF 1990

The Revenue Reconciliation Act of 1990 (Act) recently passed by Congress imposes new federal excise taxes on gasoline and diesel fuel. This raises the tax on gasoline to 14.1 cents per gallon and the tax on diesel fuel to 20.1 cents per gallon. The new rates are effective December 1, 1990.

FEDERAL EXCISE TAX ON GASOLINE

Prior to the Act, the excise tax imposed on the sale or removal of gasoline was set at 9 cents per gallon. This tax went to the Highway Trust Fund (HTF). Before September 1, 1990, the tax included the Leaking Underground Storage Tank Trust Fund (LUSTTF) financing rate of 0.1 cents per gallon.

Therefore, prior to September 1, 1990, the excise tax on gasoline was 9.1 cents per gallon. After September 1, 1990, but before the effective date of the Act, the excise tax was 9 cents per gallon.

The Act increases the HTF rate and imposes a new component of gasoline tax. The excise tax on gasoline effective December 1, 1990, is increased to 14.1 cents per gallon.

This new rate is made up of three components:

1. The HTF rate is increased by 2.5 cents, from 9 cents to 11.5 cents;
2. A "deficit reduction rate" of 2.5 cents is imposed; and
3. The LUSTTF tax rate of 0.1 cents is reinstated.

The total rate increase is therefore 5.1 cents per gallon.

FEDERAL EXCISE TAX ON DIESEL FUEL

Prior to the Act, the excise tax imposed on the sale of diesel fuel was set at 15 cents per gallon. Diesel fuel was also subject to the LUSTTF tax rate of 0.1 cents per gallon until September 1, 1990.

The Act reinstated this tax and increased the diesel fuel tax rate by 5 cents per gallon in the same manner as the gasoline excise tax. Effective December 1, 1990, the total rate increase is 5.1 cents per gallon.

LOCAL GOVERNMENT OPTIONS

Due to the increase in federal excise taxes on gasoline and diesel fuel (coupled with the high state tax already in effect), local governments should avoid payment of the tax.

By purchasing gasoline at the wholesale level from dealers who will not charge the tax, or by striking a deal with gasoline credit card companies to reduce billing charges by the amount of the tax, cities can avoid these taxes entirely.

The only other alternative would be to buy at retail, keep adequate records, and file for a refund for taxes paid on IRS Form 843. This method has several distinct disadvantages.

1. The local government is using cash flow for the payment of federal and state taxes which could be avoided entirely.
2. The IRS has no time frame to refund taxes paid which further ties up the cash flow of the government.
3. Buying at retail requires the payment of state gasoline and diesel tax which can not be refunded. The state per gallon tax is currently 21 cents for gasoline and 18 cents for diesel.

If the local government has no other choice but to purchase at retail and file a claim for refund of federal taxes paid, the following table shows the dates and amount of taxes to claim on Form 843.

GASOLINE

Date Purchased	Amount of Tax
Prior to 9/1/90	9.1 cents/gallon
9/1/90 to 11/30/90	9.0 cents/gallon
12/1/90 and after	14.1 cents/gallon

DIESEL

Date Purchased	Amount of Tax
Prior to 9/1/90	15.1 cents/gallon
9/1/90 to 11/30/90	15.0 cents/gallon
12/1/90 and after	20.1 cents/gallon

FOR FURTHER INFORMATION

For further information on petroleum tax refunds, contact Dick Phebus in Martin at 901/587-7055. You can also contact your MTAS Municipal Management Consultant in Knoxville at 615/974-0411; Nashville at 615/256-8141; or Jackson at 901/423-3710.

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