



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

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April 1, 2015

The Honorable Steve Thompson
The Honorable Mark Neuman
Co-chairs, House Finance Committee
State Capitol
Juneau, AK 99801

Delivered Electronically via Email:

Dear Rep Thompson and Rep. Neuman:

I am writing to respond to questions that were raised during the March 25 hearing in your committee on HB 158, "An Act relating to a refined fuel surcharge." The analysis in this letter is based on work draft CS HB 158(FIN)\E.

First Question, from Rep. Neuman:

Explain in detail the various exemptions to the current motor fuel tax and which of these would and would not also be exempt in the proposed Refined Fuel Surcharge.

Answer:

The exemptions in current law are listed within the definition of "motor fuel," in AS 43.40.100(2). In the below table, we list these exemptions, indicate whether they are or are not also exempted in Sec. 2 of CSHB 158(FIN)\E, and indicate the average amount of fuel that was exempted from tax in Fiscal Years 2013-2014.

Category	Reference	Gallons (million)	Exempted in HB 158?
Total Reported Fuel Sales		1,555	n/a
Off-highway use	AS 43.40.030 (note: for this fuel, tax is paid at 8 cents and the refunded at 6 cents)	55	No
Exported	AS 43.40.100(2)(A)	61	Yes
Foreign Flights	AS 43.40.100(2)(B)	481	Yes
Utilities / Power Plants	AS 43.40.100(2)(C),(D),(H),(K)	33	No
Charitable Institutions	AS 43.40.100(2)(E)	1	No
Federal, State, and	AS 43.40.100(2)(G)	103	Yes

Local Government			
Heating Oil	AS 43.40.100(2)(I)	109	No
Other	AS 43.40.100(2)(K)	15	No
Total Taxable (Motor Fuel)		627	
Total Subject to Surcharge (HB 158)		930	

As you can see, the primary fuel types that would be subject to the surcharge while exempted from the motor fuel tax are heating fuel, fuel used in a vehicle for off highway use, and sales to utilities and power plants. In addition, much of the fuel that is initially taxed and on which the tax is later refunded is believed to also consist of heating fuel.

Second Question, from Rep. Pruitt

Would a UPS flight from a foreign country that refueled in Alaska and continued on to Memphis be subject to the Motor Fuel tax?

Answer:

In general, yes. So long as the flight is characterized as “continuing,” which primarily means having the same flight number, that fuel would be exempt per AS 43.40.100(2)(B)(ii).

There is interesting legislative back story to this provision. The initial statute language in .100(2)(B) was limited to flights to foreign countries. The most recent major changes to the motor fuel tax statutes were in HB 63 in 1997, by Rep. Therriault of North Pole. In that bill, the “continuing from” language was added, along with the refinery expansion / voluntary Alaska Hire provisions in AS 43.40.092. It is clear from reading the legislative history that the “continuing from” language was added in large part to level the playing field for jet fuel manufactured in Alaska.

Much of the jet fuel imported into Alaska is imported from foreign countries. If used in international flights (including continuing flights), this “bonded” fuel is exempt from local taxation under federal law. Therefore, elimination of the “continuing from” language, although it would potentially add many gallons to the tax base, would only tax fuel from in-state refiners.

I hope you find this information is useful. Please let me know if we can provide any additional information.

Regards



Ken Alper
Director, Tax Division

Cc: Lacy Wilcox, Office of the Governor
Commissioner Larry Hartig, Department of Environmental Conservation
Deputy Commissioner Jerry Burnett, Department of Revenue