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MUNICIPAL EXEMPTION FROM FEDERAL AND STATE GASOLINE TAXES

Officials of some municipalities in Tennessee may not be aware that city purchases of gasoline are exempt from both federal and state gasoline taxes. This bulletin will explain how to obtain your city's exemptions and under what conditions.

Exemption from Federal Tax

Municipal exemption from the 4-cent-per-gallon federal excise tax on gasoline is authorized by Subsection (d) (4) of Internal Revenue Code Section 4221. This exemption is possible on any quantity of gasoline purchased (even as low as five gallons bought from a service station). However, a federal exemption certificate must be filed with the gasoline supplier. Exemption certificate forms are available from the oil companies, not from the federal government. The form below is a sample:

EXEMPTION CERTIFICATE

(For use by United States, States, Territories, or political subdivisions thereof, or the District of Columbia.)

_________ , 19_________

(Date)

The undersigned hereby certifies that he is ____________

>Title of officer)

of ____________________________

(United States, State, Territory, or political subdivision, or District of Columbia)

and that he is authorized to execute this certificate and that the article or articles specified in the accompanying order or on the reverse side hereof, are purchased from ____________________________

(Name of company) for the exclusive use of ____________________________

(Government unit)

It is understood that the exemption from tax in the case of sales of articles under this exemption certificate to the United States, States, etc., is limited to the sale of articles purchased for their exclusive use, and it is agreed that if articles purchased tax free under this exemption certificate are used otherwise or are sold to employees or others, such fact will be reported and tax paid by me to the collector of internal revenue for the district in which the sale was made. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with cost of prosecution.

__________________________

(signature)
Each city should check with its oil dealer on handling the exemption deduction. If the city is buying from a local service station, it might be necessary to obtain a credit card and get monthly billings directly from the oil company. Billing practices vary with different companies. Some will automatically take off the federal tax while others leave it on. In the latter case, the city should deduct the federal tax before making payment. Also, some oil companies may require that an exemption form be filed with each payment while others may require a yearly blanket form. Under federal law an exemption certificate is not valid for more than four calendar quarters. If buying several brands of gasoline, a separate certificate is needed for each company.

For further information, city officials should contact the Field Audit Division of the Internal Revenue Service in Nashville (phone 615/ 749-5246).

**Exemption from State Tax**

The State of Tennessee levies the following taxes and fees on gasoline and other motor fuels consumed in Tennessee:

- A 7¢ per gallon "special privilege tax" on gasoline. (Sect. 67-3202, TCA).
- An 8¢ per gallon "excise tax" on all motor vehicle fuels, including diesel oil and butane gas, but excluding gasoline and heating fuel oil. (Sect. 67-3802, TCA).
- A 1¢ per gallon "inspection fee" for testing volatile oils, including gasoline, kerosene, diesel oil, naptha, and heating fuel oil. (Sect. 60-421, TCA).
- A 1/2¢ per gallon "special privilege tax" on the same types of volatile oils to which the inspection fee applies. However, this special privilege tax does not apply if the inspection fee has been paid on the fuel. Since, in practice, the inspection fee is automatically levied on all motor fuel, this provision of law is not in effect. (Sect. 67-3901 & 67-3902 TCA).

In summary, the financial effect of the above provisions on gasoline consumed in Tennessee is an 8¢ per gallon tax ("special privilege tax" plus "inspection fee") on gasoline and a 9¢ per gallon tax ("excise tax" plus "inspection fee") on diesel and other motor vehicle fuels.

Municipalities are exempt from all of the above Tennessee taxes and fees but only under these conditions:

- Gasoline or other motor vehicle fuel must be purchased in quantities of at least 500 gallons, with delivery into city-owned or leased tanks within a 72-hour period, and used exclusively for governmental purposes, in equipment either owned or leased by a governmental agency, and operated only by governmental employees. This procedure will authorize exemption from the 7¢ per gallon "special privilege tax" on gasoline, and the 8¢ per gallon "excise tax" on other motor vehicle fuels. (Sects. 67-3701, 67-3702, & 67-3802 TCA). Municipalities must make monthly reports to the Tennessee Commissioner of Revenue on forms provided by the Department of Revenue. (Sect. 67-3704 TCA).

- Gasoline and other motor vehicle fuels purchased by municipalities are subject to inspection, but municipalities are exempt from the 1¢ per gallon inspection fee. (Sect. 60-422, TCA).
It is the interpretation of the Petroleum Tax and Inspection Division of the Tennessee Department of Revenue that Sections 60-422 and 67-3903, when construed together, exempt municipalities from payment of the 1/2¢ per gallon "special privilege tax."

To reiterate—municipalities meeting the various requirements of the law are exempt from payment of Tennessee taxes and inspection fees on purchases of at least 500 gallons of gasoline or other motor vehicle fuel; they are not exempt if purchasing less than 500 gallons.

What should a city do to qualify for the state tax exemption if it cannot store 500 gallons of fuel? One solution would be to purchase or lease gasoline tanks of sufficient size, even up to 10,000-gallon capacity. The larger tanks will allow large-volume purchases at lower per gallon prices. MTAS consultants can provide further information on sizes, costs, and availability of gasoline pumps and tanks.

Another possibility would be joint fuel storage with the county, another city, a school district, or other governmental entity. As long ago as 1941 the Director of the Gasoline Tax and Oil Inspection Division, in a letter to the Tennessee Municipal League, stated:

"... if a county and a city bought an 8,000 gallon tank car and the county bought 5,000 gallons of such tank car and the city 3,000 gallons, either the county or the city could store the entire tank car-load of gasoline and the other governmental agency could obtain their part or obtain their gasoline from the one storing same, but no city or county will be permitted to buy and store gasoline and in turn sell another city and county gasoline from their stores."

The above opinion is still valid, advises the Director, Petroleum Tax and Inspection Division. If a municipality has further questions on obtaining the state exemptions, the Director will be glad to explain. His Nashville office number is 615/741-3501.