

CHAPTER 64*
MOTOR FUEL

[Prior to 12/17/86, Revenue Department[730]]

701—64.1(452A) Definitions. For the purposes of this chapter, the following definitions shall govern:

“*Aviation gasoline*” means any gasoline capable of being used for propelling aircraft which is invoiced as aviation gasoline or is received, sold, stored or withdrawn from storage for purposes of propelling aircraft. It does not include motor fuel capable of being used for propelling motor vehicles.

“*Ethanol blended gasoline*” means motor fuel which has been blended with alcohol distilled from cereal grains, the end product containing at least 10 percent alcohol. When motor fuel is used in these rules, it includes ethanol blended gasoline.

“*Fuel(s)*” shall mean and include both motor fuel and special fuel as defined in Iowa Code chapter 452A.

“*Invoiced gallons*” shall, for purposes of determining a distributor’s tax liability, mean gross gallons as shown on the covering bill of lading or manifest. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners.

“*L.P.G.*” shall mean liquefied petroleum gas.

“*Month*” shall mean calendar month.

“*Quarter*” shall mean calendar quarter.

“*Taxpayer*” shall mean any person responsible for remitting the motor fuel tax to the department of revenue and finance and any person responsible for reporting to the department of revenue and finance under division I and pertinent parts of division IV of Iowa Code chapter 452A.

“*Terminal storage*” shall mean either (1) storage facilities which are supplied motor fuel by marine barges, (2) storage facilities which are supplied motor fuel by a pipeline, or (3) storage facilities which are permanently affixed to and supplied motor fuel from storage facilities supplied by a pipeline.

“*Transport*,” “*transport carrier*,” or “*carrier*” shall mean vehicles required to be registered under Iowa Code section 452A.11 or vehicles which are operated by licensed distributors and used to transport their own motor fuel.

In addition to the preceding definitions, all of the definitions contained in Iowa Code chapter 452A shall govern the rules in this chapter.

This rule is intended to implement Iowa Code chapter 452A.

701—64.2(452A) Time tax attaches—responsible party. The tax on motor fuel attaches when first “received” in this state, within the meaning of “received” as defined in Iowa Code section 452A.2. The tax is due from and payable to the department by the distributor who “received” the motor fuel. The tax is remitted to the department on a monthly basis and the tax is to be added to the price of the motor fuel at each subsequent sale so that the ultimate consumer bears the burden of the tax.

64.2(1) Imported to storage. When motor fuel is imported into the state, for sale or use in this state, and unloaded at storage facilities other than refinery or terminal storage facilities, the tax attaches at the time it is unloaded. The owner of the motor fuel immediately after it is unloaded is responsible for the tax unless (1) the owner is a nonlicensee and (2) the shipper or supplier is a licensee and sells and delivers the motor fuel directly to the nonlicensee in this state, in which case, the shipper or supplier is responsible for the tax at the time of unloading.

*This chapter effective through 12/31/95; see 701—Ch 68, effective 1/1/96.

The following examples demonstrate the application of this subrule:

1. XYZ Oil Company owns motor fuel in storage out of state. XYZ Oil Company is licensed as a distributor in Iowa. XYZ Oil Company sells the motor fuel stored out of state to A, who is an Iowa-licensed distributor, and ships it to A's nonterminal storage in Iowa. A is responsible for the tax when the motor fuel is unloaded in Iowa.

2. XYZ Oil Company owns motor fuel in storage out of state. XYZ Oil Company is licensed as a distributor in Iowa. XYZ Oil Company sells and ships the motor fuel in its own transport and delivers the fuel directly to A, a nonlicensee in Iowa. When the motor fuel is unloaded at A's nonterminal storage, XYZ Oil Company is responsible for the tax at that time.

3. XYZ Oil Company owns motor fuel in storage out of state. XYZ Oil Company is licensed as a distributor in Iowa. XYZ Oil Company sells motor fuel to A and delivers it to A at XYZ's out-of-state storage. A ships the motor fuel to its nonterminal storage. A is responsible for the tax when it is unloaded in Iowa whether or not A is licensed.

4. XYZ Oil Company owns motor fuel in storage out of state. XYZ Oil Company is not licensed as a distributor in Iowa. XYZ Oil Company sells and ships the motor fuel to A, a nonlicensee in Iowa. When the motor fuel is unloaded at A's nonterminal storage, A is in violation of Iowa Code sections 452A.4 and 452A.53 because A is deemed to have received the fuel, and to receive fuel, one must hold an uncanceled distributor's license. A is still responsible for the tax at the time it is unloaded, and must still report and pay the tax pursuant to Iowa Code section 452A.9.

5. XYZ Oil Company owns motor fuel in storage out of state and is a licensed distributor in Iowa. XYZ Oil Company ships the motor fuel to nonterminal storage it owns in Iowa. XYZ Oil Company is responsible for the tax when the motor fuel is unloaded in Iowa.

64.2(2) *Imported for use.* When the motor fuel is imported into the state and used directly from the transport vehicle, the person using the motor fuel in this state is responsible for the tax and the tax attaches at the time it is brought into the state. The shipper or supplier is responsible for the tax in lieu of the user when (1) the shipper or supplier is a licensed Iowa distributor and sells and delivers the motor fuel directly to the user in this state, and (2) the user is not so licensed. The examples for subrule 64.2(1) above would apply to demonstrate the application of this rule as to the person responsible for the tax.

64.2(3) *Produced at other than refinery.* When motor fuel is produced, compounded, or blended in this state, other than at a refinery, or at a marine or pipeline terminal, the tax attaches when it is so produced, compounded, or blended and the owner of the motor fuel at the time the processing is completed is responsible for the tax.

64.2(4) *Any other method.* When motor fuel is acquired in this state in any manner not set out in Iowa Code section 452A.2 or in this rule, which fuel is neither exempt from tax nor had been previously subject to the Iowa excise tax on motor fuel, the person so acquiring the motor fuel is responsible for the tax at the time so acquired.

64.2(5) *Received when withdrawn from terminal storage.* When motor fuel is withdrawn from terminal storage for sale or use in this state or for transportation to nonterminal storage within this state, the tax attaches at the time of withdrawal. The person responsible for the tax is determined by Iowa Code section 452A.2. The motor fuel is received by the person who was the owner of the motor fuel immediately prior to withdrawal, unless (1) the motor fuel is withdrawn for shipment or delivery to a licensee, in which case, the motor fuel shall be deemed received by the licensee to whom shipped or delivered or (2) the motor fuel is withdrawn for shipment or delivery to a nonlicensee for the account of a licensee, in which case, the motor fuel shall be deemed received by the licensee for whose account the shipment or delivery to the nonlicensee is made. For purposes of determining to whom the motor fuel is “delivered,” the delivery may be either actual or constructive depending on the circumstances. (*Van Drimmelen v. Converse*, 190 Iowa 1350, 181 N.W.2d 699 (1921); *Cowie v. Local Board of Review of City of Des Moines*, 235 Iowa 318, 16 N.W.2d 592 (1944); *Lakeview Gardens v. State Ex Rel. Schneider*, 557 P.2d 1256 (Kan. 1976).) The department shall look at the entire transaction, both in form and substance, to determine to whom “delivery” was made. In situations where actual delivery to one licensee occurs simultaneously with constructive delivery to another licensee, both licensees have “received” the motor fuel and, therefore, either licensee could be responsible for the tax. In the event the tax is not paid, the department may look to either licensee for payment of the tax.

In addition to the phrase “withdrawal for delivery,” the statute also refers to the concept of “withdrawal for shipment.” Thus, it is also possible to have situations where there is delivery to one licensee and shipment to another licensee where it is known at the time of withdrawal to whom the motor fuel is to be shipped. Again, either licensee could be responsible for the tax.

The provisions of Iowa Code section 452A.2 will not operate to postpone the time when the tax attaches, nor will it operate to create an interdistributor chain of distribution to shift the responsibility for the tax to a licensee not intended by the statute. The tax shall always attach at the time of withdrawal, and the party responsible for the tax will be determined at that time.

The following examples will illustrate the application of this subrule. For purposes of these examples, the following is assumed unless otherwise stated: (1) The motor fuel stored in the terminal is owned by XYZ Oil Company, (2) the motor fuel is withdrawn for sale or use in Iowa, and (3) the points of delivery are within Iowa:

(1) XYZ Oil Company sells motor fuel to A, a licensed distributor. The motor fuel is to be delivered to A's place of business. Regardless of the transportation arrangements (i.e., transported by XYZ, A, or a common carrier), A is the receiver and is responsible for the tax.

Explanation: If A transports the fuel, A has taken physical delivery (possession) of the fuel at the time of withdrawal. The same would be true if a common carrier under the control of A took delivery at the terminal. Where XYZ or a common carrier under the control of XYZ transports the fuel under an F.O.B. destination contract, the department has determined that this situation is contemplated by the “shipment” element of Iowa Code section 452A.2.

(2) XYZ Oil Company sells (allots) motor fuel to A, a licensed distributor. A, in return, sells the motor fuel to B, a nonlicensee. Regardless of the method of transportation, A is responsible for the tax.

Explanation: The licensee is always responsible for the tax. See Iowa Code section 452A.2.

(3) XYZ Oil Company sells (allots) motor fuel to A, a licensed distributor who simultaneously sells the fuel to B, also a licensed distributor. If B or a common carrier under B's control transports the fuel from the terminal, A and B are both "receivers" and either could be responsible for the tax.

Explanation: At the time of withdrawal, there is a simultaneous delivery to A and B, constructive delivery to A by virtue of title passing through A at the time of withdrawal and actual delivery to B by virtue of title and constructive possession passing from A to B. The department has determined not to break the "tie," and therefore, either could pay the tax, and the department could pursue either in the event the tax was not paid.

(4) An "exchange" would have the same result as Example 3, with A being the exchangee-seller.

(5) XYZ Oil Company sells (allots) motor fuel to A, a licensed distributor. A, at the same time, sells the fuel to B, a licensed distributor. If A or a common carrier under A's control transports the fuel from the terminal, A and B again are "receivers" and either could be responsible for the tax.

Explanation: At the time of a withdrawal, there is a simultaneous "withdrawal for delivery" to A and a "withdrawal for shipment" to B. The motor fuel is withdrawn by A for shipment to B, a licensee. As in Example 3, the department has determined not to break the "tie," and therefore, either could pay the tax, and the department could pursue either in the event the tax was not paid. As explained in Example 1, transportation arrangements should not affect the determination of the person responsible for the tax. Examples 3 and 5 reach the same results regardless of the mode of transportation.

(6) XYZ Oil Company sells (allots) motor fuel to A, a licensed distributor. Subsequent to the sale, withdrawal and delivery of fuel to A, B, a licensed distributor, then agrees to purchase the fuel from A. Under this situation, A is the receiver and is responsible for tax.

Explanation: At the time of withdrawal from the terminal, A is the only person who could have first received the fuel since the sales contract with B did not exist until after the sale and delivery of the fuel to A. Under these facts, there is no simultaneous "withdrawal for delivery" and there is no simultaneous "withdrawal for shipment."

(7) XYZ Oil Company sells motor fuel to A, a licensed distributor. At withdrawal, the fuel is placed in A's transport and the bill of lading indicates an out-of-state destination. XYZ reports the sale as a tax-free sale to a licensed distributor and A is responsible to report the export.

(8) XYZ Oil Company sells motor fuel to A, a nonlicensee. The bill of lading indicates an out-of-state destination. The fuel is to be sold tax-free (see Iowa Code sections 452A.2 and 452A.3). XYZ is responsible for reporting a sale for export.

This rule is intended to implement Iowa Code sections 452A.2 and 452A.3.

701—64.3(452A) Exemptions. The following deductions are allowed on the distributor's monthly report as motor fuel exempt from tax:

1. Motor fuel sold for export or exported from this state is exempt from the excise tax. Motor fuel shall be deemed sold for export or exported only if the bill of lading or manifest indicates that the destination of the motor fuel withdrawn from storage or motor fuel which would otherwise be received, as defined in Iowa Code section 452A.2, is outside the state of Iowa. The mode of transportation is not of consequence. In the event motor fuel is taxed, and then subsequently exported, an amount equal to the tax previously paid shall be allowed as a credit, upon receipt by the department of the appropriate documents, to the party who originally paid the tax. If the sale of exported motor fuel is completed in Iowa, then the sale is subject to Iowa sales tax if it is not exported for resale or otherwise exempt from sales tax. The sale is completed in Iowa if the foreign purchaser takes physical possession of the motor fuel in this state. *Dodgen Industries, Inc. v. Iowa State Tax Commission*, 160 N.W.2d 289 (Iowa 1968). See sales tax rule 701—18.37(422,423).

2. Motor fuel sold to the United States or any agency or instrumentality thereof is exempt from the excise tax. The following factors, among others, will be considered in determining if any organization is an instrumentality of the United States government: (1) whether it was created by the federal government, (2) whether it is wholly owned by the federal government, (3) whether it is operated for profit, (4) whether it is "primarily" engaged in the performance of some "essential" government function, and (5) whether the tax will impose an economic burden upon the federal government or serve to materially impair the usefulness and efficiency of the organization or to materially restrict it in the performance of its duties if it were imposed. *Unemployment Compensation Commission v. Wachovia Bank & Trust Company*, 215 N.C. 491, 2 S.E.2d 592 (1939); 1976 O.A.G. 823, 827. The American Red Cross, Project Head Start, Federal Land Banks and Federal Land Bank Associations, among others, have been determined to be instrumentalities of the federal government. Receivers or trustees appointed in the federal bankruptcy proceedings are subject to the excise tax. *Wood Brothers Construction Co. v. Bagley*, 232 Iowa 902, 6 N.W.2d 397 (1942).

In order for this exemption to be allowed, the seller of the fuel must retain a copy of the invoice or an exemption certificate, provided by either the federal government or the department, which is signed by the purchaser.

3. Motor fuel sold at any post exchange or other concessionaire on any federal reservation within this state is to be sold tax-free. To the extent permitted by federal law, it is the responsibility of the post exchange or concessionaire to collect, report, and pay the appropriate fuel tax to the department.

4. Motor fuel sold to a regional transit system, the state, any of its agencies, or to any political subdivision of the state, which is used for a purpose specified in Iowa Code section 452A.57(11) or for public purposes and delivered into any size of storage tank owned or used exclusively by a regional transit system, the state, any of its agencies, or a political subdivision of the state is exempt from the excise tax.

When purchasing motor fuel tax-free, a regional transit system, the state, its agencies, and political subdivisions of the state shall furnish the distributor or dealer with an exemption certificate, issued by the department, stating that all of the motor fuel will be used for a purpose specified in Iowa Code section 452A.57(11) or for public purposes. A regional transit system, the state, its agencies and political subdivisions or a licensed motor fuel distributor may provide its own certificate of exemption, in a form prescribed by the director, to substantiate tax-exempt sales under this rule. See rule 701—65.13(452A) for information to be included on the certificate of exemption.

A regional transit system is defined in Iowa Code subsection 452A.57(11) to mean a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system must be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared-ride basis will not be construed to be a regional transit system.

5. Motor fuel sold to an Iowa urban transit system is to be sold tax-free. An Iowa urban transit system is a system whereby motor buses are (1) operated primarily upon the streets of the cities, (2) for the transportation of passengers, (3) without discrimination, (4) up to the capacity of each motor bus. The following are not considered activities which are functions of an Iowa urban transit system:

(a) Privately chartered bus services subject to the jurisdiction of the Iowa department of transportation.

(b) Privately chartered motor carriers subject to the jurisdiction of the Iowa department of transportation.

(c) Privately chartered interurban carriers subject to the jurisdiction of the Iowa department of transportation (the term “interurban” shall include contiguous urban areas).

(d) School bus services. Iowa urban transit systems which have a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school may receive a refund for the fuel used to transport students. See rule 64.22(452A) and 701—subrule 65.15(2).

(e) Taxicabs.

If an entity qualifies as an Iowa urban transit system (“1,” “2,” “3,” and “4” above) or a regional transit system, but performs activities which are specifically excluded from the functions of an Iowa urban transit system, (a), (b), (c), (d), and (e) above, or a regional transit system, only that portion of the fuel used during the excluded functions is subject to the fuel tax. In order to purchase motor fuel tax-free, the transit system must first obtain a license from the department, which license shall be without cost, and fix licensed meters to all fuel storage as per Iowa Code section 452A.34 and rule 701—65.8(452A). The transit system must provide the supplying distributor with a signed affidavit or invoice showing the total tax-free purchases for a given month, which affidavit or invoice is then attached to the distributor’s monthly tax report as proof of the tax-free sales.

In order to determine their tax liability, if any, transit systems must file quarterly reports with the department. The reports must include, but not be limited to, the following information: (1) the name, address, and license number of the transit system; (2) the total use of motor fuel and special fuel by meter readings; (3) the taxable use of motor fuel and special fuel; (4) a calculation of the motor fuel and special fuel tax due; (5) a calculation of sales tax due; and (6) the signature of the person responsible for filing the report. (See rule 64.13(452A) and Iowa Code sections 422.42 and 422.45 for sales tax applicability.) A remittance in the amount of taxes due must accompany the report.

If a transit system is wholly owned and operated by a political subdivision of the state or is organized and operated pursuant to Iowa Code section 28E.17, the system must still be operated in accordance with the Iowa urban transit system or regional transit system provisions in order for the exemption to apply. However, since the transit system is part of the political subdivision, the fuel taxes paid on fuel not covered by the transit system exemption, but used for “public purposes” would be subject to refund pursuant to Iowa Code sections 28E.17(2), 452A.3 and 452A.35. (See rule 64.15(452A).) These refunds will not be reduced by sales tax. (Iowa Code section 422.45(5).) 1968 O.A.G. 28, *Wicomico County Commissioners et al v. Bancroft*, 135 F. 977 (4th Cir. 1905). However, sales tax would be due from private carriers which contract bus services with political subdivisions.

All other motor fuel not exempted by categories “1,” “2,” “3,” “4,” or “5” above or subrule 64.4(1) below is subject to the tax in the first instance by the person who receives it. If the motor fuel is later used for some other exempt purpose or otherwise not to be subject to the tax, the tax previously paid will be subject to credit or refund. (See rules 701—63.25(452A), 64.4(452A), 64.7(452A), 64.8(452A) and 64.15(452A).)

This rule is intended to implement Iowa Code sections 452A.3, 452A.35, and 452A.57.

701—64.4(452A) Ethanol blended gasoline exemption.

64.4(1) *For periods prior to July 1, 1980.* Under Iowa Code section 452A.3 a mixture of motor fuel and alcohol distilled from agricultural products which contains at least 10 percent alcohol is exempt from the tax imposed by Iowa Code section 452A.3 until June 30, 1983. The following procedure will be followed to claim this exemption:

a. Ethanol blended gasoline imported. The distributor importing motor fuel which has already been blended with alcohol to produce ethanol blended gasoline will report the ethanol blended gasoline as “motor fuel received” and deduct the same as an exempt sale. The deduction must be supported by a signed statement.

b. Motor fuel imported or withdrawn from a terminal. When motor fuel is imported or withdrawn from terminal storage to be later blended with alcohol, the tax attaches when withdrawn and the deduction taken at the time of blending. The deduction must be supported by a statement signed by the person responsible for the blending. If the person responsible for the blending is not a licensed distributor, that person should get a refund or credit from the distributor from whom the motor fuel was obtained for the fuel taxes paid, and the distributor should take the deduction from the monthly distributor's report.

c. The distributor shall be allowed a deduction against subsequent fuel tax liabilities.

d. This procedure allows a deduction from "motor fuel received" to reach "taxable motor fuel," and the evaporation and shrinkage allowance provided in Iowa Code section 452A.8 is a percentage of "taxable motor fuel." Therefore, evaporation and shrinkage allowance does not apply to fuel which is blended into ethanol blended gasoline.

e. All sales of ethanol blended gasoline to the final consumer are subject to the Iowa retail sales tax, unless otherwise exempt.

64.4(2) Blender's license and refunds of tax paid. For periods after June 30, 1980, and to July 1, 1983.

a. If the person responsible for the blending of ethanol blended gasoline is not a licensed distributor, that person must obtain a blender's license from the department of revenue and finance in accordance with Iowa Code section 452A.6.

b. For the person licensed as a blender to secure a refund of the tax previously paid to a licensed distributor the blender must obtain a refund permit in accordance with subrule 64.8(4) and rule 64.9(452A).

A licensed distributor would follow the procedures for reporting the gallons blended into ethanol blended gasoline as stated in 64.4(1) above except where the blender is other than a licensed distributor.

64.4(3) Ethanol blended gasoline taxation.

a. *Licensed distributors.* The distributor will report the total gallons of ethanol blended gasoline and pay the tax on the total gallons of ethanol blended gasoline. The ethanol blended gasoline gallons will be reported separately from the motor fuel gallons which are first received. For periods after August 31, 1981, the evaporation and shrinkage allowance is applicable to ethanol blended gasoline or motor fuel blended into ethanol blended gasoline.

b. *Ethanol blended gasoline blenders.* Ethanol blended gasoline blenders must purchase their motor fuel tax-paid. The ethanol blended gasoline blenders will report the total gallons of motor fuel purchased tax-paid and the total gallons of alcohol which are blended into ethanol blended gasoline. A refund will be allowed on the difference between the tax paid on motor fuel and the tax due on the blended ethanol blended gasoline.

c. *Signed statement.* A statement signed by the person responsible for the blending is required for all persons showing ethanol blended gasoline on their distributor report or ethanol blended gasoline blenders refund form. The statement must show the total gallons of motor fuel and alcohol blended into ethanol blended gasoline.

64.4(4) Ethanol blended gasoline—blending errors. For periods beginning July 1, 1978, to June 30, 2000.

Where blending errors occur and an insufficient amount of alcohol has been blended with motor fuel so that the mixture fails to qualify as ethanol blended gasoline (as defined in Iowa Code section 452A.2), the tax shall be determined as follows:

a. If the amount of the alcohol blended with motor fuel is short by five gallons or less per blend, the alcohol and motor fuel blended shall be considered ethanol blended gasoline and there shall be no penalty or assessment of additional tax.

b. If the alcohol and motor fuel mixture is short of alcohol by more than five gallons but the alcohol blended with the motor fuels is short by 1.01 percent or less of such mixture, the motor fuel shall be divided for tax purposes into ethanol blended gasoline and motor fuel containing no alcohol as follows.

1. That portion of alcohol shall be added to motor fuel on the basis of one part alcohol to nine parts motor fuel to determine the portion which is considered ethanol blended gasoline and have a tax status as such. The portions of motor fuel remaining shall be considered taxable motor fuel subject to tax at the prevailing rate.

2. In addition to the tax, penalty and interest imposed on the portion considered motor fuel, there is a \$20 fine imposed for each blending error.

c. If the amount of alcohol blended with motor fuel is short by more than 1.01 percent of the total blend, the total blend of motor fuel and alcohol is subject to tax as motor fuel at the prevailing rate of tax.

The following formula will be used to compute blending errors:

Motor fuel \div 9 = required alcohol

Misblended ethanol blended gasoline \times .0101 = gallons of alcohol short

Required alcohol - actual alcohol is less than or equal to gallons of alcohol short

Actual alcohol \times 9 = motor fuel portion of ethanol blended gasoline

Motor fuel portion of ethanol blended gasoline + actual alcohol = ethanol blended gasoline

Actual motor fuel - motor fuel portion of ethanol blended gasoline = motor fuel

The following factors are assumed for all examples:

Figures are rounded to the nearest whole gallons; ethanol blended gasoline taxed at \$.05 per gallon; motor fuel tax at \$.10 per gallon; and evaporation and shrinkage at 3 percent for motor fuel only. There is no evaporation for misblended ethanol blended gasoline prior to September 1, 1981. Penalty and interest charges are not computed in the examples.

EXAMPLE 1.

Motor fuel	=	8,000 gal.
Alcohol	=	800 gal.
$8,000 \div 9$	=	889 gal. required alcohol
$8,800 \times .0101$	=	89 gal. short of alcohol
$889 - 800$	=	89 gal. short of alcohol

89 is equal to 89 which means that the tax is applied according to paragraph "b" above as follows:

800×9	=	7,200 gal. motor fuel portion of ethanol blended gasoline
$7,200 + 800$	=	8,000 gal. of ethanol blended gasoline
$8,000 - 7,200$	=	800 gal. of motor fuel subject to tax

$8,000 \text{ gals. of alcohol} \times \0.05	=	\$400 tax on ethanol blended gasoline
$800 \text{ gal. of motor fuel} \times 3\%$	=	24 gals. evaporation
$800 \text{ gal.} - 24 \text{ gal.}$	=	776 gal.
$776 \text{ gal.} \times \0.10	=	\$ 77.60
Fine	=	<u>\$ 20.00</u>
TOTAL	=	\$497.60 (\$400 + \$77.60 + \$20)

EXAMPLE 2.

Motor fuel	=	8,000 gal.
Alcohol	=	795 gal.
$8,000 \div 9$	=	889 gal. required alcohol
$8,795 \times .0101$	=	89 gal. short of alcohol
$888 - 795$	=	94 gal. short of alcohol

94 is greater than 89 which means that the entire blend is considered motor fuel and the tax is applied according to paragraph "c" above as follows:

$8,795 \text{ gals.} \times 3\%$	=	264 gals. evaporation
$8,795 \text{ gals.} - 264 \text{ gals.}$	=	8,531 gals. of motor fuel
$8,531 \times \$0.10$	=	\$853.10

EXAMPLE 3.

Motor fuel	=	8,000 gal.
Alcohol	=	885 gal.
$8,000 \div 9$	=	889 gal. required alcohol
$889 \text{ gal.} - 885 \text{ gal.}$	=	4 gal.

This total blend is considered ethanol blended gasoline because the blend is short by less than 5 gallons. The tax would be as follows:

$8,885 \text{ gals.} \times \0.05	=	\$444.25
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This rule is intended to implement Iowa Code section 452A.3.

701—64.5(452A) Tax reports—computations. Any person who receives motor fuel in the state of Iowa and any person licensed as a motor fuel distributor must file a monthly report showing the invoiced gallons of motor fuel received and the invoiced gallons subject to tax, and include therewith a remittance in the amount of tax due, if any. The report must be filed by anyone holding an uncanceled motor fuel distributor's license or any person who had "received" motor fuel during the reporting period. The report must be filed by the last day of the month following the month covered by the report. If a licensed distributor received no fuel for any month, the monthly report must still be filed when due, or the distributor will be subject to a \$10 penalty. (See Iowa Code section 452A.65.) The amount of tax due is computed as follows:

1. **ADD:** The total number of invoiced gallons received (include all fuel received and subsequently sold for export or exported out of state, sold to a licensed Iowa urban transit system, sold to the federal government, and sold for producing ethanol blended gasoline).

2. **DEDUCT:** The number of invoiced gallons sold for export or exported out of state, sold to a licensed Iowa urban transit system, sold to the state, any of its agencies, or to any political subdivision of the state (see subrule 64.3(4)), sold to the federal government and used by the distributor for producing ethanol blended gasoline (these deductions will not be allowed without the appropriate supporting documents, i.e., export schedules, exemption certificates, or statements). (See rule 64.4(452A) for the procedure for deducting motor fuel used to produce ethanol blended gasoline.)

3. **DEDUCT:** For periods prior to September 1, 1981. Three percent of the first 300,000 invoiced gallons remaining after the deduction in 64.5"2" and 1¼ percent of the invoiced gallons in excess of 300,000 after the deduction in 64.5"2."

4. **DEDUCT:** For periods after August 31, 1981, 2 percent of the first 300,000 invoiced gallons remaining after the deduction in 64.5"2" and 1 percent of the invoiced gallons in excess of 300,000 after the deduction in 64.5"2."

5. **MULTIPLY:** The net taxable gallons by the appropriate tax rate. This results in the tax liability.

6. **DEDUCT:** Any outstanding credit. This results in the tax due.

A remittance in the amount of the tax due should accompany the monthly report. The appropriate penalty, interest, and application of penalty, interest, and tax are discussed in rules 701—63.8(452A), 63.10(452A), and 63.11(452A).

These are only the computational factors in determining the taxpayer's liability, and should not be considered an enumeration or limitation of the information required in the report to be filed.

This rule is intended to implement Iowa Code sections 452A.3, 452A.8 and 452A.9.

701—64.6(452A) Distributors licensed. The following persons are required to be licensed as a distributor: (1) any person who first receives motor fuel within this state or (2) any person who acts as a distributor (selling motor fuel to dealers). The following persons may be licensed as a distributor: (1) any person having bulk storage for rail tank cars in the state for use or distribution in this state, and (2) any person having bulk storage for transport loads of 4,000 gallons or more for use or distribution in bulk by tank car or tank truck in this state. If a person neither receives motor fuel nor sells motor fuel to dealers for resale, that person need not be licensed as a motor fuel distributor. See rule 701—63.26(452A).

This rule is intended to implement Iowa Code sections 452A.4 and 452A.5.

701—64.7(452A) Credit to licensee—adjustments—limitations.

64.7(1) Credit to licensee—nonhighway—casualty loss. Any distributor, dealer or user licensed under Iowa Code chapter 452A who, after having received or paid the tax on motor fuel or special fuel, uses the fuel for purposes other than to propel motor vehicles, aircraft or watercraft, or loses the fuel, while owned, through accountable leakage or casualty, will be entitled to a credit. In order to obtain a credit, the distributor must hold an uncanceled distributor's license. A credit will not be allowed with respect to any motor fuel or special fuel purchased more than three calendar months prior to the date the claim is filed with the department or three calendar months from the time tax accrues, whichever is longer. No credit will be allowed if less than \$10 in amount. If the fuel was in storage where several fuel purchases were commingled, it is a rebuttable presumption that the fuel lost through casualty or used for nonhighway purposes was a part of the last delivery into the storage just prior to the withdrawal from storage or the loss. If a motor fuel distributor has not yet paid the tax, the distributor must pay the tax as if the loss or nonhighway use had not occurred and then request a credit. (See 701—subrules 63.17(1) and 64.7(4).)

64.7(2) Pumping credits. A credit will be allowed for taxes paid on fuel, once that fuel has been placed in the fuel supply tank of a motor vehicle, when the motor of that vehicle is used as a power source for off-loading procedures. Meter readings from the pump used in the off-loading procedure or the invoice, manifest or bill of lading number covering the product off-loaded must accompany the application for credit and the cost of the fuel must be indicated. The application for credit must be in writing, and the credit will be allowed as follows, unless a different amount of credit can be proven:

a. When using motor fuel (gasoline) or special fuel (diesel) to power the motor: (1) one-half gallon credit for each 1,000 gallons of liquid products pumped, and (2) three-tenths of a gallon credit for each ton of dry products pumped.

b. When using special fuel (LPG) to power the motor: (1) one gallon credit for each 1,000 gallons of liquid products pumped, and (2) three-tenths of a gallon credit for each ton of dry products pumped.

64.7(3) Adjustments to credit—shrinkage allowance—sales tax. The following adjustments will be made to a claim for credit of taxes paid on motor fuel or special fuel filed by a licensed distributor, dealer or user:

a. For periods prior to September 1, 1981. To compensate for the deduction allowed for shrinkage and administration in Iowa Code section 452A.8 the gallonage of motor fuel upon which a credit is requested by a motor fuel distributor shall be reduced by either 3 or 1¼ percent or a combination of the two, whichever is applicable. If the gross gallonage total for the month for which the credit is claimed remains above 300,000 gallons after being reduced by the gallonage upon which the credit is claimed, the credit will be reduced by 1¼ percent. If the gross gallonage total for the month for which the credit is claimed was below 300,000 gallons, the credit will be reduced by 3 percent. If the gross gallonage total for the month for which the credit is claimed exceeded 300,000 gallons when the tax was originally paid, and the credit request will reduce the gallonage below 300,000 gallons, the gallonage which was originally in excess of 300,000 gallons will be reduced by 1¼ percent, and the remainder of the gallonage upon which the credit is based will be reduced by 3 percent.

b. For periods after August 31, 1981. To compensate for the deduction allowed for shrinkage and administration in Iowa Code section 452A.8 the gallonage of motor fuel upon which a credit is requested by a motor fuel distributor shall be reduced by either 2 or 1 percent or a combination of the two, whichever is applicable. If the gross gallonage total for the month for which the credit is claimed remains above 300,000 gallons after being reduced by the gallonage upon which the credit is claimed, the credit will be reduced by 1 percent. If the gross gallonage total for the month for which the credit is claimed was below 300,000 gallons, the credit will be reduced by 2 percent. If the gross gallonage total for the month for which the credit is claimed exceeded 300,000 gallons when the tax was originally paid, and the credit request will reduce the gallonage below 300,000 gallons, the gallonage which was originally in excess of 300,000 gallons will be reduced by 1 percent, and the remainder of the gallonage upon which the credit is based will be reduced by 2 percent.

c. The claim for a credit of taxes on motor fuel or special fuel shall be reduced by the applicable Iowa sales tax, unless the motor fuel or special fuel has not been subject to "sale" as defined in section 422.42(2) or is used or purchased for a purpose exempt from Iowa sales tax under Iowa Code section 422.42(3) or 422.45 (e.g., farming, processing, governmental units, nonprofit educational institution). The sales tax shall be computed on the net cost of the motor fuel including any federal excise tax and excluding the state excise tax. *W. M. Gurley v. Army Rhoden*, 421 U.S. 200, 44 L.Ed 110, 95 S.Ct. 1605.

The following will demonstrate the applicability of this rule using figures for shrinkage applicable for the period prior to September 1, 1981. The following facts are enumerated for each of the examples: (1) net per gallon cost \$0.46; (2) nonrefundable federal excise tax \$0.04* per gallon; (3) state excise tax, \$0.10* per gallon; (4) the distributor "received" less than 300,000 gallons of motor fuel.

(*These rates are for illustrative purposes only and may not indicate the current statutory rate.)

1. The taxpayer requests the credit for a casualty loss of 1,000 gallons of motor fuel.

Credit requested on	1,000 gallons	
LESS: 3% (64.7(3) "a")	30 gallons	
Gallons subject to refund	<u>970</u> gallons	
MULTIPLIED BY: Rate of state excise tax paid	\$.10 /gallon	
Amount subject to refund	<u>\$ 97.00</u>	\$97.00
LESS: Sales tax (64.7(3) "c")		
Gallons subject to refund	970 gallons	
× (.46 + .04) cost basis	\$.50 /gallon	
Net Cost	\$485.00	
× sales tax rate*	.03	
Total Sales Tax	<u>\$ 14.55</u>	14.55
Credit		<u>\$82.45</u>

2. Taxpayer, a licensed distributor, requests a credit for taxes paid on 1,000 gallons of motor fuel the distributor "uses" for sales tax exempt farming purposes:

Credit requested on	1,000 gallons
LESS: 3% (64.7(3) "a")	30 gallons
Gallonage subject to refund	<u>970</u> gallons
MULTIPLIED BY: Rate of state excise tax paid	\$.10 /gallon
Amount subject to refund	<u>\$97.00</u>
LESS: Sales tax (exempt)	0
Credit	<u>\$ 97.00</u>

(*These rates are for illustrative purposes only and may not indicate the current statutory rate.)

64.7(4) *Credit memo.* Rescinded IAB 10/12/94, effective 11/16/94.

64.7(5) *Time for filing request for credit.*

a. *Casualty loss.* In the event fuel is lost through accident or leakage, the taxpayer must inform the department of such loss within 30 days of the loss. The notification must contain (1) the amount of gallonage lost or destroyed, and (2) a notarized affidavit sworn to by the person having immediate custody of the fuel at the time of the loss or destruction setting forth, in full detail, the circumstances of the loss or destruction. An application for credit must be submitted to the department within three calendar months of the loss.

b. *Nonhighway use.* An application for credit concerning fuel used for nonhighway purposes (including pumping credits) must accompany a periodic report once the \$10 amount has been accumulated. If the credit will become barred by the three-month statute of limitation, an application for credit may be filed separate from the current monthly or quarterly report.

A credit will not be allowed for less than \$10; therefore, these credits may be accumulated for a period of time not exceeding the statute of limitations for filing credits. The statute of limitations is either three calendar months from the date of purchase or three calendar months from the time the tax accrues, whichever time is longer. (See Iowa Code section 452A.16.)

Any application for credit must be filed within the time frame set out in this rule, or the credit will not be allowed.

The following example illustrates the application of this subrule:

Black Gold Oil Company received 10,000 gallons of motor fuel on April 2. On April 3, the storage tank in which this fuel was stored ruptured and 5,000 gallons were lost. Black Gold Oil Company must report the loss to the department by May 3, 30 days, and must file the application for credit by July 3, three calendar months. The motor fuel received on April 2 is received, and therefore, taxable as of that date. On the report for April, which the distributor must file by May 31, the distributor must include the entire 10,000 gallons received on April 2, as taxable and pay the tax thereon.

64.7(6) *Ready mix concrete and solid waste refuse vehicles.* For the periods beginning July 1, 1979, and April 1, 1987, respectively, tax on fuel used in the off-loading or mixing of cement and the loading and off-loading of solid waste will be refunded or credited on the basis of 30 percent of the fuel placed in the fuel supply tank of the vehicle provided proper records are maintained. Proper records shall consist of records of fills for each vehicle from bulk storage tanks or sales tickets where fuel is purchased directly from a service station. Each vehicle must be identifiable by a unit number so the department can trace fuel usage to specific vehicles. An additional allowance will be granted where it can be substantiated through (1) the use of separate meters which operate to measure the fuel when the vehicle is stationary or (2) the use of separate tanks which fuel the vehicle only when the vehicle is stationary, that the actual nonhighway fuel usage exceeds 30 percent.

This rule is intended to implement Iowa Code section 452A.16.

701—64.8(452A) Refund to nonlicensee—nonhighway use of ethanol blended gasoline. Any person not licensed as a distributor, dealer or user under Iowa Code section 452A.4 or 452A.36 is entitled to a refund of all taxes paid on motor fuel and special fuel which is used for any purpose other than in aircraft, watercraft or for propelling motor vehicles. A refund for the taxes paid on fuel used in the following manner shall also be allowed: (1) motor fuel or special fuel used in the operation of or propelling farm tractors, corn shellers, roller mills, feed grinders mounted on trucks, stationary gas engines or for cleaning or dyeing; (2) fuel used in motor vehicles, not operated on public highways, which is used in the extraction and processing of natural deposits; (3) fuel used in the watercraft of a commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to Iowa Code section 483A.2; (4) fuel used to produce ethanol blended gasoline less the tax due on ethanol blended gasoline (see subrule 64.4(3)); or (5) fuel used for producing denatured alcohol. In order to receive this refund, the claimant must (1) hold a refund permit, (2) submit the claim on a form provided by the department complete with the permit number, within four calendar months of the time the fuel was purchased, (3) the claim must be accompanied by the original invoice, credit card invoice, billing statement or a signed statement from the seller showing the purchase of the motor fuel or special fuel on which the refund is claimed, and (4) the claim must be signed under penalty of false certificate. The invoice must meet the following specifications: (1) original copy, (2) prepared by the seller, (3) department-approved paper which prevents erasure or alteration, (4) legibly written, (5) no corrections or erasures, and (6) serially numbered. The invoice must contain the following information: (1) name and address of seller, (2) name and address of purchaser, (3) the kind of fuel (i.e., gasoline (grade), diesel), (4) the gallonage in figures, (5) the gross price per gallon, (6) any and all taxes included in the sales price (including Iowa excise tax) separately as a price per gallon, (7) the total purchase price, and (8) that the total purchase price including taxes has been paid. See rule 701—63.14(452A) pertaining to credit card invoices. The claim must state the manner in which the fuel was or will be used and the equipment in which it was or will be used as well as the receptacles in which the fuel was stored. See Iowa Code section 452A.17.

A refund will not be paid with respect to any fuel taken out of this state in a fuel supply tank of a motor vehicle.

A refund will not be paid with respect to fuel used in the performance of a contract which is paid out of state funds unless the contract work contains a certificate made under penalty for false certificate that the estimate, bid or price included no amount representing fuel tax subject to refund.

The refund is available for fuel used in a motor vehicle, when the motor of that vehicle is used as a power source for off-loading procedures. The amount of the refund shall be determined the same as under subrule 64.7(2). See subrule 64.7(6), relating to fuel used in ready mixed concrete trucks, the provision of which shall also apply to this rule.

This rule is intended to implement Iowa Code section 452A.17.

701—64.9(452A) Refund permit. To obtain the refund provided for in Iowa Code chapter 452A and rule 64.8(452A) for nonhighway use, the claimant must have an uncanceled refund permit. The application for a refund is provided by the department and shall contain, but not be limited to, the following information: (1) the name and address of the applicant, (2) the occupation of the applicant, (3) the nature of the applicant's business, and (4) the number of and a description of the machines or equipment in which the motor fuel will be or has been used. The refund permit is issued without cost and shall remain in effect until revoked, canceled or until the permit becomes invalid.

This rule is intended to implement Iowa Code section 452A.18.

701—64.10(452A) Revocation of refund permit. The following violations will result in the revocation of the permit: (1) using a false or altered invoice in support of a claim, (2) making a false statement in a claim for refund or in response to an investigation by the department of a claim for refund, (3) refusal to submit the claimant's books and records for examination by the department, (4) moving from the county with which the claimant's refund permit is identified, and (5) nonuse for a period of one year. If the permit is revoked for reasons 1, 2, or 3 above, the permit shall not be reissued for a period of at least one year. If the permit is revoked for reasons 4 or 5 above, the permit will be reissued upon proper application. (See rule 701—7.24(17A) for revocation procedure.)

This rule is intended to implement Iowa Code sections 452A.18 and 452A.19.

701—64.11(452A) Income tax credit in lieu of refund. A refund which is allowed to a nonlicensee for nonhighway use under Iowa Code section 452A.17 may instead be taken as an income tax credit. This credit is not available for fuel used in motor vehicles which is subject to refund for off-loading procedures or for fuel used in watercraft. However, a commercial fisher may use the income tax credit. (See Iowa Code section 422.110(4).)

This rule is intended to implement Iowa Code section 452A.17(14).

701—64.12(452A) Refund to nonlicensee—casualty loss. When any person, not licensed under Iowa Code chapter 452A, loses in excess of 100 gallons of fuel, on which the fuel tax has been paid, through leakage or casualty, except evaporation, shrinkage or unknown causes, the person is entitled to refund of the fuel taxes paid on the fuel. A refund permit, as provided for in Iowa Code section 452A.18 and rule 64.9(452A), is not required. To qualify for the refund, the claimant must (1) notify the department in writing of the loss and the gallonage lost within ten days of the discovery of the loss and (2) file an affidavit with the department sworn to by the person having custody of the fuel, setting out the circumstances of the loss. This affidavit must be filed within 60 days of the filing of the original notice of the loss.

This rule is intended to implement Iowa Code section 452A.17.

701—64.13(452A) Reduction of refund or credit—sales tax. Under Iowa Code section 422.45(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 are exempt from Iowa sales tax. Therefore, unless the fuel is used for some other exempt purpose under Iowa Code section 422.42(3) or 422.45 (e.g., used for processing, used for agricultural purpose, used by an exempt government entity, used by a private nonprofit educational institution), the refund or credit of taxes on motor fuel or special fuel will be reduced by the applicable sales tax. See sales tax rule 701—18.37(422,423). The sale base upon which the sales tax will be applied shall include all federal excise taxes, but will not include the Iowa motor vehicle fuel tax. *W.M. Gurley v. Army Rhoden*, 421 U.S. 200, 44 L.Ed. 110, 95 S.Ct. 1605.

This rule is intended to implement Iowa Code section 452A.17.

701—64.14(452A) Audit of farming operations. When, upon audit, a person claiming fuel tax credits or refunds for farming operations is unable to justify such credits or refunds with detailed records of the actual use of the motor fuel, the department will use the tables listed below to estimate the motor fuel used for farming operations.

Table I will be used to estimate the amount of fuel used in field operations if the farmer possesses adequate records to indicate actual field operations or procedures. This table reduces each field operation to the amount of fuel per acre it generally requires to complete the operation.

Table II will be used to estimate the amount of motor fuel needed to produce one acre of each crop if the farmer does not possess adequate records to indicate actual field operations.

Table III will be used to estimate the fuel needed for livestock feeding operations.

Table IV will be used to estimate the fuel needed for cleaning operations used in livestock feeding operations.

Table I. Fuel Required for Various Field Operations Under Typical Iowa Conditions

Field Operation	Gallons/Crop Acre	
	Gasoline	Diesel
FERTILIZATION		
Spreading dry fertilizer, bulk cart	0.22	0.14
Anhydrous ammonia (30-inch spacing)	1.17	0.75
TILLAGE		
Shredding cornstalks	1.01	0.64
Moldboard plow	3.06	1.95
Chisel plow	1.87	1.20
Offset disk	1.51	0.96
Powered rotary tiller	2.60	1.60
Tandem disk, plowed field	1.05	0.67
Tandem disk, tilled field	0.89	0.58
Tandem disk, cornstalks	0.68	0.44
Field cultivate, plowed field	1.30	0.83
Field cultivate, tilled field	1.19	0.76
Spring-tooth harrow, plowed field	0.79	0.50
Spring-tooth harrow, tilled field	0.71	0.46
Peg-tooth harrow, tilled field	0.20	0.13

PLANTING (30-inch rows)*		
Planter only, tilled seedbed	0.54	0.35
Planter w/fert. and pesticide attach., tilled seedbed	1.00	0.65
Till-planter (sweep)	0.85	0.55
No-till planter (fluted coulter)	0.73	0.48
Harrow-plant combination	1.74	1.11
Rotary strip-till-plant	2.36	1.51
Grain drill	0.67	0.44

*Reduce fuel used by 10% for 40-inch row spacings, with plantings and cultivating operations

Field Operation	Gallons/Crop Acre	
	Gasoline	Diesel
WEED CONTROL (30-inch rows)*		
Sprayer, trailer type	0.22	0.13
Rotary hoe	0.27	0.17
Sweep cultivator	0.74	0.47
Rolling cultivator	0.62	0.40
Sweep cultivator, w/disk hillers	0.79	0.51
Powered rotary cultivator	1.14	0.73
HARVESTING		
Cutterbar mower	0.57	0.35
Hay conditioner, trailed	0.60	0.37
Mower-conditioner, PTO	0.88	0.57
SP windrower	1.00	0.65
Rake	0.40	0.25
Baler	0.77	0.50
Stack-forming wagon	0.87	0.55
Forage harvester		
Green forage	1.70	1.09
Haylage	2.30	1.46
Corn silage	7.06	4.51
High-moisture ground ear corn	3.43	2.20
Forage blower		
Green forage	0.57	0.37
Haylage	0.40	0.26
Corn silage	2.25	1.44
High-moisture ground ear corn	0.71	0.46
Combine, soybeans	2.29	2.41
Combine, corn	3.15	2.05
Corn picker	1.54	1.00
Hauling, field + 1/2 mile on graveled road		
Green forage	0.61	0.39
Haylage	0.33	0.22

*Reduce fuel used by 10% for 40-inch row spacings, with plantings and cultivating operations

Corn silage	2.22	1.55
Corn grain	0.33	0.22
Soybeans	0.13	0.09
Hauling, add following values to those above for each additional mile on gravel		
Green forage	0.22	0.16
Haylage	0.33	0.22
Corn silage	1.44	1.00
Corn grain	0.33	0.17
Soybeans	0.08	0.06

Table II. Estimates of Fuel Burned for Crop Production Under Average Soil and Weather Conditions in Iowa

Crop Production	Fuel Used Gallons/Crop Acre	
	Gasoline	Diesel
CROPPING SYSTEM		
Corn—conventional methods	10.50	7.60
Corn—plowing with minimum tillage planting	8.35	5.95
Corn—no plowing minimum	6.65	4.75
Corn harvested and stored as whole-plant silage		
Conventional methods	13.30	9.60
Plowing with minimum tillage	11.10	8.00
No plowing minimum tillage	9.45	6.75
Small grains—oats, barley, rye, wheat, etc.	4.70	3.35
Soybeans—conventional methods	10.00	7.20
Small grains—with plowing	7.20	5.20
Hay—dry cured, 3 cuttings, baled	13.30	9.60
Haylage—3 cuttings or dry chopped	20.00	14.43
Using combined type cutting with self-propelled cut, crush, window implement		
Hay—3 cuttings	8.00	5.75
Haylage—3 cuttings	14.65	10.55
Corn drying—		
with favorable drying conditions	1 gallon propane will dry 7 bushel	
with good drying conditions	1 gallon propane will dry 6 bushel	
with unfavorable drying conditions	1 gallon propane will dry 5 bushel	

Table III. Estimates of Fuel Burned for Livestock Feeding Operations Under Typical Iowa Conditions

Livestock Production (includes all fuel used to remove feed from storage, process and deliver to feeders)		Fuel Used Gallons/Animal or 100 birds produced	
Animal	Feeding Period	Gasoline	Diesel
Swine	Raise 1 pig to market including feeding sow and boar	0.45	0.33
Dairy	Cow milking 9,000 lbs. milk/year	1.11	0.83
	Cow milking 12,000 lbs. milk/year	1.50	1.11
	Heifer—1 year	0.45	0.33
Beef	Steers—grown from 400 to 1200 lbs.	2.00	1.44
	Heavy steers—grown from 700 to 1200 lbs.	1.11	0.83
	Heifers—grown from 400 to 850 lbs.	1.50	1.11
	Yearlings—grown from 650 to 1200 lbs.	1.95	1.39
	Cows—winter and raise calf to 400 lbs.	1.00	0.72
Sheep	Lambs—native, from birth to market	0.67	0.50
	Feeder lambs—50 lbs. to market	0.14	0.11
Livestock Production (includes all fuel used to remove feed from storage, process and deliver to feeders)		Fuel Used Gallons/Animal or 100 birds produced	
Animal	Feeding Period	Gasoline	Diesel
Poultry*	Raise 100 broilers from birth to market	0.83	0.61
	Raise 100 pullets from birth to laying	3.00	2.16
	Layers for 1 year—100 birds	8.30	6.00
	Raise 100 turkeys from birth to market	8.30	6.00

*Does not include fuels used for brooding of pigs, chicks, or poults.

Table IV. Estimates of Fuel Burned for Cleaning Lots and Barns and Hauling for Field Spreading under Typical Iowa Conditions

Type of Livestock Operations	Fuel Used Gallons/Animal Produced	
	Gasoline	Diesel
Cleaning beef feedlots with bedding used in housing		
Per animal marketed	2.50	1.78
Cleaning beef feedlots, no bedding used in housing; for feedlots holding up to 1,000 cattle at one time		
Per animal marketed	1.39	1.00
Cleaning beef feedlots without housing, 1,000 to 4,999 cattle on feed at one time		
Per animal marketed	0.56	0.39
Cleaning beef feedlots, without housing, over 5,000 cattle on feed at one time		
Per animal marketed	0.45	0.33
Cleaning dairy buildings and lots with bedding used in housing (includes scraping lots) per year		
For each milk cow in herd	7.50	5.40
Cleaning dairy buildings with liquid manure* collection, storage and hauling, per year		
For each milk cow in herd	10.00	7.20
Cleaning swine confinement finishing barns with liquid manure* system, haul and spread		
Per pig raised to market	0.45	0.33
Cleaning swine finishing barns and lots; may be bedded		
Per pig raised to market	0.33	0.25
Cleaning sow housing, per year		
For one sow (includes cleaning farrowing house)	2.90	2.10

*If liquid manure is field injected into the soil to meet EPA or Iowa standards to control pollution, add 20% to the amount of fuel required.

This rule is intended to implement Iowa Code section 452A.17.

701—64.15(452A) State of Iowa, political subdivisions, or regional transit systems.

64.15(1) For periods prior to July 1, 1983. When motor fuel is sold directly to the state of Iowa, its agencies, or a political subdivision of the state, it shall be sold tax-paid. This tax will then be refundable to the exempt body purchasing such fuel.

64.15(2) For periods after June 30, 1983. When motor fuel is sold directly to the state of Iowa, its agencies, a political subdivision of the state, or a regional transit system, is used for public purposes or a purpose specified in Iowa Code section 452A.57(11), and is placed into a storage tank, of any size, owned or used exclusively by the state, its agencies, a political subdivision of the state or a regional transit system, the motor fuel may be sold tax-free. (See subrule 64.3(4).) Any motor fuel sold to the state of Iowa, its agencies, a political subdivision of the state or a regional transit system, which is not placed into storage, as defined above, shall be sold tax-paid and the refund provisions apply.

64.15(3) The refund is not available to agencies or instrumentalities of a political subdivision, but rather, only to the state of Iowa, agencies of the state of Iowa, and political subdivisions of the state of Iowa. The general attributes and factors in determining if an entity is a political subdivision of the state of Iowa are: (1) the entity has a specific geographic area, (2) the entity has public officials elected at public elections, (3) the entity has taxing power, (4) the entity has a general public purpose or benefit, and (5) the foregoing attributes, factors or powers were delegated to the entity by the state of Iowa. (1976 O.A.G. 823.) The refund is also not available to employees of an exempt governmental unit who purchase fuel individually and are later reimbursed by the exempt unit. The name of the exempt governmental unit must appear on the invoice as the purchaser of the fuel or the refund will not be allowed. *Alabama v. King & Bozer*, 314 U.S. 1 (1941). These refunds may be obtained by filing a quarterly report (calendar quarter) with the department setting out (1) the name of the exempt body, (2) the amount of fuel purchased tax-paid, (3) the amount of tax subject to refund, and (4) the registration number of the exempt body. The claim for refund must be filed with the department, as determined by rule 701—63.6(452A), within one year of the time the tax was due; therefore, if in any one quarter, the exempt body has no refund coming, or a very small refund coming, the exempt body need not file. The exempt body so filing must retain the invoice, or other evidence of purchase meeting the same requirements, for a period of three years. (See rule 701—63.13(452A) for requirements as to form.) And such documents shall be available for inspection by the department upon request. The request of all taxes paid on special fuel shall be reported at the same time, in the same manner, and subject to the same requirements.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.35.

701—64.16(452A) Terminal withdrawals—meters. Any refinery or terminal within this state must be fixed with meters which totalize the gross gallons withdrawn. All bills of lading or manifests must show the gross gallons withdrawn. A temperature-adjusted or other method shall not be used except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All fuel withdrawn from a refinery or terminal within this state must pass through these meters. The meters and accompanying accessories must first be approved and sealed by the department.

This rule is intended to implement Iowa Code sections 452A.2, 452A.8, 452A.15(2), 452A.59 and 452A.63.

701—64.17(452A) Terminal reports—records. Each terminal operating within this state must file monthly, with the same time limitations as apply to distributor's monthly reports, an inventory report with the department. The report shall include, but not be limited to, the following information:

1. The name of the company who owns and operates the terminal.
2. The location of the terminal.
3. The month covered by the report.
4. The opening inventory.
5. The total receipts for the month and the dates thereof.

6. The total withdrawals for the month, including as to each withdrawal: (a) the amount withdrawn, (b) the bill of lading number, (c) the date of withdrawal, (d) the consignor, (e) the consignee, (f) the person for whose account the motor fuel was withdrawn.

7. The closing inventory.

8. The signature of the person responsible for preparing the report.

This rule is intended to implement Iowa Code section 452A.15(2).

701—64.18(452A) Method of reporting taxable gallonage. For periods beginning September 1, 1981. The exclusive method of determining gallonage of any purchase or sale of motor fuel or special fuel and distillate fuel shall be on gross-volume basis. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refineries.

This rule is intended to implement Iowa Code section 452A.8 and Acts of the Sixty-ninth General Assembly, Second Extraordinary Session 1981, chapter 2.

701—64.19(452A) Transportation reports. The reports required under Iowa Code section 452A.15(1) are to be filed by (1) railroad carriers, (2) common motor carriers, contract motor carriers, (3) distributors and dealers transporting fuel for others, and (4) anyone else transporting fuel from without the state and unloading it at other than terminal storage within the state. The report shall include (1) all fuel which was imported into Iowa and unloaded at other than terminal storage, (2) all fuel withdrawn from Iowa terminal storage and delivered in Iowa, and (3) all fuel withdrawn from Iowa terminal storage and exported from Iowa. These reports must be filed monthly and shall show as to each delivery:

1. The name and address of the person to whom actually delivered.

2. The name and address of the originally named consignee, if delivered to any other than the originally named consignee.

3. The point of origin, the point of delivery, and the date of delivery.

4. The number and initials of each tank car and the number of gallons contained therein, if shipped by water.

5. The name of the boat, barge or vessel, and the number of gallons contained therein, if shipped by water.

6. The registration number of each tank truck and the number of gallons contained therein, if transported by motor truck.

7. The manner, if delivered by other means in which the delivery is made.

8. Such additional information relative to shipment of motor fuel as the department of revenue may require.

This rule is intended to implement Iowa Code section 452A.15(1).

701—64.20(452A) Bill of lading or manifest requirements. Whenever a bill of lading or manifest is required to be issued, carried, retained or submitted by these rules, it shall meet the following minimum requirements:

1. Contain the name and address of the refinery, terminal or point of origin.

2. Contain the date of withdrawal or import.

3. Contain the name of the shipper-seller-consignor.

4. Contain the name of the purchaser-consignee.

5. Contain the place of actual destination.

6. Contain the name of the transporter.

7. Have indicated thereon: (a) the gross gallons by fuel type, and (b) the gross gallons adjusted to 60 degrees Fahrenheit for liquefied petroleum gas.

8. Have machine printed thereon a serial number of not less than four digits.

This rule is intended to implement Iowa Code sections 452A.3, 452A.8, 452A.10, 452A.12, 452A.13, and 452A.60.

701—64.21(452A) Price posting.

64.21(1) *Persons who must post the price.* Every distributor or other persons selling motor fuel in this state to a person who will resell the fuel to dealers in this state must post the price and any discounts of such motor fuel. This provision does not apply to persons not selling motor fuel, nor does it apply to distributors who do not sell the motor fuel for resale to dealers in this state. If a person only sells directly to dealers or to users, then that person need not post the price or the discounts of the motor fuel under Iowa Code section 452A.20 and this rule.

The following examples will demonstrate the application of this rule:

1. The XYZ Oil Company owns motor fuel stored in terminal T and sells the fuel to A, a motor fuel dealer. The XYZ Oil Company would not have to post its prices, assuming A is its only customer, because it does not “sell motor fuel for resale to dealers,” but rather sells directly to the dealer.

2. The XYZ Oil Company owns motor fuel stored in terminal T and sells the fuel to A, an Iowa licensed motor fuel distributor. A sells the motor fuel only to ultimate consumers. Assuming A is XYZ Oil Company’s only customer, the XYZ Oil Company would not have to post its prices because it is not “selling the motor fuel for resale to dealers.”

3. The XYZ Oil Company owns motor fuel stored in terminal T and sells the fuel to A, an Iowa licensed distributor. A sells the fuel to B, a motor fuel dealer, and also sells to C, an ultimate consumer of motor fuel. The XYZ Oil Company would have to post its prices because it is selling to a distributor who is reselling the fuel to a dealer, and, therefore, XYZ Oil Company would have to conform to the posted prices. However, A would not have to post prices because A is selling directly to dealers and consumers and is not “selling motor fuel for resale to dealers.”

4. The XYZ Oil Company owns motor fuel stored in terminal T, which fuel it sells to A, an Iowa licensed distributor. A sells the fuel to B, a dealer of motor fuel, and to C, an Iowa licensed distributor, who in turn sells the fuel to D, a dealer of motor fuel. Both the XYZ Oil Company and A would have to post their prices because both are “selling motor fuel for resale to dealers.” C would not have to post prices because C is selling the motor fuel directly to dealers and is not “selling motor fuel for resale to dealers.”

64.21(2) *Information required to be posted.* When a person is required to post the prices of motor fuel, the posting must include: (1) the net price per gallon of each grade of motor fuel, (2) the amount of any state excise tax per gallon, (3) the amount of any federal excise tax per gallon and (4) the total price per gallon. If any rebate, discount, commission or other concession is granted by the person posting the prices of such a nature as will reduce the cost or price to any purchaser, the conditions, quantity and amount of such rebate, discount, commission or other concession must be posted as a part of the posted price.

64.21(3) *Place of posting.* The placards required to be posted by Iowa Code section 452A.20 and this rule must be posted at each and every place of business, including bulk plants, which the person required to post prices operates in this state. This includes locations where the motor fuel is sold for resale to dealers and locations where the motor fuel is available for sale for resale to dealers. The placard must be posted in a conspicuous place most accessible to the public.

64.21(4) Department approval. Prior to posting prices, the person so posting must obtain approval from the department as to the form of the placard to be posted. The department is concerned only with the form of the placard posted and is not concerned with the price charged or any rebates given. Once the form of the placard has been approved, the person posting the prices may alter the price or other information posted at will so long as the form of the placard remains the same. (See 1968 O.A.G. 1011.)

This rule is intended to implement Iowa Code section 452A.20.

701—64.22(452A) Contract carriers. When motor fuel is sold directly to a contract carrier who has a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school, it shall be sold tax-paid. This tax will then be refundable to the contract carrier. A refund requested by contract carriers will be reduced by the applicable sales tax unless otherwise exempt. To obtain a refund the contract carrier must apply to the department for a refund registration.

The name of the contract carrier must appear on the invoice as the purchaser of the fuel or the refund will not be allowed. *Alabama v. King & Bozer*, 314 U.S. 1 (1941). These refunds may be obtained by filing a quarterly report (calendar quarter) with the department setting out (1) the name of the contract carrier, (2) the amount of fuel purchased tax-paid, (3) the amount of tax subject to refund, and (4) the registration number of the contract carrier. The claim for refund must be filed with the department, as determined by rule 701—63.6(452A), within one year of the time the tax was due, therefore, if in any one quarter, the contract carrier has no refund coming, or a very small refund coming, they need not file. The contract carrier so filing must retain the invoice, or other evidence of purchase meeting the same requirements, for a period of three years. (See rule 701—63.13(452A) for requirements as to form.) The documents shall be available for inspection by the department upon request. The request for refund of taxes paid on special fuel shall be reported at the same time, in the same manner, and subject to the same requirements. See 701—subrule 65.15(2).

This rule is intended to implement Iowa Code sections 452A.3 and 452A.35.

[Filed 10/12/79, Notice 8/22/79—published 10/31/79, effective 12/5/79]

[Filed 2/1/80, Notice 12/26/79—published 2/20/80, effective 3/26/80]

[Filed emergency 6/9/80—published 6/25/80, effective 6/9/80]

[Filed 11/21/80, Notice 10/15/80—published 12/10/80, effective 1/14/81]

[Filed 6/5/81, Notice 4/29/81—published 6/24/81, effective 7/29/81]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 8/13/82, Notice 7/7/82—published 9/1/82, effective 10/6/82]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]

[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]

[Filed 10/18/85, Notice 9/11/85—published 11/6/85, effective 12/11/85]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 11/25/87, Notice 10/21/87—published 12/16/87, effective 1/20/88]

[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]

[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]

[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]

[Filed 9/23/94, Notice 8/17/94—published 10/12/94, effective 11/16/94]

[Filed 9/17/99, Notice 8/11/99—published 10/6/99, effective 11/10/99]