

# ARTICLE 13. MOTOR CARRIER FUEL TAX

## Rule 1. Definitions

### 45 IAC 13-1-1 Carrier defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

Sec. 1. (a) For purposes of IC 6-6-4.1, the term "carrier" shall mean a person who operates or causes to be operated a commercial motor vehicle on any highway in Indiana.

(b) Except as otherwise provided in regulations 6-6-4.1-3(a)(010) through 6-6-4.1-3(e)(010) [45 IAC 13-3-1, 45 IAC 13-3-2, 45 IAC 13-3-3, 45 IAC 13-3-4, 45 IAC 13-3-5], a person who "causes to be operated" a commercial motor vehicle on any Indiana highway is the person for whom the commercial motor vehicle is being driven. (*Department of State Revenue; Reg 6-6-4.1-1(a)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2316*)

### 45 IAC 13-1-2 Commercial motor vehicle defined (Repealed)

Sec. 2. (*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

### 45 IAC 13-1-3 Motor vehicle defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1; IC 6-6-4.1-4

Sec. 3. (a) A "motor vehicle" is a vehicle which is propelled by an internal combustion engine or motor and is designed for highway use.

(b) The term "motor vehicle" shall not be construed to include road construction or maintenance machinery, well-boring apparatus, ditch-digging apparatus, or other similar equipment, which are occasionally operated or moved over public highways.

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

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

(e) 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 and from places of repair or supply.

(f) Vehicles exclusively operated on private property and not engaged in highway transportation are not motor vehicles.

(g) Upon determination by the administrator, the tax imposed under IC 6-6-4.1-4 will not apply to that portion of the fuel consumed on Indiana highways by motor vehicles with a common fuel reservoir for both locomotion along the highway and the operation of equipment with another commercial purpose even though such vehicles are motor vehicles for purposes of IC 6-6-4.1.

(1) For purposes of IC 6-6-4.1, commercial purpose means the exchange of goods and services in contemplation of profit; and

(2) includes non-proprietary functions of governmental agencies and not-for-profit organizations.

#### —EXAMPLES—

(1) A truck manufacturer tests trucks on a test track located on the manufacturer's property. Although the trucks are primarily adapted for highway transportation, they are not engaged in highway transportation and therefore, are not considered motor vehicles.

(2) In a mining operation haulage trucks are employed to transport coal from the pit to a crusher and then to a processing plant. The roadway between the pit and the crusher is a private roadway. The roadway between the crusher and the processing plant is a public highway. Haulage trucks operated exclusively for transportation on private property are not considered motor vehicles. However, haulage trucks which at one time or another travel upon a public highway are considered motor vehicles.

(*Department of State Revenue; Reg 6-6-4.1-1(b)(020); filed Jul 13, 1984, 9:25 am; 7 IR 2316; filed Apr 30, 1986, 3:30 pm; 9 IR 2191*)

**45 IAC 13-1-4 Vehicles designed for highway use, defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 4. (a) A vehicle is "designed for highway use" if it is primarily adapted for and engaged in highway transportation.

(b) Except for vehicles excluded under regulation 6-6-4.1-1(b)(020) [45 IAC 13-1-3], all vehicles plated for general highway transportation are presumed to be primarily adapted for and engaged in highway transportation. (*Department of State Revenue; Reg 6-6-4.1-1(b)(030); filed Jul 13, 1984, 9:25 am: 7 IR 2316*)

**45 IAC 13-1-5 Truck defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 5. The term "truck" shall mean any motor vehicle which is primarily designed for the transporting of property.

(*Department of State Revenue; Reg 6-6-4.1-1(b)(040); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-6 Road tractor defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 6. The term "road tractor" shall mean any motor vehicle which is primarily designed for the drawing of vehicles and is not so constructed as to independently transport property thereon. (*Department of State Revenue; Reg 6-6-4.1-1(b)(050); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-7 Tractor truck defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 7. (a) The term "tractor truck" shall mean any motor vehicle which is designed and used primarily for the drawing of other vehicles, and which is not constructed to carry property other than a part of the weight of the vehicle and load being drawn.

(b) A motor vehicle which is only used for recreational purposes is not considered a "tractor truck" under regulation 6-6-4.1-1(b)(010) [45 IAC 13-1-2].

**EXAMPLES**

(1) A manufacturer primarily uses a pickup truck to draw fifth-wheel trailers to its dealers. The vehicle is a "tractor truck" since its primary use is to draw other vehicles.

(2) The same manufacturer uses a pickup truck to pull trailers attached to its bumper. The vehicle is not a "tractor truck" since it may carry other property in its bed.

(3) A pickup truck is used on weekends to pull a fifth-wheel camper and is used for transportation during the week. The vehicle is not a "tractor truck" since it only pulls other vehicles for recreational purposes.

(*Department of State Revenue; Reg 6-6-4.1-1(b)(060); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-8 Axle defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 8. The term "axle" shall mean two or more wheels mounted in a single transverse vertical plane. (*Department of State Revenue; Reg 6-6-4.1-1(b)(070); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-9 Person defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 9. (a) The term "person" shall mean any natural person, partnership, corporation, firm, association, or representative appointed by a court or the state, or its political subdivision.

(b) For purposes of IC 6-6-4.1-1, a corporate subsidiary shall be considered a "person".

(c) For purposes of IC 6-6-4.1-1, a corporate division shall not be considered a "person". (*Department of State Revenue; Reg 6-6-4.1-1(b)(080); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-10 Commissioner defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 10. The term "commissioner" shall mean the commissioner of the Indiana department of state revenue or any authorized agent thereof. (*Department of State Revenue; Reg 6-6-4.1-1(c)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-1-11 Highway defined**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 11. (a) The term "highway" shall mean the entire width between the boundary lines of every thoroughfare that is open in any part to the use of the public for purposes of vehicular travel.

(b) For purposes of IC 6-6-4.1, a toll road is a highway. (*Department of State Revenue; Reg 6-6-4.1-1(e)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**Rule 2. Applicability**

**45 IAC 13-2-1 Applicability of motor carrier fuel tax laws**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

Sec. 1. Unless exempt, any commercial motor vehicle, as defined in regulation 6-6-4.1-1(b)(010) [45 IAC 13-1-2], driven on an Indiana highway is subject to the provisions set forth in IC 6-6-4.1. (*Department of State Revenue; Reg 6-6-4.1-2(a)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2317*)

**45 IAC 13-2-2 Exemptions from motor carrier fuel tax laws**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-2; IC 36-1-2-13

Sec. 2. The following commercial motor vehicles are exempt from the application of IC 6-6-4.1:

(1) a commercial motor vehicle operated by this state, a political subdivision of this state as defined in IC 36-1-2-13, the United States, or an agency of states and the United States or an agency of two (2) or more states, in which this state participates;

(2) a commercial motor vehicle that has a seating capacity for more than nine (9) passengers, excluding the driver, which is used to transport school children to and from school, and to and from school athletic games or contests or other school functions, operated on behalf of a state or political subdivision of a state as defined in IC 36-1-2-13, or a private or privately operated school;

(3) a commercial motor vehicle used in casual bus operations if:

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(A) the vehicle is operated by or on behalf of an organization which is exempt under section 501(c) of the Internal Revenue Code; or

(B) the vehicle is privately owned and is operated for recreational purposes;

–EXAMPLE–

A bus is owned by a church and is used to transport its members to and from various church activities. The bus is exempt from the provisions of IC 6-6-4.1 because it is used in casual bus operations.

(4) a commercial motor vehicle used in charter bus operations and not in operations covering regularly scheduled routes:

(A) if a vehicle is used only in operations covering regularly scheduled routes, it is subject to the provisions set forth in IC 6-6-4.1;

(B) if a vehicle is used in both charter bus operations and in operations covering regularly scheduled routes, only its operations attributable to the regularly scheduled routes are subject to the provisions set forth in Indiana Code 6-6-4.1.

(5) after January 1, 1984, trucks, trailers, or semitrailers and tractors so long as the commercial motor vehicle:

(A) is qualified to be registered and used as a farm truck, farm trailer, or farm semitrailer and tractor;

(B) is registered as such by the Indiana bureau of motor vehicles; and

(C) is not operated, either part time or incidentally, in the conduct of any commercial enterprise or in the transportation of farm products after such commodities have been delivered to the first point of delivery, where the commodities are weighed and title is transferred.

–EXAMPLE–

During a particular quarter a grain truck is used to transport grain to a farm bureau where the grain is weighed and sold but is not unloaded. The grain is then hauled to an elevator where it is unloaded. The grain truck does not qualify for an exemption because it was used to transport farm products after they were delivered to the first point of delivery. Therefore, the carrier is required to report the truck's total mileage for the entire quarter.

*(Department of State Revenue; Reg 6-6-4.1-2(b)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2318; filed Apr 30, 1986, 3:30 pm: 9 IR 2192)*

### Rule 3. Leased Motor Vehicles

#### 45 IAC 13-3-1 Applicability to leased vehicles

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

Sec. 1. Except as provided in regulations 6-6-4.1-3(b)(010) [45 IAC 13-3-2] and 6-6-4.1-3(b)(020) [45 IAC 13-3-3], every commercial motor vehicle leased to a carrier is subject to the provisions of IC 6-6-4.1 to the same extent and in the same manner as a commercial motor vehicle owned by that carrier.

#### EXAMPLES

(1) An owner-operated [sic.] leases a commercial motor vehicle to a manufacturer and thereafter proceeds to operate the motor vehicle on behalf of the manufacturer. The manufacturer is responsible for reporting and paying the motor carrier fuel tax.

(2) A truck leasing company leases a tractor-trailer to a manufacturer who uses the vehicle to transport production from its plant. Since the motor vehicle is operated on behalf of the lessee, the manufacturer is responsible for reporting and paying the motor carrier fuel tax.

(3) An owner-operator leases a commercial motor vehicle to a trucking company and operates the vehicle on behalf of the company. The trucking company is responsible for reporting and paying the motor carrier fuel tax absent an agreement otherwise.

*(Department of State Revenue; Reg 6-6-4.1-3(a)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2318)*

#### 45 IAC 13-3-2 Lessor's duty to report and pay motor carrier fuel tax

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

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Sec. 2. (a) The department will consider a lessor of commercial motor vehicles to be a carrier, with respect to the operation of vehicles it leases to others, if the motor vehicle is not operated on behalf of the lessee, and if the lessor:

- (1) supplies or pays for the motor fuel consumed by the vehicle; or
- (2) makes rental or other charges calculated to include the cost of the motor fuel consumed by the vehicle.

(b) Any commercial motor vehicle leased from a lessor who is considered a carrier by the department must be included in the lessor's reports and liabilities under IC 6-6-4.1.

### EXAMPLE

A manufacturer leases a motor vehicle to an operator who operates the motor vehicle on behalf of the manufacturer. The manufacturer also supplies the fuel consumed by the motor vehicle. The manufacturer is responsible for reporting and paying the motor carrier fuel tax.

*(Department of State Revenue; Reg 6-6-4.1-3(b)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2319)*

### **45 IAC 13-3-3 Agreement between lessor and lessee for reporting and payment of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-3

Sec. 3. If the lessor and lessee stipulate in a written agreement that a specific party is to report and pay the motor carrier fuel tax on a leased commercial motor vehicle, the department will require that party to report and pay the tax on the vehicle instead of the party named in regulations 6-6-4.1-3(a)(010) [45 IAC 13-3-1] or 6-6-4.1-3(b)(010) [45 IAC 13-3-2]. *(Department of State Revenue; Reg 6-6-4.1-3(b)(020); filed Jul 13, 1984, 9:25 am; 7 IR 2319)*

### **45 IAC 13-3-4 Identification of carrier status**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-3

Sec. 4. In order to substantiate or identify to other carriers and to the public the carrier status determined under IC 6-6-4.1-3, a lessor shall display in each leased commercial motor vehicle a reproduced copy of the Indiana motor carrier fuel tax annual permit under which the vehicle is being operated. *(Department of State Revenue; Reg 6-6-4.1-3(c)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2319)*

### **45 IAC 13-3-5 Secondary liability for payment of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

Sec. 5. (a) Regulations 6-6-4.1-3(a)(010) through 6-6-4.1-3(b)(020) [45 IAC 13-3-1, 45 IAC 13-3-2, 45 IAC 13-3-3] govern the primary liability under IC 6-6-4.1. If the party who is primarily liable fails, in whole or in part, to discharge the liability, all the parties to the lease transaction are responsible for compliance with IC 6-6-4.1 and are jointly and severally liable for payment of the tax despite any "hold harmless agreements" between the parties which attempt to hold one party harmless from any tax liability.

(b) The aggregate taxes collected by the department may not exceed the amount of tax that would have resulted from the operation of the leased motor vehicle by the owner, plus any applicable costs and penalties. *(Department of State Revenue; Reg 6-6-4.1-3(e)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2319; filed Apr 30, 1986, 3:30 pm; 9 IR 2192)*

## **Rule 4. Imposition of Tax**

### **45 IAC 13-4-1 Imposition of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4

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Sec. 1. A motor carrier fuel tax is imposed on the consumption of motor fuel by commercial motor vehicles operated by a carrier in its operations on highways in Indiana. (*Department of State Revenue; Reg 6-6-4.1-4(a)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2319*)

### 45 IAC 13-4-2 Rate of tax (Repealed)

Sec. 2. (*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

### 45 IAC 13-4-3 Payment of tax (Repealed)

Sec. 3. (*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

### 45 IAC 13-4-4 Amount of fuel consumed; fuel supply tank defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-1

Sec. 4. (a) All motor fuel placed into a fuel supply tank of a commercial motor vehicle is presumed to be consumed by that vehicle solely for the purpose of propelling the vehicle along highways.

(b) For purposes of regulation 6-6-4.1-4(a)(040) [*this section*], the "fuel supply tank" of a commercial motor vehicle is the usual and ordinary tank from which motor fuel is withdrawn for the operation of the vehicle.

#### EXAMPLES

(1) A commercial motor vehicle with a single fuel supply tank uses fuel from the tank to supply an attached refrigeration unit. The motor carrier fuel tax is imposed on the entire amount of motor fuel consumed from the tank.

(2) That same commercial motor vehicle has a second fuel tank which is used solely to supply the refrigeration unit. The motor carrier fuel tax would not be imposed on the fuel consumed from the second fuel tank which supplies the refrigeration unit.

(3) A commercial motor vehicle is kept idling as it is unloaded. The motor fuel consumed while the vehicle idles has been consumed for the purpose of propelling the vehicle along highways.

(*Department of State Revenue; Reg 6-6-4.1-4(a)(040); filed Jul 13, 1984, 9:25 am; 7 IR 2320*)

### 45 IAC 13-4-5 Apportionment of fuel consumed on Indiana highways

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4

Sec. 5. The amount of motor fuel consumed on Indiana highways is the total amount of motor fuel consumed by all of the carrier's commercial motor vehicles which are subject to the motor carrier fuel tax, in operations within and without Indiana, multiplied by a fraction. The numerator of that fraction is the total miles traveled on highways in Indiana by vehicles which are subject to the motor carrier fuel tax. The denominator of the fraction is the total miles traveled, within and without Indiana, by all of the carrier's commercial motor vehicles which are subject to the tax.

#### EXAMPLE

Taxpayer A is a private carrier with operations that extend nationwide. Some of its commercial motor vehicles never enter Indiana. In computing the amount of motor fuel consumed on Indiana highways, Taxpayer A should include all mileage and total gallonage of motor fuel consumed by commercial motor vehicles (as defined in regulation 6-6-4.1-1(b)(010) [*45 IAC 13-1-2*]), even if the vehicles never entered Indiana.

(*Department of State Revenue; Reg 6-6-4.1-4(b)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2320*)

### 45 IAC 13-4-6 Calculation of tax payment (Repealed)

Sec. 6. (*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

**45 IAC 13-4-7 Proportional imposition of tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4

Sec. 7. (a) A motor carrier subject to the tax imposed under IC 6-6-4.1-4 is entitled to a proportional use exemption for tax paid on use of fuel for a commercial purpose when the fuel 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 motor carrier fuel tax, and if the person is the purchaser of the fuel and has paid the motor carrier fuel tax thereon. For purposes of the exemption, the fuel used for the commercial purpose other than locomotion of the motor vehicle must be used in Indiana.

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

(1) For ready mix concrete trucks, thirty percent (30%) of the motor fuel which is consumed on Indiana highways by a ready mix concrete truck which has a common fuel reservoir for both locomotion on the highway and the operation of the concrete mixing equipment.

(2) For tank trucks, twenty-four percent (24%) of the motor fuel which is consumed on Indiana highways by a tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.

(3) For sanitation trucks, forty-one percent (41%) of the motor fuel which is consumed on Indiana highways by a sanitation truck which has a common fuel reservoir for both locomotion on the highway and the operation of the refuse collection equipment.

(4) For refrigeration trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a refrigeration truck which has a common fuel reservoir for both locomotion on the highway and the operation of the refrigeration equipment.

(5) For mobile cranes, forty-two percent (42%) of the motor fuel which is consumed on Indiana highways by a mobile crane which has a common fuel reservoir for both locomotion on the highway and the operation of the crane.

(6) For bulk feed trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a bulk feed truck which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.

(7) For milk tank trucks, thirty percent (30%) of the motor fuel which is consumed on Indiana highways by a milk tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.

(8) For lime spreader trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a lime spreader truck which has a common fuel reservoir for both locomotion on the highway and the operation of the spreading equipment.

(9) For spray trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a spray truck which has a common fuel reservoir for both locomotion on the highway and the operation of the spraying equipment.

(10) For seeder trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a seeder truck which has a common fuel reservoir for both locomotion on the highway and the operation of the seeding equipment.

(11) For leaf trucks, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a leaf truck which has a common fuel reservoir for both locomotion on the highway and the operation of the shredding equipment.

(12) For boom trucks or block booms, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a boom truck or block boom which has a common fuel reservoir for both locomotion on the highway and the operation of the boom equipment.

(13) For service trucks with a jackhammer or pneumatic drill, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by service truck with a jackhammer or pneumatic drill which has a common fuel reservoir for both locomotion on the highway and the operation of the jackhammer or pneumatic drill.

(14) For trucks with a power take-off hydraulic winch, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a truck with a power take-off hydraulic winch which has a common fuel reservoir for both locomotion on the highway and the operation of the hydraulic winch.

(15) For wreckers, ten percent (10%) of the motor fuel which is consumed on Indiana highways by a wrecker which has a common fuel reservoir for both locomotion on the highway and the operation of the hoist.

(16) For semitractor wreckers, thirty-five percent (35%) of the motor fuel which is consumed on Indiana highways by a semitractor wrecker which has a common fuel reservoir for both locomotion on the highway and the operation of the hoist.

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- (17) For car carriers with a hydraulic winch, ten percent (10%) of the motor fuel which is consumed on Indiana highways by a car carrier with a hydraulic winch which has a common fuel reservoir for both locomotion on the highway and the operation of the hydraulic winch.
- (18) For dump trucks, twenty-three percent (23%) of the motor fuel which is consumed on Indiana highways by a dump truck which has a common fuel reservoir for both locomotion on the highway and the operation of the dump mechanism.
- (19) For semitractor and dump trailer combinations (commonly referred to as dump trailers), fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a semitractor and dump trailer combination which has a common fuel reservoir for both locomotion on the highway and the operation of the dump mechanism.
- (20) For semitractor and tank trailer combinations (commonly referred to as a tank transport), fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a semitractor and tank trailer combination which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.
- (21) For pneumatic tank trucks, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a pneumatic tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.
- (22) For sanitation receptacle carriers (commonly referred to as a sanitation dump trailer), fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a sanitation receptacle carrier which has a common fuel reservoir for both locomotion on the highway and the operation of the winching or dumping mechanism.
- (23) For line trucks or aerial lift trucks, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a line truck or aerial lift truck which has a common fuel reservoir for both locomotion on the highway and the operation of the lift equipment.
- (24) For digger-derrick trucks, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a digger-derrick truck which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.
- (25) For sewer cleaning trucks, sewer jets, or sewer vacuums, thirty-five percent (35%) of the motor fuel which is consumed on Indiana highways by a sewer cleaning truck, a sewer jet, or a sewer vacuum which has a common fuel reservoir for both locomotion on the highway and the operation of the cleaning equipment.
- (26) For hot asphalt distribution trucks, ten percent (10%) of the motor fuel which is consumed on Indiana highways by a hot asphalt distribution truck which has a common fuel reservoir for both locomotion on the highway and the operation of the distribution equipment.
- (27) For snow plow trucks, ten percent (10%) of the motor fuel which is consumed on Indiana highways by a snow plow truck which has a common fuel reservoir for both locomotion on the highway and the operation of the plow.
- (28) For carpet cleaning vans, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a carpet cleaning van which has a common fuel reservoir for both locomotion on the highway and the operation of the cleaning equipment.
- (29) For salt spreaders or dump trucks with spreaders, fifteen percent (15%) of the motor fuel which is consumed on Indiana highways by a salt spreader or a dump truck with a spreader which has a common fuel reservoir for both locomotion on the highway and the operation of the spreading equipment.
- (30) For sweeper trucks, twenty percent (20%) of the motor fuel which is consumed on Indiana highways by a sweeper truck which has a common fuel reservoir for both locomotion on the highway and the operation of the sweeping equipment.
- (31) For bookmobiles, twenty-five percent (25%) of the motor fuel which is consumed on Indiana highways by a bookmobile which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.
- (32) For buses, ten percent (10%) of the motor fuel which is consumed on Indiana highways by a bus which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.
- (33) For fire trucks, forty-eight percent (48%) of the motor fuel which is consumed on Indiana highways by a fire truck which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.
- (34) For super suckers, ninety percent (90%) of the motor fuel which is consumed on Indiana highways by a super sucker which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.



(c) Notwithstanding the provisions of subsection (b) (1-34) [subsection (b)], motor carrier fuel 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 in Indiana than provided in subsection (b) (1-34) [subsection (b)] are eligible for a greater exemption to be determined by the administrator after:

(1) a showing by the person or carrier of the proportion of motor fuel 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.

(d) Notwithstanding the provisions of subsection (b) (1-34) [subsection (b)], motor carrier fuel taxpayers operating motor vehicles not listed in subsection (b) (1-34) [subsection (b)] which consume portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway in Indiana are eligible for a proportional use exemption to be determined by the administrator after:

(1) a showing by the person or carrier of the proportion of motor fuel 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 6-6-4.1-4(d)(010); filed Apr 30, 1986, 3:30 p.m.: 9 IR 2193; filed Mar 6, 1991, 2:20 p.m.: 14 IR 1374; errata, 14 IR 1626)

## **Rule 5. Credit Against Tax**

### **45 IAC 13-5-1 Eligibility for credit (Repealed)**

Sec. 1. (Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)

### **45 IAC 13-5-2 Agency relationships**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-6

Sec. 2. If a party to a written lease agreement is required to report and pay the Indiana motor carrier fuel tax, but another state or jurisdiction requires a different party to the lease agreement to report and pay a similar tax, the party who reports and pays the Indiana motor carrier fuel tax is entitled to a credit or refund so long as:

(1) the written lease agreement stipulates that an agency relationship exists between the parties for purposes of determining whether the parties are eligible for a credit against tax; and

(2) the parties' combined operations under the lease agreement have satisfied the credit requirements under regulation 6-6-4.1-6(a)(010) [45 IAC 13-5-1].

#### **EXAMPLE**

Taxpayer A, a household mover, leases all of its commercial motor vehicles from owner-operators. Taxpayer A reports and pays the Indiana motor carrier fuel tax on motor fuel consumed by the leased vehicles. However, the owner-operators are required to pay Ohio road taxes on the fuel consumed by the vehicles. If the lease agreements between Taxpayer A and the owner-operators state that an agency relationship exists for purposes of determining eligibility for a credit, Taxpayer A is entitled to a credit or refund on Indiana-purchased motor fuel consumed in Ohio.

(Department of State Revenue; Reg 6-6-4.1-6(a)(020); filed Jul 13, 1984, 9:25 am: 7 IR 2320)

### **45 IAC 13-5-3 Overpurchases in Indiana**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-6

Sec. 3. A carrier may be entitled to a credit for motor fuel consumed in another state if it can prove that its commercial motor vehicle was capable of consuming Indiana-purchased motor fuel in that state. (Department of State Revenue; Reg 6-6-4.1-6(a)(030); filed Jul 13, 1984, 9:25 am: 7 IR 2321; filed Apr 30, 1986, 3:30 pm: 9 IR 2193)

**45 IAC 13-5-4 Overpurchases in intervening states**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-6

Sec. 4. If a carrier is entitled to a credit in one or more states but has overpurchased motor fuel in an intervening state, the credit will be reduced by the amount of fuel overpurchased in that state.

**EXAMPLE**

For a particular quarter, a motor carrier overpurchased motor fuel in Indiana and underpurchased motor fuel in Tennessee. However, it also overpurchased motor fuel in Kentucky. The carrier's credit from Indiana-purchased motor fuel consumed in Tennessee will be reduced by the amount of motor fuel overpurchased in Kentucky.

*(Department of State Revenue; Reg 6-6-4.1-6(a)(040); filed Jul 13, 1984, 9:25 am; 7 IR 2321)*

**45 IAC 13-5-5 Amount of credit (Repealed)**

Sec. 5. *(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**45 IAC 13-5-6 Evidence to qualify for credit**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-6

Sec. 6. To qualify for a credit, the motor carrier shall maintain, and submit as requested by the department, evidence of Indiana gasoline or special fuel taxes paid, and of any payments made to other states. *(Department of State Revenue; Reg 6-6-4.1-6(c)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2321)*

**45 IAC 13-5-7 Application of credit to tax liability**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4; IC 6-6-4.1-6

Sec. 7. A credit earned by a carrier in a particular quarter shall be applied against the carrier's tax liability under IC 6-6-4.1-4 for that quarter before any carryover may be applied. *(Department of State Revenue; Reg 6-6-4.1-6(d)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2321)*

**Rule 6. Credit Application; Refund; Interest**

**45 IAC 13-6-1 Credit defined (Repealed)**

Sec. 1. *(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**45 IAC 13-6-2 Application of credit; expiration**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4; IC 6-6-4.1-7

Sec. 2. (a) The credit for any quarter shall be allowed as a credit against tax imposed by IC 6-6-4.1-4 for which the carrier would otherwise be liable in the immediately following quarter, unless the carrier elects to claim a refund under regulation 6-6-4.1-7(c)(010) [45 IAC 13-6-3].

(b) If a credit for a particular quarter has not been applied as a credit against tax at the end of the immediately following quarter, the remaining credit may no longer be used as a credit against a tax liability. *(Department of State Revenue; Reg 6-6-4.1-7(b)(010); filed Jul 13, 1984, 9:25 am; 7 IR 2322; filed Apr 30, 1986, 3:30 pm; 9 IR 2194)*

**45 IAC 13-6-3 Application for refund (Repealed)**

Sec. 3. *(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**45 IAC 13-6-4 Qualification for refund**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1; IC 6-6-2.1; IC 6-6-4.1-7; IC 6-6-4.1-8

Sec. 4. (a) The department may not make a refund to a carrier until the carrier has furnished to the department proof of payment of the taxes imposed under IC 6-6-1.1 and IC 6-6-2.1, including:

- (1) invoices, purchase tickets, computer print out or statement; and showing
- (2) date of sale, name of purchaser (permittee), number of gallons, name of products, state tax rate charged, signature of purchaser; and
- (3) name and address of vendor; and
- (4) the furnishing of a surety bond under Indiana Code 6-6-4.1-8; and
- (5) any other information the administrator may reasonably request.

*(Department of State Revenue; Reg 6-6-4.1-7(c)(020); filed Jul 13, 1984, 9:25 am: 7 IR 2322; filed Apr 30, 1986, 3:30 pm: 9 IR 2194)*

**45 IAC 13-6-5 Interest on refunds (Repealed)**

Sec. 5. *(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**45 IAC 13-6-6 Completion date of application for refund**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-8

Sec. 6. For purposes of regulations 6-6-4.1-7(c)(020) [45 IAC 13-6-4] and 6-6-4.1-7(d)(010) [45 IAC 13-6-5], the date in which an application for refund is properly completed is the date in which all of the following have been completed:

- (1) the filing of the refund application;
- (2) the submission of any evidence or reports requested by the department; and
- (3) the satisfaction of the refund requirements under IC 6-6-4.1-8.

*(Department of State Revenue; Reg 6-6-4.1-7(d)(020); filed Jul 13, 1984, 9:25 am: 7 IR 2322; filed Apr 30, 1986, 3:30 pm: 9 IR 2195)*

**Rule 7. Bonds (Repealed)**

*(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**Rule 8. Presumption of Consumption Rate (Repealed)**

*(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

**Rule 8.5. Surcharge Tax; Commercial Motor Vehicles**

**45 IAC 13-8.5-1 Imposition; rate; payment**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4.5

Sec. 1. (a) A surcharge tax is imposed on the consumption of motor fuel by commercial motor vehicles operated by a carrier in its operations on highways in Indiana.

(b) The rate of the surcharge tax is eight cents (\$0.08) per gallon.

(c) The tax imposed by IC 6-6-4.1-4.5 shall be paid quarterly to the department on or before the last day of the month immediately following the quarter. (*Department of State Revenue; Reg 6-6-4.1-4.5(a)(010); filed Apr 30, 1986, 3:30 pm: 9 IR 2195*)

#### **45 IAC 13-8.5-2 Calculation of fuel consumption**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4.5

Sec. 2. The amount of motor fuel consumed on Indiana highways is the total amount of motor fuel consumed by all the carrier's commercial motor vehicles which are subject to the motor carrier fuel tax, in operations within and without Indiana, multiplied by a fraction of which:

- (1) the numerator is the total miles traveled on highways in Indiana by vehicles subject to the motor carrier fuel tax; and
- (2) the denominator is the total miles traveled, within and without Indiana, by all of the carrier's commercial motor vehicles which are subject to the motor carrier fuel tax.

(*Department of State Revenue; Reg 6-6-4.1-4.5(b)(010); filed Apr 30, 1986, 3:30 pm: 9 IR 2195*)

#### **45 IAC 13-8.5-3 Amount of tax (Repealed)**

Sec. 3. (*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

#### **45 IAC 13-8.5-4 Proportional fuel use**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-4.5

Sec. 4. The tax imposed by IC 6-6-4.1-4.5 does not apply to the portion of motor fuel used to operate the equipment in or on the motor vehicles identified in 45 IAC 13-4-7 and in the proportions identified therein and as determined by the commissioner. (*Department of State Revenue; Reg 6-6-4.1-4.5(d)(010); filed Apr 30, 1986, 3:30 pm: 9 IR 2196*)

### **Rule 9. Quarterly Reports**

#### **45 IAC 13-9-1 Contents of reports; exemptions; incomplete reports**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1; IC 6-8.1-10

Sec. 1. (a) Each carrier subject to the tax imposed under IC 6-6-4.1 shall submit to the department such quarterly reports as the department may require on or before the last day of the month immediately following that quarter.

(b) Quarterly reports are not required with respect to a vehicle for which a trip permit has been issued under IC 6-6-4.1-13.

(c) The filing of a substantially blank or an unsigned report does not constitute the filing of a report under IC 6-6-4.1-10, and will subject the carrier to penalties and interest under IC 6-8.1-10. (*Department of State Revenue; Reg 6-6-4.1-10(a)(010); filed Jul 13, 1984, 9:25 am: 7 IR 2323*)

#### **45 IAC 13-9-2 Due date; late reports**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-10; IC 6-8.1

Sec. 2. (a) The quarterly report prescribed by IC 6-6-4.1-10 must be postmarked no later than the last day of the month immediately following the end of the quarter 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 IC

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 6-6-4.1-10(a)(020); filed Jul 13, 1984, 9:25 am: 7 IR 2323*)

### **Rule 10. Joint Reports (Repealed)**

(*Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA*)

### **Rule 11. Annual and Trip Permits**

#### **45 IAC 13-11-1 Annual permits**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-12

Sec. 1. (a) Except as provided in regulations 6-6-4.1-13(010) [45 IAC 13-11-4] and 6-6-4.1-13(030) [45 IAC 13-11-6], a motor carrier may only operate a commercial motor vehicle in Indiana if the carrier has been issued on an annual permit.

(b) The annual permit is effective from April 1 of each year through March 31 of the succeeding year.

(c) The department may extend the expiration date of the annual permit for no more than thirty (30) days.

(d) The department will only issue one annual permit per carrier which shall be kept at the address shown on the permit.

(e) A carrier shall keep a reproduced copy of the carrier's annual permit in each commercial motor vehicle that is operated by the carrier in Indiana.

(f) If an annual permit is lost or destroyed the department will issue a duplicate permit for a fee of five dollars (\$5).

(*Department of State Revenue; Reg 6-6-4.1-12(010); filed Jul 13, 1984, 9:25 am: 7 IR 2324*)

#### **45 IAC 13-11-2 Application for annual permit; fee**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-10

Sec. 2. The department will issue an annual permit to any carrier who applies for a permit and pays an annual permit fee of twenty-five dollars (\$25.00), unless:

(1) the carrier holds an unexpired permit;

(2) the carrier has failed to file a quarterly report required by IC 6-6-4.1-10; or

(3) the carrier has failed to pay the taxes imposed by IC 6-6-4.1.

(*Department of State Revenue; Reg 6-6-4.1-12(020); filed Jul 13, 1984, 9:25 am: 7 IR 2324; filed Apr 30, 1986, 3:30 pm: 9 IR 2196*)

#### **45 IAC 13-11-3 Assignment of annual permit; change in ownership or name of business**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1-12

Sec. 3. (a) An annual permit issued under IC 6-6-4.1-12 is not assignable and is valid only for the motor carrier in whose name it is issued.

(b) If there is a change in ownership of a business other than a corporation, the new owner must apply for a new annual permit within fifteen (15) days of the date of the change.

(c) If there is a change in the name of a business, the carrier must apply for a new annual permit within fifteen (15) days of the date of the change.

#### **EXAMPLES**

(1) A motor carrier operates as a sole proprietor. Upon the proprietor's death, the next of kin, who inherited the business, continue to operate the commercial motor vehicle. The new operators are required to apply for a new annual permit within fifteen (15) days of the date the estate is settled.

(2) Taxpayer A is a motor carrier who owns and operates a commercial motor vehicle. Taxpayer A retires. Taxpayer B assumes ownership and continues to operate the vehicle under the prior annual permit. Since the annual permit was issued to Taxpayer A, Taxpayer B is operating without an annual permit and, therefore, is operating illegally.

*(Department of State Revenue; Reg 6-6-4.1-12(030); filed Jul 13, 1984, 9:25 am: 7 IR 2324)*

#### **45 IAC 13-11-4 Trip permits**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1

Sec. 4. (a) A motor carrier may, in lieu of obtaining an annual permit and paying the taxes imposed under IC 6-6-4.1, obtain a trip permit from the department authorizing the carrier to operate a commercial motor vehicle for a period of five (5) consecutive days.

(b) The department will not issue a trip permit to a carrier if:

(1) the carrier has been issued four (4) trip permits within the preceding twelve (12) months;

(2) a valid annual permit has been held by the carrier within the preceding twelve (12) months.

(c) A separate trip permit is required for each commercial motor vehicle operated by a carrier.

(d) The fee for a trip permit is fifty dollars (\$50). *(Department of State Revenue; Reg 6-6-4.1-13(010); filed Jul 13, 1984, 9:25 am: 7 IR 2324; filed Apr 30, 1986, 3:30 pm: 9 IR 2196)*

#### **45 IAC 13-11-5 Reporting exemption for trip permit holders (Repealed)**

Sec. 5. *(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

#### **45 IAC 13-11-6 Temporary authorization**

Authority: IC 6-8.1-3-3

Affected: IC 6-1.1-8-35; IC 6-6-4.1-13

Sec. 6. (a) The department may issue a temporary written authorization if unforeseen or uncertain circumstances require the operation of a commercial motor vehicle for which neither an annual permit nor a trip permit has been obtained.

(b) A temporary authorization may be issued only if:

(1) the department finds that undue hardship would otherwise result;

(2) the carrier has paid the Indiana indefinite situs tax, imposed under IC 6-1.1-8-35, for any or all prior years; and

(3) the carrier has not held a valid annual permit within the preceding twelve (12) months.

(c) A separate temporary authorization is required for each commercial motor vehicle operated by a carrier.

(d) A carrier who obtains a temporary authorization shall:

(1) pay the trip permit fee at the time the temporary authorization is issued; or

(2) subsequently obtain an annual permit.

*(Department of State Revenue; Reg 6-6-4.1-13(030); filed Jul 13, 1984, 9:25 am: 7 IR 2325)*

### **Rule 12. Suspension or Revocation; Permits, Temporary Authorization**

#### **45 IAC 13-12-1 Failure to report or pay tax**

Authority: IC 6-8.1-3-3

Affected: IC 6-6-4.1; IC 6-8.1-1-1

Sec. 1. (a) The commissioner may suspend or revoke any annual permit, trip permit, or temporary authorization issued to a carrier, if the carrier:

(1) fails to file a quarterly report required by IC 6-6-4.1-10;

(2) fails to pay the tax imposed under IC 6-6-4.1-4;

- (3) fails to pay the tax imposed under IC 6-6-4.1-4.5;
- (4) files a report after its due date; or
- (5) fails to file all tax returns or information reports or to pay all taxes, penalties, and interest for any of the listed taxes under IC 6-8.1-1-1.

(b) A carrier's suspension may be lifted when the carrier has:

- (1) filed all applicable reports;
- (2) paid all outstanding taxes or permit fees imposed under IC 6-6-4.1; and
- (3) paid all outstanding penalties and interest; and
- (4) paid all taxes, penalties, and interest for any of the listed taxes as defined by IC 6-8.1-1-1.

(c) The department will notify the Indiana state police when a suspension or revocation has occurred, or when it has been lifted. (*Department of State Revenue; Reg 6-6-4.1-17(010); filed Jul 13, 1984, 9:25 am: 7 IR 2325; filed Apr 30, 1986, 3:30 pm: 9 IR 2196*)

### **Rule 13. Violations (Repealed)**

*(Repealed by Department of State Revenue; filed Dec 5, 2012, 10:01 a.m.: 20130102-IR-045120429FRA)*

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