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GOVERNOR JEFF COLYER, M.D.
SAMUEL M. WILLIAMS, SECRETARY

NOTICE 18-01

REFUND OF TAX ON MOTOR FUEL USED IN CONCRETE MIXER TRUCKS (JULY 1, 2018)

Advice has been requested regarding the taxation of motor fuel used in concrete mixer trucks for non-highway purposes. Specifically, the question concerns whether fuel used to operate a power take-off or the mixer drum is exempt from motor fuel tax.

Kansas law provides for the refund of certain tax paid on motor-vehicle fuels or special fuels not used on highways.

K.S.A. 79-3453. Any person who uses any motor-vehicle fuels or special fuels on which the motor-fuel or special fuel tax has been paid for use in school buses or for any purpose other than operating motor vehicles on the public highways, such person shall be entitled to be refunded the tax paid upon complying with the requirements of this act. Such person shall not be entitled to a refund of such tax unless the amount of the refund exceeds \$25. The words "licensed distributor," as used in this act, shall also include a licensed importer.

K.S.A. 79-3456. Invoice by licensed distributors or retailers; contents; copies. (a) At the time of making each delivery of motor-vehicle fuel or special fuel upon which a refund of the tax may be claimed, the licensed distributor or licensed retailer delivering the same shall make out an invoice which shall contain a serial number which shall not be repeated through any one calendar year, and which shall state the following:

- (1) The name of the distributor or retailer (printed or rubber stamped) selling the refund motor fuel;
 - (2) the name of the purchaser;
 - (3) the number of gallons of motor-vehicle fuel containing less than 10% agricultural ethyl alcohol thus purchased and delivered;
 - (4) the number of gallons of motor-vehicle fuels containing 10% or more of agricultural ethyl alcohol thus purchased and delivered;
 - (5) the date and place of delivery;
 - (6) the number of gallons of special fuel purchased and delivered; and
 - (7) the price paid for such motor-vehicle fuel or special fuel.
- (b) The invoice prepared by a distributor or retailer shall be made out in triplicate unless the invoice is generated by automated procedures approved by the director. One copy of each invoice made out in triplicate shall be delivered to the purchaser at the time of purchase. Upon receiving payment in full for such motor-vehicle fuel or special fuel the distributor or retailer shall receipt for payment on the original invoices. A

duplicate shall be retained by the distributor or retailer for a period of three years and shall be subject to examination by the director. Carbon or contact-type paper shall be used in making the first and second duplicate invoices unless the invoice is generated by automated procedures approved by the director

(c) Invoices generated by automated procedures approved by the director shall be made out in duplicate. The original of each such invoice shall be delivered to the purchaser and upon receiving payment for such motor-vehicle fuel or special fuel the distributor or retailer shall receipt for payment on another original invoice. Duplicates of all such invoices shall be retained by the distributor or retailer for a period of three years.

(d) If the invoice of any distributor or retailer is not printed in triplicate or does not meet the requirements of this section then such distributor or retailer shall use the uniform invoice prepared and furnished free of cost by the director as provided in this act.

The Department of Revenue has determined that a person who operates a truck designed, equipped, and used exclusively for concrete mixing and delivery may claim a refund of 25% of the fuel used in the truck, without the need to conduct a study of fuel usage, effective for fuel purchased on or after July 1, 2018. There are two requirements that must be met in order to make such a claim.

First, the person making the claim must have a valid motor fuel refund permit. If the person does not already have a permit, forms may be obtained from our website: www.ksrevenue.org. Print a copy of form MF-51, Application for Motor Vehicle / Special Fuel Tax Refund Permit, and a copy of form MF-112, Agreement to Maintain Motor Fuel Refund Records. Complete both forms and mail them, along with a \$6.00 fee, to:

Kansas Department of Revenue
Motor Fuel Tax
P. O. Box 750680
Topeka, KS 66675

Second, upon receipt, the Department will review the Application and Agreement. If approved, your first claim form will be sent to you. The claim form and supporting documents (K.S.A. 79-3456) can now be submitted for review. The Department will then review the claim and determine the amount of refund. Claimants must account for and keep records of the number of gallons of fuel disbursed into and used by each concrete mixer truck.

Subsequent claims should be submitted as instructed by the Department.

If a person wants to claim a percentage higher than 25% of fuel disbursements into a mixer truck, a study may be required to prove the higher percentage. The type and manner of the study must be approved by the Kansas Department of Revenue. If the concrete mixer truck is equipped with the electronic capability (ECM) to measure the fuel used for non-highway purposes, the Department will accept that documentation in lieu of the study.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.org. If you have questions about this Notice, please contact:

Taxpayer Assistance Center
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Topeka, KS 66612-1588
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