**Opinion Letter**

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| **Letter Number:** | **O-2013-001** |

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| **Tax Type:** | **Motor Vehicle Fuel Tax** |
| **Brief Description:** | **Diesel fuel consumed in "filter regeneration" operations.** |
| **Keywords:** |  |
| **Approval Date:** | **06/20/2013** |

**Body:**

**KANSAS DEPARTMENT OF REVENUE**
**OFFICE OF POLICY & RESEARCH**
June 20, 2013

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Re: Request for Guidance Dated March 8, 2013

Dear Mr. XXXX:

This letter responds to the above-referenced correspondence, in which you request guidance concerning motor fuel refund claims in Kansas for diesel fuel consumed in “filter regeneration” operations. You indicate that your firm represents several interstate trucking companies operating tractors that travel in or through Kansas. Those tractors are equipped with diesel particulate filters to remove diesel fuel particulates from the engine exhaust, to comply with pollution control regulations. Diesel fuel is consumed to periodically burn off particulates and remove them from the filter. You indicate the fuel is not used to propel the tractor, nor is it used for the comfort of the cab or safety of the tractor, but is used in the regeneration process of the diesel particulate filter.

Please be advised that under Kansas law, no refund is available for motor fuel tax paid on diesel fuel consumed in the “filter regeneration” operations described above. K.S.A. 79-3408 imposes Kansas motor fuel tax on the “use, sale or delivery of all motor-vehicle fuels or special fuels which are used, sold or delivered in this state for any purpose whatsoever.” K.S.A. 79-3453 does provide for a refund of motor fuel tax paid on motor-vehicle fuels or special fuels used “for any purpose other than operating motor vehicles on the public highways.” The Department considers diesel fuel consumed in “filter regeneration” operations for tractors described above as being used for the purpose operating motor vehicles on the public highways.

Unless the tractor operator regularly conducts “filter regeneration” operations, either while the tractor is operating on the public highways, or in a stationary location, the tractor engine will not continue to operate efficiently and may eventually fail. Without regular “filter regeneration” operations, the tractor cannot operate effectively on the public highways of Kansas.

Please note, the purchase of any diesel fuel for which the motor fuel tax was refunded, would then be subject to Kansas state and local use tax. See K.S.A. 79-3603(a).

Please let me know if you have additional questions.

Very truly yours,

Richard Cram

**Date Composed: 06/20/2013 Date Modified: 06/20/2013**