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§ 43.31.171

REVENUE AND TAXATION

§ 43.40.010

Sec. 43.31.171. Civil penalties.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220.

Editor's notes. — The repealed section derived from § 2, ch. 24, SLA 1970; § 3, ch. 166, SLA 1976.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Secs. 43.31.360 — 43.31.390.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed sections derived from § 2, ch. 24, SLA 1970.

Chapter 35. Coin-Operated Devices and Punchboards.

Article 1. Coin-Operated Amusement and Gaming Devices.

Section

80. [Repealed]

Sec. 43.35.080. Penalties.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220. For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-3-3 ACLA 1949; § 3, ch. 142, SLA 1960; § 2, ch. 58, SLA 1971.

Chapter 40. Motor Fuel Tax.

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section

- 10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
- 20. [Repealed]
- 30. Refund for nonhighway use
- 35. Other refunds and credits

Section

- 40. [Repealed]
- 50. Refund claim by affidavit
- 80. Examination of books and records
- 90. [Repealed]
- 100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

- (1) the tax on aviation gasoline is four cents a gallon,
 (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and
 (3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

- (1) the tax on aviation gasoline consumed is four cents a gallon,
 (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and
 (3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10 -- 100 of this chapter shall perform, when feasible, all construction or reconstruction projects by

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contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(b) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10 — 100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970;

am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 4, 1982, added subsection (1).

Editor's notes. — Section 15, ch. 82, SLA 1982, provides: "The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor fuel that occurs before the effective date of this Act (June 4, 1982) if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was not to be used as motor fuel,

as that term is defined in AS 43.40.100(2), or if the dealer relied upon the purchaser's representation that the fuel would not be used as motor fuel. This section is intended to clarify ambiguities in the existing language of AS 43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, this section serves the general public interest in the fair and equitable administration of AS 43.40."

Sec. 43.40.020. Penalty for violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-5-3, ACLA 1949; § 4, ch. 153, SLA 1972; § 3, ch. 116, SLA 1977.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

- (1) the tax on the motor fuel has been paid;
- (2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and
- (3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

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Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment, effective June 4, 1982, substituted "the tax has been" for

"duty is" in subsection (b).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and a certificate of use is acquired under AS 43.40.010(1); or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982)

Effective dates. — Section 19, ch. 82, SLA 1982, makes this section effective June 4, 1982, in accordance with AS 01.10.070(c).

Sec. 43.40.040. Applications and permits for refund.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning contents of applications for refunds, see AS 43.40.050(a).

Editor's notes. — The repealed section derived from § 3, ch. 47, SLA 1955; § 4, ch. 131, SLA 1962.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used.

The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7—9 ch 92 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment, effective June 4, 1982, substituted "under AS 43.40.030" for "as provided in AS 43.40.010 — 43.40.100"

and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) Repealed by § 46 ch 113 SLA 1980. (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.090. Criminal violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references concerning AS 43.05.290.

Sec. 43.40.

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Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 11, ch. 47, SLA 1955; § 4, ch. 27, SLA 1957.

Sec. 43.40.100. Definitions. In AS 43.40.010 — 43.40.100

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by AS 43.40.010 — 43.40.100 have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

- (A) fuel consigned to foreign countries;
- (B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;
- (C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;
- (D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;
- (E) fuel used by charitable institutions;
- (F) fuel which is at least 10 percent alcohol by volume;
- (G) fuel sold or transferred between qualified dealers;
- (H) fuel sold to federal, state, and local government agencies for official use;
- (I) fuel used in stationary power plants that generate electrical energy for private residential consumption;
- (J) fuel used to heat private or commercial buildings or facilities, or;
- (K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(3) "user" means a person consuming or using motor fuel, who either

- (A) purchases the fuel out of the state and ships it into the state for personal use in the state;

- (B) manufactures the fuel in the state; or
- (C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

(4) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10—12 ch 82 SLA 1982)

Effect of amendment added in paragraph (F) in paragraph (2).

The 1982 amendment, effective June 4, 1982, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the

subparagraphs (A) and (B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

Chapter 45. School Tax.

Section

10-60. [Repealed]

Secs. 43.45.010 — 43.45.060. Tax imposed; persons exempt; record of withholding; overpayment credit and refund; failure to file return; penalties.

Repealed by § 3 ch 166 SLA 1976; § 2 ch 64 SLA 1980; § 46 ch 113 SLA 1980.

Editor's notes. — The repealed chapter derived from §§ 37-4-3 — 37-4-6, ACLA 1949; § 1, ch. 41, SLA 1957; § 1, ch. 175, SLA 1957; § 1, ch. 149, SLA 1959; §§ 1-5, ch. 179, SLA 1960; § 111, ch. 127, SLA 1974.

Section 3, ch. 64, SLA 1980 makes the repeal of this chapter applicable to tax years beginning after December 31, 1979.

Section 4, ch. 64, SLA 1980 provides: "The Department of Revenue shall estab-

lish procedures for refunding to a taxpayer amounts received in payment of the school tax levied under AS 43.45 for the 1980 tax year and shall refund to the taxpayer the tax which was withheld for the 1980 tax year by an employer and paid to the department under AS 43.45.010(c). Other tax money paid to the Department of Revenue under AS 43.45 for the 1980 tax year shall be refunded to the taxpayer who made the payment."

Chapter 50. Tobacco Tax.

Article 1. Cigarette Tax Act.

Section

10. License
100. Civil penalties

Section

150. Administration
160. [Repealed]

Sec. 43.50.010. License. (a) No person may sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested of him to determine his eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

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Sec. 43.40.060. **Separate invoices.** The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. **Refund warrants.** Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. **Examination of books and records.** (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than \$500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. **Preservation of books and records.** Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. **Criminal violation.** A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than \$500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses
§ 66.

Sec. 43.40.100. **Definitions.** In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

November 15, 1983

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Representative Bette Cato
House Transportation Committee
Pouch V
Juneau, AK 99811

Dear Bette:

The House Transportation Committee is the prime sponsor of the following legislation, which is currently in the House Finance Committee:

HB 335 - Amend state motor fuel tax statute

As you know, many bills are carried over into the second session that have already been dealt with in other vehicles, or for other reasons, are no longer priorities of the prime sponsor. This is especially true of bills that come to Finance (particularly single subject appropriation bills) since so much legislation is referred to us. Therefore, please let me know which legislation you consider "active" for the upcoming session by responding to my Anchorage office no later than December 10th.

I appreciate your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Al Adams".

Al Adams, Chairman
House Finance Committee

COMMITTEE REPORT
DO PASS: ABOOD, HERRMANN, PHILLIPS, LACHER, MILLER
DO NOT PASS: SZYMANSKI

→ YES - ACTIVE

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

WHILE IN SESSION

Pouch V

State Capitol

Juneau, Alaska 99811

(907) 465-3706

OUT OF SESSION

P.O. Box 333

Kotzebue, Alaska 99752

(907) 442-3326

1024 W. 6th

Anchorage, Alaska 99501

(907) 274-0615

Official Business

November 15, 1983

Copy of letter attached to Bette

Representative Bette Cato
House Transportation Committee
Pouch V
Juneau, AK 99811

Dear Bette:

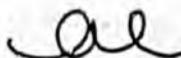
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As you know, many bills are carried over into the second session that have already been dealt with in other vehicles, or for other reasons, are no longer priorities of the prime sponsor. This is especially true of bills that come to Finance (particularly single subject appropriation bills) since so much legislation is referred to us. Therefore, please let me know which legislation you consider "active" for the upcoming session by responding to my Anchorage office no later than December 10th.

I appreciate your attention to this matter.

Sincerely,



Al Adams, Chairman
House Finance Committee

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division *RR*
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heat at a private residence.
2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.
3. Require only an annual certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (2) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to \$100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

<u>Tax To Be Remitted</u>	<u>Commission</u>
\$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to \$100)

... would provide remuneration for the
dealers extra work and yet would not be costly to the state.
There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1,
would provide for the above recommendations; the changes could
very well be incorporated into Senate Bill 117 (By the Rules
Committee by Request of the Governor) which is "An Act making
technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(1) is amended to read:

(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

AS 43.40.190 IS AMENDED TO INCLUDE: .

(L) fuel used in stationary power plants that generate
electrical energy for commercial enterprises;

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division *RR*
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heating a private residence.
2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.
3. Require only an annual certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (K) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to \$100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

<u>Tax To Be Remitted</u>	<u>Commission</u>
\$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to \$100)

dealers extra work and yet would not be costly to the state.
There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1, would provide for the above recommendations; the changes could very well be incorporated into Senate Bill 117 (By the Rules Committee by Request of the Governor) which is "An Act making technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(1) is amended to read:

(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

AS 43.40.100 IS AMENDED TO INCLUDE:

(L) fuel used in stationary power plants that generate
electrical energy for commercial enterprises;

STATE OF ALASKA
THE LEGISLATURE


POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 11, 1983

SUBJECT: Motor fuel tax provisions
(HB 335)

TO: Representative Bette Cato 
Chairman, House Transportation Committee

FROM: Richard C. Folta
Legislative Counsel

In response to your request on the above referenced bill, I would suggest the following:

(1) On page 2, line 3, "a private residence" could be deleted and the words "a residential housing accommodation, defined in AS 34.06.050(3)" could be inserted. I believe this change would clarify what is meant.

(2) AS 43.40.010(a) and (b) could be amended by adding a new paragraph (4) as follows:

(a) (4) The tax on diesel fuel used in vehicles defined in AS 28.10.011(1) and (7) is two cents a gallon.

(b) (4) The tax on diesel fuel used in vehicles defined in AS 28.10.011(1) and (7) is two cents a gallon.

(3) AS 43.40.100 could be amended by adding a new section to read:

(L) fuel used in stationary power plants of 100 KW or less that generate electrical power for commercial enterprises not for resale.

HB 335
Statutes Affected

(1) ** (AS 34.06.050 (3) "residential housing accommodations" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, other condition of tenancy, that is used for dwelling purposes.)

(2) ** (AS 28.100.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(7) driven or parked only on private property;)

**existing statute

HB 335
CONCEPTUAL AMENDMENTS

Amendment 1

AS. 43.40.100 is amended to read:

(I) fuel used in stationary power plants that generate electrical energy which is not for resale.

Amendment 2

AS 43.40.010 is amended by adding after (a) and (b), a new subsection (4)

(4) the tax on diesel fuel used in vehicles as specified in AS 28.100.011 (1) and (7) is two cents a gallon

** (AS 28.100.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(7) driven or parked only on private property;)

Amendment 3

Page 2, Line 3 delete "private residence" and insert residential housing accommodations as defined in AS 34.06.050 (3).

** (AS 34.06.050 (3) "residential housing accommodations" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, other condition of tenancy, that is used for dwelling purposes.)

**existing statute

Amendment 1

AS. 43.40.100 is amended to read:

(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises.

Amendment 2

AS.. 43.40.010 is amended by adding after (a) and (b), a new subsection (4)

(4) the tax on diesel fuel used in unlicensed or farm equipment is two cents a gallon

Amendment 3

Page 2, Line 3 delete "private residence" and insert "all residential units"

COMMITTEE REPORT

HOUSE

FINANCE

(9)

FURTHER:

4/7/83

Date: 4/12/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 335

An Act amending motor fuel tax provisions; and providing for an effective date.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 335 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the Finance Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robert Good

William G. Hourmann Do Pass

P.C. 11.00

Edward Miller Do Pass

M.W. Miller Do Pass

Robert Good Do not Pass

M.W. Miller Vice-Chairman

CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: HB 335
Title: Amending Motor Fuel Tax
Sponsor: Transportation Committee
Requestor: Transportation Committee

II. FISCAL DETAIL

Agency Affected: Department of Revenue
Program Category Affected: Rev Coll & Mgmt
BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	(60.0)	(48.0)	(48.0)	(48.0)	(48.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert R. Kessel
Division: Audit Division

Phone: 465-2320
Date: April 11, 1983

Approved by Commissioner: [Signature]
Department: KAUPON

Date: 4/11/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

IV. Analysis

It is assumed in this fiscal note that about 100 dealers per month would take advantage of the 1% deductible allowance to cover the accounting expense of filing timely monthly tax returns.

It is also assumed that the average monthly deduction would be about \$40.00 per month.

Although the bill is retroactive to April 1, 1983, we assume that the refunding for the period April 1 through June 30, 1983 would not occur until FY84 and that is why the FY84 impact is greater than subsequent years.

I. REQUEST

Bill/Resolution No: CS HB 335
 Title: Amending Motor Fuel Tax
 Sponsor: Transportation Committee
 Requestor: House Finance

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Agency Affected: Department of Revenue
 Program Category Affected: Rev Coll & Mgmt
 BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700/ GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	(60.0)	(48.0)	(48.0)	(48.0)	(48.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert R. Kessel
 Division: Audit Division

Phone: 465-2320
 Date: April 15, 1983

Approved by Commissioner: [Signature]
 Department: REV

Date: 4/18/83

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