

701—260.7(452A) Refunds. Refunds are allowable for the tax paid on motor fuel and undyed special fuel as identified in Iowa Code section 452A.17. Iowa Code section 452A.17(1) “a” contains the complete list of allowable refunds.

260.7(1) Federal government. For fuel sold to the United States or to any agency or instrumentality of the United States, the tax is subject to refund regardless of how the fuel is used. The name of the federal agency or instrumentality must appear on the invoice as the purchaser of the fuel for the purchase to be eligible for a refund.

a. The department will consider the factors found in 701—subrule 212.12(3) to determine whether an organization is an instrumentality of the United States government.

b. 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.

c. Ineligible for refunds. Receivers or trustees appointed in the federal bankruptcy proceedings are subject to the excise tax and ineligible for refund. The refund is not available to employees of the federal government who purchase fuel individually and are later reimbursed by the federal government.

260.7(2) The state and political subdivisions.

a. *Generally.* Fuel sold to the state of Iowa, agencies of the state, or any political subdivision of the state and that is used for public purposes may be eligible for a refund. This refund is not available to agencies or instrumentalities of political subdivisions.

b. *Political subdivision attributes.* The general attributes and factors in determining if an entity is a political subdivision of the state of Iowa are whether the entity has:

- (1) A specific geographic area;
- (2) Public officials elected at public elections;
- (3) Taxing power;
- (4) A general public purpose or benefit; and
- (5) The attributes, factors or powers listed in subparagraphs 260.7(2) “a”(1) to “a”(4) delegated to it by the state of Iowa.

c. *Employees.* The refund is not available to employees of a governmental unit who purchase fuel individually and are later reimbursed by the governmental unit. The name of the governmental unit must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(3) Contract carriers.

a. Fuel sold 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 is refundable.

b. If the contract carrier also uses fuel for purposes other than the transportation of pupils, the refund will be based on that percentage of the total amount of fuel purchased which reflects the pupil transportation usage.

c. A refund requested by a contract carrier will be reduced by the applicable sales tax unless otherwise exempt. The name of the contract carrier must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(4) Unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and home heating. Fuel used in unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and fuel used for home heating.

260.7(5) Idle time.

a. *Claims.* Persons who wish to claim a refund for idle time (the engine is running but not propelling the vehicle) must first apply to the department and provide statistical information on how the refund amount will be calculated.

b. *Qualification.*

(1) Normally, to qualify for a refund the vehicle must be equipped with an on-board monitoring device that records the actual time the engine is idling and the amount of fuel consumed while idling.

(2) If the device only records the idle time and not fuel used, the refund amount will be calculated at one-half gallon of fuel consumed per one hour of idle time.

(3) The computation must also consider the miles driven in Iowa versus total miles driven. The department will require a review of interstate carrier reports before approval of the computation method.

260.7(6) Power takeoff.

a. Generally. Persons operating vehicles that have auxiliary equipment powered by the power takeoff may apply for a refund for that portion of the fuel used for powering the auxiliary equipment.

b. Exempt percentage. The person requesting the refund must furnish the department with statistical information on how the exempt percentage is established. The percentage can be established by using the following methods:

(1) Determine the actual fuel usage by the hour while the auxiliary equipment is in use compared to total hours the engine is running.

(2) Establish total miles per gallon for the vehicle when auxiliary equipment is not in use compared to miles per gallon while the equipment is in use.

(3) Other computation methods to be reviewed by the department prior to approval.

260.7(7) Fuel used in relation to cement and solid waste. It has been predetermined that tax on fuel used in the mixing of cement into concrete, the off-loading of the concrete, and the loading and off-loading of solid waste will be refunded 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 tax-paid 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 the use of separate meters that operate to measure the fuel when the vehicle is stationary or the use of separate tanks that fuel the vehicle only when the vehicle is stationary that the actual nonhighway fuel usage exceeds 30 percent.

260.7(8) Refrigeration units (reefers).

a. Generally. Tax paid on fuel for reefer units is subject to refund.

b. Documentation. The person must maintain records of fuel purchases to substantiate the tax-paid purchases. Invoices must meet the criteria set forth in rule 701—259.11(452A). In addition, the invoices must separately state fuel purchased and placed in the reefer unit or the person must provide records establishing the amount of fuel used in a reefer unit.

260.7(9) Pumping credits.

a. Generally. A refund 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.

b. Documentation. 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 be retained.

c. Claim amounts. Unless a different amount can be proven, the claims for refund will be:

(1) One-half gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using motor fuel or undyed diesel fuel to power the motor; and

(2) One gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using L.P.G. to power the motor.

260.7(10) Transport diversions.

a. Generally. When a transport load of fuel is sold tax-paid with a destination in this state and later diverted to a destination outside the state, the person who actually paid the Iowa tax is entitled to a refund.

b. Refund claims. To secure a refund, the person must file a completed claim form provided by the department with supporting documentation including a copy of the bill of lading, invoices, or document showing where and to whom the fuel was delivered, a copy of the reporting form, and evidence of payment to the state where the fuel was actually delivered.

260.7(11) Casualty loss.

a. Notification. In the event fuel is lost or destroyed through fire, explosion, lightning, flood, storm, earthquake, terrorist attack, or other casualty, the taxpayer has ten days from the discovery of the loss to

inform the department in writing of such loss. The notification must contain the amount of gallonage lost or destroyed, which must be in excess of 100 gallons.

b. Refund. An application for refund must be submitted to the department within 60 days of the notification. This application must contain 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 and the number of gallons.

c. Presumption when fuel is in storage. If the fuel was in storage where several fuel purchases were commingled, it is a rebuttable presumption that the fuel lost through casualty was a part of the last delivery into the storage just prior to the loss.

d. Exclusion from refund. No refund is allowed for fuel lost through evaporation, theft, normal leakage, or unknown causes. However, leakage resulting from a major accident or catastrophe is subject to refund.

260.7(12) *Exports by eligible purchasers (distributors).* Distributors who have purchased tax-paid fuel and sell the fuel to consumers outside the state may apply for a refund of the Iowa tax paid. The distributor must retain records as provided in rule 701—259.2(452A) to support the request for refund.

260.7(13) *Blending errors for special fuel.*

a. Dyed special fuel commingled with undyed special fuel.

(1) If dyed special fuel is inadvertently mixed with tax-paid undyed special fuel to the extent that the undyed fuel must have additional dye added to meet federal dyeing requirements to qualify as exempt dyed fuel, the tax is refundable on the undyed special fuel. The refund request must contain the number of gallons of undyed fuel lost through the mixing error and documentation as to how the gallonage was determined.

(2) The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

b. Motor fuel commingled with special fuel.

c. If motor fuel is blended in error with dyed special fuel to produce a commingled product that must be destroyed or refined for subsequent use, the tax-paid fuel is subject to refund.

d. The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

260.7(14) *Native Americans.*

a. Generally. Sales by Native Americans to others of their own tribe located on federally recognized Native American reservations or settlements of which they are tribal members are exempt from the tax.

b. Purchases of fuel by seller. Fuel must be purchased by the Native American seller with the tax included in the purchase price unless the seller's status under a particular license authorizes the seller to purchase tax-free fuel.

c. Purchase of fuel by purchasers. Exempt sales from a Native American seller who purchased fuel with the tax attached to a Native American purchaser are eligible for refund of tax paid. Either the purchasers can file a claim for refund of the tax paid or the purchaser's tribe can file a claim for refund of the tax paid by the tribe on the fuel sold to the purchaser.

d. Recordkeeping. Native American sellers are subject to the recordkeeping requirements of Iowa Code chapter 452A.

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

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