

3. The owner of a motor vehicle which is registered under subsection 1, may display a registration plate from or representing the model year of the motor vehicle, furnished by the person, in lieu of a current and valid Iowa registration plate issued to the vehicle, provided that any replaced current and valid Iowa registration plate and the registration card issued to the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.

Approved May 10, 1988

CHAPTER 1205

AIRCRAFT AND AIRCRAFT FUEL TAXATION

H.F. 2465

AN ACT relating to taxation establishing an excise tax on motor fuel used in aircraft, establishing an excise tax on special fuel used in aircraft, eliminating the sales tax exemption for casual sales of aircraft, adding a sales and use tax exemption for the sale of certain aircraft, requiring a person first registering an aircraft to show evidence that the sales tax or use tax has been paid, prohibiting a motor fuel excise tax refund for motor fuel or special fuel taken out of the state in fuel supply tanks of aircraft or watercraft, prohibiting an income tax credit on fuel tax paid on motor fuel used in watercraft or aircraft, and providing an appropriation.

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

Section 1. Section 312.2, subsection 16, paragraph a, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3 except aviation gasoline:

Sec. 2. Section 324.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. "Aviation gasoline" means any gasoline which is capable of being used for propelling aircraft, which is invoiced as aviation gasoline or is received, sold, stored, or withdrawn from storage by any person for the purpose of propelling aircraft. Motor fuel capable of being used for propelling motor vehicles is not aviation gasoline.

Sec. 3. Section 324.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fifteen cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, and sixteen cents per gallon beginning January 1, 1986, is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period beginning July 1, 1978 and ending June 30, 1992 and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon beginning July 1, 1988, is imposed on the use of all aviation gasoline.

Sec. 4. Section 324.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel ~~shall be~~ is entitled to a memorandum of credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or destroyed through accountable leakage or to fire, accident, lightning, flood, storm, act of war or public enemy

or other like cause. A memorandum of credit shall be allowed against subsequent liability under this chapter upon application to the department supported by such proof as the director prescribes by rule. If the licensee is no longer engaged in activity for which the license was issued, the department shall refund the appropriate amount upon receipt of an application for refund as provided by the department. Credits and refunds shall be are subject to the following conditions:

Sec. 5. Section 324.17, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Any A person other than a distributor, dealer or user licensed under this chapter who uses motor fuel or special fuel for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary gas engines, aircraft, for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or aircraft or for propelling motor vehicles operated or intended to be operated upon the public highways, and who has paid the motor fuel or special fuel tax on the fuel either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of any a refund payable under this division may be applied by the department against any tax liability outstanding on the books of the department against the claimant. Every claim is subject to the following conditions:

Sec. 6. Section 324.17, subsections 4, 5, 6, and 14, Code 1987, are amended to read as follows:

4. The claim shall state the gallonage of motor fuel or special fuel that was used or will be used by the claimant other than in watercraft or aircraft or to propel motor vehicles, the manner in which the motor fuel or special fuel was used or will be used and the equipment in which it was used or will be used.

5. The claim shall also state whether or not the claimant used fuel for watercraft or aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel on which the refund is claimed.

6. A refund will shall not be paid with respect to any motor fuel or special fuel taken out of this state in fuel supply tanks of watercraft, aircraft, or motor vehicles.

14. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel or special fuel not used in motor vehicles, aircraft, or watercraft.

Sec. 7. Section 324.18, Code 1987, is amended to read as follows:

324.18 REFUND PERMIT.

A person shall not claim a refund under section 324.17 or section 324.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by applicants claiming a refund under 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 on a form provided by the department, shall be certified by the applicant under penalty for false certificate and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and a sufficient description for identification of the machines and equipment 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 shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 8. Section 324.32, Code 1987, is amended to read as follows:

324.32 PURPOSE.

The purpose of this division is to supplement division I of this chapter, by imposing an excise tax upon the receipt, delivery or placing into the fuel supply tanks of motor vehicles or aircraft which are within this state and into motor vehicle or aircraft special fuel holding tanks which are within this state, of all fuels not taxed under division I.

Sec. 9. Section 324.33, subsections 1 through 5, Code 1987, are amended to read as follows:

1. "Special fuel" means and includes fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft also any substance used for that purpose, except that it does not include motor fuel as defined in the motor fuel tax law.

2. "Use" means the receipt, delivery or placing of special fuels by a special fuel user into a supply fuel tank of a motor vehicle or aircraft while the vehicle or aircraft is in this state or delivered into a motor vehicle or aircraft special fuel holding tank, except that with respect to natural gas used as a special fuel "use" means the receipt, delivery or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

3. "Special fuel dealer" means any person in the business of handling special fuel who delivers any part thereof of the special fuel into a fuel supply tank of any motor vehicle or aircraft or delivers special fuel to a motor vehicle or aircraft special fuel holding tank.

4. "Special fuel user" means the owner or other person responsible for the operation of a motor vehicle or aircraft at the time special fuel is placed in a fuel supply tank thereof of the motor vehicle or aircraft while the motor vehicle or aircraft is in this state or the owner of a motor vehicle or aircraft special fuel holding tank into which special fuel is delivered to be used for highway or aircraft use only and upon which special fuel the special fuel tax is paid upon receipt.

5. "Licensed special fuel user" means and includes any person licensed by the department who dispenses special fuel, upon which the special fuel tax has not been previously paid, for highway or aircraft use from bulk sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial motor vehicle, or aircraft owned or controlled by the person. A licensed special fuel user shall make bulk purchases of special fuel for highway or aircraft use only from a licensed special fuel distributor, except that a licensed special fuel user may purchase natural gas for highway use as a special fuel from the piped distribution system of a public utility or a pipeline company. The sale of natural gas by a public utility or a pipeline company is not a sale of special fuel requiring a special fuel distributor's license.

Sec. 10. Section 324.33, subsections 7 and 8, Code 1987, are amended to read as follows:

7. "Motor vehicle or aircraft special fuel holding tank" means a tank with a capacity of not more than one thousand fifty gallons owned by or in the possession of a special fuel user in which special fuel is contained for use by the special fuel user only in a motor vehicle for highway use or for use in aircraft.

8. "Special fuel distributor" means any person who sells special fuel in this state in bulk for highway or aircraft use. Delivery of special fuel into a motor vehicle or aircraft special fuel holding tank shall not be considered a bulk sale of special fuel.

Sec. 11. Section 324.34, Code 1987, is amended to read as follows:

324.34 TAX IMPOSED.

For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use, as defined in section 324.33, of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is sixteen and one-half

cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, is seventeen and one-half cents per gallon for the period beginning January 1, 1986 and ending December 31, 1986, and is eighteen and one-half cents per gallon beginning January 1, 1987. The rate of tax on special fuel for aircraft is three cents per gallon beginning July 1, 1988. On all other special fuel the per gallon rate is the same as the motor fuel tax.

The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and paid over to the department as provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or delivery into a motor vehicle or aircraft special fuel holding tank by a special fuel dealer or distributor, attaches at the time of the use, as defined in section 324.33, of the fuel and shall be paid over to the department by the user as provided in this chapter.

All deliveries by distributors of special fuel to be used for highway use or used in aircraft, except deliveries into a motor vehicle or aircraft special fuel holding tank, must be made into storage connected to a sealed meter pump as licensed ~~in said~~ under this section. Special fuel delivered to a motor vehicle or aircraft special fuel holding tank of a special fuel user by a distributor shall be metered upon delivery and the special fuel tax shall be collected by the distributor and paid over to the department.

The department shall make reasonable rules governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at special fuel dealer locations and licensed special fuel user locations through which fuel oil or liquefied petroleum gas can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture and land stewardship, and that special fuel delivered into the fuel supply tank of any motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

The deliberate heating of ~~road~~ taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

All gallonage ~~which is not for nonhighway~~ highway or aircraft use, dispensed through metered pumps as licensed ~~above~~ under this section, on which special fuel tax is not collected, must be substantiated by ~~nonhighway~~ exemption certificates as provided by the department, signed by the purchaser, and retained by the dealer.

For the privilege of purchasing special fuel, dispensed through metered pumps as licensed above, on a basis exempt from the special fuel tax, the purchaser shall sign ~~nonhighway~~ exemption certificates for the gallonage claimed which is not for nonhighway highway or aircraft use.

The department will disallow all sales ~~said~~ of gallonage which is not to be for nonhighway highway or aircraft use unless proof is established by the retention of ~~said~~ the certificate. ~~Certificates for nonhighway use sales must~~ Exemption certificates shall be retained by the dealer for a period of three years.

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be thirteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department by the person operating the compressing equipment under

the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

A person shall not deliver any special fuel into the fuel supply tank of a motor vehicle registered in Iowa on or after March 15, 1983 unless there is a special fuel user identification sticker affixed in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the tank or unless the motor vehicle is registered under chapter 326.

Except for deliveries to a licensed special fuel dealer or licensed special fuel user or deliveries on which the special fuel tax is paid at the time of delivery it is unlawful to deliver liquefied petroleum gas into any tank which has a valve or other outlet capable of transferring the liquefied petroleum gas into the fuel supply tank of a motor vehicle unless the person making the delivery receives a written statement from the recipient of the fuel which states that the recipient knows that the use of liquefied petroleum gas for highway purposes for which the special fuel tax has not been paid is unlawful.

Sec. 12. Section 324.36, subsections 1 and 2, Code 1987, are amended to read as follows:

1. **REQUIRED.** It is unlawful for a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department, except as provided in this section. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle or aircraft special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle or aircraft special fuel holding tank, the use of special fuel in this state by a person is unlawful unless the person holds a special fuel user's license issued to the person by the department. It is unlawful for a person to sell special fuel in this state in bulk for highway or aircraft use without first obtaining a special fuel distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

2. **APPLICATION.** Application for a special fuel dealer's license or a special fuel user's license shall be made to the department. A special fuel dealer's license or a special fuel user's license, whichever is applicable, shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle or aircraft. ~~Provided, that~~ However, if a special fuel dealer also operates one or more bulk plants from which the distribution of a special fuel is primarily by tank vehicle, the special fuel dealer need not obtain a separate license for any of these plants not provided with fixed equipment designed for fueling vehicles or aircraft. Upon written application and at the discretion of the director, a special fuel user whose business operations require mobile special fuel storage may obtain a single special fuel user's license to be issued to the user's permanent principal place of business.

Sec. 13. Section 324.37, subsection 2, Code 1987, is amended to read as follows:

2. For each location where special fuel is delivered or placed into the fuel supply tank of a motor vehicle or aircraft, the special fuel dealer or user making the delivery shall prepare and maintain for a period of three years such records as the department may reasonably require with respect to all these deliveries, and with respect to inventories, receipts, purchases, and sales or other dispositions of special fuel.

Sec. 14. Section 324.38, subsections 1, 2, 3, and 4, Code 1987, are amended to read as follows:

1. **RETURNS FOR LICENSED DEALERS AND USERS.** For the purpose of determining the amount of liability for special fuel tax each special fuel dealer and each special fuel user

shall file with the department not later than the last day of the month next following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certificate. The return shall show, with reference to each location at which special fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle or aircraft during the next preceding calendar month, such information as the department may reasonably require for the proper administration and enforcement of this division. However, if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle or aircraft, the monthly return to the department covering the location need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made.

2. COMPUTATION. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel dealer or user into supply tanks of motor vehicles and aircraft.

3. PAYMENTS. The return shall be accompanied by remittance in the amount of the tax due for the month in which the special fuel was placed in the fuel tanks of motor vehicles and aircraft.

4. QUARTERLY RETURNS AND TAX PAYMENT BY SPECIAL FUEL DISTRIBUTORS. For the purpose of determining the amount of the tax liability for special fuel tax, each special fuel distributor licensed under this chapter shall file with the department, not later than the last day of the month next following each calendar quarter, a quarterly tax return certified under penalties for false certificate. The return shall show the total amount of special fuel sold during the quarter, the amount of special fuel sold which was not for nonhighway highway or aircraft use, the amount of fuel sold to licensed special fuel dealers and users, the amount of special fuel delivered into motor vehicle or aircraft special fuel holding tanks, the amount of tax due, and such other pertinent information required by the department. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel distributor into the motor vehicle or aircraft special fuel holding tanks. The return shall be accompanied by a remittance in the amount of the tax due for the quarter.

Sec. 15. Section 324.38, subsection 5, paragraphs a through c, Code 1987, are amended to read as follows:

a. Special fuels purchased tax paid and delivered into the fuel supply tank of the user's motor vehicles or aircraft by licensed special fuel dealers.

b. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel dealers.

c. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel distributors.

Sec. 16. Section 324.38, subsection 6, Code 1987, is amended to read as follows:

6. PRESUMPTION. For purposes of this section there shall be a prima-facie presumption that all special fuel received by a special dealer or special fuel user into storage and dispensing equipment designed to fuel motor vehicles or aircraft is to be delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor vehicles or aircraft.

Sec. 17. Section 324.82, Code 1987, is amended to read as follows:

324.82 AVIATION GAS FUEL TAX FUND.

The portion of the moneys collected under the provisions of this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys reimbursed and repaid pursuant to section 324.17

or transferred pursuant to section 422.112 on account of motor fuel used for the purpose of operating aircraft shall be paid from said separate fund and all moneys remaining in said the separate fund after all claims for refund and the cost of administering said the fund have been paid shall be credited to the state aviation fund.

Sec. 18. Section 328.26, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When an aircraft is registered to a person for the first time the application for registration shall be accompanied by evidence that the tax imposed by section 422.43 or section 423.2 has been paid or evidence of the exemption of the aircraft from the tax imposed under section 422.43 or 423.2.

Sec. 19. Section 328.36, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the state aviation fund shall be credited to the state aviation fund.

Sec. 20. Section 422.45, subsections 6 and 11, Code Supplement 1987, are amended to read as follows:

6. The gross receipts from "casual sales". However, this exemption does not apply to aircraft.

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft 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 324.2.

Sec. 21. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale of aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

Sec. 22. Section 422.110, subsection 1, Code 1987, is amended to read as follows:

1. Motor fuel as defined in section 324.2, subsection 1, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary engines, ~~aircraft~~, for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or aircraft or in motor vehicles operated or intended to be operated upon the public highways.

Sec. 23. Section 422.110, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, no credit shall be given with respect to motor fuel taken out of the state in fuel supply tanks of motor vehicles, motor fuel used in aircraft or watercraft, or motor fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel tax subject to a credit. The right to a credit under this section is not assignable and the credit may be claimed only by the person or corporation that purchased the fuel.

Sec. 24. Section 422.111, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. ~~The fuel tax credit for tax paid on motor fuel used for the purpose of operating aircraft must be itemized separately.~~ The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation

may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. No invoice is acceptable in support of a claim for credit unless it is a separate serially numbered invoice covering no more than one purchase of motor fuel or special fuel, prepared by the seller on a form approved by the department, nor unless it is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine the department may waive these requirements. If an original invoice is lost or destroyed, the department may approve a credit supported by a copy identified and certified by the seller as being a true copy of the original. Each person or corporation that claims a fuel tax credit shall maintain complete records of purchases of motor fuel or special fuel on which Iowa fuel tax was paid, and for which a fuel tax credit is claimed.

Sec. 25. The excise tax imposed under this Act is effective for fuel purchased on or after July 1, 1988.

Approved May 10, 1988

CHAPTER 1206

MOTOR VEHICLE REBATE TAXATION

H.F. 2460

AN ACT relating to the treatment of rebates given on the sales of motor vehicles subject to registration for purposes of the state sales, services, and use taxes.

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

Section 1. Section 423.1, subsection 3, paragraph a, Code Supplement 1987, is amended to read as follows:

a. That cash discounts taken on sales are not included. A cash rebate which is provided by a motor vehicle manufacturer to the purchaser of a vehicle subject to registration shall not be included so long as the rebate is applied to the purchase price of the vehicle.

Approved May 11, 1988