TAXPAYER SERVICE DIVISION

FYI – For Your Information

Tax Refunds for Exempt Use of Fuel

WHEN ARE REFUNDS ALLOWED?

Colorado tax law allows for a refund of fuel tax paid for gasoline, aviation fuel, and special fuels when the fuel is used for approved commercial purposes off Colorado roads. Refunds are not allowed for fuel taxes paid on fuel used for recreational purposes.

QUALIFIED REFUNDS BY FUEL TYPE

Gasoline and Special Fuels

Fuel used to power motor vehicles over the road is taxable and does not qualify for a fuel tax refund. This includes farm or ranch vehicles driving over public access roads.

A refund may be claimed for fuel tax paid on gasoline or special fuel purchased in Colorado and used for the following purposes [§39-27-103(3)(a), C.R.S.]:

- Operating stationary engines, motor boats or motor vehicles on or over fixed rails for commercial purposes.
- Operating tractors, trucks, or other farm implements or machinery ***off-road*** when used for agricultural purposes on farms or ranches.
- Cleaning and dyeing.
- Operating any motor vehicle or machine owned or operated by the United States or any of its agencies, the state of Colorado or any of its agencies, any town, city, county, or Colorado school district, and any other political subdivision of Colorado.
- Any other use of equipment or machinery for commercial purposes off public roads.

Aviation Fuels

A refund may be claimed for fuel tax paid on aviation fuels purchased in Colorado and used for the following purposes [§39-27-103(3)(a) C.R.S.]:

- Operating a state licensed agricultural applicator aircraft from a private landing facility used solely and exclusively for agricultural applications.
- Aviation fuel tax will only be refunded to a maximum of 50 percent of tax paid.
- Aircraft operated by scheduled air carriers or commuter airlines operating flights on a regular schedule.

Motor fuel used for aviation purposes (listed above) on which the gasoline or special fuel tax has been paid qualify for a refund of the motor fuel tax paid to the extent it exceeds the aviation fuel tax due.

Fixed Based Operators (FBOs) at airports may request a fuel tax refund for fuel sold to US government agencies, when the tax is not paid by the government agency (US Air Force or military aircraft). The FBO must comply with the fuel tax refund regulations and processing procedures. Original invoices (DD form 1898 or contract billing to the agency) showing the sale to the US government entity and invoices for fuel purchased during the period to cover the sales to the government agency must be retained for a period of three years and made available upon audit request. The purchase invoices from the fuel distributor must show that the state fuel tax was paid.

Colorado Department
of Revenue
Taxpayer Service Division
1375 Sherman St.
Denver, CO 80261

Fuel Tax: (303) 205-8205
Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)

www.taxcolorado.com

If sales to the government are from inventory, an inventory report must be retained for audit purposes for three years from the date of filing for the fuel tax refund.

APPLICATION FOR REFUND PERMIT AND ACCOUNT

To apply for a refund permit and account you must complete a "Gasoline/Special Fuel Tax Refund Permit Application", (DR 7189), and submit it to the Colorado Department of Revenue.

The application may be submitted before or at the time of the first refund claim. Upon approval of the application, the department will issue a refund permit number and refund claim forms with the approved exemption percentage to calculate the amount of the refund allowed.

The approved exemption percentages are established from the historical average in an industry or from an industry study provided by an industry group. Your application must identify the industry that accurately describes your business, fuel use, and equipment.

Requirements include:

- The method used to determine an industry percentage for the exempt portion of fuel used by your business in its operations.
- A list of all equipment using fuel, all fuel operations, and seasonal or cyclical events that might affect business operations and fuel use.
- Explanation of the measuring method and the application used to determine typical business fuel use of vehicles, equipment, and machinery in your business operations. Information and testing results provided by a manufacturer will be considered for explanation of the measuring method and percentage derived.
- Fuel records and data to support total fuel use, exempt use, and non-exempt use of fuel in your business.
- Period of time for study or test that includes a period covering cyclical or seasonal impacts to cover low and high points of fuel usage for exempt or non-exempt purposes. If the business does not encounter these trends, provide information to support that no cyclical or seasonal trends affect your business.

Account Changes

Any changes in the nature of the business, account name, DBA, ownership, address, equipment, storage capacity, or fuel use must be sent in writing to the:
Colorado Department of Revenue
Taxpayer Service Division
Special Tax Section - Room 200
1375 Sherman St.
Denver, CO 80261

Refund permits/accounts are not transferable. A new application must be submitted for new businesses or changes in ownership.

Written notification will be sent four to five weeks after the application is received at the Department of Revenue. If the application is approved you will receive your permit/account number. Refund claim forms will be sent each calendar quarter during the month following the refund quarter.

REFUND FILING PROCEDURES

A "Fuel Tax Refund Claim" (Form **DR 7118)** will be mailed for each calendar quarter, the month following the reporting quarter. For example a claim form for April through June will be mailed in early July.

The refund claim form is preprinted with your name, account number, the quarterly filing period, and the pre-approved industry percentage. This is the only percentage that will be allowed for use to calculate your fuel tax refund.

When submitting a fuel tax refund claim, you may file only once per quarter; but you are not required to file a claim each quarter. Fuel purchases claimed must be filed no later than 12-months from the date of purchase. Any claim for refund for purchases exceeding the 12-month statute of limitations will be denied.

Refunds **are not allowed** on purchases of fuel in quantities of less than twenty gallons, **unless included with a refund claim on which the total refundable gallons exceed 20 gallons**. This limitation does not apply to governmental agencies or political subdivisions.

The Fuel Tax Refund Claim may be submitted without fuel purchase invoices. However, these invoices must be retained for a period of three years from the date of purchase or the date of the refund claim filing, whichever is later. The invoices must be made available upon request by the Colorado Department of Revenue. Invoices must show the following information:

- Dealer's name and address, and address of delivery.
- Purchaser's name and address.
- Correct date of sale and delivery; month, day, and year.
- The kind and quantity of fuel sold.
- Price per gallon of fuel, the total amount of Colorado tax and total amount paid.
- Notation showing payment and signature of dealer.

Electronic invoices are acceptable if the information items (above) are included on the electronic invoice.

Fuel purchases must support exempt and non-exempt fuel usage of the account's vehicles and equipment.

If your fuel purchase invoices do not meet the specific requirements and you are audited your claims will be disallowed and your permit/account can be closed.

Allow four to five weeks for the processing of your refund claim. For refund inquiries have your permit/account number, FEIN or social security number, the type of fuel claimed, gallons, and amount of your claim readily available.

Change in Business Operations Affecting Fuel Use and the Exempt Percentage

If you have a change in business operations which affects your business' fuel use on an established account, provide the TPS Fuel Unit with information to support the change for review and approval. Documentation **must be** submitted to show the business change, change in equipment, and the change in operations to include exempt, non-exempt, and total fuel usage. The documentation **must** include actual records for a year to account for cyclical or seasonal change affecting the business. Suggested data might include equipment and vehicle records and fuel use, actual mileage over the road, miles per gallon, and include inventory records of fuel and equipment. Any request for a change without supporting documentation **will be disallowed.**

Protest Procedures of Industry Percentages Assigned to an Account and Rejection of Claims

If you wish to protest an assigned industry percentage you must submit data to support an alternative percentage. Suggested data to support the protest might include actual data for total fuel purchased and used, total mileage over the road, miles per gallon, equipment and vehicle fuel use, and inventory records of fuel and equipment. The data must be accurate information for a year to account for cyclical or seasonal operations when applicable. The data must support the alternative percentage.
Protests submitted without supporting documentation **will be disallowed.**

Protests may be submitted to the:
Taxpayer Service Division
Special Tax Section
1375 Sherman St., Room 200
Denver, CO 80261

FURTHER INFORMATION

FYIs and commonly used forms are available on the Web at *www.taxcolorado.com*

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.