

TITLE 45 DEPARTMENT OF STATE REVENUE

Proposed Rule
LSA Document #16-425

DIGEST

Amends 45 IAC 12-1-4, 45 IAC 12-1-5, 45 IAC 12-1-8, 45 IAC 12-1-9, 45 IAC 12-1-11, 45 IAC 12-1-14, 45 IAC 12-1-15, and 45 IAC 12-1-16 to clarify scope of definitions including "distributor", "licensed distributor", "motor vehicle", "person", "taxable marine facility", "terminal or refinery operator", "receive", and "acquire". Adds 45 IAC 12-1-17 to define "use". Amends 45 IAC 12-2-1 to clarify the imposition of tax. Amends 45 IAC 12-2-2 concerning payment of tax by a licensed distributor. Amends 45 IAC 12-2-3 concerning the ultimate burden of tax. Amends 45 IAC 12-2-4 to clarify when gasoline is considered received. Amends 45 IAC 12-2-5 by removing the example. Amends 45 IAC 12-2-7 to update citations. Amends 45 IAC 12-2-9 by removing the example. Amends 45 IAC 12-2-11 to clarify the time gasoline is considered received. Amends 45 IAC 12-2-13 to include a licensed distributor who imported the gasoline. Amends 45 IAC 12-2-15 to include the person blending the product. Amends 45 IAC 12-2-17 to include the person who acquired the gasoline. Amends 45 IAC 12-2-19 to update citations. Amends 45 IAC 12-3-1 to update citations and clarify exemption. Amends 45 IAC 12-3-2 by removing the example. Amends 45 IAC 12-3-3 to update citations. Amends 45 IAC 12-3-4 to clarify the exemption for lost or destroyed gasoline. Amends 45 IAC 12-3-6 to clarify persons eligible for an exemption permit. Amends 45 IAC 12-4-1 to update citations and clarify a license to distribute. Amends 45 IAC 12-4-2 to update citations. Amends 45 IAC 12-4-3 to update citations. Amends 45 IAC 12-4-6 to clarify the bond or rider requirements. Amends 45 IAC 12-4-8 to clarify the bond requirement. Amends 45 IAC 12-4-9 to update citations. Amends 45 IAC 12-4-10 to update citations and clarify license extensions. Amends 45 IAC 12-4-11 to update citations. Amends 45 IAC 12-4-12 to update citations. Amends 45 IAC 12-4-14 to update citations. Amends 45 IAC 12-4-15 to update citations and clarify the requirements for cancellation of a distributor's license. Amends 45 IAC 12-5-2 to clarify the payment due date. Amends 45 IAC 12-5-5 to clarify the payment of due date. Amends 45 IAC 12-5-6 to update citations. Amends 45 IAC 12-5-7 to update citations. Amends 45 IAC 12-7-1 to update citations. Amends 45 IAC 12-7-2 to update citations. Amends 45 IAC 12-7-3 to update citations. Amends 45 IAC 12-7-4 to update citations. Amends 45 IAC 12-8-2 to clarify "use". Amends 45 IAC 12-8-4 to clarify "stationary gasoline engine" and "commercial use". Amends 45 IAC 12-8-6 to clarify refund for tax paid on gasoline for agricultural purposes. Amends 45 IAC 12-8-7 to clarify the gasoline refund for implements of agriculture. Amends 45 IAC 12-8-11 to update citations. Amends 45 IAC 12-8-11.1 to clarify refund for tax paid on gasoline for proportional use. Amends 45 IAC 12-8-12 to clarify refund for tax paid on gasoline used for operating a taxicab. Adds 45 IAC 12-8-12.5 concerning refund to tax paid on gasoline used to create racing fuel. Amends 45 IAC 12-8-17 to update citations. Repeals 45 IAC 12-2-12, 45 IAC 12-2-14, 45 IAC 12-2-16, 45 IAC 12-2-18, 45 IAC 12-3-5, 45 IAC 12-4-5, and 45 IAC 12-8-5. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

45 IAC 12-1-4; 45 IAC 12-1-5; 45 IAC 12-1-8; 45 IAC 12-1-9; 45 IAC 12-1-11; 45 IAC 12-1-14; 45 IAC 12-1-15; 45 IAC 12-1-16; 45 IAC 12-1-17; 45 IAC 12-2-1; 45 IAC 12-2-2; 45 IAC 12-2-3; 45 IAC 12-2-4; 45 IAC 12-2-5; 45 IAC 12-2-7; 45 IAC 12-2-9; 45 IAC 12-2-11; 45 IAC 12-2-12; 45 IAC 12-2-13; 45 IAC 12-2-14; 45 IAC 12-2-15; 45 IAC 12-2-16; 45 IAC 12-2-17; 45 IAC 12-2-18; 45 IAC 12-2-19; 45 IAC 12-3-1; 45 IAC 12-3-2; 45 IAC 12-3-3; 45 IAC 12-3-4; 45 IAC 12-3-5; 45 IAC 12-3-6; 45 IAC 12-4-1; 45 IAC 12-4-2; 45 IAC 12-4-3; 45 IAC 12-4-5; 45 IAC 12-4-6; 45 IAC 12-4-8; 45 IAC 12-4-9; 45 IAC 12-4-10; 45 IAC 12-4-11; 45 IAC 12-4-12; 45 IAC 12-4-14; 45 IAC 12-4-15; 45 IAC 12-5-2; 45 IAC 12-5-5; 45 IAC 12-5-6; 45 IAC 12-5-7; 45 IAC 12-7-1; 45 IAC 12-7-2; 45 IAC 12-7-3; 45 IAC 12-7-4; 45 IAC 12-8-2; 45 IAC 12-8-4; 45 IAC 12-8-5; 45 IAC 12-8-6; 45 IAC 12-8-7; 45 IAC 12-8-11; 45 IAC 12-8-11.1; 45 IAC 12-8-12; 45 IAC 12-8-12.5; 45 IAC 12-8-17

SECTION 1. 45 IAC 12-1-4 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-4 "Distributor" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 4. (a) For purposes of this chapter the term IC 6-6-1.1, "distributor" shall mean means a person who receives gasoline (as defined in IC 6-6-1.1-103(e)(10) section 15 of this rule) in Indiana, and subsequently distributes the gasoline 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 p.m.: 6 IR 2311)

SECTION 2. 45 IAC 12-1-5 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-5 "Licensed distributor" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 5. Unless otherwise provided, ~~the term "licensed distributor" shall mean~~ **means** 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 p.m.: 6 IR 2311)

SECTION 3. 45 IAC 12-1-8 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-8 "Motor vehicle" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 8. (a) A "Motor vehicle" ~~is~~ **means** a vehicle ~~which that~~ is propelled by an internal combustion engine or motor and is designed for highway use.

(b) Vehicles "designed for highway use" ~~are these 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 (c) "Motor vehicle" shall~~ **does not be construed to include the following vehicles, which are not designed to permit its mobile use on public highways:**

- (1) Road construction or maintenance machinery.
- (2) Vehicles not capable of being plated pursuant to Indiana law.
- (3) A well-boring or well-drilling apparatus, a ditch-digging apparatus, or other similar equipment. ~~which is occasionally operated or moved over public highways.~~

~~(e) (4) Vehicles which that operate exclusively on rails. are not motor vehicles.~~

~~(f) (5) Vehicles designed and operated primarily as farm implements for drawing farm machinery. are not motor vehicles.~~

~~(g) (6) 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 (1) field to another, or to or from places of repair, or supply.~~

(7) Vehicles exclusively operated on private property and not engaged in highway transportation.

(d) "Motor vehicle" includes vehicles with a common fuel reservoir for both locomotion along the highway and the operation of equipment with another commercial purpose. For purposes of IC 6-6-1.1, "commercial purpose":

- (1) means the exchange of goods and services in contemplation of profit; and**
- (2) includes nonproprietary functions of governmental agencies and not-for-profit organizations.**

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 p.m.: 6 IR 2312)

SECTION 4. 45 IAC 12-1-9 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-9 "Person" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 9. (a) The term "Person" shall mean means any natural person, partnership, corporation, **corporate subsidiary**, joint venture, firm, association, or a representative appointed by a court, the state, or its political subdivision, or other legal entity. **However, a corporate division shall not be considered a "person".**

(b) For purposes of this chapter, a corporate subsidiary shall be considered a "person".

(c) For purposes of this chapter, 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 p.m.: 6 IR 2312)

SECTION 5. 45 IAC 12-1-11 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-11 "Taxable marine facility" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 11. (a) For purposes of this chapter, the term IC 6-6-1.1, "taxable marine facility" shall mean means 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 (including 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 the 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 p.m.: 6 IR 2312)

SECTION 6. 45 IAC 12-1-14 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-14 "Terminal or refinery operator" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 14. (a) For purposes of this chapter, the term IC 6-6-1.1, "terminal or refinery operator" shall mean ~~means the person for whom the~~ **who by ownership or contractual agreement is charged with the responsibility and physical control over the operation of the terminal or refinery is being operated.** located in Indiana.

(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 p.m.: 6 IR 2313)

SECTION 7. 45 IAC 12-1-15 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-15 "Receive" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 15. (a) For purposes of this chapter, the term "receipt" shall mean IC 6-6-1.1, "receive" means the event **action** 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.~~

(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.~~

(d) (b) 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 or her supplier has that person received gasoline.

(Department of State Revenue; Reg 6-6-1.1-103(o)(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2313)

SECTION 8. 45 IAC 12-1-16 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-1-16 "Acquire" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 16. (a) For purposes of this chapter, the term IC 6-6-1.1, "acquire" shall mean ~~means~~ 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, a person has acquired gasoline only when a the person has used gasoline upon paying or incurring tax liability to his or her supplier. ~~has that person acquired gasoline.~~

(Department of State Revenue; Reg 6-6-1.1-103(p)(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2313)

SECTION 9. 45 IAC 12-1-17 IS ADDED TO READ AS FOLLOWS:

45 IAC 12-1-17 "Use" defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 17. (a) For purposes of IC 6-6-1.1, "use" means:

(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.

(b) For purposes of IC 6-6-1.1, "use" shall only apply to those transactions whereby gasoline is transferred or otherwise used outside a refinery, terminal, or pipeline.

(Department of State Revenue; 45 IAC 12-1-17)

SECTION 10. 45 IAC 12-2-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-2-1 Imposition of tax

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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, 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, 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) (b) 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 p.m.: 6 IR 2313)

SECTION 11. 45 IAC 12-2-2 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 2. (a) A licensed distributor shall initially pay to the administrator the tax imposed upon the invoiced or billed 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 or "billed gallonage" means either the "gross" gallons or the "net" gallons which that 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) (c) 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) (d) 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 The absence of 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 p.m.: 6 IR 2314)

SECTION 12. 45 IAC 12-2-3 IS AMENDED TO READ AS FOLLOWS:

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

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 that~~ 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 the **gasoline tax** 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 p.m.: 6 IR 2314)

SECTION 13. 45 IAC 12-2-4 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 4. ~~(a) This section governs only those transactions whereby:~~ **Gasoline is considered received at the time the gasoline is withdrawn in the event that the following conditions are met:**

- (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 p.m.: 6 IR 2314)

SECTION 14. 45 IAC 12-2-5 IS AMENDED TO READ AS FOLLOWS:

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

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.

(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 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 (see Indiana Regulation 6-6-1.1-202(020)(1)).

(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 (see Indiana Regulation 6-6-1.1-202(020)(2)).

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

SECTION 15. 45 IAC 12-2-7 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 7. A person who obtains gasoline which **that** 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 p.m.: 6 IR 2315)

SECTION 16. 45 IAC 12-2-9 IS AMENDED TO READ AS FOLLOWS:

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 considered received by the licensed distributor for whom the gasoline is being imported when it is imported into this state by tank car, tank truck, transport, or other motor vehicle, to or for the account of a licensed distributor, and which 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 considered received by the person for whom the gasoline is being imported when it is imported into this state by tank car, tank truck,**

transport, or other motor vehicle, and it 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)).

(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)).

(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)).

(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)). 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.

(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)). 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 (see Indiana Regulation 6-6-1.1-401(020)) and therefore must notify and report to the state as required under section 504 to avoid criminal sanctions.

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

SECTION 17. 45 IAC 12-2-11 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 11. Gasoline which that 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 **by the person who would have received the gasoline under sections 8 through 10 or section 13 of this rule had the gasoline not been withdrawn or consumed prior to being delivered into storage.**

(Department of State Revenue; Reg 6-6-1.1-204(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2317)

SECTION 18. 45 IAC 12-2-13 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 13. Gasoline ~~which~~ **that** is imported into this state by a licensed distributor ~~which~~ **that** 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** at the time the gasoline is delivered.

(Department of State Revenue; Reg 6-6-1.1-205(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2317)

SECTION 19. 45 IAC 12-2-15 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 15. 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~~ **that** was purchased for the blending process.

(Department of State Revenue; Reg 6-6-1.1-206(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2317)

SECTION 20. 45 IAC 12-2-17 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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 **by the person who acquired the gasoline. However, this section shall**

~~(b) Paragraph (1) does not apply in instances where the use of gasoline is exempt under section 304 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 p.m.: 6 IR 2318)

SECTION 21. 45 IAC 12-2-19 IS AMENDED TO READ AS FOLLOWS:

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

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 ~~purposed~~ **purposes** 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 p.m.: 6 IR 2318)

SECTION 22. 45 IAC 12-3-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-3-1 Exemptions: exported gasoline

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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 to a person other than a licensed distributor 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 p.m.: 6 IR 2318)

SECTION 23. 45 IAC 12-3-2 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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 p.m.: 6 IR 2318)

SECTION 24. 45 IAC 12-3-3 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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 section, "use" shall mean the consumption, depletion or other expenditure of gasoline in this state except for destruction, loss, evaporation, or shrinkage as provided~~ has the meaning set forth in Indiana Regulation ~~6-6-1.1-201(010)(3)(c).~~ 45 IAC 12-1-17(a)(3).

(Department of State Revenue; Reg 6-6-1.1-301(4)(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2319)

SECTION 25. 45 IAC 12-3-4 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 4. (a) 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.

(b) Gasoline received by a licensed distributor prior to delivery, and thereafter lost or destroyed except by evaporation, shrinkage, or unknown cause, is exempt provided that a subsequent person has not incurred gasoline tax liability for the product.

(c) Gasoline shall be considered lost or destroyed if it is a result of theft, leakage, fire, accident, explosion, lightning, flood, storm, act of war, public enemy, or other like cause.

(Department of State Revenue; Reg 6-6-1.1-301(5)(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2319)

SECTION 26. 45 IAC 12-3-6 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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) (b) Having satisfied the requirements of this section, a person must still meet the requirements set forth in Indiana Code IC 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 p.m.: 6 IR 2319)

SECTION 27. 45 IAC 12-4-1 IS AMENDED TO READ AS FOLLOWS:

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 IC 6-6-1.1-206~~, a person ~~desiring~~ **must be licensed as a gasoline distributor in Indiana** 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 IC 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, the term~~ **section 15 of this rule**, "supplier" ~~shall mean~~ **means** any person **or distributor** who sells gasoline in Indiana.

(Department of State Revenue; Reg 6-6-1.1-401(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2320)

SECTION 28. 45 IAC 12-4-2 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 2. As provided in ~~section 504 of this chapter~~, **45 IAC 12-5-7**, 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.~~

(Department of State Revenue; Reg 6-6-1.1-401(020); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2320)

SECTION 29. 45 IAC 12-4-3 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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.
- (4) Any other information the administrator reasonably requires.**

(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 and 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 p.m.: 6 IR 2320)

SECTION 30. 45 IAC 12-4-6 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 6. (a) The administrator may propose an increase in **the amount of** a licensed distributor's current bond, ~~amount~~ **letter of credit, or cash deposit** 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~~ **after receiving notice of the proposed bond, letter of credit, or cash deposit increase**, the administrator shall notify the licensed distributor in writing of a hearing to allow the licensed distributor to ~~show cause why~~ **dispute** 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), **letter of credit, or cash deposit** 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~~. **section 5 of this rule.**

(f) If the new bond (or rider), **letter of credit, or cash deposit** 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 p.m.: 6 IR 2320; filed Apr 30, 1986, 3:32 p.m.: 9 IR 2189)

SECTION 31. 45 IAC 12-4-8 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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, **letter of credit, or cash deposit**.

(Department of State Revenue; Reg 6-6-1.1-410(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2321)

SECTION 32. 45 IAC 12-4-9 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1; 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~~ **Once** all conditions ~~having have~~ been met under ~~this chapter~~, IC 6-6-1.1, including payment of fee and bonding requirements, the ~~person making application~~ **applicant** 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~~ IC 6-8.1-5-4.

(Department of State Revenue; Reg 6-6-1.1-411(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2321)

SECTION 33. 45 IAC 12-4-10 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-4-10 Temporary license; extension

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 10. (a) ~~If the administrator may, upon finding~~ **finds** that a person holding a temporary license has not fully complied with the provisions of ~~this chapter~~, ~~extend~~ IC 6-6-1.1, the period of the person's temporary license **may be extended**.

(b) The administrator may revoke ~~such this~~ extension ~~upon finding if it is found~~ 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 p.m.: 6 IR 2321)

SECTION 34. 45 IAC 12-4-11 IS AMENDED TO READ AS FOLLOWS:

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; IC 6-8.1

Sec. 11. (a) The administrator shall issue a permanent license to an Indiana based holder of a temporary license ~~upon if the Indiana based distributor has met~~ 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 IC 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 canceled~~ 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 p.m.: 6 IR 2322)

SECTION 35. 45 IAC 12-4-12 IS AMENDED TO READ AS FOLLOWS:

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; 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 if the following conditions are met:~~

- (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 IC 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 canceled~~ 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 p.m.: 6 IR 2322)

SECTION 36. 45 IAC 12-4-14 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-4-14 License nonassignable; new license

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

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 p.m.: 6 IR 2322)

SECTION 37. 45 IAC 12-4-15 IS AMENDED TO READ AS FOLLOWS:

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; IC 6-8.1-3-12; IC 6-8.1-5-4; IC 6-8.1-10

Sec. 15. (a) The administrator may, after ~~ten (10)~~ **fifteen (15)** 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 IC 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;
- (5) fails to file a **surety bond, letter of credit, or cash deposit as required by IC 6-6-1.1-406**;
- (6) fails to honor a subpoena issued by the department under IC 6-8.1-3-12;
- (7) **knowingly breaks the seal on a pump sealed under IC 6-6-1.1-1008 or IC 6-6-1.1-1110**; or
- (8) fails or refuses to comply with IC 6-8.1-5-4 or IC 6-6-1.1-1314.

(b) Notice of the hearing **and notice of license cancellation** 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~~; **canceled**.

(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) (e)~~ A person whose distributor's license has been ~~cancelled~~ **canceled** may not ~~purchase~~ **sell** 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 IC 6-6-1.1-305~~.

(Department of State Revenue; Reg 6-6-1.1-415(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2322)

SECTION 38. 45 IAC 12-5-2 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1; 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 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 6-6-1.1-501(020); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2323)

SECTION 39. 45 IAC 12-5-5 IS AMENDED TO READ AS FOLLOWS:

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; 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 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 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, a Sunday, or holiday.

(Department of State Revenue; Reg 6-6-1.1-502(020); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2323)

SECTION 40. 45 IAC 12-5-6 IS AMENDED TO READ AS FOLLOWS:

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

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 p.m.: 6 IR 2324)

SECTION 41. 45 IAC 12-5-7 IS AMENDED TO READ AS FOLLOWS:

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

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 means gasoline which that is used in this state that is not eligible for exemption. **exempt.**

(Department of State Revenue; Reg 6-6-1.1-504(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2324)

SECTION 42. 45 IAC 12-7-1 IS AMENDED TO READ AS FOLLOWS:

45 IAC 12-7-1 Deduction for exempted gasoline

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 1. (a) A licensed distributor who acquires or receives gasoline that subsequently qualifies for an

exemption **authorized** under section ~~301~~ of this chapter **IC 6-6-1.1-301** 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~~, **45 IAC 12-8-17**, 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 p.m.: 6 IR 2325)

SECTION 43. **45 IAC 12-7-2** IS AMENDED TO READ AS FOLLOWS:

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

Authority: **IC 6-8.1-3-3**

Affected: **IC 6-6-1.1**

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~~, **45 IAC 12-8-17**, 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 p.m.: 6 IR 2325)

SECTION 44. **45 IAC 12-7-3** IS AMENDED TO READ AS FOLLOWS:

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

Authority: **IC 6-8.1-3-3**

Affected: **IC 6-6-1.1**

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~~ **IC 6-6-1.1-302** and **IC 6-6-1.1-303** 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 p.m.: 6 IR 2325)

SECTION 45. **45 IAC 12-7-4** IS AMENDED TO READ AS FOLLOWS:

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**

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 or billed 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~~. **IC 6-6-1.1-704** and **sections 1 through 3 of this rule**.

(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 This 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 p.m.: 6 IR 2325; filed Apr 30, 1986, 3:32 p.m.: 9 IR 2190)

SECTION 46. 45 IAC 12-8-2 IS AMENDED TO READ AS FOLLOWS:

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

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~~ **that** 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)~~ **subsection (b)**, "common carrier" ~~shall mean~~ **means** any person that holds himself ~~or herself~~ 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~~ **has the meaning set forth in Indiana Regulation 6-6-1.1-201(010)(3)(c): 45 IAC 12-1-17(a)(3).**

(Department of State Revenue; Reg 6-6-1.1-902(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2326)

SECTION 47. 45 IAC 12-8-4 IS AMENDED TO READ AS FOLLOWS:

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

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~~ **means** any internal combustion engine or motor ~~which~~ **that** is not operated in whole or in part to propel itself in conjunction with any vehicle, **including**

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

~~(d) (c)~~ For purposes of ~~this chapter~~ IC 6-6-1.1, "commercial use" ~~shall mean~~ **means** the consumption, depletion, or other expenditure of gasoline in this state except for destruction, loss, evaporation, or shrinkage ~~which that~~ is related to the exchange of goods or services in contemplation of profit, including nonproprietary 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 p.m.: 6 IR 2326; errata, 7 IR

SECTION 48. 45 IAC 12-8-6 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 6. (a) A person is entitled to a gasoline tax refund for the operation of a ~~farm~~ tractor **used for agricultural purposes** 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 used for agricultural purposes"~~ means any vehicle:

- (1) designed and used primarily as a farm implement for drawing farm machinery, including plows, mowing machines, harvesters, and other implements of ~~husbandry~~ **agriculture**; and
- (2) **which is** used on a farm, ~~and or~~ when using the public highways in traveling from one (1) 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 p.m.: 6 IR 2327)

SECTION 49. 45 IAC 12-8-7 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1; IC 9-13-2-77

Sec. 7. (a) A person is entitled to a gasoline tax refund for the operation of implements of ~~husbandry~~ **agriculture (as defined in IC 9-13-2-77)** if:

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

(b) For purposes of ~~his~~ **this** section, "implements of ~~husbandry~~" ~~shall mean every agriculture~~ **means any of the following:**

- (1) A paint spray outfit. ~~all~~
- (2) Livestock dipping equipment and seed cleaning and treating equipment, when mounted and transported upon a trailer using the public highways. ~~every~~
- (3) A grain and bean separator.
- (4) A combine.
- (5) A corn picker.
- (6) An ensilage cutter.
- (7) A corn sheller.
- (8) A corn shredder.
- (9) A hay raker.
- (10) A manure spreader.
- (11) A portable saw mill. ~~all~~
- (12) Well drilling machinery. ~~all~~
- (13) Seeding, cultivating, and harvesting machinery. ~~as well as~~
- (14) Self-propelled equipment, specially adapted, to be capable of both over-the-road and off-road usage ~~For when the equipment is used for the transportation~~ **transportation** and application of plant food materials ~~and/or or~~ **agricultural chemicals, or both.**

(c) ~~If equipment is attached to 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 that allows for the subsequent removal of such attachments, that equipment 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, agriculture.~~
(Department of State Revenue; Reg 6-6-1.1-903(3.1)(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2327)

SECTION 50. 45 IAC 12-8-11 IS AMENDED TO READ AS FOLLOWS:

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

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, "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 p.m.: 6 IR 2327)

SECTION 51. 45 IAC 12-8-11.1 IS AMENDED TO READ AS FOLLOWS:

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 6-4.1; IC 6-6-1.1

Sec. 11.1. (a) A gasoline taxpayer is entitled to a proportional use refund for tax paid on the use of gasoline for a commercial purpose when:

- (1) 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~~
- (2) **the commercial purpose** is exempt from the gasoline tax; and if
- (3) the person is the purchaser of the gasoline and has paid the gasoline tax thereon.

For purposes of the exemption, the gasoline 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 refunds shall be presumed to be ~~as follows:~~ **in the following amounts for gasoline placed into the common fuel supply tank of the following vehicles and consumed on Indiana highways:**

- (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 **with a hydraulic winch**, 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 vacators, 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.

(34) For ready mix concrete trucks, thirty percent (30%) of gasoline placed into the fuel supply tank which operates both the concrete mixing equipment and the engine propelling the motor vehicle.

(c) ~~Notwithstanding the provisions of subsection (b), (1-33), 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), are eligible for the administrator may grant a greater refund to be determined by the administrator a taxpayer whose motor vehicles consume greater portions of fuel from a common fuel reservoir for a commercial purpose 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), gasoline taxpayers operating motor vehicles not listed in subsection (b) (1-33), which consume portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway are eligible for the administrator may grant a proportional use refund to be determined by the administrator a taxpayer whose vehicle is not listed in subsection (b) 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.

(e) **Vehicles mentioned in subsection (b), or that meet the requirements of subsection (c) or (d), may apply for a refund under this section as long as it meets one (1) of the following conditions:**

- (1) **The vehicle has a declared gross weight of twenty-six thousand (26,000) pounds or less.**
- (2) **The vehicle is used in combination and the gross weight or the declared gross weight of the combination is twenty-six thousand (26,000) pounds or less.**
- (3) **The vehicle has a declared gross weight greater than twenty-six thousand (26,000) pounds, but it is not required to be licensed under IC 6-4.1.**

(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)

SECTION 52. 45 IAC 12-8-12 IS AMENDED TO READ AS FOLLOWS:

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

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 p.m.: 6 IR 2328)

SECTION 53. 45 IAC 12-8-12.5 IS ADDED TO READ AS FOLLOWS:

45 IAC 12-8-12.5 Refund for tax paid on gasoline used to create racing fuel

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 12.5. (a) A person is entitled to a gasoline tax refund for gasoline purchased to create racing fuel if:

- (1) the person is the purchaser of the gasoline and has paid the gasoline tax thereon; and
- (2) the racing fuel blended by the purchaser using the purchased gasoline:
 - (A) consists of a blend nominally consisting of more than eighty-nine percent (89%) ethanol and less than eleven percent (11%) gasoline;
 - (B) is not a fuel that can be used for propelling a motor vehicle operated in whole or in part on an Indiana public highway; and
 - (C) will be resold by the person purchasing the fuel to a purchaser that is located in another state, territory, or foreign country.

(b) A person claiming this refund must provide invoices or purchase orders that show that the blended racing fuel sold:

- (1) was blended as described in subsection (a)(2)(A); and
- (2) was sold to a person who exported the blended fuel for resale in another state, territory, or foreign country.

(Department of State Revenue; 45 IAC 12-8-12.5)

SECTION 54. 45 IAC 12-8-17 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 17. In lieu of authorizing a refund under ~~section 907 of this chapter~~, IC 6-6-1.1-907, the administrator may permit a licensed distributor to deduct the claimed amount on the reports required by ~~section 501 of this chapter~~. IC 6-6-1.1-501.

(Department of State Revenue; Reg 6-6-1.1-908(010); filed Sep 19, 1983, 2:23 p.m.: 6 IR 2329)

SECTION 55. THE FOLLOWING ARE REPEALED: 45 IAC 12-2-12; 45 IAC 12-2-14; 45 IAC 12-2-16; 45 IAC 12-2-18; 45 IAC 12-3-5; 45 IAC 12-4-5; 45 IAC 12-8-5.

Notice of Public Hearing

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