

## ARTICLE 12. GASOLINE TAX

### Rule 1. Definitions

#### 45 IAC 12-1-1 “Administrator” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 1. The term “administrator” shall mean the administrative head of the Indiana department of revenue, or an authorized agent thereof. (*Department of State Revenue; Reg 6-6-1.1-103(a)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### 45 IAC 12-1-2 “Dealer” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 2. For purposes of this chapter [IC 6-6-1.1], the term “dealer” shall mean a person except a distributor engaged in the business of selling gasoline in Indiana. (*Department of State Revenue; Reg 6-6-1.1-103(b)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### 45 IAC 12-1-3 “Department” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 3. Regulatory definition of “department” is used synonymously with the act [IC 6-6-1.1-103(c)]. (*Department of State Revenue; Reg 6-6-1.1-103(c)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### 45 IAC 12-1-4 “Distributor” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 4. (a) For purposes of this chapter [IC 6-6-1.1], the term “distributor” shall mean a person who receives gasoline as defined in IC 6-6-1.1-103(o)(010) [45 IAC 12-1-15] in Indiana, and subsequently distributes by tank car, tank truck, or transport.

(b) The term “distributor” does not include the United States government, its instrumentalities, or agencies unless their inclusion is permitted under the constitution and laws of the United States. (*Department of State Revenue; Reg 6-6-1.1-103(d)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### 45 IAC 12-1-5 “Licensed dealer” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 5. Unless otherwise provided, the term “licensed distributor” shall mean a person who holds an unrevoked, temporary or permanent distributor's license. (*Department of State Revenue; Reg 6-6-1.1-103(e)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### 45 IAC 12-1-6 “Marine facility” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 6. For purposes of this chapter [IC 6-6-1.1], the term “marine facility” shall mean a marina or boat livery. (*Department of State Revenue; Reg 6-6-1.1-103(f)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311; errata, 7 IR 579*)

#### 45 IAC 12-1-7 “Gasoline” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 7. (a) For purposes of this chapter [IC 6-6-1.1], the term “gasoline” shall mean:

- (1) all products commonly or commercially known or sold as gasoline, including casing-head and absorption or natural gasoline, regardless of their classifications or uses; and
- (2) any liquid, including gasohol, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products with the American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled (recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees centigrade (240 degrees C).

(b) The term “gasoline” does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees centigrade (16 degrees C), and pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid described in this subsection, in which event, only the quantity so used is considered gasoline. (*Department of State Revenue; Reg 6-6-1.1-103(g)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2311*)

#### **45 IAC 12-1-8 “Motor vehicle” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 8. (a) A “motor vehicle” is a vehicle which is propelled by an internal combustion engine or motor and is designed for highway use.

(b) Vehicles “designed for highway use” are those vehicles which are primarily adapted for, and engaged in highway transportation. All vehicles plated for general highway transportation or capable of being plated pursuant to Indiana law are presumed to be primarily adapted for and engaged in highway transportation.

(c) Fire trucks, fire protection apparatus, and ambulances owned by a municipality or by a person, police vehicles, and street equipment, as well as other vehicles publicly or privately owned which are primarily adapted for, and engaged in highway transportation are motor vehicles.

(d) The term “motor vehicle” shall not be construed to include road construction or maintenance machinery, vehicles not capable of being plated pursuant to Indiana law, well-boring or well-drilling apparatus, ditch-digging apparatus, or other similar equipment which is occasionally operated or moved over public highways.

(e) Vehicles which operate on rails are not motor vehicles.

(f) Vehicles designed and operated primarily as farm implements for drawing farm machinery are not motor vehicles.

(g) Tractors, plows, mowing machines, harvesters, Big A's, and other agricultural implements, including farm machinery when mounted and transported upon a trailer, are not motor vehicles when operated on a farm or when traveling upon public highways from one field to another, or to or from places of repair, or supply.

#### **EXAMPLES**

(1) An automobile manufacturer tests cars on a test track located on the manufacturer's property. During such testing, the cars are neither fully equipped nor assembled. Although the automobiles' design may be for highway use, such cars are neither adapted for nor engaged in highway transportation, and therefore, would not be considered motor vehicles.

(2) In a mining operation, haulage trucks not capable of being plated are employed to transport coal from a pit to a crusher, and then to a processing plant. The roadway between the pit and the crusher is a private roadway, wholly owned by the mining company. The roadway between the crusher and the processing plant is a public highway. Since the haulage trucks are not capable of being plated pursuant to Indiana law, such vehicles presumably would not be motor vehicles even though they do occasionally travel upon Indiana highways.

(3) Same facts as in example (2) except that the haulage trucks are either plated or capable of being plated pursuant to Indiana law. Haulage trucks which operate exclusively from the pit to the crusher would not be considered motor vehicles since they would not be engaged in highway transportation. Haulage trucks which travel from the crusher to the plant or which occasionally travel upon public highways would be considered motor vehicles since they would be engaged in highway transportation.

(*Department of State Revenue; Reg 6-6-1.1-103(h)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2312*)

**45 IAC 12-1-9 “Person” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 9. (a) The term “person” shall mean any natural person, partnership, corporation, joint venture, firm, association, or a representative appointed by a court, the state, or its political subdivision, or other legal entity.

(b) For purposes of this chapter [IC 6-6-1.1], a corporate subsidiary shall be considered a “person”.

(c) For purposes of this chapter [IC 6-6-1.1], a corporate division shall not be considered a “person”. (*Department of State Revenue; Reg 6-6-1.1-103(i)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2312*)

**45 IAC 12-1-10 “Public highway” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 10. Regulatory definition of “public highway” is used synonymously with the act [IC 6-6-1.1-103(j)]. (*Department of State Revenue; Reg 6-6-1.1-103(j)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2312*)

**45 IAC 12-1-11 “Taxable marine facility” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 11. (a) For purposes of this chapter [IC 6-6-1.1], the term “taxable marine facility” shall mean a boat livery located on an Indiana lake.

(b) For purposes of this chapter [IC 6-6-1.1], an Indiana lake is an inland body or pool of standing or placid water, located wholly within the state of Indiana, formed either through natural processes or created artificially in whole or in part by man-made structures (includes all flood control and water storage reservoirs), and may or may not be characterized by inlet and outlet streams.

(c) The landward limit of lakes is defined by the intersection of water surface of the lake with the surrounding land and with the bed of inlet streams when such water surface is at the established legal level or average normal level of natural lakes or at the highest normal operating level of artificial lakes. (*Department of State Revenue; Reg 6-6-1.1-103(k)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2312*)

**45 IAC 12-1-12 “Taxicab” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 12. Regulatory definition of “taxicab” is used synonymously with the act [IC 6-6-1.1-103(l)]. (*Department of State Revenue; Reg 6-6-1.1-103(l)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313*)

**45 IAC 12-1-13 “Terminal” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 13. Regulatory definition of “terminal” is used synonymously with the act [IC 6-6-1.1-103(m)]. (*Department of State Revenue; Reg 6-6-1.1-103(m)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313*)

**45 IAC 12-1-14 “Terminal or refinery operator” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103

Sec. 14. (a) For purposes of this chapter [IC 6-6-1.1], the term “terminal or refinery operator” shall mean the person for whom the terminal or refinery is being operated.

(b) The term “terminal or refinery” shall include only those terminals or refineries located in Indiana.

**EXAMPLE**

Company A and Company B enter into a lease agreement whereby Company B leases from Company A a gasoline terminal. Company B, the lessee, would be considered the terminal operator.

*(Department of State Revenue; Reg 6-6-1.1-103(n)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313)*

**45 IAC 12-1-15 “Receipt” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103; IC 6-6-1.1-305

Sec. 15. (a) For purposes of this chapter [IC 6-6-1.1], the term “receipt” shall mean the event from which a person's gasoline tax liability to the administrator arises.

(b) The events from which a licensed distributor's gasoline tax liability to the administrator arises, and the time at which such events occur shall be determined by the provisions set forth in sections 202, 203, 204, 205, 206, and 207 of this chapter [45 IAC 12-2-4 through 45 IAC 12-2-18].

(c) The events which determine the tax liability to the administrator incurred by a person other than a licensed distributor, and the time at which such events occur are set forth in sections 203, 206, and 207 of this chapter [45 IAC 12-2-8 through 45 IAC 12-2-10, 45 IAC 12-2-15 through 45 IAC 12-2-18].

(d) Except as provided in section 305 [IC 6-6-1.1-305], only when a person has used gasoline without paying or incurring tax liability to his supplier has that person received gasoline. *(Department of State Revenue; Reg 6-6-1.1-103(o)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313)*

**45 IAC 12-1-16 “Acquire” defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-103; IC 6-6-1.1-305

Sec. 16. (a) For purposes of this chapter [IC 6-6-1.1], the term “acquire” shall mean the use of gasoline except in those instances where gasoline is received.

(b) Except as provided in section 305 [IC 6-6-1.1-305], only when a person has used gasoline upon paying or incurring tax liability to his supplier has that person acquired gasoline. *(Department of State Revenue; Reg 6-6-1.1-103(p)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313)*

**Rule 2. Imposition of Tax**

**45 IAC 12-2-1 Imposition of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-201

Sec. 1. (a) Except as otherwise provided, a tax known as the gasoline tax is imposed upon the use of all gasoline in this state.

(b) For purposes of this chapter [IC 6-6-1.1], the term “use” shall only apply to those transactions whereby gasoline is transferred or otherwise used outside refinery, terminal, or pipeline.

(c) For purposes of this chapter [IC 6-6-1.1], the term “use” shall mean:

(1) the exercise of any right or power over gasoline in this state incident to the ownership of that gasoline by each person to whom such rights or powers exist;

(2) the keeping or retention of gasoline in this state for any purpose by each person to whom such rights or powers exist; or

(3) the consumption, depletion, or other expenditure of gasoline in this state except for destruction, loss, evaporation or shrinkage.

(d) All gasoline used in state shall be considered to have been received or acquired. *(Department of State Revenue; Reg 6-6-1.1-201(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2313)*

**45 IAC 12-2-2 Imposition of tax; payment of tax by a licensed distributor; invoiced gallonage**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-201

Sec. 2. (a) A licensed distributor shall initially pay to the administrator the tax imposed upon the invoiced gallonage of all gasoline received by the licensed distributor in this state less any deductions authorized by this chapter [IC 6-6-1.1].

(b) The term "invoiced gallonage" shall mean either the "gross" gallons or the "net" gallons which are received by a licensed distributor.

(c) The licensed distributor shall initially elect to calculate tax liability entirely either on a "gross" gallon or a "net" gallon basis.

(d) The licensed distributor shall not, subsequent to such election, change the basis upon which tax liability is calculated without the prior approval of the administrator.

(e) For purposes of this section, any invoice or document, including a bill-of-lading, manifest or pipeline ticket, or exchange statement, which reflects the amount of gallonage transferred in a transaction shall be considered an invoice. That an invoice or document is not issued to a licensed distributor by the seller in a transaction does not preclude the licensed distributor's gasoline tax liability. (*Department of State Revenue; Reg 6-6-1.1-201(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2314*)

**45 IAC 12-2-3 Imposition of tax; ultimate burden of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-201

Sec. 3. (a) Except as otherwise provided, a licensed distributor shall add the per gallon amount of tax to the selling price of each gallon of gasoline which is received by the licensed distributor and is subsequently sold in this state.

(b) The per gallon amount of tax which is added to the selling price of each gallon of gasoline shall be charged to and collected from each subsequent gasoline dealer so that the ultimate consumer bears the burden of tax.

(c) A gasoline dealer who sells gasoline through a stationary metered pump must include, in the selling price of the gasoline posted on the pump, the gasoline tax. (*Department of State Revenue; Reg 6-6-1.1-201(030); filed Sep 19, 1983, 2:23 pm: 6 IR 2314*)

**45 IAC 12-2-4 Time considered received; withdrawal from in-state refinery or terminal; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-202

Sec. 4. (a) This section governs only those transactions whereby:

(1) gasoline is stored in an in-state refinery or terminal; and

(2) as a result of a transaction, gasoline is withdrawn by the purchaser, or for the account of the purchaser, and is:

(A) subsequently used by the purchaser in this state; or

(B) immediately transferred to a destination in this state other than another in-state refinery or terminal.

(b) In the event the aforementioned conditions are met, gasoline is considered received at the time the gasoline is withdrawn. (*Department of State Revenue; Reg 6-6-1.1-202(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2314*)

**45 IAC 12-2-5 Time considered received; withdrawal from in-state refinery or terminal**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-202

Sec. 5. (a) Except as otherwise provided, gasoline withdrawn from an in-state terminal or refinery, for delivery or transportation to or for the account of a person who does not hold a valid distributor's license is received by the owner at the time the gasoline is withdrawn.

(b) Except as otherwise provided, gasoline withdrawn from an in-state terminal or refinery, for delivery or transportation to or for the account of a licensed distributor is received by the licensed distributor to whom or for whose account the gasoline is delivered or transported at the time the gasoline is withdrawn.

EXAMPLES

(1) Taxpayer A, who holds a valid Indiana gasoline distributor's license, owns gasoline stored in an in-state terminal. Taxpayer B intends to purchase gasoline from Taxpayer A and place the gasoline in storage in Indiana, at a place other than another in-state refinery or terminal. Taxpayer B does not hold a valid Indiana gasoline distributor's license. The gasoline is received by Taxpayer A at the time it is withdrawn for Taxpayer B's account. Taxpayer A must charge Taxpayer B a per gallon gasoline tax as provided in section 201 of this chapter [45 IAC 12-2-1 through 45 IAC 12-2-3].

(2) Taxpayer A is the owner-operator of an Indiana refinery and holds a valid gasoline distributor's license. Taxpayer A withdraws gasoline from his refinery for the account of Taxpayer B, another licensed distributor. The gasoline is delivered, by common carrier, to Taxpayer B's storage facility in Indiana. The gasoline is considered received by Taxpayer B. Taxpayer A may not charge Taxpayer B the per gallon gasoline tax as provided in section 201 [45 IAC 12-2-1 through 45 IAC 12-2-3] since Taxpayer A did not receive the gasoline.

(3) Taxpayer A is the owner-operator of a gasoline refinery located in Indiana and holds a valid Indiana gasoline distributor's license. Taxpayer B operates a service station located outside the state of Indiana and does not hold a valid Indiana gasoline distributor's license. Taxpayer B contracts to purchase gasoline from Taxpayer A and such contract specifies the title passes from Taxpayer A to Taxpayer B at the time of withdrawal from Taxpayer A's Indiana refinery. Taxpayer B intends to export the gasoline from Indiana and advises Taxpayer A of this intention. The gasoline is then exported from Indiana via transport and is unloaded at Taxpayer B's service station. Since the gasoline is withdrawn from the refinery and since Taxpayer A transfers the gasoline to a destination in this state (the place at which title passes from Taxpayer A to Taxpayer B) to a person other than a licensed gasoline distributor the gasoline is received by Taxpayer A at the time the gasoline is withdrawn from the refinery. Therefore, Taxpayer A must charge Taxpayer B the per gallon gasoline tax provided in section 201 [45 IAC 12-2-1 through 45 IAC 12-2-3] (see Indiana Regulation 6-6-1.1-202(020)(1) [45 IAC 12-2-5(a)]).

(4) Same facts as in example (3) except that the contract provides that title to the gasoline passes from Taxpayer A to Taxpayer B at Taxpayer B's service station located outside Indiana. Since the gasoline is withdrawn from the refinery and since Taxpayer A transfers the gasoline to a destination other than a destination in this state, the gasoline has not been received. Therefore, Taxpayer A may not charge Taxpayer B the per gallon tax provided in section 201 [45 IAC 12-2-1 through 45 IAC 12-2-3] (see Indiana Regulation 6-6-1.1-202(020)(2) [45 IAC 12-2-5(b)]).

(Department of State Revenue; Reg 6-6-1.1-202(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2314; errata, 7 IR 579)

**45 IAC 12-2-6 Time considered received; withdrawal from in-state refinery or terminal; presumption of destination**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-202

Sec. 6. Gasoline which is withdrawn from an in-state refinery or terminal is presumed to be withdrawn for sale or use in this state, or for transfer to a destination in this state other than another in-state refinery or terminal. (Department of State Revenue; Reg 6-6-1.1-202(030); filed Sep 19, 1983, 2:23 pm: 6 IR 2315)

**45 IAC 12-2-7 Withdrawal from refinery or terminal; distribution requirement**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-202

Sec. 7. A person who obtains gasoline which has been withdrawn from a refinery or terminal but does not subsequently sell and distribute the gasoline to other commercial accounts by tank car, tank truck, or transport is not a distributor as defined by section 103(d) of this chapter [45 IAC 12-1-4]. (Department of State Revenue; Reg 6-6-1.1-202(040); filed Sep 19, 1983, 2:23 pm: 6 IR 2315)

**45 IAC 12-2-8 Time considered received; imported gasoline placed into storage; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-203

Sec. 8. Gasoline which is imported into this state and placed in storage at a place other than a refinery or terminal is received at the time the gasoline is unloaded in this state. (Department of State Revenue; Reg 6-6-1.1-203(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2315)

**45 IAC 12-2-9 Time considered received; imported gasoline placed into storage**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 9. (a) In instances where gasoline is being imported to or for the account of a licensed distributor, gasoline which is imported into this state by tank car, tank truck, transport, or other motor vehicle, and is subsequently placed into storage at a place other than a refinery or terminal is received by the licensed distributor for whom the gasoline is being imported.

(b) In instances where gasoline is being imported to or for the account of a person other than a licensed distributor and section 205 [IC 6-6-1.1-205] is not applicable, gasoline which is imported into this state by tank car, tank truck, transport, or other motor vehicle, and is subsequently placed into storage at a place other than a refinery or terminal is received by the person for whom the gasoline is being imported.

**EXAMPLES**

(1) Taxpayer A operates a bulk storage facility located outside the state of Indiana and holds a valid Indiana gasoline distributor's license. Taxpayer B operates a bulk storage facility located in Indiana and holds a valid Indiana gasoline distributor's license. Taxpayer A passes title to the gasoline to Taxpayer B outside the state of Indiana. The gasoline to which Taxpayer B has title is imported into Indiana via transport and is unloaded at Taxpayer B's bulk storage facility. Since the gasoline is imported for the account of a licensed gasoline distributor, the gasoline is received by the licensed gasoline distributor for whose account it was imported, at the time of unloading. Taxpayer B must pay the tax directly to the administrator rather than to Taxpayer A (the supplier). (See Indiana Regulation 6-6-1.1-203(020)(1) [subsection (a) of this section]).

(2) Same facts as in example (1) except that title is transferred from Taxpayer A to Taxpayer B at the time the gasoline is unloaded in Indiana. Although Taxpayer A, a licensed distributor, has title to the gasoline at the time of its importation, the gasoline is being imported for the account of Taxpayer B who also holds a valid gasoline distributor's license. Therefore, the gasoline is received by Taxpayer B, the licensed gasoline distributor for whose account the gasoline was imported, at the time of unloading. (See Indiana Regulation 6-6-1.1-203(020)(1) [subsection (a) of this section]).

(3) Same facts as in example (1) except that Taxpayer A does not hold a valid Indiana gasoline distributor's license. Although Taxpayer A, who does not hold a valid Indiana gasoline distributor's license has title to the gasoline at the time of importation, the gasoline is being imported for the account of Taxpayer B who holds a valid Indiana gasoline distributor's license. Therefore, the gasoline is received by Taxpayer B at the time of unloading. (See Indiana Regulation 6-6-1.1-203(020)(1) [subsection (a) of this section]).

(4) Taxpayer A operates a bulk storage facility located outside of Indiana and does not hold a valid Indiana gasoline distributor's license. Taxpayer B operates a bulk storage facility located in Indiana and holds a valid Indiana gasoline distributor's license. Gasoline to which Taxpayer A has title is imported into Indiana via transport and is unloaded at a service station operated by Taxpayer C who does not hold a valid gasoline distributor's license. Title passes from Taxpayer A to Taxpayer B to Taxpayer C at the time of unloading. Since the gasoline is being imported for the account of Taxpayer B, a licensed gasoline distributor, the gasoline is received by Taxpayer B at the time of unloading. (See Indiana Regulation 6-6-1.1-203(020)(1) [subsection (a) of this section]). Furthermore, Taxpayer C acquires the gasoline from Taxpayer B and therefore, Taxpayer B must charge Taxpayer C the per gallon tax provided in section 201 [IC 6-6-1.1-201].

(5) Taxpayer A operates a bulk storage facility located outside Indiana. Taxpayer B operates a service station located in Indiana and does not hold a valid Indiana gasoline distributor's license. Taxpayer A passes title to gasoline to Taxpayer B outside the state of Indiana. The gasoline to which Taxpayer B has title is imported into Indiana for the account of Taxpayer B and is unloaded at Taxpayer B's service station. Since title to the gasoline is held at the time of importation by Taxpayer B who does not hold a valid gasoline distributor's license and since the gasoline is imported for the account of Taxpayer B, the gasoline is received by Taxpayer B at the time of unloading. (See Indiana Regulation 6-6-1.1-203(020)(2) [subsection (b) of this section]). It should be noted that although Taxpayer B has incurred liability to the state of Indiana for the per gallon gasoline tax, Taxpayer B is not in compliance with section 401 [45 IAC 12-4-1 and 45 IAC 12-4-2] (see Indiana Regulation 6-6-1.1-401(020) [45 IAC 12-4-2]) and therefore must notify and report to the state as required under section 504 [IC 6-6-1.1-504] to avoid criminal sanctions.

(Department of State Revenue; Reg 6-6-1.1-203(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2316; errata, 6 IR 2416)

**45 IAC 12-2-10 Time considered received; destruction of imported gasoline**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-203

Sec. 10. In the event gasoline is imported into this state by tank car, tank truck, transport or other motor vehicle, and is lost or destroyed in this state, in whole or in part, prior to being unloaded and placed into storage, the entire load of gasoline is considered received at the time the gasoline is destroyed or lost by the person who would have received the gasoline had the destruction not occurred. (*Department of State Revenue; Reg 6-6-1.1-203(030); filed Sep 19, 1983, 2:23 pm: 6 IR 2316*)

**45 IAC 12-2-11 Time considered received; imported gasoline; used directly from transport; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-204

Sec. 11. Gasoline which is imported into this state by tank car, tank truck, transport, or other motor vehicle, which is withdrawn from, consumed, or used by the transport unit, in whole or in part, prior to being placed into storage is received at the time the gasoline is used. (*Department of State Revenue; Reg 6-6-1.1-204(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2317*)

**45 IAC 12-2-12 Time considered received; imported gasoline; used directly from transport**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-204

Sec. 12. Gasoline which is imported into this state by tank car, tank truck, transport, or other motor vehicle, which is withdrawn from, consumed, or used by the transport unit, in whole or in part, prior to being placed into storage is received by the person who would have received the gasoline under section 203 or 205 of this chapter [45 IAC 12-2-8 through 45 IAC 12-2-10 or 45 IAC 12-2-13 through 45 IAC 12-2-14] had the gasoline not been withdrawn or consumed prior to being delivered into storage. (*Department of State Revenue; Reg 6-6-1.1-204(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2317*)

**45 IAC 12-2-13 Time considered received; imported gasoline; transport by licensed distributor; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-205

Sec. 13. Gasoline which is imported into this state by a licensed distributor which is sold and delivered in this state directly to a person other than a licensed distributor is received at the time the gasoline is delivered. (*Department of State Revenue; Reg 6-6-1.1-205(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2317*)

**45 IAC 12-2-14 Time considered received; imported gasoline; transport by licensed distributor**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-205

Sec. 14. Gasoline which is imported into this state by a licensed distributor which is sold and delivered in this state directly to a person other than a licensed distributor is received by the licensed distributor who imported the gasoline.

EXAMPLES

(1) Taxpayer A operates a bulk storage facility located outside the state of Indiana and holds a valid Indiana gasoline distributor's license. Taxpayer B operates a service station located in Indiana and does not hold a valid Indiana gasoline distributor's license. Gasoline to which Taxpayer A has title is imported into Indiana and is unloaded at Taxpayer B's service station. Title to the gasoline passes directly from Taxpayer A to Taxpayer B at the time of unloading at Taxpayer B's service station in Indiana. Since the gasoline is imported into Indiana by a licensed distributor and since title passes from Taxpayer A, a licensed distributor, to Taxpayer B a person who does not hold a valid Indiana gasoline distributor's license in Indiana, the gasoline is received by Taxpayer A at the time the gasoline is unloaded at Taxpayer B's service station.

(2) Same facts as in example (1) except that title passes from Taxpayer A to Taxpayer B prior to the gasoline's importation into Indiana. Taxpayer B receives the gasoline at the time of unloading (see example (e) under Indiana Regulation 6-6-1.1-



203(020) [45 IAC 12-2-9(b)(5)]).

(Department of State Revenue; Reg 6-6-1.1-205(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2317; errata, 7 IR 579)

**45 IAC 12-2-15 Time considered received; in-state gasoline produced or blended; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-206

Sec. 15. Gasoline produced, compounded, or blended in this state at a place other than a refinery or terminal is considered received at the time the blended product is produced, compounded, or blended to the extent of the non-gasoline compound, provided that the gasoline tax has been paid on the gasoline which was purchased for the blending process. (Department of State Revenue; Reg 6-6-1.1-206(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2317)

**45 IAC 12-2-16 Time considered received; in-state gasoline produced or blended**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-206

Sec. 16. Gasoline produced, compounded, or blended in this state at a place other than a refinery or terminal is considered received by the person blending the product at the time the blended product is produced, compounded, or blended to the extent of the non-gasoline compound provided that the gasoline tax has been paid on the gasoline which was purchased for the blending process. (Department of State Revenue; Reg 6-6-1.1-206(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2318)

**45 IAC 12-2-17 Time considered received; in-state gasoline not covered by 6-6-1.1-202 through 6-6-1.1-206; event identified**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-207

Sec. 17. (a) In instances where gasoline is acquired in this state by any person and the gasoline tax has not been remitted to the state, the gasoline will be considered to have been received.

(b) Paragraph (1) [renumbered subsection (a) by the revisor] does not apply in instances where the use of gasoline is exempt under section 301 of this chapter [45 IAC 12-3-1 through 45 IAC 12-3-5]. (Department of State Revenue; Reg 6-6-1.1-207(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2318)

**45 IAC 12-2-18 Time considered received; in-state gasoline not covered by 6-6-1.1-202 through 6-6-1.1-206**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-207

Sec. 18. (a) In instances where gasoline is acquired in this state by any person and the gasoline tax has not been remitted to the state, the gasoline will be considered to have been received by the person who acquired the gasoline.

(b) Paragraph (1) [renumbered subsection (a) by the revisor] does not apply in instances where the use of the gasoline is exempt under section 301 of this chapter [45 IAC 12-3-1 through 45 IAC 12-3-5]. (Department of State Revenue; Reg 6-6-1.1-207(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2318)

**45 IAC 12-2-19 Imported gasoline; motor vehicle fuel supply tank**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-208

Sec. 19. (a) Gasoline purchased and placed into the fuel supply tank of a motor vehicle outside Indiana, which is subsequently brought into Indiana in the fuel supply tank of that vehicle, is exempt from the tax imposed under this chapter [IC 6-6-1.1].

(b) For purposes [sic.] of this chapter [IC 6-6-1.1], the "fuel supply tank" of a motor vehicle is the usual and ordinary tank from which gasoline is withdrawn exclusively for the operation of that motor vehicle. (Department of State Revenue; Reg 6-6-1.1-208(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2318)

**Rule 3. Exemptions**

**45 IAC 12-3-1 Exemptions: exported gasoline**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-301

Sec. 1. (a) Gasoline exported from Indiana to another state, territory, foreign country or other jurisdiction is exempt from the tax imposed by this chapter [IC 6-6-1.1].

(b) Transactions whereby gasoline is sold for export are not exempt.

(c) Gasoline transported from Indiana in a fuel supply tank of a motor vehicle is not exempt. (*Department of State Revenue; Reg 6-6-1.1-301(1)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2318*)

**45 IAC 12-3-2 Exemptions: sales to United States government**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-301

Sec. 2. (a) Gasoline sold to the United States government, an agency of the United States government or an instrumentality of the United States government is exempt.

(b) Gasoline sold to a person other than the United States government, an agency of the United States government or an instrumentality of the United States government, who is acting on behalf of, and/or contracted with the United States government or an instrumentality of the United States government is not afforded this exemption.

**EXAMPLE**

Licensed distributor A sells gasoline to person B who is under contract with the United States government. Person B is not licensed as a gasoline distributor in Indiana. The transaction between licensed distributor A and person B is not exempt since there has not been a sale to the United States government.

(*Department of State Revenue; Reg 6-6-1.1-301(2)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2318*)

**45 IAC 12-3-3 Exemptions: consumption by licensed distributor**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-301

Sec. 3. (a) Gasoline used by a licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon public highways is exempt.

(b) For purposes of this subsection, the term "use" shall mean the consumption, depletion or other expenditure of gasoline in this state except for destruction, loss, evaporation, or shrinkage as provided in Indiana Regulation 6-6-1.1-201(010)(3)(c) [45 IAC 12-2-1(c)(3)]. (*Department of State Revenue; Reg 6-6-1.1-301(4)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2319*)

**45 IAC 12-3-4 Exemption: gasoline lost or destroyed**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-301

Sec. 4. As a general rule, gasoline received by a licensed distributor and thereafter lost or destroyed except by evaporation, shrinkage, or unknown cause, while the distributor is still the owner thereof as a result of theft, leakage, fire, accident, explosion, lightning, flood, storm, act of war, public enemy, or other like cause is exempt. (*Department of State Revenue; Reg 6-6-1.1-301(5)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2319*)

**45 IAC 12-3-5 Exemption: gasoline lost or destroyed; receipt prior to delivery**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-301

Sec. 5. Gasoline received by a licensed distributor prior to delivery, and thereafter lost or destroyed except by evaporation,

shrinkage, or unknown cause, as a result of theft, leakage, fire, accident, explosion, lightning, flood, storm, act of war, public enemy, or other like cause is exempt provided that a subsequent person has not incurred gasoline tax liability for the product. (*Department of State Revenue; Reg 6-6-1.1-301(5)(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2319*)

**45 IAC 12-3-6 Application for exemption permit; persons eligible**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-302; IC 6-6-1.1-303

Sec. 6. (a) The following persons may apply to the administrator for an exemption permit:

(1) a person who operates an airport in Indiana where gasoline is sold for the exclusive purpose of propelling aircraft engines or motors;

(2) a person engaged at an airport in the business of selling gasoline in Indiana for exclusive use in aircraft engines or motors;

(3) a person in Indiana who operates a marine facility except a taxable marine facility, and who sells gasoline at that facility for the exclusive purpose of propelling motorboat engines;

(4) a person engaged at a marine facility except a taxable marine facility in the business of selling gasoline in Indiana for exclusive use in motorboat engines.

(b) A person may apply for an exemption permit under this section whether or not the person is a licensed distributor.

(c) Having satisfied the requirements of this section, a person must still meet the requirements set forth in Indiana Code 6-6-1.1-303 prior to the administrator's approval of the application. (*Department of State Revenue; Reg 6-6-1.1-302(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2319*)

**45 IAC 12-3-7 Application for exemption permit; form; surety bond; conditions**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-303; IC 6-8.1-5-4

Sec. 7. (a) A person must apply for an exemption permit on the form prescribed by the administrator.

(b) A person must submit, with the application, a bond in an amount determined by the administrator not to be in excess of twenty-five thousand dollars (\$25,000.00).

(c) The administrator may approve an application contingent upon the following conditions:

(1) the applicant will sell all gasoline purchased tax free under the exemption permit for the exclusive purpose of propelling the engines or motors of aircraft or motorboats;

(2) the applicant will keep for a period of three (3) years plus the current year complete records of all gasoline purchased, acquired, stored, used, or disposed of by him pursuant to Indiana Code 6-8.1-5-4;

(3) the applicant will provide the administrator with such reports of gasoline purchased, acquired, used, or disposed of as the administrator may require;

(4) the applicant will permit the administrator or his authorized agent to examine, during regular business hours, any of the records of the applicant pertaining to the acquisition, use, and distribution of gasoline and any of the equipment of the applicant used for the receipt, storage, or use of gasoline;

(5) the applicant will not purchase gasoline tax free for use in motor vehicles; and

(6) the applicant will not sell any gasoline acquired tax free under the exemption permit unless it is sold tax free and delivered directly into the fuel supply tank of an aircraft or motor boat.

(*Department of State Revenue; Reg 6-6-1.1-303(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2319*)

**Rule 4. License to Distributor**

**45 IAC 12-4-1 License to distributor; requirement**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 1. (a) Except as provided in Indiana Code 6-6-1.1-206, a person desiring to receive gasoline in Indiana and therefore pay the gasoline tax to the administrator must be licensed as a gasoline distributor in Indiana.

(b) Except as provided in Indiana Code 6-6-1.1-207, persons not licensed as distributors in Indiana must pay the gasoline tax to their suppliers upon acquisition of this product.

(c) For purposes of this section and section 415 of this chapter [45 IAC 12-4-15], the term supplier shall mean any person who sells gasoline in Indiana. (*Department of State Revenue; Reg 6-6-1.1-401(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2320*)

**45 IAC 12-4-2 License to distributor; failure to obtain; application of regulation**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-401; IC 6-6-1.1-504

Sec. 2. As provided in section 504 of this chapter [IC 6-6-1.1-504], a person who acts as a distributor in this state but fails to obtain the license required by this chapter [IC 6-6-1.1] is subject to the provisions of this chapter [IC 6-6-1.1] as if such person holds the license required by this chapter [IC 6-6-1.1]. (*Department of State Revenue; Reg 6-6-1.1-401(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2320*)

**45 IAC 12-4-3 License to distributor; application; contents**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-402

Sec. 3. (a) A person desiring to become licensed as a distributor in Indiana must file with the administrator a sworn application containing the following information:

- (1) the name under which the distributor will transact business in Indiana;
- (2) the applicant's principal place of business; and
- (3) the name and complete residence address of the owner or the names and addresses of the partners, if the applicant is a partnership, or the names and addresses of the principal officers, if the applicant is a corporation or association.

(b) A person may not operate as a distributor in Indiana without first satisfying the requirements set forth in sections 404, 405, 406, and 410 [IC 6-6-1.1-404 through IC 6-6-1.1-406; IC 6-6-1.1-410], and without first being issued a license by the administrator under section 411 [IC 6-6-1.1-411]. (*Department of State Revenue; Reg 6-6-1.1-402(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2320*)

**45 IAC 12-4-4 License to distributor; foreign corporation**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-404

Sec. 4. No license or exemption permit shall be issued to a foreign corporation unless it is properly qualified to do business in Indiana. (*Department of State Revenue; Reg 6-6-1.1-404(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2320*)

**45 IAC 12-4-5 Bond; filing requirements**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-406

Sec. 5. (a) Concurrently with the filing of an application for a distributor's license, every applicant must file with the administrator a bond:

- (1) in an amount of not less than two thousand dollars (\$2,000.00) nor more than three (3) months tax liability as estimated by the administrator;
- (2) in cash or with a surety company approved by the administrator;
- (3) upon which the distributor is the principal obligor and the state of Indiana is the obligee; and
- (4) conditioned upon the prompt filing of true reports and payment of all gasoline taxes levied by Indiana, together with any penalties and interest, and upon faithful compliance with the provisions of this chapter [IC 6-6-1.1].

(b) The administrator shall determine the amount of the distributor's bond. (*Department of State Revenue; Reg 6-6-1.1-406(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2320; filed Apr 30, 1986, 3:32 pm: 9 IR 2189*)

**45 IAC 12-4-6 Bond increases; hearing; new bond or rider**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-408

Sec. 6. (a) The administrator may propose an increase in a licensed distributor's current bond amount if the administrator has deemed the current bond amount to be insufficient to insure payment to the state of the tax, penalty and interest for which the licensed distributor is or may become liable.

(b) If after the proposed increased bond amount notice is received by the licensed distributor, the licensed distributor does not comply with the administrator's proposal within a reasonable time, the administrator shall notify the licensed distributor in writing of a hearing to allow the licensed distributor to show cause why the proposed increase is not warranted.

(c) The administrator shall give the licensed distributor at least fifteen (15) days written notice of the hearing.

(d) If after a hearing the administrator determines that an increase is warranted, the licensed distributor shall submit to the administrator within a time prescribed by the administrator, a new bond or rider in the amount determined by the administrator.

(e) The new bond or rider must meet the requirements set forth in section 406 of this chapter [45 IAC 12-4-5].

(f) If the new bond or rider required under this section is unsatisfactory or not furnished within the time prescribed by the administrator, the administrator shall cancel the distributor's license. (*Department of State Revenue; Reg 6-6-1.1-408(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2320; filed Apr 30, 1986, 3:32 pm: 9 IR 2189*)

**45 IAC 12-4-7 Release of surety of distributor's bond; notice; new bond; cancellation of license**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-409

Sec. 7. (a) The surety of a licensed distributor may cancel a bond issued to a licensed distributor upon notifying the administrator.

(b) The cancellation shall be effective sixty (60) days after written notice is received by the administrator.

(c) The release does not affect any liability accruing before expiration of the sixty (60) day period.

(d) Upon receiving such notice, the administrator shall notify the licensed distributor that the surety furnishing the bond has requested release.

(e) The licensed distributor must file with the administrator a replacement bond which meets the requirements set forth in section 406 of this chapter [45 IAC 12-4-5].

(f) If the licensed distributor does not file such bond with the administrator within the sixty (60) day period, the administrator shall cancel the distributor's license. (*Department of State Revenue; Reg 6-6-1.1-409(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2321*)

**45 IAC 12-4-8 Annual financial statement; bond amount requirement**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-410

Sec. 8. The administrator may require a distributor to furnish annual financial statements to determine if any change is required in the amount of a distributor's bond. (*Department of State Revenue; Reg 6-6-1.1-410(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2321*)

**45 IAC 12-4-9 Temporary license; investigation; conditions and requirements**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-411; IC 6-8.1-5-4

Sec. 9. (a) The administrator may make any investigation necessary once an application has been properly filed.

(b) Upon all conditions having been met under this chapter [IC 6-6-1.1], including payment of fee and bonding requirements, the person making application shall be issued a temporary license to transact business as a distributor in Indiana.

(c) The temporary license is valid for one (1) year except as otherwise provided, and is subject to the cancellation provisions of this chapter [IC 6-6-1.1].

(d) A person who has been issued a temporary license must maintain books and records pursuant to Indiana Code 6-8.1-5-4. (*Department of State Revenue; Reg 6-6-1.1-411(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2321*)

**45 IAC 12-4-10 Temporary license; extension**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-411

Sec. 10. (a) The administrator may, upon finding that a person holding a temporary license has not fully complied with the provisions of this chapter [IC 6-6-1.1], extend the period of the person's temporary license.

(b) The administrator may revoke such extension upon finding that the person has, subsequent to such extension, not fully complied with the provisions of this chapter [IC 6-6-1.1].

(c) Notice of the extension or revocation shall be sent by registered or certified mail to the person's last known address. (*Department of State Revenue; Reg 6-6-1.1-411(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2321*)

**45 IAC 12-4-11 Permanent license; minimum gallonage; Indiana based distributor**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-412; IC 6-8.1

Sec. 11. (a) The administrator shall issue a permanent license to an Indiana based holder of a temporary license upon the following conditions:

(1) the Indiana based distributor has distributed at least five hundred thousand (500,000) gallons of gasoline during the year in which the temporary license was in effect;

(2) the Indiana based distributor has fully complied with the provisions and requirements set forth by this chapter [IC 6-6-1.1] and Indiana Code 6-8.1; and

(3) the Indiana based distributor has received, sold, or used gasoline during the six (6) month period immediately preceding expiration of the temporary license or the Indiana based distributor is presently engaged in such business.

(b) The permanent license shall remain effective unless cancelled under this chapter [IC 6-6-1.1]. (*Department of State Revenue; Reg 6-6-1.1-412(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2322*)

**45 IAC 12-4-12 Permanent license; minimum gallonage; non-Indiana based distributor**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-412; IC 6-8.1

Sec. 12. (a) The administrator shall issue a permanent license to a non-Indiana based holder of a temporary license upon the following conditions:

(1) the non-Indiana based distributor has fully complied with the provisions and requirements set forth by this chapter [IC 6-6-1.1] and Indiana Code 6-8.1; and

(2) the non-Indiana based distributor has received, sold, or used gasoline during the six (6) month period immediately preceding expiration of the temporary license or the non-Indiana based distributor is presently engaged in such business.

(b) The permanent license shall remain effective unless cancelled under this chapter [IC 6-6-1.1]. (*Department of State Revenue; Reg 6-6-1.1-412(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2322*)

**45 IAC 12-4-13 No permanent license; insufficient gallonage; Indiana based distributor**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-413

Sec. 13. The administrator shall not issue a permanent license to an Indiana based holder of a temporary license if the Indiana based distributor does not distribute at lease [*sic.*] five hundred thousand (500,000) gallons of gasoline during the year that the temporary license was in effect. (*Department of State Revenue; Reg 6-6-1.1-413(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2322*)

**45 IAC 12-4-14 License non-assignable; new license**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-414

Sec. 14. (a) A license issued under this chapter [IC 6-6-1.1] is not assignable and is valid only for the distributor in whose name it is issued.

(b) If there is a change in name, the distributor must apply for a new license.

(c) If there is a change in ownership of a business other than a corporation, the distributor must apply for a new license. (Department of State Revenue; Reg 6-6-1.1-414(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2322)

**45 IAC 12-4-15 Cancellation of distributor's license; grounds; notice; hearing**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-305; IC 6-6-1.1-415; IC 6-8.1-10

Sec. 15. (a) The administrator may, after ten (10) days' written notice, cancel a distributor's license if the distributor:

(1) files a false monthly report of the information required by this chapter [IC 6-6-1.1];

(2) fails or refuses to file the monthly report required by this chapter [IC 6-6-1.1];

(3) fails or refuses to pay the full amount of tax imposed by this chapter [IC 6-6-1.1], and penalty and interest imposed under Indiana Code 6-8.1-10; or

(4) is an Indiana distributor and fails to distribute five hundred thousand (500,000) gallons or more of gasoline during a twelve (12) month period.

(b) Notice of the hearing shall be sent by registered or certified mail to the licensed distributor's last known address.

(c) Upon notification, the licensed distributor may either appear at the time and place given in the notice or submit in writing to the administrator why the distributor's license should not be cancelled.

(d) The licensed distributor's failure to appear at the time and place given in the notice or failure to submit a written statement shall result in the immediate cancellation of the distributor's license.

(e) Notice of cancellation shall be sent by registered or certified mail to the person's last known address.

(f) A person whose distributor's license has been cancelled may not purchase gasoline in Indiana without paying the tax imposed under this chapter [IC 6-6-1.1] to such person's supplier as defined in section 401 of this chapter [IC 6-6-1.1-401] except as provided in Indiana Code 6-6-1.1-305. (Department of State Revenue; Reg 6-6-1.1-415(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2322)

**45 IAC 12-4-16 Cancellation of distributor's license for inactiveness; notice**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-417

Sec. 16. (a) The administrator may cancel a distributor's license by giving sixty (60) days' notice mailed to the licensed distributor's last known address if:

(1) the licensed distributor has not received, used, or sold gasoline for a period of six (6) months; and

(2) the licensed distributor is no longer actively engaged as a distributor.

(Department of State Revenue; Reg 6-6-1.1-417(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2323)

**Rule 5. Monthly Reports**

**45 IAC 12-5-1 Monthly reports to determine tax liability; itemized contents**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-501

Sec. 1. (a) Each licensed distributor shall file monthly with the administrator a report indicating the total amount of gallons of gasoline received, acquired, used, and sold during the preceding calendar month.

(b) This report must be in a form prescribed by the administrator and must be filed even if there is no tax liability for the preceding calendar month. (Department of State Revenue; Reg 6-6-1.1-501(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2323)

**45 IAC 12-5-2    Monthly reports; due date**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-501; IC 6-8.1

Sec. 2. (a) The monthly report prescribed by this section must be postmarked no later than the twentieth (20th) day following the month being reported.

(b) Reports not filed or filed after the due date are subject to penalty and interest pursuant to the provisions set forth in Indiana Code 6-8.1. If the due date falls on a Saturday, a Sunday, a national legal holiday, or a statewide holiday, the due date is the next succeeding day that is not a Saturday, Sunday, or holiday. (*Department of State Revenue; Reg 6-6-1.1-501(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2323*)

**45 IAC 12-5-3    Monthly reports; identification of sales to taxable marine facility**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-305; IC 6-6-1.1-501

Sec. 3. An itemized statement showing the gallons of gasoline sold to a taxable marine facility for which the distributor does not receive an exemption certificate authorized by section 305 of this chapter [IC 6-6-1.1-305] shall be identified on the report required by this chapter [IC 6-6-1.1] in the form and manner prescribed by the administrator. (*Department of State Revenue; Reg 6-6-1.1-501(030); filed Sep 19, 1983, 2:23 pm: 6 IR 2323*)

**45 IAC 12-5-4    Monthly payment of tax due; computation**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-201; IC 6-6-1.1-502

Sec. 4. (a) Each licensed distributor shall pay monthly to the administrator the full amount of tax due under this chapter [IC 6-6-1.1] for the preceding calendar month.

(b) The total amount of tax due shall be calculated by determining the total amount of invoice gallons of gasoline received less deductions authorized by this chapter [IC 6-6-1.1] multiplied by the current tax rate as provided by IC 6-6-1.1-201. (*Department of State Revenue; Reg 6-6-1.1-502(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2323; filed Apr 30, 1986, 3:32 pm: 9 IR 2190*)

**45 IAC 12-5-5    Monthly payment of tax due; due date**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-502; IC 6-8.1

Sec. 5. (a) The total amount of tax due for the preceding calendar month must be remitted to the administrator by the licensed distributor with the monthly report required by the this chapter [IC 6-6-1.1] no later than the twentieth (20th) day following the month being reported.

(b) Tax not remitted or remitted after the due date is subject to penalty and interest pursuant to the provisions set forth in Indiana Code 6-8.1. If the due date falls on a Saturday, a Sunday, a national legal holiday, or a statewide holiday, the due date is the next succeeding day that is not a Saturday, a Sunday, or holiday. (*Department of State Revenue; Reg 6-6-1.1-502(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2323*)

**45 IAC 12-5-6    Monthly payment of tax due; identification of tax attributable to taxable marine facilities**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-502

Sec. 6. The tax attributable to sales of gasoline to taxable marine facilities shall be identified on the report required by this chapter [IC 6-6-1.1] in the form and manner prescribed by the administrator. (*Department of State Revenue; Reg 6-6-1.1-502(030); filed Sep 19, 1983, 2:23 pm: 6 IR 2324*)



**45 IAC 12-5-7 Purchaser other than licensed distributor; same reports; payment of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-504; IC 6-6-1.1-704

Sec. 7. (a) A person other than a licensed distributor who purchases, uses, or otherwise acquires taxable gasoline and fails to pay the gasoline tax to either a licensed Indiana distributor or Indiana dealer is subject to the reporting and remittance requirements of licensed distributors under this chapter [IC 6-6-1.1].

(b) A person reporting under this section is not entitled to claim any deductions or credits as provided in sections 701, 702, 703, 704, and 705 of this chapter [45 IAC 12-7-1 through 45 IAC 12-7-4 and IC 6-6-1.1-704].

(c) For purposes of this section, the term "taxable gasoline" shall mean gasoline which is used in this state that is not eligible for exemption. (*Department of State Revenue; Reg 6-6-1.1-504(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2324*)

**45 IAC 12-5-8 Discontinuance, sale or transfer of distributor's business; notice to administrator**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-512; IC 6-8.1-5-4

Sec. 8. (a) A licensed distributor shall notify the administrator in writing at least ten (10) days prior to the licensed distributor's ceasing to do business as a distributor.

(b) The notice shall give the date of discontinuance or the date of sale or transfer and the name and address of the purchaser or transferee.

(c) A licensed distributor who is subject to this section must maintain books and records for a period of three (3) years after the date of discontinuance, sale or transfer pursuant to Indiana Code 6-8.1-5-4. (*Department of State Revenue; Reg 6-6-1.1-512(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2324*)

**45 IAC 12-5-9 Discontinuance, sale or transfer of distributor's business; accrued tax liabilities due and payable**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-513; IC 6-8.1-10

Sec. 9. (a) Notwithstanding any other provision of this chapter [IC 6-6-1.1], any tax, penalty, and interest which have accrued under this chapter [IC 6-6-1.1] or Indiana Code 6-8.1-10 are due and payable at the time a licensed distributor ceases to do business as a distributor.

(b) A licensed distributor subject to this section must file a final report and pay such amounts accrued within ten (10) days after the discontinuance, sale or transfer. (*Department of State Revenue; Reg 6-6-1.1-513(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2324*)

**45 IAC 12-5-10 Sale or transfer of distributor's business; liability of purchaser or transferee for any accrued unpaid tax, penalty and interest**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-514

Sec. 10. (a) If a distributor fails to give notice to the administrator as required by section 512 of this chapter [45 IAC 12-5-8], the purchaser or transferee of such business is liable to the state for all unpaid tax, penalty, and interest which have accrued against the distributor through the date of sale or transfer.

(b) The purchaser's or transferee's liability is limited to the value of the property and business acquired from the distributor. (*Department of State Revenue; Reg 6-6-1.1-514(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2324*)

**Rule 6. Monthly Accounting of Gasoline Delivered**

**45 IAC 12-6-1 Monthly accounting of all gasoline delivered to, or withdrawn from, a refinery or terminal**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-607

Sec. 1. A licensed distributor who owns or operates a refinery or terminal in Indiana shall, on forms prescribed by the administrator, make a monthly accounting to the administrator of:

- (1) all gasoline withdrawn from a refinery or terminal;
- (2) all gasoline delivered to a refinery or terminal;
- (3) all gasoline produced, compounded, or blended;
- (4) all title transfers of gasoline in terminal or refinery; and
- (5) any other information deemed necessary by the administrator.

*(Department of State Revenue; Reg 6-6-1.1-607(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2324)*

## **Rule 7. Exempt Gasoline**

### **45 IAC 12-7-1 Deduction for exempted gasoline**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-701; IC 6-6-1.1-908

Sec. 1. (a) A licensed distributor who acquires or receives gasoline that subsequently qualifies for an exemption under section 301 of this chapter [45 IAC 12-3-1 through 45 IAC 12-3-5] may claim a deduction for such gasoline.

(b) The deduction may be taken only after the licensed distributor has submitted adequate documentation to the administrator.

(c) Except as provided in section 908 of this chapter [IC 6-6-1.1-908], the deduction must be claimed on the report covering the month of export, loss, destruction, sale or use. *(Department of State Revenue; Reg 6-6-1.1-701(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2325)*

### **45 IAC 12-7-2 Sale or exchange agreement; deduction**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-702; IC 6-6-1.1-908

Sec. 2. (a) A licensed distributor who acquires or receives gasoline in this state who subsequently sells, transfers, or exchanges the gasoline to or for the account of another licensed distributor may claim a deduction for the gasoline.

(b) The deduction may be taken only after the licensed distributor has submitted adequate documentation to the administrator.

(c) Except as provided in section 908 of this chapter [IC 6-6-1.1-908], the deduction must be claimed on the report covering the month of sale, transfer, or exchange. *(Department of State Revenue; Reg 6-6-1.1-702(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2325)*

### **45 IAC 12-7-3 Sale of tax exempt gasoline; deduction**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-703

Sec. 3. (a) A licensed distributor who sells gasoline to a person holding an exemption permit as prescribed in section 302 and 303 of this chapter [45 IAC 12-3-6 and 45 IAC 12-3-7] may claim a deduction for that gasoline.

(b) The deduction may be taken only after the licensed distributor has submitted adequate documentation to the administrator.

(c) The deduction must be claimed on the report covering the month of sale. *(Department of State Revenue; Reg 6-6-1.1-703(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2325)*

### **45 IAC 12-7-4 Deduction for evaporation, shrinkage, losses, and tax-related expenses**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-704; IC 6-6-1.1-705

Sec. 4. (a) Except as otherwise provided, a licensed distributor may claim a deduction equal to one and six-tenths percent (1.6%) of the number of invoiced gallons of gasoline received in Indiana during the preceding calendar month less all authorized deductions claimed under sections 701, 702, 703, and 704 of this chapter [45 IAC 12-7-1 through 45 IAC 12-7-3 and IC 6-6-1.1-704].

(b) The deduction provided by this section may be taken by a licensed distributor when timely reporting and remitting the tax

accrued under this chapter [IC 6-6-1.1].

(c) The deduction provided by this section shall not be allowed for losses covered under section 301(5) of this chapter [45 IAC 12-3-4 and 45 IAC 12-3-5]. (Department of State Revenue; Reg 6-6-1.1-705(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2325; filed Apr 30, 1986, 3:32 pm: 9 IR 2190)

#### **Rule 8. Refund for Tax Paid on Gasoline**

##### **45 IAC 12-8-1 Refund to purchaser for gasoline lost or destroyed; limitations; requisites; distributor excepted**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-901

Sec. 1. (a) A person, except a distributor, who has purchased gasoline in Indiana and has paid the tax imposed on it by this chapter [IC 6-6-1.1] is entitled to a refund without interest of the amount of tax paid on gasoline in excess of one hundred (100) gallons which is lost or destroyed, except by evaporation, shrinkage, or unknown cause, while such person owned it.

(b) To obtain the refund, the person:

(1) must, within five (5) days after the loss or destruction is discovered, notify the administrator in writing of the amount of gasoline lost or destroyed; and

(2) must, within sixty (60) days after notice is given, file with the administrator an affidavit that is sworn to by the person having custody of the gasoline at the time of loss or destruction and that sets forth in full the circumstances and amount of the loss or destruction and any other information the administrator may require.

(Department of State Revenue; Reg 6-6-1.1-901(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2325)

##### **45 IAC 12-8-2 Refund to local transit systems; limitations; requisites**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-902

Sec. 2. (a) A local transit system is entitled to a refund of tax paid on gasoline used in its operations along highways in Indiana.

(b) For purposes of this section, a "local transit system" is a municipally owned or contracted common carrier who transports persons within the corporate limits of a municipality, or within the corporate limits and not more than five (5) miles beyond the corporate limits of a municipality, all of which are in Indiana.

(c) For purposes of paragraph (2) [renumbered subsection (b) by the revisor], the term "common carrier" shall mean any person that holds himself out to the general public to engage in the transportation by motor vehicle of persons for compensation whether over regular or irregular routes.

(d) For purposes of this section, the term "use" shall mean the consumption, depletion, or other expenditure of gasoline in this state except for destruction, loss, evaporation, or shrinkage as provided in Indiana Regulation 6-6-1.1-201(010)(3)(c) [45 IAC 12-2-1(c)(3)]. (Department of State Revenue; Reg 6-6-1.1-902(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2326)

##### **45 IAC 12-8-3 Refund to local transit system; interest**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-902; IC 6-8.1

Sec. 3. (a) To claim a refund under this section, a person must file a claim pursuant to the provisions set forth in section 904 of this chapter [45 IAC 12-8-14].

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by section 904 of this chapter [45 IAC 12-8-14], the department shall pay interest as provided in Indiana Code 6-8.1. (Department of State Revenue; Reg 6-6-1.1-902(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2326)

##### **45 IAC 12-8-4 Refund for tax paid on gasoline purchased or used for operating stationary gas engines**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 4. (a) A person is entitled to a gasoline tax refund for the operation of stationary gasoline engines if:

- (1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and
- (2) the stationary gasoline engine is being operated by or for the purchaser for commercial use.

(b) For purposes of this section, a "stationary gasoline engine" is any internal combustion engine or motor which is not operated in whole or in part to propel itself in conjunction with any vehicle.

(c) Representative of such engines are engines fueled by gasoline that perform utility functions around machine shops, construction sites, and farms which are not designed for, intended for, or generally capable of propelling a motor vehicle.

(d) For purposes of this chapter [IC 6-6-1.1], "commercial use" shall mean the consumption, depletion, or other expenditure of gasoline in this state except for destruction, loss, evaporation, or shrinkage which is related to the exchange of goods or services in contemplation of profit including non-proprietary functions of governmental agencies and not-for-profit organizations. (*Department of State Revenue; Reg 6-6-1.1-903(1)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2326; errata, 7 IR 579*)

**45 IAC 12-8-5 Refund for tax paid on gasoline purchased or used for operating concrete mixing equipment**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 5. (a) A person is entitled to a gasoline tax refund for the operation of concrete mixing equipment mounted on a motor vehicle if:

- (1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and
- (2) the concrete mixing equipment is being operated by or for the purchaser for commercial use.

(b) For purposes of this section, "concrete mixing equipment" is the continuous movement apparatus mounted on a motor vehicle which is designed to mix concrete and other similar substances.

(c) For purposes of this section, thirty percent (30%) of gasoline placed into a fuel supply tank which operates both concrete mixing equipment and the engine propelling a motor vehicle is eligible for refund. (*Department of State Revenue; Reg 6-6-1.1-903(2)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2326*)

**45 IAC 12-8-6 Refund for tax paid on gasoline purchased or used for operating farm tractors**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 6. (a) A person is entitled to a gasoline tax refund for the operation of a farm tractor if:

- (1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and
- (2) the farm tractor is being operated by or for the purchaser for commercial use.

(b) For purposes of this section, a "farm tractor" shall mean any vehicle designed and used primarily as a farm implement for drawing farm machinery, including plows, mowing machines, harvesters, and other implements of husbandry, used on a farm and when using the public highways in traveling from one field or farm to another, or to or from places of repairs. (*Department of State Revenue; Reg 6-6-1.1-903(3)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-7 Refund for tax paid on gasoline purchased or used for operating implements of husbandry**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 7. (a) A person is entitled to a gasoline tax refund for the operation of implements of husbandry if:

- (1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and
- (2) the implements of husbandry are being operated by or for the purchaser for commercial use;

(b) For purposes of this section, "implements of husbandry" shall mean every paint spray outfit; all livestock dipping equipment and seed cleaning and treating equipment, when mounted and transported upon a trailer using the public highways; every grain and bean separator; combine; corn picker; ensilage cutter; corn sheller; corn shredder; hay raker; manure spreader; portable saw mill; all well drilling machinery; all seeding, cultivating, and harvesting machinery; as well as self-propelled equipment, specially adapted, to be capable of both over-the-road and off-road usage; for the transportation and application of plant food materials and/or agricultural chemicals.

(c) Self-propelled equipment to which equipment, for the transportation and application of plant food materials and/or agricultural chemicals, is attached in a manner which allows for the subsequent removal of such attachments shall not be deemed to be specifically adapted to be capable of over-the-road and off-road usage for the transportation and application of plant food materials and/or agricultural chemicals. Therefore, such equipment shall not be deemed implements of husbandry. (*Department of State Revenue; Reg 6-6-1.1-903(3.1)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-8 Refund for tax paid on gasoline purchased or used for operating motorboats**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 8. A person is entitled to a gasoline tax refund for the operation of motorboats if:

(1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and

(2) the motorboats are not operated on an Indiana lake.

(*Department of State Revenue; Reg 6-6-1.1-903(4)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-9 Refund for tax paid on gasoline purchased or used for operating aircraft**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 9. A person is entitled to a gasoline tax refund for the operation of aircraft if the person is the purchaser of the gasoline and has paid the gasoline tax thereon. (*Department of State Revenue; Reg 6-6-1.1-903(4)(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-10 Refund for tax paid on gasoline purchased or used for cleaning or dyeing**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 10. A person is entitled to a gasoline tax refund for gasoline used for cleaning or dyeing if:

(1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and

(2) the gasoline is used by or for the purchaser for commercial use.

(*Department of State Revenue; Reg 6-6-1.1-903(5)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-11 Refund for tax paid on gasoline purchased or used for other commercial use**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 11. (a) A person is entitled to a gasoline tax refund for other commercial use if:

(1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and

(2) the gasoline is not used to propel motor vehicles operated in whole or in part on an Indiana highway.

(b) For purposes of this chapter [IC 6-6-1.1], "commercial use" shall mean the consumption, depletion, or other expenditures of gasoline in this state except for destruction, loss, evaporation or shrinkage, which is related to the exchange of goods or services in contemplation of profit including non-proprietary functions of governmental agencies and not-for-profit organizations. (*Department of State Revenue; Reg 6-6-1.1-903(6)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2327*)

**45 IAC 12-8-11.1 Refund for tax paid on gasoline purchased for proportional use**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 11.1. (a) A gasoline taxpayer is entitled to a proportional use refund for tax paid on use of gasoline for a commercial purpose when the gasoline is placed into the fuel supply tank of the taxpayer's motor vehicle which has a common fuel supply reservoir for both locomotion on a public highway and a commercial purpose, which is exempt from the gasoline tax, and if the

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## GASOLINE TAX

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person is the purchaser of the gasoline and has paid the gasoline tax thereon.

(b) For purposes of subsection (a), proportional use refunds shall be presumed to be as follows:

- (1) For tank trucks, twenty-four percent (24%) of gasoline placed into the fuel supply tank of a tank truck which operates both pumping equipment and the engine propelling the motor vehicle.
- (2) For sanitation trucks, forty-one percent (41%) of gasoline placed into the fuel supply tank of a sanitation truck which operates both the refuse collection equipment and the engine propelling the motor vehicle.
- (3) For refrigeration trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a refrigeration truck which operates both the refrigeration equipment and the engine propelling the motor vehicle.
- (4) For mobile cranes, forty-two percent (42%) of gasoline placed into the fuel supply tank of a mobile crane which operates both the crane and the engine propelling the motor vehicle.
- (5) For bulk feed trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a bulk feed truck which operates both the pumping equipment and the engine propelling the motor vehicle.
- (6) For milk tank trucks, thirty percent (30%) of gasoline placed into the fuel supply tank of a milk tank truck which operates both the pumping equipment and the engine propelling the motor vehicle.
- (7) For lime spreader trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a lime spreader truck which operates both the spreading equipment and the engine propelling the motor vehicle.
- (8) For spray trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a spray truck which operates both the spraying equipment and the engine propelling the motor vehicle.
- (9) For seeder trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a seeder truck which operates both the seeding equipment and the engine propelling the motor vehicle.
- (10) For leaf trucks, twenty percent (20%) of gasoline placed into the fuel supply tank of a leaf truck which operates both the shredding equipment and the engine propelling the motor vehicle.
- (11) For boom trucks or block booms, twenty percent (20%) of gasoline placed into the fuel supply tank of a boom truck or block boom which operates both the boom equipment and the engine propelling the motor vehicle.
- (12) For service trucks with a jackhammer or pneumatic drill, fifteen percent (15%) of gasoline placed into the fuel supply tank of a service truck with a jackhammer or pneumatic drill which operates both the jackhammer or pneumatic drill and the engine propelling the motor vehicle.
- (13) For trucks with a power take-off hydraulic winch, twenty percent (20%) of gasoline placed into the fuel supply tank of a truck with a power take-off hydraulic winch which operates both the hydraulic winch and the engine propelling the motor vehicle.
- (14) For wreckers, ten percent (10%) of gasoline placed into the fuel supply tank of a wrecker which operates both the hoist and the engine propelling the motor vehicle.
- (15) For semitractor wreckers, thirty-five percent (35%) of gasoline placed into the fuel supply tank of a semitractor wrecker which operates both the hoist and the engine propelling the motor vehicle.
- (16) For car carriers, ten percent (10%) of gasoline placed into the fuel supply tank of a car carrier with a hydraulic winch which operates both the hydraulic winch and the engine propelling the motor vehicle.
- (17) For dump trucks, twenty-three percent (23%) of gasoline placed into the fuel supply tank of a dump truck which operates both the dump mechanism and the engine propelling the motor vehicle.
- (18) For semitractor and dump truck trailer combinations (commonly referred to as dump trailers), fifteen percent (15%) of gasoline placed into the fuel supply tank of a semitractor and dump trailer combination which operates both the dump mechanism and the engine propelling the motor vehicle.
- (19) For semitractor and trailer combinations (commonly referred to as tank transports), fifteen percent (15%) of gasoline placed into the fuel supply tank of a semitractor and tank trailer combination which operates both the pumping equipment and the engine propelling the motor vehicle.
- (20) For pneumatic tank trucks, fifteen percent (15%) of gasoline placed into the fuel supply tank of a pneumatic tank truck which operates both the pumping equipment and the engine propelling the motor vehicle.
- (21) For sanitation receptacle carriers, commonly referred to as sanitation dump trailers, fifteen percent (15%) of gasoline placed into the fuel supply tank of a sanitation receptacle carrier (commonly referred to as a sanitation dump trailer) which operates both the winching or dumping mechanism and the engine propelling the motor vehicle.
- (22) For line trucks or aerial lift trucks, twenty percent (20%) of gasoline placed into the fuel supply tank of a line truck or aerial lift truck which operates both the lift equipment and the engine propelling the motor vehicle.

(23) For digger-derrick trucks, twenty percent (20%) of gasoline placed into the fuel supply tank of a digger-derrick truck which operates both the other commercial equipment and the engine propelling the motor vehicle.

(24) For sewer cleaning trucks, sewer jets, or sewer vactors, thirty-five percent (35%) of gasoline placed into the fuel supply tank of a sewer cleaning truck, a sewer jet, or a sewer vactor which operates both the cleaning equipment and the engine propelling the motor vehicle.

(25) For hot asphalt distribution trucks, ten percent (10%) of gasoline placed into the fuel supply tank of a hot asphalt distribution truck which operates both the distribution equipment and the engine propelling the motor vehicle.

(26) For snow plow trucks, ten percent (10%) of gasoline placed into the fuel supply tank of a snow plow truck which operates both the plow and the engine propelling the motor vehicle.

(27) For carpet cleaning vans, fifteen percent (15%) of gasoline placed into the fuel supply tank of a carpet cleaning van which operates both the cleaning equipment and the engine propelling the motor vehicle.

(28) For salt spreaders or dump trucks with spreaders, fifteen percent (15%) of gasoline placed into the fuel supply tank of a salt spreader or a dump truck with a spreader which operates both the spreading equipment and the engine propelling the motor vehicle.

(29) For sweeper trucks, twenty percent (20%) of gasoline placed into the fuel supply tank of a sweeper truck which operates both the sweeping equipment and the engine propelling the motor vehicle.

(30) For bookmobiles, twenty-five percent (25%) of gasoline placed into the fuel supply tank of a bookmobile which operates both the other commercial equipment and the engine propelling the motor vehicle.

(31) For buses, ten percent (10%) of gasoline placed into the fuel supply tank of a bus which has a common fuel reservoir which operates both the other commercial equipment and the engine propelling the motor vehicle.

(32) For fire trucks, forty-eight percent (48%) of gasoline placed into the fuel supply tank of a fire truck which operates both other commercial equipment and the engine propelling the motor vehicle.

(33) For super suckers, ninety percent (90%) of gasoline placed into the fuel supply tank of a super sucker which operates both other commercial equipment and the engine propelling the motor vehicle.

(c) Notwithstanding the provisions of subsection (b) (1-33) [subsection (b)], gasoline taxpayers operating listed motor vehicles which consume greater portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway than provided in subsection (b) (1-33) [subsection (b)], are eligible for a greater refund to be determined by the administrator after:

(1) a showing by the gasoline distributor or gasoline consumer of the portion of gasoline used for the operation of equipment other than locomotion on the public highway; and

(2) presentation of documents and information as requested by the administrator.

(d) Notwithstanding the provisions of subsection (b) (1-33) [subsection (b)], gasoline taxpayers operating motor vehicles not listed in subsection (b) (1-33) [subsection (b)], which consume portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway are eligible for a proportional use refund to be determined by the administrator after:

(1) a showing by the gasoline distributor or gasoline consumer of the portion of gasoline used for the operation of equipment other than for locomotion on the public highway; and

(2) presentation of documents and information as requested by the administrator.

*(Department of State Revenue; Reg 6-6-1.1-903(7)(010); filed Apr 30, 1986, 3:32 p.m.: 9 IR 2190; filed Mar 6, 1991, 2:20 p.m.: 14 IR 1372)*

#### **45 IAC 12-8-12 Refund for tax paid on gasoline purchased or used for operating a taxicab**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 12. (a) A person is entitled to a gasoline tax refund for the operation of a taxicab if:

(1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and

(2) the taxicab is being operated by or for the purchaser for commercial use.

(b) For purposes of this section, a "taxicab" means a motor vehicle which is:

(1) designed to carry not more than seven (7) individuals, including the driver;

(2) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time consumed;

(3) not operated over a definite route; and

(4) a part of a commercial enterprise in the business of providing taxicab service.

*(Department of State Revenue; Reg 6-6-1.1-903(7)(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2328)*

**45 IAC 12-8-13 Refund for tax paid on gasoline purchased or used for designated purposes; interest**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903; IC 6-8.1

Sec. 13. (a) To claim a refund under this section, a person must file a claim pursuant to the provisions set forth in section 904 of this chapter [45 IAC 12-8-14].

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by section 904 of this chapter [45 IAC 12-8-14], the department shall pay interest as provided in Indiana Code 6-8.1. *(Department of State Revenue; Reg 6-6-1.1-903(020); filed Sep 19, 1983, 2:23 pm: 6 IR 2328)*

**45 IAC 12-8-14 Refund; required procedures to claim**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-904

Sec. 14. (a) To claim a refund under section 902 or 903 of this chapter [45 IAC 12-8-2 through 45 IAC 12-8-3 or 45 IAC 12-8-4 through 45 IAC 12-8-13], a person must present to the administrator a statement made under penalties of perjury indicating the total amount of gasoline purchased or used for qualifying purposes under section 902 or 903 of this chapter [45 IAC 12-8-2 through 45 IAC 12-8-3 or 45 IAC 12-8-4 through 45 IAC 12-8-13].

(b) In instances where the gasoline was purchased prior to January 1, 1984, the statement must be filed within six (6) months after the date the gasoline was purchased, and it must be accompanied by the original invoice or a certified copy. Such a copy must be certified by the supplier on forms prescribed by the administrator.

(c) In instances where the gasoline was purchased after December 31, 1983, the statement must be filed within one (1) year after the date the gasoline was purchased, and it must be accompanied by the original invoice or a certified copy. Such a copy must be certified by the supplier on forms prescribed by the administrator.

(d) The original invoice or certified copy must show either:

(1) that payment for the purchase has been made and the amount of tax has been paid on purchase; or

(2) that the gasoline was charged to a credit card approved by the administrator.

(e) The administrator may make any investigation considered necessary before refunding any gasoline taxes. *(Department of State Revenue; Reg 6-6-1.1-904(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2328)*

**45 IAC 12-8-15 Tax credit in lieu of refund**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-903

Sec. 15. (a) In lieu of claiming a refund under section 904 of this chapter [45 IAC 12-8-14], a person may claim the adjusted gross income tax credit provided by Indiana Code 6-3-3-7 for the purchase or use of gasoline for purposes listed in Indiana Code 6-6-1.1-903(1) through (6).

(b) The credit is limited to the amount of gasoline tax paid during the taxable year for which the person is filing with respect to gasoline purchased or used for such purposes.

(c) In instances where the gasoline was purchased prior to January 1, 1984, the claim must be filed in a manner prescribed by Indiana Code 6-3-3-7 with the annual state income tax return for the same taxable year during which the gasoline was purchased or used, and must be accompanied by the same verification required as if the person were filing under 45 IAC 12-8-14 withstanding the six (6) month filing requirement of 45 IAC 12-8-14(b).

(d) In instances where the gasoline was purchased after December 31, 1983, the claim must be filed in a manner prescribed by Indiana Code 6-3-3-7, and must be accompanied by the same verification required as if the person were filing under 45 IAC 12-8-14 withstanding the one (1) year filing requirement of 45 IAC 12-8-14(c). However, such claim may not be made after the due date for the adjusted gross income tax return for the same taxable year during which the gasoline was purchased or used. *(Department*



*of State Revenue; Reg 6-6-1.1-905(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2328; errata, 6 IR 2416)*

**45 IAC 12-8-16 Refund or deduction; payment of tax in error; warrant; payment by licensed distributor; requisites**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-907

Sec. 16. (a) If the administrator determines that a licensed distributor has paid gasoline tax in error, or is entitled to a refund, or is entitled to a deduction, the administrator may authorize a refund or deduction for the amount of gasoline tax paid.

(b) No refund shall be made under this section unless:

(1) the written claim is in the form and manner prescribed by the department; and

(2) the claim is filed within two (2) years after the date of the transaction for which the taxes were paid.

*(Department of State Revenue; Reg 6-6-1.1-907(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2329)*

**45 IAC 12-8-17 Deduction in lieu of warrant for payment of refund**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-908

Sec. 17. In lieu of authorizing a refund under section 907 of this chapter [45 IAC 12-8-16], the administrator may permit a licensed distributor to deduct the claimed amount on the reports required by section 501 of this chapter [45 IAC 12-5-1 through 45 IAC 12-5-3]. *(Department of State Revenue; Reg 6-6-1.1-908(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2329)*

**Rule 9. Statement of Tax Rate**

**45 IAC 12-9-1 Separate statement of tax rate on sales or delivery slips, bills**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1203

Sec. 1. A licensed distributor and all persons selling gasoline shall state the rate of the tax separately from the price of the gasoline on all sales or delivery slips, bills, and statements which indicate the price of gasoline. *(Department of State Revenue; Reg 6-6-1.1-1203(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2329)*

**Rule 10. Evasion of Tax; Penalties**

**45 IAC 12-10-1 Submission of false information on invoice to support refund or credit; forfeiture**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1305

Sec. 1. A person who changes the date, name, gallonage, or other information shown on an invoice used to support a refund or a credit claim under sections 904 or 905 of this chapter [45 IAC 12-8-14 or 45 IAC 12-8-15], or who submits false information on an invoice, forfeits the right to a refund or credit on that invoice. However, the administrator may approve a claim supported by an altered or changed invoice if the administrator finds that the change or alteration was not made to improperly obtain a refund. *(Department of State Revenue; Reg 6-6-1.1-1305(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2329)*

**45 IAC 12-10-2 Fraudulent procurement of refund or credit; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1306

Sec. 2. A person who makes a false statement in connection with a refund or credit application under section 904 or 905 of this chapter [IC 6-6-1.1-904 or IC 6-6-1.1-905], or who collects or causes to be repaid to a person money to which that person is not entitled commits a Class B infraction. *(Department of State Revenue; Reg 6-6-1.1-1306(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2329)*

**45 IAC 12-10-3 Submission of multiple invoices for refund; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1307

Sec. 3. A person who submits an original invoice and a certified copy of an invoice, or two (2) or more certified copies of an invoice, to the administrator under section 904 of this chapter [45 IAC 12-8-14] for the same transaction commits a Class B misdemeanor. (*Department of State Revenue; Reg 6-6-1.1-1307(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

**45 IAC 12-10-4 Failure to pay over tax collected to administrator; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1308

Sec. 4. A person who receives or collects money as tax imposed under this chapter [IC 6-6-1.1] on gasoline on which such person has not paid the tax, and knowingly fails to pay the money to the administrator as required under this chapter [IC 6-6-1.1], commits a Class D felony. (*Department of State Revenue; Reg 6-6-1.1-1308(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

**45 IAC 12-10-5 Distributor; violations; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1309

Sec. 5. Except as otherwise provided by this chapter [IC 6-6-1.1], a distributor who:

(1) recklessly fails to file the returns or statements and to pay the taxes as required by this chapter [IC 6-6-1.1]; or

(2) knowingly fails to keep correct records, books and accounts required by this chapter [IC 6-6-1.1] commits a Class B misdemeanor.

(*Department of State Revenue; Reg 6-6-1.1-1309(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

**45 IAC 12-10-6 Use of untaxed gasoline; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1310

Sec. 6. A person who knowingly uses gasoline on which the tax has not been paid commits a Class B misdemeanor. (*Department of State Revenue; Reg 6-6-1.1-1310(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

**45 IAC 12-10-7 Reckless violations; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1312

Sec. 7. A person who recklessly violates a provision of this chapter [IC 6-6-1.1] for which no specific penalty is provided commits a Class B misdemeanor. (*Department of State Revenue; Reg 6-6-1.1-1312(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

**45 IAC 12-10-8 Evasion of tax; offense**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1-1313

Sec. 8. A person who violates sections 1309 through 1311 of this chapter [IC 6-6-1.1-1309 through IC 6-6-1.1-1311] with intent to evade the tax imposed by this chapter [IC 6-6-1.1] or to defraud the state commits a Class D felony. (*Department of State Revenue; Reg 6-6-1.1-1313(010); filed Sep 19, 1983, 2:23 pm: 6 IR 2330*)

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