

**RULES
OF
DEPARTMENT OF REVENUE
PETROLEUM TAX DIVISION**

**CHAPTER 1320-7-4
EXEMPTION AND REFUND OF TAXES ON PETROLEUM PRODUCTS**

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1320-7-4-.01 REFUNDS AND EXEMPTIONS.

- (1) In order to be entitled to an exemption or refund pursuant to T.C.A. §67-3-201 et seq. a claimant must have been properly registered and where required, hold a valid permit. If a bond is required it shall be a valid bond of proper amount. This restriction on exemption or refund entitlements applies to all dealers, distributors, sellers, limited users, exporters, governmental agencies, farmers, truck operators or any other handler of gasoline or distillate seeking an exemption from or a refund of taxes.
- (2) To secure a refund, a claimant must file a claim on a form authorized by the department within the period authorized for the type of claim being sought. Unless otherwise required by law or rule, refunds shall be claimed within ninety (90) days from the ending date covered by the report on which the claim is based. Where a credit is being taken it must be taken on a report filed within the same ninety (90) day period. Refund claims pursuant to T.C.A. §67-3-901 et seq. on products exported outside the state for resale may be filed at any time within one (1) year of the time the export on which the claim is based was made.
- (3) Copies of invoices, bills of lading or other detailed documentation required to support the accuracy of a claim, credit, or exemption may be destroyed by the department after the claim has been approved and processed for payment or the approval of the credit or exemption has been granted. The properly approved copy of the claim form or report on which credit or exemption is taken will be maintained by the department for a minimum of four (4) years as proof of payment and for audit verification.

Authority: T.C.A. §67-1-102. **Administrative History:** Original rule certified June 7, 1974. Repealed and new rule filed August 15, 1979; effective November 27, 1979. Amendment filed July 18, 1984; effective October 14, 1984. Amendment filed March 21, 1986; effective June 14, 1986.

1320-7-4-.02 AVIATION GASOLINE.

- (1) The department shall make available to vendors of aviation gasoline an exemption certificate which shall be properly completed and signed by a vendee receiving aviation gasoline in order for the vendee to be entitled to purchase the gasoline without payment of the regular privilege tax. The vendor shall keep the exemption certificate on file for a period of three (3) years from December 31 of the year in which the return reflecting such final sale was filed. These certificates shall be available for examination by properly authorized members of the department.
- (2) Failure of a vendor to receive and maintain an exemption certificate shall subject the vendor to payment of the gasoline tax on the aviation gasoline. A vendor selling fuel for aviation use, which the

(Rule 1320-7-4-.02, continued)

commissioner determines is not used for aviation purposes, shall be subject to payment of tax, penalty and interest on all fuel sold to the vendee regardless of the fact that an exemption certificate is on file.

- (3) The special tax imposed under T.C.A. §67-3-901 et seq. is payable on aviation gasoline.

Authority: T.C.A. §67-1-102. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 15, 1979; effective November 27, 1979.

1320-7-4 .03 REFINERY EXEMPTION. The refinery exemption shall apply only to a refinery and to sales made by it in accordance with the law. Secondary sales by a person purchasing or otherwise receiving interest in refinery stored products, and who thereafter either sells, exchanges, or transfers title to it to others shall be taxable. These secondary sales shall be taxable regardless of whether or not the product has been removed from refinery storage.

Authority: T.C.A. §67-1-102. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 15, 1979; effective November 27, 1979.

1320-7-4-.04 GOVERNMENTAL REFUNDS.

- (1) Beginning January 1, 1979, a dealer or distributor may claim a refund on any tax paid gasoline or other petroleum products sold to a governmental unit holding a valid exemption permit.
 - (a) Applicable gasoline tax and the special tax shall not be passed on in sales to a governmental unit holding a valid exemption permit.
 - (b) A refund of all but one and one half percent (1 1/2%) of the tax paid per gallon of gasoline will be made to persons entitled to a refund for tax-exempt sales to governmental units. This reflects the normal gallonage allowance.
 - (c) All governmental units are exempt from payment of the motor vehicle fuel use tax.
- (2) The storage facilities required to be used by governmental units shall be subject to inspection by the department or by any person duly authorized by the commissioner of revenue. Purchase records of governmental units shall be subject to inspection to insure compliance with exemption requirements of the law.
- (3) A sale to a governmental unit by a retail filling station is not a sale eligible for a tax refund. A retail filling station selling to a governmental unit may, however, charge and collect all applicable taxes from the purchasing unit.
- (4) Any person using gasoline purchased for governmental use, for any purpose other than governmental use shall be subject to all penalties under existing statutes. In no instance may gasoline purchased for governmental use be placed in any vehicle or equipment owned by a private individual firm or corporation even if such individual, firm or corporation is engaged in activities on behalf of the governmental unit, exclusive of equipment lease agreements.

Authority: T.C.A. §67-1-102. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 15, 1979; effective November 27, 1979. Amendment filed July 18, 1984; effective October 14, 1984.

1320-7-4-.05 AGRICULTURAL USE.

(Rule 1320-7-4-.05, continued)

- (1) A refund of all but one cent (1¢) per gallon of the gasoline tax paid on gasoline used or agricultural purposes may be secured if such use is properly documented. No refund may be made, however, of any part of the special tax. Pursuant to T.C.A. §67-3-302, a refund may be made only on fuel purchased with the semi-annual period for which a claim is filed or on fuel purchased within the annual period if a claim for refund is filed on an annual basis. All persons claiming refund shall be the holder of a valid refund permit secured before the purchase of the gasoline on which refund is sought. All invoices supporting the claim must indicate that the gasoline had color added at the time of delivery.
- (2) Sales of gasoline for agricultural purposes shall not be made from a customer controlled pump unless prior written approval is granted by the department. A person who has been granted this written approval shall also comply with the following:
 - (a) Storage for the customer controlled pump shall be separate from any other storage and the gasoline delivered to the storage tank shall be colored at the time of delivery.
 - (b) A customer controlled pump shall have a separate meter and key for each customer.
 - (c) The person selling gasoline for agricultural use shall furnish an invoice to each customer on the last day of each month as provided by law.
- (3) Any person found in violation of any law or rule relating to sales from a customer controlled pump shall lose the right to make sales from a customer controlled pump for a period of not less than two (2) years and be subject to all other penalties as outlined by T.C.A. §§67-3-301 through 67-3-313.
- (4) When a person holding an Agricultural Refund permit fails to file a claim within any two-year period the permit shall be canceled. The holder of a permit which has been canceled for this reason may qualify for a permit at a future date in the same manner as if he had never qualified. The department shall notify, by mail, a holder of a permit which has been canceled that this action has been taken and that he shall be required to reapply for a permit if he desires to seek refunds in the future. This notice shall be directed to the last known mailing address of the permittee as shown on departmental records and this mailing shall be deemed to constitute sufficient notice to the permittee of the cancellation.

Authority: T.C.A. §67-1-102. **Administrative History:** Original rule filed August 15, 1979; effective November 27, 1979.

1320-7-4-.06 AUXILIARY ENGINES.

- (1) A claim for refund submitted by persons using fuel for truck refrigeration, cement mixing and unloaders shall be supported by evidence of either purchase or withdrawal from storage, or both of them, as hereinafter provided:
 - (a) In the case of fuel dispensed by a retail service station into either the separate tank of a refrigeration unit, cement mixer or the tank of a motor vehicle with a power take-off unit, the claim for refund shall be supported by the original copy of the credit card or cash sales ticket of the dispensing retail service station.
 - (b) In the case of fuel withdrawn from bulk storage of the user, the claim for refund shall be supported by a daily withdrawal summary of tax paid fuel removed from bulk purchase storage. Such summary shall list each individual withdrawal, the unit identification number, the number of gallons withdrawn, and the beginning and ending inventory amounts of fuel for each semi-annual period. In addition, all bulk purchases shall be listed on the reverse site of each copy of the claim; and there shall be shown thereon the date of purchase, name of

(Rule 1320-7-4-.06, continued)

vendor, invoice number and the number of gallons of each bulk purchase from which the fuel used is taken. A holder of permit required to operate an interstate freight motor vehicle under T.C.A. §67-3403 shall not be allowed a percentage refund on any amount greater than the net liability shown to be due the State of Tennessee on his quarterly highway-user fuel tax return.

- (c) In lieu of furnishing a daily withdrawal summary of tax paid fuel as stated in subparagraph (b) of this paragraph, a claimant for refund may substitute a monthly consumption reading taken from the totallizers of a multiple key controlled pump which is located on the premises of the permittee. The multiple key controlled pump method shall be used only with a motor vehicle exhibiting a power takeoff unit. Only one key shall be assigned to each using unit. A permittee using a multiple key controlled pump for his using units in removing tax paid fuel shall furnish to the department in writing and prior to placing the pump in operation, a complete list of keys by number and the assigned using unit for each key. A schedule shall be provided with the claim listing the using unit, corresponding key reference, and the total fuel withdrawn by month from the key pump and placed in the using unit. A key unit assignment shall not be altered unless prior written notice is given to the department. All other information requirements stated in subparagraph (b) of this paragraph shall also be applicable to a permittee using this operating methodology.
- (2) A refund is authorized for fuel used for the generation of power which is:
 - (a) provided either by an auxiliary engine attached to a self-propelled motor vehicle or by a power take-off auxiliary unit operating from a self-propelled vehicle's motor for the purpose of operating a concrete mixer, or a pneumatic, boom, or pump unloader, or
 - (b) provided exclusively by an auxiliary engine for the purpose of operating a refrigeration unit or cement mixer.
- (3) If a refund permit holder is also qualified to operate an interstate freight motor vehicle under T.C.A. Section 67-3403 and files a quarterly highway user fuel tax return, the original copy of the evidence of purchase from a retail service station shall be:
 - (a) filed with a claim for refund if the permittee is a holder of a refund permit designated with an "A.M." prefix. or
 - (b) filed with the quarterly highway user fuel tax return if the permittee is a holder of a refund permit designated otherwise.
- (4) There shall be no refund allowed under this rule of the special tax imposed under T.C.A. Section 67-3801 et seq.

Authority: T.C.A. §67-101. **Administrative History:** Original rule filed August 15, 1979; effective November 27, 1979.

1320-7-4-.07 RECORDS OF USE.

- (1) With respect to fuel used by a permit holder which is dispensed by a retail service station, there shall be completed and furnished to the user a sales ticket by the vendor at the time of each purchase. The sales ticket shall reflect the following information:
 - (a) a machine printed serial number
 - (b) Name and station address of the vendor which is either machine printed or card imprinted,

(Rule 1320-7-4-.07, continued)

- (c) name and address of purchaser,
- (d) date of purchase,
- (e) number of gallons purchased,
- (f) type of product,
- (g) state tax rate charged,
- (h) unit identification, and
- (i) signature of purchaser or his agent

In addition to the foregoing requirements, in order to be acceptable for refund claim purposes each invoice or retail service station sales ticket shall show the name of the permit holder as the purchaser, and have indicated thereon a date of sale which is within the same semi-annual time period for which the claim for refund is applicable.

- (2) With respect to fuel used by a permit holder which is withdrawn from bulk purchase storage, there shall be a detailed record kept of each unit using refund fuel. This record shall reflect the mileage readings taken from the odometer of each using unit at the beginning and ending date of each semiannual time period. A permit holder applying for a refund on fuel used in pump unloading on the basis of two and one-half (2 1/2) gallons for each unloading shall file a detailed record in support of his claim reflecting the date of each unloading and the name and location of each customer receiving cargo unloaded through use of such two and one-half (2 1/2) gallons of fuel allowed for the total capacity of such vehicle unloaded.

Authority: T.C.A. §67-101. **Administrative History:** Original rule filed August 15, 1979; effective November 27, 1979.

1320-7-4-.08 PERMIT REVOCATION. The permit of a permit holder may be suspended or revoked if such person is found to be in violation of any applicable law or rule promulgated by the commissioner. Such revocation or suspension shall be made pursuant to the procedural requirements of the Uniform Administrative Procedures Act.

Authority: T.C.A. §67-101. **Administrative History:** Original rule filed August 15, 1979; effective November 27, 1979.