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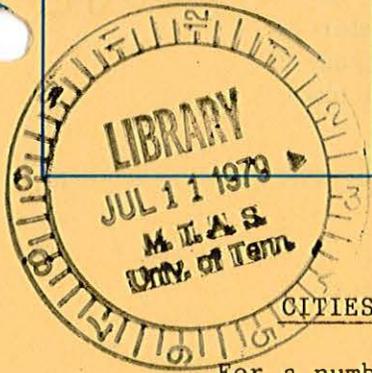
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technical bulletin

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



July 5, 1979

CITIES EXEMPT FROM PAYING CERTAIN TAXES ON GASOLINE

For a number of years Tennessee municipalities were exempted from the payment of state privilege taxes and inspection fees on gasoline purchased and delivered in lots of five hundred (500) gallons or more. Last year, a comprehensive new petroleum products law (Chapter 761 of the Public Acts of 1978) took away this exemption, effective Jan. 1, 1979, and substituted a new procedure whereby municipalities had to pay the taxes and fees and were then, upon application, entitled to semiannual refunds.

This year, Chapter 277, Public Acts of 1979, has returned to an exemption procedure. The Department of Revenue has sent out a notice, dated June 15, 1979, relative to this new law and a list of governmental agencies qualified to purchase tax exempt fuel. If your city is qualified and did not receive the notice or was not on the list of qualified agencies, you should contact the:

State of Tennessee
Department of Revenue
Andrew Jackson State Office Building
Nashville, Tennessee 37242

The applicable law, Tennessee Code Annotated, sections 67-3611 through 67-3615, as amended by Chapter 277, Public Acts of 1979, provides substantially as follows:

67-3611. Tax exemption for governmental units. (a) A political subdivision, governmental body, or agency which uses gasoline or distillate which such governmental unit purchases and is shipped in lots of at least five hundred (500) gallons from points either within or without the state shall be exempted from the payment of both the gasoline privilege tax and special tax on petroleum products. This exemption shall apply only when the said gasoline or distillate is received, stored, handled, and used as provided under this section and §§67-3612 --67-3614. The exemption is expressly limited to a political subdivision, governmental body, or agency of this state or of the federal government.

(b) Political subdivisions, governmental bodies and agencies are exempt from the payment of the motor vehicle fuel use tax imposed under §67-3703.

(c) No exemption shall be authorized under this section unless the delivery of each lot is at least five hundred (500) gallons and is completed within seventy-two (72) hours following commencement of the delivery. The minimal amount requirement shall be satisfied for the entire amount of any combined shipment of gasoline and distillate if the amount of the fuels contained in the combined shipment is of at least five hundred (500) gallons.

67-3612. Manner of handling exempt gasoline. (a) In order to be entitled to the exemption authorized to governmental agencies the gasoline or distillate shall be received, stored, handled and used strictly in the following manner:

(1) Shipped in lots of at least five hundred (500) gallons.

(2) Stored by the governmental unit in a storage facility either owned or leased by the governmental unit. In the event the facility is leased, it shall be separate and apart from the commercial storage facilities of any gasoline dealer or distributor, and the storage facility must be kept under the exclusive control of the governmental unit at all times. In order for the leased facility to comply with the provisions of this paragraph it is necessary that a copy of the lease be filed with and approved by the commissioner.

(3) Removed from the storage facility in equipment either owned or leased by the governmental unit.

(4) Used exclusively for governmental purposes, in equipment either owned or leased by the governmental unit and operated by governmental employees.

(5) Purchased only from a bonded dealer or distributor.

(b) It is unlawful for any person to use gasoline or distillate purchased by a governmental unit and on which a tax refund has been made under this section for any purpose other than governmental.

(c) Notwithstanding the provisions of paragraphs (3) and (4) of subsection (a) of this section, and for the purposes of §§67-3611--67-3614, a motor vehicle operated by any governmental unit owning or leasing a storage facility for gasoline or distillate, as provided in paragraph (2) of subsection (a) of this section, and used exclusively in a driver education program approved by the state board of education shall be considered as equipment owned by the governmental unit.

67-3613. Governmental unit exemption permit. (a) In order to be entitled to an exemption under §§67-3611 through 67-3614, each governmental unit making purchases of gasoline or distillate shall, prior to the purchase of such products, be the holder of a valid exemption permit issued by the commissioner. The exemption permit shall be numbered and shall entitle such governmental unit to purchase gasoline or distillate tax exempt for a period of two (2) years from the date of issuance.

(b) In order to procure a permit, a governmental unit shall file with the department an application executed, under oath, on forms prescribed and furnished by the commissioner.

(c) Any such exemption permit issued by the commissioner shall be valid for a period of two (2) years from the date of issuance after which any governmental unit must file an application for a renewal permit every two (2) years.

(d) If any governmental unit, to which an exemption permit has been issued, loses its status as a governmental unit during the effective period of any such permit, the permit shall be void and shall be immediately surrendered to the department.

67-3614. Refunds for dealers who have paid tax. (a) A distributor or dealer of gasoline or distillate who has paid the gasoline tax or the special tax on petroleum products and who has, subsequent to the payment of such taxes, sold such tax paid gasoline or distillate tax exempt to a governmental unit which holds a valid exemption permit issued by the commissioner may apply for a refund of such taxes paid by the dealer or distributor on the gasoline or distillate sold to such governmental unit.

(b) Any application for refund authorized under subsection (a) shall be filed with the department, on forms prescribed by the commissioner, monthly on or before the last day of the month following the month in which sales were made on which the dealer or distributor claims a refund. All sales for which the dealer or distributor claims a refund in any month shall be included in one application for refund.

(c) Any applications for refund shall contain all information as required by the commissioner. In addition, all applications must be accompanied by copies of all invoices for sales on which the dealer or distributor is applying for refund. The invoices submitted with any such application shall each contain the governmental unit exemption permit number for the governmental unit to which the sales reflected on the invoice were made.

(d) (1) Any application for refund submitted to the department which does not comply with any of the provisions set out above shall not be approved and a refund shall not be granted.

(2) Dealers and distributors shall not be entitled to a refund on sales made to any person who does not hold a valid governmental unit exemption permit at the time of such sale.

(e) Applications for refund made pursuant to this section shall not be subject to the provisions of §§67-2301 and 67-2302.

67-3615. Liability for tax on noncompliance. Any governmental unit using, storing, distributing or selling gasoline, distillate, or motor vehicle fuel in any manner except strictly in accordance with the provisions of §§67-3611--67-3614 shall be liable for the state gasoline tax or the special tax on petroleum products, and in event of such liability said tax may be collected in the manner now provided by law for the collection of state gasoline taxes.

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