



technical bulletin

Municipal Technical Advisory Service
Institute for Public Service, The University of Tennessee
In cooperation with the Tennessee Municipal League

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REFUNDS TO MUNICIPALITIES PAYING STATE GASOLINE TAXES

Tennessee municipalities that traditionally have been exempt from paying the state gasoline tax because of purchasing gasoline in quantity now will have to pay this tax, effective Jan. 1, 1979. However, if the conditions of the new Petroleum Products Law (Chapter 761 of the Public Acts of 1978) are met, refunds of the tax can be obtained.

This MTAS Technical Bulletin is not intended to repeat the material contained in the "Taxpayer Information" bulletins prepared by the Tennessee Petroleum Tax Division, but to emphasize highlights of the law. Issues Nos. 1 and 2 of the Division's series, dated July and August 1978, have been distributed to municipalities that have taken the exemption under the previous law. If you have not received issues 1 and 2, contact the Petroleum Tax Division, Room 704, Andrew Jackson State Office Building, Nashville, TN 37242.

The Amended Tax Structure

On Jan. 1, 1979, when Chapter 761 takes effect, the Tennessee gasoline and motor fuel tax structure will consist of the following (references are to Sections of Chapter 761):

- A 7¢ per gallon "special privilege tax" on gasoline or distillate (Sects. 18 and 19).
- An 8¢ per gallon "excise tax" on diesel fuel and other motor fuel except gasoline, although LP (liquefied petroleum) gas used to propel vehicles on the public highways carries a 7¢ per gallon tax (Sects. 87 and 88).
- A 1¢ per gallon "special tax" on all petroleum products, including gasoline, diesel, fuel oil, and LP gas (Sects. 105 and 106).

Repeal of Existing Laws

When Chapter 761 becomes effective, eight chapters (32 through 39) of Title 67, Tennessee Code Annotated, will be repealed and replaced by the provisions of Chapter 761, arranged into seven new Chapters 32 through 38. Section 114 of Chapter 761 also repeals Chapter 4 of Title 60, which levied the 1¢ per gallon "inspection fee," but Section 114 makes it clear that the "special tax" of Section 106 replaces the inspection fee. Section 107 authorizes a distribution of this special tax to municipalities, which replaces the current distribution to cities from the inspection fee prescribed

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by Section 60-421 TCA. Since the method and amount of distribution to municipalities of shares of the special tax are the same as for the inspection fee, there should be no budgetary problem involved in this aspect. However, since refunds will be made only semi-annually, a city must anticipate carrying the amount of the tax until such refund has been received.

Different Fuels Have Different Refund Requirements

Gasoline. Chapter 761 requires that distributors and dealers must pay the 7¢ per gallon special privilege tax on gasoline (Sects. 18 and 19) and also the 1¢ special tax on petroleum products (Sect. 106); the gasoline tax must be stated on invoices (Sect. 25) and included in the selling price (Sect. 27d). Municipalities shall be entitled to a refund of these two taxes if at least 500 gallons of the fuel is delivered within a 72-hour period from a bonded dealer or distributor and certain other requirements are met (Sects. 64 and 65), and if the municipality holds an unrevoked refund permit issued by the Commissioner of Revenue before the purchase of the products (Sect. 66a).

Diesel Fuel. Municipalities are exempt from payment of the motor vehicle fuel use tax of 8¢ per gallon on diesel fuel (Sect. 64b). However, they do have to pay the 1¢ special tax imposed by Section 106, subject to the right to file for a refund.

LP Gas. Municipalities also are exempt from payment of the motor vehicle use tax of 7¢ per gallon on LP gas used to propel vehicles on the public highways (Sect. 64b). Such use in Tennessee is rare but could include butane, propane, and liquefied natural gas. Propane gas is specifically exempted from the special tax on petroleum products, and it is likely that any other LP gas also would be exempted (Sects. 105 and 106).

Aviation Gasoline. Aviation gasoline is exempt from the 7¢ special privilege tax levied on gasoline by Sections 18 and 19 but not exempt from the special tax of 1¢ per gallon imposed by Section 106. However, as previously referred to, a municipality may obtain a refund of this tax if the conditions of Section 65(a) are met.

What Steps Next?

The Petroleum Tax Division will mail an application for a Refund Permit to each municipality qualifying for this privilege according to records of the Division. A city that has not received an application by Nov. 1, 1978, and believes that it can qualify, should request one in writing from the Division (Ref., Issue No. 2).

Refund claims by municipalities shall be made semi-annually within 90 days following the end of each semi-annual period of June 30 and Dec. 31 on forms to be supplied by the Petroleum Tax Division. Failure to comply with the provisions of Sections 64 through 67 of Chapter 761 will make the city ineligible to receive a refund.

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