

## Chapter Tax 4

### MOTOR VEHICLE AND GENERAL AVIATION FUEL TAXATION

|           |  |          |   |
|-----------|--|----------|---|
| Tax 4.001 | Motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms. | Tax 4.50 | Assignment, use and reporting of document number.                           |
| Tax 4.01  | Portable motor equipment.  | Tax 4.51 | Measuring withdrawals.  |
| Tax 4.02  | Resellers' personal claims for refund.   | Tax 4.52 | Separate schedules.   |
| Tax 4.03  | Public highways closed to public travel.   | Tax 4.53 | Certificate of authorization.   |
| Tax 4.05  | Taxicabs.  | Tax 4.54 | Security requirements.  |
| Tax 4.10  | Motor vehicle fuel tax liability.  | Tax 4.55 | Ownership and name changes.   |
| Tax 4.11  | Tax exemption for dyed diesel fuel.  | Tax 4.65 | Motor vehicle fuel tax refunds to vendors and tax deductions for suppliers. |
| Tax 4.12  | Uncollected motor vehicle fuel taxes and repossessions.                                      | Tax 4.75 | Payment of motor vehicle fuel tax.  |

**Tax 4.001 Motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms.** (1) FORMS. The department shall provide official forms for filing motor vehicle, alternate fuels, and general aviation fuel tax returns and refund claims. Except as approved by the department, tax returns and refund claims may only be filed using these official forms.

**Note:** The official forms for filing motor vehicle, alternate fuels, and general aviation fuel tax returns and refund claims are available on the department's web site at <http://www.revenue.wi.gov/forms/excise/index-f.html>.

(2) FILING RETURNS. (a) Forms filed with the department shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.
2. Delivering them to the department or to the destination that the department prescribes.
3. Filing them electronically by means prescribed by the department.

(b) The department may require motor vehicle, alternate fuels, and general aviation fuel tax returns and refund claims be filed electronically. The department shall notify a person at least 90 days prior to the due date of the first return required to be filed electronically of the requirement to file electronically.

(c) The secretary of revenue may waive the requirement to file electronically when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

**Note:** Written requests should be e-mailed to [excise@revenue.wi.gov](mailto:excise@revenue.wi.gov), faxed to (608) 261-7049, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8900, Madison WI 53708-8900.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the requirement to file electronically causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing electronically.

**Example:** The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

**Note:** Section Tax 4.001 interprets ss. 78.005 (6m), 78.39 (4m), and 78.55 (2r), Stats.

**History:** CR 10-093; cr. Register November 2010 No. 659, eff. 12-1-10.

**Tax 4.01 Portable motor equipment.** Portable motor equipment attached to any motor vehicle shall have a separate fuel tank, and detailed records shall be kept of the gallonage consumed in the motor of portable equipment.

**Note:** This section interprets s. 78.75, Stats.

**History:** 1-2-56; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.02 Resellers' personal claims for refund.** Motor vehicle fuel resellers who make personal claims for refund

of tax paid on gallonage used for tax-exempt purposes shall make out an original invoice to themselves for each sale in the same manner as to any other customer. In addition the claim shall be supported by paid invoices from the company from whom the motor vehicle fuel was originally purchased.

**Note:** This section interprets s. 78.75, Stats.

**History:** 1-2-56; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.03 Public highways closed to public travel.**

Motor vehicle fuel used in connection with the construction, repair and maintenance of the public highways may not be construed as used on a public highway when it is being used on a highway entirely closed to public travel.

**Note:** This section interprets s. 78.75, Stats.

**History:** 1-2-56; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.05 Taxicabs. (1) DEFINITION.** In this section, "taxicab" means a motor vehicle having a passenger carrying capacity of fewer than 15 persons, held for public hire, at designated places, charging passengers upon a time or distance basis, and carrying passengers to designations without following any fixed routes. "Taxicab" does not include any of the following:

- (a) Motor vehicles rented to be driven by the renter or the renter's agent.
- (b) Motor vehicles operated primarily as funeral cars.
- (c) Motor vehicles of car pools and van pools operated by private individuals, nonprofit organizations or city, state or federal governments.
- (d) Motor vehicles operated primarily as ambulances.
- (e) Motor vehicles operated primarily for transporting property.

(f) Motor vehicles not designated "Vehicle has or will be used for public transportation (taxi)" on the motor vehicle registration form, form MV-1, filed with the department of transportation.

**Examples:** 1) A rent-a-car does not qualify as a taxicab.

2) A limousine with driver that holds 8 people is hired by a wedding party to transport them throughout a city on a per hour basis. The limousine is considered a taxicab.

(2) GENERAL. A person who uses motor vehicle fuel or alternate fuel in operating a taxicab for the transportation of passengers and has paid a tax on the fuel under ch. 78, Stats., may file a claim for refund of the tax paid with the department, provided the claim is for tax on 100 gallons or more.

**Note:** This section interprets s. 78.75 (1m) (a) 1., Stats.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.10 Motor vehicle fuel tax liability. (1) PURPOSE.** This section clarifies the tax liability on all sales of motor vehicle fuel produced, refined, blended, manufactured or imported into Wisconsin.

**(2) DEFINITION.** In this section, “position holder” has the meaning specified in the federal internal revenue service regulations, 26 CFR 48.4081-1 (m).

**(3) IMPOSITION.** The tax on all motor vehicle fuel, either gasoline or undyed diesel fuel, shall be paid to the department by suppliers required to be licensed with the department, as follows:

(a) *Fuel withdrawn from a Wisconsin marine terminal or pipeline terminal.* The motor vehicle fuel tax on gasoline and undyed diesel fuel withdrawn from a Wisconsin marine terminal or pipeline terminal shall be paid by the position holder.

(b) *Imported fuel.* Gasoline and undyed diesel fuel imported into Wisconsin is subject to the motor vehicle fuel tax and shall be paid by the supplier when either of the following conditions applies:

1. The product is placed into a transport truck whose destination is a Wisconsin location other than a pipeline terminal or refinery. The bill of lading prepared by the out-of-state terminal operator shall clearly indicate Wisconsin as the destination state. The tax shall be paid by the position holder at the out-of-state terminal.

2. The product is transported across the state line by a supplier from an out-of-state bulk plant in a transporting vehicle not capable of carrying more than 4,200 gallons and the delivery location is no more than 25 miles inside the Wisconsin border. The sales invoice shall clearly indicate Wisconsin as the destination state and that the tax shall be paid by the supplier.

(c) *Blending components.* Any product that is not a motor vehicle fuel and is blended as a component part of motor vehicle fuel other than at a refinery, marine terminal, pipeline terminal or place of manufacture is subject to tax at the time and place of blending. The tax on the component part shall be paid by the person who owns the motor vehicle fuel when blending is completed.

**Note:** This section interprets s. 78.07, Stats.

**History:** Emerg. cr. eff. 4-1-94; cr. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.11 Tax exemption for dyed diesel fuel.**

**(1) PURPOSE.** This section clarifies the tax exemption provided to suppliers required to be licensed by the department when a dye has been added to diesel fuel.

**(2) GENERAL.** (a) All fuel dyed in accordance with the federal internal revenue service temporary regulations, 26 CFR 48.4082-1T, 2T, 3T and 4T, is treated as destined for exempt use and is exempt from the motor vehicle fuel tax.

(b) Dyed diesel fuel shall only be used for exempt purposes.

**Examples:** 1) Diesel fuel used as heating oil has an exempt purpose.

2) Diesel fuel used for nonhighway use has an exempt purpose.

3) Diesel fuel used in trains has an exempt purpose.

**Note:** This section interprets s. 78.01 (2p), Stats.

**History:** Emerg. cr. eff. 4-1-94; cr. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.12 Uncollected motor vehicle fuel taxes and repossessions. (1) PURPOSE.** This section clarifies when and how a supplier required to be licensed by the department may recover the motor vehicle fuel tax from the department when a purchaser is unable to pay the tax to the supplier. This section also clarifies when and how a wholesaler distributor may recover the motor vehicle fuel tax from the department when the wholesaler distributor is unable to collect the tax from another wholesaler distributor or a retail dealer.

**(2) STATUTES.** Under s. 78.01 (2s), Stats., a supplier is not liable for the tax on motor vehicle fuel when the supplier is unable to recover the tax from a purchaser. With proper documentation, the supplier may claim a tax deduction on a later remittance of taxes. A wholesaler distributor may file a refund claim with the department to recover the tax on uncollectable accounts covering sales to other wholesaler distributors and retail dealers.

**(3) PROCEDURE.** (a) *Tax imposed.* A supplier shall pay the motor vehicle fuel tax to the department by the 15th day of the month after the month in which the fuel is received, as described in s. 78.07, Stats., irrespective of whether the sale is for cash or credit.

(b) *Bad debts.* 1. ‘Deduction from measure of tax.’ A supplier is relieved from the liability for motor vehicle fuel tax on accounts which have become worthless and which have met the requirements to be charged off for income or franchise tax purposes. The bad debt tax deduction shall be reported and claimed on the supplier’s monthly tax report for the month in which the account becomes worthless. However, if a supplier is out of business when the account becomes worthless, a bad debt deduction may be claimed on the last return filed by that business or through a refund claim filed with the department. A wholesaler distributor may claim a bad debt tax deduction for the amount of tax liability for motor vehicle fuel tax on sales to other wholesaler distributors or retail dealers on accounts which have become worthless and which have met the requirements to be charged off for income or franchise tax purposes by filing a refund claim with the department. A claim for refund relating to a worthless account must be filed within 4 years of the 15th day of the 4th month following the close of the supplier’s or wholesaler distributor’s calendar or fiscal year within which the account becomes worthless.

**Examples:** 1) An account of a supplier who is still in business becomes worthless and meets the requirements to be charged off for income or franchise tax purposes on January 10, 1995. The supplier may claim a bad debt deduction on the motor vehicle fuel tax return, form MF-002, filed for the month of January 1995, even though the bad debt deduction may not be claimed for income or franchise tax purposes until the 1995 income or franchise tax return is filed in 1996.

2) Assume the same facts as in Example 1, except the account is that of a wholesaler distributor. Irrespective of when the wholesaler distributor files the income or franchise tax return on which the bad debt deduction is claimed, the wholesaler distributor may file a claim for refund to recover the uncollected motor vehicle fuel tax any time between January 10, 1995 and April 15, 2000.

2. ‘Recovery of bad debts charged off.’ If a bad debt deduction has been claimed by a supplier or wholesaler distributor for an account found worthless and charged off and the account is thereafter in whole or in part collected by the supplier or wholesaler distributor, the bad debt deduction shall be repaid to the department. A supplier shall report the amount so collected in the first tax report, form MF-002, filed after the collection, and the tax on the amount collected shall be paid with the report. A wholesaler distributor shall file a corrected refund claim and pay the tax collected within 30 days of collection.

3. ‘Amount deductible.’ a. A deduction may only be claimed for the unpaid amount of tax on an account found worthless and charged off. The total amount charged off may include the cost of the fuel, interest, financing or insurance costs in addition to the tax amount. To determine the unpaid amount of tax to be deducted, all payments and credits to the account shall be prorated to the various components of the total amount that the purchaser contracted to pay.

**Example:** At the time when the tax rate is 23.2¢ per gallon, Supplier A sells 8,000 gallons of gasoline to Company B. Company B has an agreement with Supplier A to delay payment of the tax. The amount of the contract is \$9,696, consisting of tax, \$1,856, and the cost of fuel, \$7,840. Company B defaults and discontinues operations, leaving a balance due Supplier A of \$2,100, which includes interest of \$200 not included in the contract amount. The deductible tax loss is \$367, computed as follows:

|                           |               |
|---------------------------|---------------|
| Contract amount           | \$9,696       |
| Unpaid contract amount    | <u>-1,900</u> |
| Paid contract amount      | \$7,796       |
| Portion constituting tax* | <u>X.191</u>  |
| Tax paid                  | \$1,489       |

\*\$1,856 tax \$9,696 contract amount = .191

Since \$1,489 of the tax of \$1,856 was paid, only the unpaid tax of \$367 may be deducted.

b. No deduction may be allowed for expenses incurred by a supplier or wholesaler distributor in attempting to collect any account receivable, or for that portion of a debt recovered that is

reclaimed by or paid to a third party as compensation for services rendered in collecting the account.

4. 'Special situations.' A purchaser of receivables may not claim a bad debt deduction for the motor vehicle fuel tax on receivables that subsequently become worthless.

5. 'Repossessions.' When motor vehicle fuel is repossessed a tax deduction may be allowed only to the extent that the supplier or wholesaler distributor sustains a net loss upon which tax was paid.

(c) *Tax rate change.* If a deduction for uncollectible tax is claimed in a period when the tax rate is different from the tax rate in effect when the tax was reported on the tax report, an adjustment to the gallons claimed shall be made to compensate for the tax rate differential. The number of gallons to claim is computed by dividing the old tax rate by the new tax rate and multiplying that percentage by the gallons sold.

**Example:** If tax was reported on an 8,000 gallon sale when the tax rate was 23.2¢ per gallon and a deduction was taken at a 24¢ rate, only 7,733 gallons may be claimed on the monthly supplier's tax report;  $[23.2 \text{ ¢} / 24 \text{ ¢}] \times 8,000 = 7,733$ .

**Note:** This section interprets ss. 78.01 (1) and (2s) and 78.68 (10), Stats.

**History:** Emerg. cr. 4-1-94; cr. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.50 Assignment, use and reporting of document number.** Each shipment, transfer, purchase or sale of a petroleum product which is reportable to the department in accordance with ch. 78, Stats., shall bear a "document number." In this section "document number" means the number provided for in subs. (1) through (4), as follows:

(1) **ASSIGNMENT.** Except as provided in sub. (4), the assignment of a document number shall originate with and be assigned by the refiner, terminal operator or place of manufacture where the fuel is loaded. All subsequent transactions, invoices and reports regarding each respective shipment shall use and make reference to this number.

(2) **RAILWAY TANK CAR SHIPMENTS.** On all railway tank car shipments the tank car initials and number shall become the document number.

(3) **TRUCK TRANSPORT SHIPMENTS.** On all truck transport shipments the manifest number shall become the document number.

(4) **OTHER SHIPMENTS.** On all other types of shipments, which do not originate at a refinery, terminal or place of manufacture, the shipper shall assign the invoice number as the document number. An invoice number may not be assigned by a shipper as the document number in any case where tank car initials and number or a truck transport manifest number is involved.

**Note:** This section interprets ss. 78.77, Stats.

**History:** 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; renum. to be (intro.) and am., cr. (1), (2), (3) and (4), Register, June, 1983, No. 330, eff. 7-1-83; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.51 Measuring withdrawals.** All withdrawals of motor vehicle fuel from Wisconsin refineries, marine terminals or pipeline terminals shall be measured in liquid gallons by accurate meters; however, it is not necessary to meter withdrawals into railway tank cars.

**Note:** This section interprets ss. 78.12, Stats.

**History:** 1-2-56; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.52 Separate schedules.** Separate schedules shall be filed for each Wisconsin refinery, marine terminal or pipeline terminal.

**Note:** This section interprets ss. 78.12, Stats.

**History:** 1-2-56; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.53 Certificate of authorization.** (1) **STATUTES.** An alternate fuel dealer may be authorized by an alternate fuel user, if the alternate fuel dealer agrees, to report and pay the tax on alternate fuel delivered into a bulk storage facility of the user. The user then is not required to obtain an alternate fuel license from the department.

(2) **GENERAL.** (a) A certificate of authorization, form MF-207, may be executed by a purchaser of alternate fuel to request a supplier of alternate fuel to bill the purchaser for both the alternate fuel and the alternate fuel tax.

(b) A certificate of authorization executed by a supplier of alternate fuel indicates the supplier's acceptance of the purchaser's request to bill the alternate fuel tax on bulk deliveries and remit it to the department.

(3) **EFFECT OF CERTIFICATES.** (a) If a purchaser and seller of alternate fuel agree that the seller will collect the alternate fuel tax from the purchaser and remit it to the department, the purchaser is not required to obtain an alternate fuel license from the department nor to submit monthly reports of tax liability.

(b) The supplier shall compute the monthly tax liability by adding the number of gallons of alternate fuel placed in storage facilities where purchasers have executed certificates of authorization to the number of gallons of alternate fuel placed in fuel supply tanks of motor vehicles.

**Note:** Blank certificates of authorization, form MF-207, may be obtained by writing or calling Wisconsin Department of Revenue, Audit Bureau, P. O. Box 8906, Madison, WI 53708-8906, (608) 266-3223.

**Note:** This section interprets ss. 78.40 (1), 78.47 and 78.49 (3), Stats.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; emerg. am. eff. 4-1-94; am. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.54 Security requirements.** (1) **GENERAL.** Under ss. 78.11, 78.48 (9) and 78.57 (9), Stats., the department may require motor vehicle fuel, alternate fuel and general aviation fuel taxpayers to deposit security with the department. This security may be required before or after the fuel tax license is issued. The amount of security determination shall be made by the department. If any person fails or refuses to place the security, the department may refuse to issue the license or may revoke the license.

(2) **FACTORS FOR DEPARTMENT'S CONSIDERATION.** (a) In determining whether security shall be required and the amount of security to be required, the department shall consider all relevant factors, including:

1. Evidence of adequate financial responsibility. The evidence may include a person's assets and liabilities, liquidity of assets, estimated expenditures and potential fuel tax liability.

2. The person's prior record of filing tax returns and paying taxes of any kind with the department.

3. Type of entity making the sales of motor vehicle fuel, alternate fuel and general aviation fuel.

**Example:** A sole proprietor or partner having nonbusiness financial resources may be a better risk than a corporation having limited assets.

(b) Although the individual factors listed in par. (a) shall be considered in determining security requirements, each case shall be determined on its merits as evaluated by the department. Protection of the fuel tax revenues shall be the major consideration in determining security requirements. However, due consideration shall be given to reasonable evidence that security is not necessary.

(c) In instances in which the department determines security in excess of \$100 is required, notification of this requirement shall include a written statement clearly describing the reasons for the requirement and a description or calculation showing how the amount of the security requirement was determined.

(3) **TYPES OF SECURITY.** Acceptable types of security include, but are not limited to:

(a) Noninterest-bearing:

1. Cash, certified check or money order.

2. Surety bonds issued by authorized underwriters.

(b) Interest-bearing time certificates of deposit issued by financial institutions and made payable to the department. Interest earned on the certificates shall be paid to the depositor.

(4) **DETERMINATION OF AMOUNT.** (a) If security is required, the amount shall be equal to the depositor's average quarterly Wis-

consin fuel tax liability increased to the next highest even \$100 amount, unless the department determines under sub. (2) that for good cause a higher amount is appropriate. The estimate of the depositor's average quarterly fuel tax liability shall be based on whichever of the following the department considers most appropriate in the circumstances:

1. The depositor's previous fuel tax liability.
2. The depositor's predecessor's fuel tax liability.
3. The estimated tax liability shown on the application for a license.
4. Other factors, such as the department's estimate of tax liability based on its experience with other similar activities.

(b) If at the time of the security review the person has an outstanding fuel tax delinquency, the delinquent amount shall be added to the estimated average quarterly fuel tax liability and the sum of the two shall be the amount of security required.

**(5) RETURN OF DEPOSIT.** (a) Any security deposited shall be returned to the taxpayer if the taxpayer has, for 24 consecutive months, complied with all the requirements of ch. 78, Stats.

(b) The 24-month compliance requirement described in par. (a) shall begin on the day the deposit is received by the department.

(c) Within 30 days after the conclusion of the 24-month period described in par. (a), the department shall review the taxpayer's compliance record. If the taxpayer has complied with ch. 78, Stats., the department shall within 60 days after the expiration of the 24-month period certify the deposit for refund.

(d) Compliance with ch. 78, Stats., means that:

1. Fuel tax reports are timely filed.
2. All payments are made when due.
3. No penalties due to negligence or fraud are assessed for filing periods within the 24-month compliance period.
4. No assessment of additional tax, interest or other charges for filing periods within the 24-month compliance period is unpaid at the end of the period.
5. No delinquencies of fuel tax, interest or other charges imposed under ch. 78, Stats., exist with the department.

(e) If a taxpayer does not meet the compliance requirements set forth in par. (d), the deposit shall be retained by the department until the taxpayer is in compliance for 24 consecutive months from the date of the latest incident of noncompliance.

**Note:** This section interprets ss. 78.11, 78.48 (9) and 78.57 (9), Stats.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; emerg. am. (1), (2) (a) (intro.) and 3., (b), (3) (b), (4) (a) (intro.), (5) (b), (c), (d) 3. to 5., eff. 4-1-94; am. (1), (2) (a) (intro.) and 3., (b), (3) (b), (4) (a) (intro.), (5) (b), (c), (d) 3. to 5., Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.55 Ownership and name changes.** **(1) GENERAL.** Under ss. 78.10 (6), 78.48 (6) and 78.57 (6), Stats., a fuel tax license is not transferable to another person or to another place of business. This section clarifies when a change in ownership or name of a business requires a new fuel tax license.

**(2) OWNERSHIP CHANGE.** (a) When there is a change in ownership of a business, the new owner shall apply for a new license using form MF-100, except as provided in par. (c). The new owner shall notify the department no later than 10 days prior to the change. Security may be required as provided in s. Tax 4.54.

(b) A new license shall be obtained when there is a change in the type of ownership of a sole proprietorship, partnership, corporation or other form of ownership, except as provided in par. (c).

**Examples:** A new license is required if: 1) A sole proprietorship or partnership incorporates.

- 2) A sole proprietorship is sold to a different sole proprietor.
- 3) A sole proprietorship becomes a partnership.
- 4) A partner in a partnership leaves the partnership or a partner is added to the partnership.
- 5) The federal employer identification number of a business changes.

(c) A change in the ownership of a corporation does not require a new license unless either of the following occurs:

1. A corporation is merged with another corporation, the merged corporation ceases to exist, and the surviving corporation does not have a valid license.
2. The federal employer identification number of a corporation changes.

**(3) NAME CHANGE.** (a) A licensee shall notify the department of a name change at least 10 days prior to the change and the licensee shall retain the same license number.

(b) A rider, verifying the name change, such as one filed by a licensee's insurance company at the request of the licensee, shall be submitted to the department. If no security is on file or a rider is not filed with the department, new security shall be deposited under the new name, as required under s. Tax 4.54, and any old security shall be returned to the licensee.

**Note:** Copies of license applications, form MF-100, may be obtained by writing or calling Wisconsin Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, WI 53708-8902, (608) 266-8772.

**Note:** This section interprets ss. 78.10 (6), 78.48 (6) and 78.57 (6), Stats.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; emerg. am. (2) (b), eff. 4-1-94; am. (2) (b), Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.65 Motor vehicle fuel tax refunds to vendors and tax deductions for suppliers.** **(1) SCOPE.** This section applies to suppliers required to be licensed by the department, wholesaler distributors and retail dealers who sell motor vehicle fuel to customers for exempt purposes on which the tax was paid. Registered vendors may file refund claims with the department. Suppliers may claim deductions on their monthly reports. The claim for refund and the deduction claimed may be investigated by the department and adjusted within 4 years after the date of filing.

**(2) STATUTES.** Under s. 78.01 (2r), Stats., the ultimate consumer who purchases fuel for an exempt purpose shall assign his or her claim for a refund or deduction on the tax paid on undyed diesel fuel and gasoline to the person from whom the ultimate consumer purchased the fuel.

**(3) PROCEDURES.** (a) Vendors, other than suppliers licensed with the department, shall register with the department, using form MF-112, to expedite the processing of a tax refund claim.

(b) Persons making exempt sales shall prepare and provide the customer with a sales invoice. A properly prepared legible invoice shall include the following information:

1. Name and address of seller.
2. Date of sale.
3. Name and address of purchaser.
4. Product sold.
5. Number of gallons.
6. Price per gallon.
7. A statement that no Wisconsin motor vehicle fuel tax is included in the price per gallon figure.

(c) The customer shall provide the vendor with an annual exemption certificate when purchasing undyed diesel fuel and gasoline which will be consumed by that customer for an exempt purpose as defined in s. 78.01 (2) and (2m), Stats. A purchaser of undyed diesel fuel and gasoline for an exempt use shall provide the seller with a properly completed exemption certificate, form MF-209, prior to the tax-exempt purchase. The certificate may not cover a period of more than 12 months.

(d) Claims shall be made and filed upon forms prescribed and furnished by the department, form MF-012.

(e) The penalties provided in s. 78.73, Stats., for filing a false or fraudulent claim apply to all refund claimants.

(f) Refunds under s. 78.01 (2r), Stats., shall be of tax only and may not include interest.

**Note:** Copies of vendor registration form MF-112, exemption certificate form MF-209 and refund claim form MF-012 may be obtained by writing or calling Wis-

consin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, WI 53708-8906, (608) 266-7233.

**Note:** This section interprets ss. 78.01 (2r), Stats.

**History:** Emerg. cr. eff. 4-1-94; cr. Register, November, 1994, No. 467, eff. 12-1-94.

**Tax 4.75 Payment of motor vehicle fuel tax.**

**(1) SCOPE.** This section applies to wholesaler distributors who have exercised their option to delay tax payment to suppliers required to be licensed by the department.

**(2) STATUTES.** Under s. 78.12 (5), Stats., the wholesaler distributor has the option to pay the motor vehicle fuel tax under normal credit arrangements or to delay paying the tax to the supplier until the date that the tax is due to the department. A wholesaler distributor who makes delayed payments shall make the payment by electronic funds transfer to the supplier. If a wholesaler distributor fails to make timely payments, the supplier may terminate the right of the wholesaler distributor to make delayed payments. Each supplier shall notify the department of each wholesaler distributor who makes delayed payments of the tax.

**(3) PROCEDURES.** (a) Suppliers shall notify the department of the following:

1. Name, address and federal employer identification number, or FEIN, of all wholesaler distributors who elect to delay tax payment.

2. Name of any wholesaler distributor who fails to make timely delayed tax payments. The supplier shall notify the department via facsimile, or FAX, transmittal within 5 days after the due date of the tax to the department.

**Note:** The FAX number by which to notify the department is (608) 267-0834.

(b) Wholesaler distributors shall do the following:

1. Notify suppliers of their intent to delay tax payment.

2. Submit tax payments to suppliers via electronic funds transfer.

3. Submit security to the department if required.

(c) The department shall do the following:

1. Maintain a listing of the names, addresses and FEINs of all wholesaler distributors eligible to delay tax payment based on information received from suppliers.

2. Require security from wholesaler distributors who have defaulted in making delayed tax payments and who wish to continue the delayed tax payment plan.

**Note:** This section interprets ss. 78.12 (5), Stats.

**History:** Emerg. cr. eff. 4-1-94; cr. Register, November, 1994, No. 467, eff. 12-1-94.