

CR 92-146

**CERTIFICATE**

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **fuel tax collection for qualified motor vehicles operating in Wisconsin**, was duly approved and adopted by this Department on July 8, 1993.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 8 day of July, 1993.

*Charles H. Thompson*  
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CHARLES H. THOMPSON  
Secretary

**RECEIVED**

JUL 9 1993  
10:30 am  
Revisor of Statutes  
Bureau

9-1-93



IN THE MATTER OF an Order Adopting  
Rule CREATING Chapter Trans 152,  
Wisconsin Administrative Code, relating to  
fuel tax collection for qualified motor  
vehicles operating in Wisconsin.

**ORDER ADOPTING RULE**

**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 341.45(5), Stats.

**STATUTE INTERPRETED:** Subchapter III of Chapter 341, Stats.

**General Summary of Rule.** The purpose of this rule is to provide rules that are used in the administration of fuel use taxes for certain types of motor vehicles. Essentially, this rule applies to vehicles that operate or are registered at a weight greater than 26,000 pounds that use the fuel while operating in Wisconsin.

Section 341.45(1g)(a), Stats., indicates that qualified motor vehicles as described in this rule must pay tax on motor fuel used while operating in Wisconsin. Since most states collect fuel tax at the pump, Wisconsin would not receive tax on fuel purchased out of state but used here. This rule codifies the policies and procedures used to collect fuel taxes on that fuel.

Prior to July 1, 1987, the Wisconsin Department of Revenue administered this program. However, 1987 Wisconsin Act 27 transferred motor fuel and special fuel tax collection responsibilities for certain types of motor vehicles from the Department of Revenue to the Department of Transportation. The Department of Transportation has been collecting these taxes since that time.

Trans 152 contains the following key provisions:

1. Trans 152.03 defines various terms pertaining to fuel tax collection including "qualified motor vehicle."
2. Trans 152.05 establishes rules concerning a fuel tax license.
3. Trans 152.06 establishes rules concerning the documentation of tax paid purchases.
4. Trans 152.07 establishes rules concerning records requirements for fuel purchased, received and used.
5. Trans 152.08 establishes rules concerning fuel use reporting.
6. Trans 152.09 establishes rules concerning audits and assessments.

7. Trans 152.10 establishes rules concerning appeal procedures.

**Fiscal Estimate.** No fiscal effect expected. Trans 152 codifies procedures currently being used to collect these taxes.

**Final Regulatory Flexibility Analysis.** This rule will have no significant adverse effect on small businesses.

**Preparation.** This analysis was prepared by Steven R. Postler of the Department of Transportation, Division of Motor Vehicles (608) 266-3376.

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**TEXT OF RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 341.45(5), Stats., the department of transportation hereby creates a rule interpreting s. 341.45, Stats., as follows:

**SECTION 1.** Chapter Trans 152 is created to read:

**CHAPTER TRANS 152**

**WISCONSIN INTERSTATE FUEL TAX**

**TRANS 152.01 INTRODUCTION.** (1) **PURPOSE.** This chapter creates rules which will be used in the collection of motor fuel and special fuel use taxes for fuel that is purchased in Wisconsin and other jurisdictions and consumed by qualified motor vehicles operating on the highways of this state.

(2) **SCOPE.** This chapter applies to every person who operates any qualified motor vehicle as described in this chapter.

(3) **INTERNATIONAL FUEL TAX AGREEMENT.** Under the authority of s. 341.45(4), Stats., Wisconsin became a member of the international fuel tax agreement. The IFTA is an agreement among states and provinces to simplify the reporting of fuel use taxes by interstate motor carriers. The IFTA reduces the paperwork and compliance burdens for fuel tax

reporting. The provisions of the international fuel tax agreement in effect on the effective date of this chapter ... [revisor inserts date] and those subsequently ratified by this state are incorporated by reference. If any provisions of this chapter are inconsistent with the provisions in the international fuel tax agreement, the provisions of the international fuel tax agreement apply for applicants licensed under the international fuel tax agreement and these provisions apply to persons not licensed under the international fuel tax agreement.

**NOTE: Wisconsin became a member of the international fuel tax agreement effective July 1, 1989. A copy of the agreement may be ordered from the Wisconsin Department of Transportation, Motor Carrier Taxes and Permits Section, P.O. Box 7979, Madison, Wisconsin 53707-7979.**

**TRANS 152.03 DEFINITIONS.** The words and phrases defined in ss. 78.04, 340.01 and 341.45(1), Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Applicant" means a person in whose name the application for licensing is filed for the purpose of motor fuel or special fuel tax reporting under the provisions of s. 341.45, Stats.

(2) "Audit" means a physical examination of the records and source documents supporting the licensee's fuel use reports conducted pursuant to s. 341.43 and chapter 78, Stats.

(3) "Authorized representative" means the person commissioned to serve as attorney in fact on behalf of a person pursuant to a power-of-attorney designation.

(4) "Base jurisdiction" means the international fuel tax agreement member jurisdiction:

(a) Where qualified motor vehicles are based for vehicle registration purposes;

(b) Where the operational control and operational records of the licensee's qualified motor vehicles are maintained or can be made available; and

(c) Where some distance is accrued by qualified motor vehicles within the fleet.

(5) "Cancellation" means the annulment of a license and its provisions by either the licensing jurisdiction or the licensee.

(6) "Distance" means miles or kilometers.

(7) "Fleet" means one or more qualified motor vehicles grouped together for fuel tax reporting purposes.

(8) "Fuel supply tank" means the container for holding, transporting or storing motor fuel or special fuel.

(9) "Highways of this state" means "highways" as defined in s. 340.01(22), Stats., within the boundaries of this state as defined in art. II, § 1, Wisconsin constitution.

(10) "International fuel tax agreement" or "IFTA" means a contract between certain member jurisdictions which allows for the collection of fuel taxes owed to all member jurisdictions by the member jurisdiction in which a person is based.

(11) "Jurisdiction" means a state of the United States, the District of Columbia or a province or territory of Canada or Mexico.

(12) "Lessee" means a person who has the legal possession and control of a vehicle owned by another under terms of a lease or rental agreement.

(13) "Lessor" means a person who, under the terms of a lease or rental agreement, grants the legal right of possession, control of and responsibility for the operations of the vehicle to another person.

(14) "License" means a Wisconsin interstate fuel tax license or a international fuel tax agreement license.

(15) "Licensee" means a person who holds a valid fuel tax license issued by the department.

(16) "Operate" has the meaning specified in s. 346.63(3)(b), Stats.

(17) "Person" includes any individual, public or private corporation, body politic, including any unit or division, joint venture, joint stock company, partnership, association, trust, receiver, executor, administrator, any other fiduciary or any other entity.

(18) "Qualified motor vehicle" means a motor vehicle other than a recreational vehicle used, designed or maintained for transportation of persons or property that meets any of the following:

(a) Has 2 axles and a gross weight or registered gross vehicle weight exceeding 26,000 pounds.

(b) Has 3 or more axles regardless of weight.

(c) Is used in combination when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

(19) "Recreational vehicle" means vehicles such as motor homes, pickup trucks with attached campers and buses, when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

(20) "Registration" means the qualification of motor vehicles normally associated with a prepayment of licensing fees for the privilege of using the highway and the issuance of license plate and a registration card or temporary registration containing owner and vehicle data.

(21) "Related business" means any of the following:

(a) A person who directly or indirectly owns, controls or holds with power to vote 20% or more of the outstanding voting securities of the licensee, other than the person who holds the securities:

1. As a fiduciary or agent without sole discretionary power to vote the securities.
2. Solely to secure a debt, if the person has not in fact exercised the power to vote.

(b) A corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by a licensee who directly or indirectly owns, controls or holds power to vote, 20% or more of the outstanding securities of the licensee, other than a person who holds the securities:

1. As a fiduciary or agent without sole discretionary power to vote the securities.
2. Solely to secure a debt, if that person has not in fact exercised the power to vote.

(c) A person whose business is operated by the licensee under a lease or other agreement, or a person substantially all of whose assets are controlled by the licensee.

(d) A person who operates the licensee's business under a lease or other agreement or controls substantially all of the licensee's assets.

(e) There is a rebuttable presumption that the licensee's spouse, domestic partner, relative within the 3rd degree of kinship or the relative within the 3rd degree of kinship of a spouse or domestic partner operating the licensee's business are controlled by the licensee.

(22) "Reporting period" means a period of time consistent with the calendar quarterly period of January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(23) "Revocation" means the withdrawal of fuel license and operating privileges by the department.

(24) "Suspension" means the temporary removal of privileges granted to the licensee by the department.

(25) "Total distance" means all miles or kilometers traveled during the reporting period by every qualified vehicle in the licensee's fleet regardless of whether the miles or kilometers are considered taxable or nontaxable.



**TRANS 152.04 IMPOSITION OF TAX.** (1) GENERAL. Any person who purchases or obtains motor fuel or special fuel outside this state and operates any qualified motor vehicle in this state upon a highway and transports motor fuel or special fuel in an attached or unattached fuel supply tank for the sole purpose of operating the qualified motor vehicle shall pay the Wisconsin fuel tax on the gallons consumed by the qualified motor vehicle while operated on the highways of this state. The person shall pay the tax in the following manner:

(a) By purchasing tax paid motor fuel or special fuel within this state in an amount equivalent to the gallonage consumed while operating the qualified motor vehicles on the highways of this state, or

(b) By remitting the tax directly to the department as provided by this chapter, or

(c) By remitting the tax to licensee's base jurisdiction if that jurisdiction is party to the international fuel tax agreement. This state has adopted the international fuel tax agreement.

(2) TAX EXEMPT MILES. This state does not impose a use tax on the fuel consumed for either of the following:

a. When the motor vehicle is being operated under a fuel trip permit.

b. When the fuel is consumed while operating on private roads or driveways located in this state.

(3) COMPLIANCE. Any person operating a qualified motor vehicle in Wisconsin is required to comply with this chapter. Qualified motor vehicles which are not in compliance with the requirements of this section shall be subject to the penalties provided by s. 341.45, Stats., except those licensed under IFTA will be subject to the penalties provided for under that agreement.

**NOTE: The fuel trip permit that authorizes persons to satisfy fuel use tax obligations on a trip-by-trip basis in lieu of motor fuel tax licensing is available as specified in Trans 146.**

**TRANS 152.05 LICENSING.** (1) LICENSE REQUIRED. No person who purchases or obtains fuel outside this state may operate a qualified motor vehicle in this state unless the person holds a Wisconsin interstate fuel tax license, holds a license issued under the international fuel tax agreement or holds a temporary fuel tax trip permit.

(2) LICENSE APPLICATION. A person shall file an application for licensing in the name of the licensee with the department on forms specified by the department. The application shall contain the following:

(a) For a U.S applicant, the federal employer identification number, or in the case of a sole proprietorship, the social security number. For a Canadian-based applicant, the department shall assign account numbers according to a uniform numbering system.

(b) Owner's, partner's or corporate name.

(c) Legal business name if different than par. (b).

(d) Physical location of the business.

(e) Mailing address of the business.

(f) Signature of licensee or authorized representative or attorney in fact.

(g) Number of decals required by licensee.

(h) Application fee of \$15.00.

(i) License fee of \$3.00.

(j) Decal fee of \$2.00.

(k) Statement of existence of bulk storage in Wisconsin and other international fuel tax agreement member jurisdictions.

(l) Name, address and social security number of the preparer.

(m) Indication of whether a person is applying for an international fuel tax agreement license or a Wisconsin interstate fuel tax license.

(n) The person's start operation date.

(o) United States department of transportation census number.

(p) Number of qualified motor vehicles in a fleet.

**NOTE: A license application form MV2667 may be ordered from the Wisconsin Department of Transportation, Motor Carrier Taxes and Permits Section, P.O. Box 7979, Madison, Wisconsin 53707-7979.**

(3) ACCOUNT IDENTIFICATION. (a) The department shall assign an account number to its licensees according to an account numbering system which shall contain an alphabetic designation of the state of Wisconsin and the federal employer identification number of the licensee issued by the Internal Revenue Service. A licensee with an assigned number shall submit a federal identification number to the department within 180 days after the license is issued or the license shall be canceled.

(b) A licensee who has applied for, but not yet received, their federal identification number will be given an assigned number beginning with 90. This will become the licensee's identification number until such time as the federal identification number is obtained.

(c) If the licensee is a sole proprietor and does not have a federal identification number, the department shall assign an account number to the licensee according to an account numbering system which shall contain an alphabetic designation of the state of Wisconsin and the licensee's social security number.

(4) PREVIOUS PROBLEMS. No license may be issued to an applicant or to any related business if that license is currently cancelled, suspended or revoked in Wisconsin or an international fuel tax agreement jurisdiction.

(5) BONDING. (a) General. The department may require an applicant to post a surety bond or an irrevocable letter of credit as a condition of obtaining or retaining a license when an applicant has failed to file timely reports, when the fuel tax has not been remitted or when an audit indicates that a bond is required to protect the interests of the department. If a person fails to post a bond within the time required by the department, the department may refuse to issue a license or may revoke a license.

(b) Factors for the department's consideration. In determining whether or not a bond will be required, the department may consider all relevant factors including the following:

1. The person's evidence of adequate financial security.
2. The person's prior record of filing tax reports and paying taxes and fees of any kind.
3. The person's type of business.
4. The person's form of business.

(c) Determination of amount. If a bond is required to be posted, the amount shall be equal to the licensee average quarterly use tax liability or projected liability plus any outstanding delinquency increased to the next even \$100 amount.

(d) Return of bond. If the licensee complies with all the requirements of this section for 24 consecutive months, the bond may be returned to the licensee.

(6) DECAL. Each licensee shall display 2 current fuel decals issued by the department for each qualified motor vehicle in its fleet. A fuel decal shall be placed on the exterior portion of the cab's passenger side and driver's side. In the case of transporters, manufacturers, dealers or driveaway operations, the decals need not be permanently affixed but may be temporarily displayed in a visible manner on the cab's passenger side and driver's side.

(7) LICENSE DISPLAY. A licensee shall display a copy of the license in any qualified motor vehicle that the licensee operates in this state.

(8) REGISTRATION PERIOD. All licenses and identification decals shall expire on June 30 of each year.

(9) CANCELLATION. A license shall be cancelled at the written request of the licensee.

(10) LEASED VEHICLES. A lessor of vehicles that is regularly engaged in the business of leasing or renting motor vehicles without drivers may be issued a license.

(11) FLEETS. No licensee may be issued more than one license per fleet. The licensee shall make legible copies of the license and one copy shall be carried in each qualified motor vehicle. No qualified motor vehicle may be operated in the state of Wisconsin without a copy of the licensee's fleet license.

(12) REPLACEMENT LICENSE OR DECAL. If a license or a fuel decal is lost prior to expiration, the department may issue a replacement license for \$3.00 or fuel decal for \$2.00.

**TRANS 152.06 TAX PAID PURCHASES.** No person may be allowed a credit under s. 341.45(2), Stats., unless the person maintains the records required by this section and s. Trans 152.08 for fuel tax paid.

(1) RECEIPT DOCUMENTATION. Licensees shall retain all receipts and invoices, credit card receipts, or microfilm or microfiche copies of the records showing evidence of purchases and whether tax was paid for a period of 4 years from the due date of the tax report, unless the required tax report is not filed. If a tax report is not filed, the licensee shall retain the required records until the department otherwise authorizes. Facsimiles of receipts may be retained by using other types of technology with authorization from the department.

(2) RECEIPT CONTENT. An acceptable receipt or invoice for tax paid purchases credited against motor fuel tax liability must include the following:

(a) Date of purchase.

(b) Seller's name and address.

(c) Number of units purchased.

(d) Fuel type.

(e) Price per unit or total amount of sale.

(f) Vehicle unit numbers.

(g) Purchaser's name. In the case of an agreement between a lessor and a lessee, receipts will be accepted in either name, provided a legal connection can be made to the reporting party.

(3) BULK STORAGE. In the case of fuel withdrawals from licensee owned, tax paid bulk storage, credit may be obtained under s. 341.45(2), Stats., only if the following detailed records are maintained for each withdrawal of fuel:

(a) Date of withdrawal.

(b) Number of units.

(c) Fuel type.

(d) Vehicle unit numbers.

(e) Purchase and inventory records to substantiate that tax was paid on all bulk purchases.

**TRANS 152.07 LICENSEE RECORDS REQUIREMENTS.** (1) FUEL. Each licensee shall maintain a complete record of all fuel purchased, received and used in the conduct of its business. The fuel records shall contain the following:

(a) The date of each receipt of fuel.

(b) The name and address of the person from whom purchased or received.

(c) The number of units received.

(d) The type of fuel.

(e) The vehicle or equipment into which the fuel was placed.

(f) Fuel summaries for each vehicle for each jurisdiction in which the vehicle was operated.

(g) Summaries of the total fuel obtained under each category specified in pars. (c) to (f) for each calendar quarter.

(2) DISTANCE. All licensees shall, in addition, maintain detailed distance records on an individual vehicle basis. Such records shall contain the following:

(a) Both taxable and non-taxable usage of fuel.

(b) Actual distance traveled for taxable and non-taxable use.

(c) Travel summaries for each vehicle for each jurisdiction in which the vehicle operated.

(d) Summaries of the total distance under each category specified in pars. (a) to (c) for each calendar quarter.

(e) Supporting information shall include the following information:

1. Date of trip (starting and ending).
2. Trip origin and destination.
3. Route of travel.
4. Beginning and ending odometer or hubodometer reading of the trip.
5. Total trip distance.
6. Distance by jurisdiction.
7. Unit number or vehicle identification number.
8. Vehicle fleet number.
9. Registrant's name.

(3) RETENTION PERIOD. Licensees shall retain the records required by subs. (1) and (2) for a period of 4 years from the due date of the tax report unless the required tax report is not filed. If a required tax report is not filed, the licensee shall retain the required records until the department otherwise authorizes. Failure to timely provide records demanded for the purpose of audit extends the statute of limitations for assessment of additional tax by the department until

9 months after the records are provided. Successive failures to adequately respond to a demand for records relate back to the first demand. The record retention period is extended indefinitely by refusal to provide documents.

(4) BURDEN OF PROOF. All motor fuel or special fuel acquired which is normally subject to use tax is taxable unless proof to the contrary is provided by the licensee.

**TRANS 152.08 REPORTING.** (1) QUARTERLY REPORTS. Except as provided sub. (2), all licensees shall file a calendar quarterly report with the department and shall pay all taxes due. Payment shall be included with the quarterly report. Quarterly reports are required, even if no operation was conducted during the reporting period or if no taxable fuel was used. Failure to receive the authorized report form does not relieve the licensee from the obligation of submitting a report.

(2) ANNUAL REPORTS. Notwithstanding the quarterly reporting requirements of sub. (1), the department may allow annual reporting by licensees who have been reporting for at least one calendar year and whose operations equal less than 5,000 total annual miles or 8300 kilometers in Wisconsin. This will be based upon at least 4 quarters of filing history. Should a licensee choose to report annually, it shall petition the department and receive approval to do so. The reporting period for a licensee filing annual reports shall be from April 1 to March 31.

(3) DUE DATE. The report filed by the licensee shall be due on the last day of the month immediately following the close of the quarter for which the report is due. Reports postmarked with U.S. or Canadian postal service postmark not later than midnight of the due date or marked as received by the fuel tax unit within the department prior to the due date shall be considered timely filed. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date.



(4) COMPUTER-GENERATED REPORTS. The department may authorize a licensee or its agent to submit a computer-generated report in lieu of the standard report if the report includes all required information and is in a form which is acceptable to the department.

(5) PENALTY. Reports not filed by the due date shall be considered late and any taxes due considered delinquent. The department shall assess the licensee an appealable penalty of 50 dollars or 10 percent of assessed taxes, whichever is greater, for any of the following:

- (a) Failure to file a required report.
- (b) Filing a required report late.
- (c) Filing a late amended required report which shows taxes due.
- (d) Underpaying or failing to pay taxes due at the time of filing the report.

(6) INTEREST. The department shall assess interest on all delinquent taxes due from the due date of the report. Interest shall accrue at the interest rate of one percent per month. One month's interest shall be charged for each month or fraction thereof that a report is late.

(7) ALTERNATE MEASUREMENT. For reporting fuels that cannot be measured in liters or gallons, the licensee shall report the fuel at a conversion factor determined by the department.

(8) AMENDMENTS. Licensees may not amend quarterly reports requesting a refund after receiving notification of an impending audit.

(9) SUSPENSION. If any licensee fails to report when required to do so or fails to pay in full the taxes due, the department shall mail a notice of intent to suspend the license to the address of record of the licensee advising of the immediate suspension of fuel tax licensing privileges if the delinquent amount is not paid within 10 days. If the person's tax delinquency has not been satisfied within 10 days, the person's license may be suspended. If the person is delinquent on payment of fuel taxes, the department may credit any refunds due a person against

other fees owed the department, or taxes payable to the department, or other fees or taxes due the state of Wisconsin or its agencies.

**TRANS 152.09 AUDITS AND ASSESSMENTS.** (1) AUDIT. The department may conduct such audits that it deems necessary to determine the adequacy of the taxes paid under this chapter. All records described in this chapter shall be made available to the department at its request.

(2) AUDITOR EXPENSES. In the event that an applicant for license or a licensee's records are not made available to the department in Wisconsin, the department shall require the applicant or licensee to reimburse the department for actual and necessary expenses plus wages pursuant to the appropriate state compensation plan or applicable labor agreement. The actual and necessary expenses charged include the following:

- (a) Travel expenses.
- (b) Meal expenses.
- (c) Lodging expenses.
- (d) Telephone expenses.
- (e) Copying and data processing expenses.

(3) ASSESSMENTS. (a) If any person fails to make records available upon proper request or if any person fails to maintain records from which the true liability may be determined, the department may assess a tax based upon the department's estimation of the tax liability. The department may make an estimate from information previously furnished by the person, if available, may make an estimate based upon 4 miles per gallon, and any other pertinent information that may be available to the department. The assessment made by the department pursuant to this procedure shall be presumed to be correct, and in any case where

the validity of the assessment is drawn in question, the burden shall be on the person to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

(b) In the event that a person fails, neglects or refuses to file a tax report when due, the department shall, on the basis of the best information available to it, determine the tax liability and shall, after adding the appropriate penalties and interest, serve the assessment upon the person in the same manner as an audit assessment.

(4) NOTIFICATION OF RESULTS. The department shall notify the licensee or other person audited in writing of the notice of action of any audit they perform. The department may issue a proposed notice of action to a licensee or other person audited before issuing the notice of action.

**TRANS 152.10 APPEAL PROCEDURES.** (1) GENERAL. A person feeling aggrieved by the notice of an action may petition the department's motor carrier tax and permit section for a redetermination. If a person files a petition for redetermination, the additional tax or overpayment shall not become due and payable until 30 days after the matter becomes final.

(2) FORMAT. The petition for redetermination shall be written, preferably typed, on only one side of plain white paper 8 1/2 inches wide by 11 inches long. This request shall set forth clearly and concisely the specific grievances to the action, including a statement of the relevant facts and propositions of law upon which the grievance is based. Each request shall be signed by the taxpayer or a duly authorized representative.

(3) FILING DEADLINE. A petition for redetermination shall be filed within 30 days after the receipt of notice of an action. A petition for redetermination is not considered filed within the 30 day period unless it is actually received by the department's motor carrier tax and permit section, or unless it is mailed in a properly addressed envelope, with postage prepaid, the

envelope is postmarked before midnight of the 30th day and the petition is actually received by the department within 5 days of the prescribed 30th day date.

(4) PAYMENT. Any person who files a petition for redetermination may pay any portion of the assessment admitted to be correct together with interest to date of payment. The payment shall be considered an admission that that portion of the assessment is correct. The admitted portion that is paid may not be recovered in an appeal in any other action or proceeding.

(5) INFORMAL CONFERENCE. A petitioner may request in a petition for redetermination or at any time before the department has acted upon the petition, an informal conference at which the facts and issues involved in the assessment or determination may be discussed. The conference shall be held at a time and place determined by the department.

(6) CLOSING STIPULATIONS. If by the informal conference or otherwise the parties reach an agreement as to the facts, issues and applicable law, the department and the petitioner may enter into a closing stipulation.

**TRANS 152.11 REVOCATION.** If an assessed tax has not been paid when due and the person has not filed a written appeal within 30 days of the notification of action or audit finding, that tax becomes delinquent. A notice of delinquency and revocation shall be sent to the last known address of the licensee advising of the immediate revocation of fuel tax licensing privileges. A license may also be revoked if the licensee fails to comply substantially with the provisions of this chapter or the provisions of the IFTA. An appealable notice of revocation shall be mailed to the licensee's mailing address of record. If the appeal is not filed within 30 days, the revocation shall be final and conclusive. A license shall remain revoked until the reason for the revocation has been removed.

**TRANS 152.12 REFUNDS AND CREDITS.** (1) REFUND REQUESTS. The licensee shall receive on request a refund of any accumulated credits. An applicant claiming a refund shall file a report in the form prescribed by the department together with the proof of the payment of the tax. If the report is not filed within 90 days of the end of the quarter in which the credit accrued, no refund may be paid.

(2) CREDITS. A licensee shall receive full credit for tax paid on fuel purchased in Wisconsin and consumed in another jurisdiction provided a fuel use tax is paid to the other jurisdiction. Upon request, the department shall refund the amount of any credit balance. Proof of payment of tax paid to Wisconsin and other jurisdictions may be required. A credit, when not refunded, shall be carried over to offset liabilities of the licensee in future reporting periods until the credit is fully offset or until 8 calendar quarters shall have passed from the end of the calendar quarter in which the credit accrued, whichever occurs sooner. A credit shall be forfeited if not used or refunded within the 8-quarter period.

(3) DELINQUENT TAXES. As a condition to issuance of a fuel tax license, an applicant shall authorize on the application that a refund may be withheld if the licensee is delinquent of fuel use taxes due or taxes or fees due other agencies of this state. Refunds may be withheld if there is another tax or monetary liability due to another state agency. No refund shall be issued to any person that has not filed all reports due at the time of the request or who has not paid all taxes due under s. 341.45, Stats. The department may set off any refunds due a person if the person is delinquent of fuel taxes or any other fees to the department or any other state agency. Setoffs are allocated to delinquent fuel taxes, registration fees due the department and then to fees due other agencies.

(END OF RULE TEXT)

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 8 day of July, 1993.

*Charles H. Thompson*

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation

**RECEIVED**

JUL 9 1993

Revisor of Statutes  
Bureau