Technical Bulletins: State And Federal Gasoline Tax Refunds (Revisited)

Dick Phebus
Municipal Technical Advisory Service

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State And Federal Gasoline Tax Refunds (Revisited)

by Richard Phebus

The Revenue Reconciliation Act of 1990 (Act) passed by Congress imposed increases in federal excise taxes on gasoline and diesel fuel. The tax on gasoline was increased to 14.1 cents per gallon while the tax on diesel fuel was raised to 20.1 cents per gallon. The new rates became effective December 1, 1990.

For a governmental unit purchasing petroleum products at the retail level, the increase put a further burden on local resources. Coupled with one of the highest state taxes in the nation, governments began paying taxes at retail of 35.1 cents per gallon for gasoline and 38.1 cents per gallon for diesel fuel.

Local Government Options

Due to the increase in federal excise taxes on gasoline and diesel fuel (coupled with the state tax already in effect), local governments should avoid payment of these taxes if at all possible. By purchasing 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 (federal tax only), cities can avoid these taxes entirely.

Another option available to governmental units is to purchase gas at special "customer controlled pumps" available through selected gasoline distributors. These pumps allow the user to buy gasoline on a "per tank basis," with the supplier billing the user each month for the wholesale amount of gasoline purchased. This option was enacted into Tennessee law in 1990.

The only other alternative would be to buy at retail, keep adequate records, and file for a refund for federal taxes paid on IRS Form 843. A revised Form 843, which may be duplicated, is attached to this bulletin for this purpose. 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. There is no time frame for the IRS 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 fuel.

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.

<table>
<thead>
<tr>
<th>Date Purchased</th>
<th>Amount of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 9/1/90</td>
<td>9.1 cents/gallon</td>
</tr>
<tr>
<td>9/1/90 to 11/30/90</td>
<td>9.0 cents/gallon</td>
</tr>
<tr>
<td>12/1/90 and after</td>
<td>14.1 cents/gallon</td>
</tr>
</tbody>
</table>

continued on page 2
Diesel

<table>
<thead>
<tr>
<th>Date Purchased</th>
<th>Amount of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 9/1/90</td>
<td>15.1 cents/gallon</td>
</tr>
<tr>
<td>9/1/90 to 11/30/90</td>
<td>15.0 cents/gallon</td>
</tr>
<tr>
<td>12/1/90 and after</td>
<td>20.1 cents/gallon</td>
</tr>
</tbody>
</table>

Governmental units generally have three years to file for a refund of federal excise taxes paid.

**For Further Information**

Contact Dick Phebus in Martin at (901) 587-7055 for further information on gas tax refunds. You can also contact your local MTAS consultant in Knoxville at (615) 974-0411; Nashville at (615) 256-8141; or Jackson at (901) 423-3710.
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<table>
<thead>
<tr>
<th>Name of claimant</th>
<th>Telephone number (optional)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address (number, street, and apt. or suite no. or rural route)List P.O. box if mail is not delivered to street address.</td>
<td></td>
</tr>
<tr>
<td>City, town, or post office, state, and ZIP code</td>
<td></td>
</tr>
</tbody>
</table>

**Claim for Refund and Request for Abatement**

If your claim is for an overpayment of income taxes, do NOT use Form 843. (See Instructions.)

Use Form 843 ONLY if your claim involves one of the taxes shown on line 8a or a refund or abatement of interest or penalties on lines 8b(i)-(111).

Fill in applicable items—Use attachments if necessary

<table>
<thead>
<tr>
<th>1 Your social security number</th>
<th>2 Spouse's social security number</th>
<th>3 Employer identification number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4 Name and address shown on return if different from above

5 Period—prepare a separate Form 843 for each tax period

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>19</td>
</tr>
</tbody>
</table>

6 Amount to be refunded or abated

<table>
<thead>
<tr>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

8a Type of tax or penalty

- Employment
- Estate
- Excise
- Gift
- Penalty IRC section

8b Request for abatement, credit, or refund of:

- Interest under Rev. Proc. 87-42.
- Interest under Rev. Proc. 87-43.
- A penalty or addition to tax as a result of erroneous advice from IRS.

9 Kind of return filed (see instructions)

- 706
- 709
- 720 IRS No. (s)
- 940
- 941
- 990-PF
- 2290
- 4720
- Other (specify)

10 Explain why you believe this claim should be allowed and show computation of tax refund or abatement of interest or penalty.

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Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

**Signature**

**Date**

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