

CHAPTER 1111

GASOHOL TAX

S. F. 2376

AN ACT to impose an excise tax on motor fuel containing at least ten percent alcohol distilled from agricultural products, including a sales tax exemption for motor fuel containing at least ten percent alcohol distilled from agricultural products, subject to penalties provided by law.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section three hundred twenty-four point two (324.2), Code 1979, as the section is amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter seventy-five (75), section one (1), is amended by adding the following new subsection:

NEW SUBSECTION. "Gasohol" means motor fuel containing at least ten percent alcohol distilled from agricultural products.

Sec. 2. Section three hundred twenty-four point three (324.3), Code 1979, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the privilege of operating motor vehicles in this state an excise tax of five cents per gallon for the period beginning May 1, 1981 and ending June 30, 1983, is hereby imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

Sec. 3. Chapter three hundred twenty-four (324), Code 1979, is amended by inserting after section three hundred twenty-four point five (324.5), Code 1979, the following new section:

324.6 GASOHOL BLENDERS LICENSE. Any person other than a distributor licensed under this division who blends motor fuel containing at least ten percent alcohol distilled from agricultural products shall obtain a blender's license. The license shall be obtained by following the procedure as set forth in section three hundred twenty-four point four (324.4) of the Code and the license shall be subject to the same restrictions as contained therein. Each blender shall maintain records as required by section three hundred twenty-four point ten (324.10) of the Code as to motor fuel, alcohol and gasohol.

Sec. 4. Section three hundred twenty-four point eight (324.8), subsections four (4) and five (5), Code 1979, are amended to read as follows:

4. From the total number of invoiced gallons of motor fuel "received" by the distributor within the state during the next preceding calendar month shall be made the following deductions:

First, the gallonage of motor fuel received and thereafter sold within the exemptions provided for in section 324.3; and second, the number of gallons of motor fuel equal to three per centum of the first three hundred thousand gallons and one and one-quarter per centum of all gallonage in excess of three hundred thousand gallons of invoiced gallons of motor fuel received by

the distributor within this state during the next preceding calendar month after deduction provided in this subsection, this percentage being a flat allowance to cover evaporation, shrinkage, and losses, ~~other--than--these provided--for--in-section-324-3,~~ and the distributor's expenses and losses in collection, accounting for, and paying over the motor fuel tax.

5. The number of invoiced gallons remaining after the deductions hereinabove set forth shall be multiplied by the per gallon motor fuel tax rate ~~and--resulting--figure--shall--be--the--amount--of--motor--fuel--tax--in--dollars--and--cents--due--from--the--distributor--for--the--next--preceding--calendar--month.~~ ~~Any--outstanding--credit--memoranda--issued--by--the--department--of--revenue--to--the--distributor--may--be--applied--against--the--amount--due.~~

Sec. 5.* Chapter three hundred twenty-four point eight (324.8), Code 1979, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of determining the amount of the tax liability on alcohol blended to produce gasohol, each licensed blender shall, not later than thirty-one days following the last day of each month, file with the department of revenue a monthly report, signed under penalty for false certificate, which shall include the following: The number of gallons of gasoline blended into gasohol, the number of gallons of alcohol blended into gasohol. The amount of alcohol blended shall be multiplied by the per gallon motor fuel tax rate applicable to gasohol.

Sec. 6. Section three hundred twenty-four point eight (324.8), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The sum of the number of invoiced gallons of gasohol which are received tax free by the distributor during the next preceding calendar month and the number of gallons of gasohol blended by the distributor during the next preceding calendar month shall be multiplied by the per gallon motor fuel tax rate applicable to gasohol.

Sec. 7. Section three hundred twenty-four point eight (324.8), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The sum of the tax due under subsection five (5) of this section and section six (6) of this Act shall be the amount of motor fuel tax in dollars and cents due from the distributor for the next preceding calendar month. Any outstanding credit memoranda issued by the department of revenue to the distributor may be applied against the amount due.

Sec. 8. Section three hundred twenty-four point eighteen (324.18), Code 1979, is amended to read as follows:

324.18 REFUND PERMIT. No person may claim a refund under section 324.17 or section nine (9) of this Act until he the person shall have obtained a refund permit from the department of revenue and paid the fee therefor. A special permit shall be obtained by applicants claiming a refund under the provisions of this chapter on account of motor fuel used for the purpose of operating aircraft or used to blend gasohol. Application for a refund permit shall be made to the department of revenue on a form provided by the department of revenue, shall be certified by the applicant under penalty for false certificate and shall contain among other things, the name, the address and occupation of the applicant, the nature of ~~his~~ the applicant's business and a sufficient description for identification of the machines and equipment

*Effective June 30, 1983; See §12 hereof

in which is to be used motor fuel for which refund may be claimed under the permit. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department of revenue shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A fee of one dollar shall be collected by the department of revenue from each person to whom a refund permit is issued. A refund permit shall continue in effect until revoked ~~as hereinafter provided~~ or until the claimant shall have moved from the county with which ~~his~~ the claimant's refund permit is identified.

Sec. 9. Chapter three hundred twenty-four (324), division one (I), Code 1979, is amended by adding the following new section:

NEW SECTION. GASOHOL REFUND--CREDIT. Persons other than distributors licensed under this division who blend motor fuel and alcohol to produce gasohol may file for a refund for the difference between taxes paid on the motor fuel purchased to produce gasohol and the tax due on the gasohol blended. If, during any month, a person licensed as a distributor under this division uses tax paid motor fuel to blend gasohol and the refund otherwise due under this section is greater than the distributor's total tax liability for that month, the distributor will be entitled to a credit. The claim for credit shall be filed as part of the report required by section three hundred twenty-four point eight (324.8) of the Code.

In order to obtain the refund established by this section, the person shall do all of the following:

1. Obtain a blender's permit as provided in section three hundred twenty-four point eighteen (324.18) of the Code.
2. File a refund claim containing the information as required by the department of revenue and certified by the claimant under penalty for false certificate.
3. Retain invoices meeting the requirements of section three hundred twenty-four point seventeen (324.17), subsection three (3), of the Code for the motor fuel purchased.
4. Retain invoices for the purchase of alcohol.

A refund or credit memorandum will not be issued unless the claim is filed within ninety days following the end of the month during which the gasohol was actually blended.

If a person files an incorrect refund claim, there shall be added a penalty of five percent to the amount by which the amount claimed and refunded exceeds the amount actually due. If a fraudulent refund claim is filed with intent to evade the tax, the penalty shall be fifty percent in lieu of five percent. The person shall also pay interest on the excess refunded at a rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

Sec. 10.* Section four hundred twenty-two point forty-five (422.45), subsection eleven (11), Code 1979, as the section is amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter ninety-six (96), sections two (2), three (3), and four (4), is amended to read as follows:

*Effective May 1, 1981; See §12 hereof

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the gross receipts from the sales of gasohol, as defined in section three hundred twenty-four point two (324.2) of the Code.

Sec. 11. Chapter three hundred twenty-four (324), division four (IV), Code 1979, is amended by adding the following new section:

NEW SECTION. TAX PAYMENT FOR STORED MOTOR FUEL, GASOHOL, AND SPECIAL FUEL--PENALTY.

1. Persons having title to motor fuel, gasohol, or special fuel in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, gasohol, or special fuel under this chapter shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day next preceding the effective date of the increased excise tax rate of motor fuel, gasohol, or special fuel which will be subject to the increased excise tax rate.

2. Persons subject to the tax imposed under this section shall take an inventory to determine the gallonage in storage for purposes of determining the tax and shall report that gallonage on forms provided by the department of revenue and pay the tax due within thirty days of the prescribed inventory date. The department of revenue shall adopt rules pursuant to chapter seventeen A (17A) of the Code as are necessary to carry out the provisions of this section.

3. The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage as determined under subsection one (1) of this section. The inventory tax rate is equal to the difference of the increased excise tax rate less the previous excise tax rate.

Sec. 12. The provisions of section five (5) of this Act are effective June 30, 1983.

Sec. 13. The provisions of section ten (10) of this Act shall become effective May 1, 1981.

Approved May 23, 1980