

810-8-1-.05 Flash Sales at the Terminal Allowed Under Specific Conditions.

(1) Flash sales occur when motor fuel is removed via tank truck or rail car from the terminal rack, when the position holder in the terminal sells to an entity that in turn, simultaneously sells the motor fuel at the terminal-loading rack. All parties involved in a flash sale must be properly licensed with the Alabama Department of Revenue.

(2) Section 40-17-326(a), Code of Alabama 1975, imposes an excise tax on motor fuel products as they are removed from the terminal using the terminal rack. The licensed supplier (position holder) is responsible for collecting the tax imposed under Title 40, Chapter 17, Article 12 from the person who orders the withdrawal at the rack.

(3) For flash sales, the licensed supplier (position holder) shall charge the applicable destination state excise tax on the rack removal of the motor fuel, provided the supplier (position holder) is licensed to remit the destination state taxes. The supplier/distributor who sells directly to the exporter in a flash sale must verify that the exporter is properly licensed in Alabama. If the exporter is not properly licensed, the applicable Alabama excise tax will be charged. The supplier selling the motor fuel is responsible for payment of the Alabama excise tax if the exporter is not properly licensed. The terminal issued bill of lading must show the destination state. If the supplier (position holder) is not licensed to remit the excise tax to the destination state or the destination state does not permit the supplier (position holder) to charge the destination state tax, the Alabama excise tax will apply and the licensed exporter is responsible for applying for a refund and providing the necessary documentation.

(4) For flash sales in another state with the destination Alabama, the permissive supplier will collect the Alabama excise tax and the sale will be reported on a terminal rack removal schedule. The licensed importer will show the import of the motor fuel on the importer return.

(5) If the motor fuel is diverted from Alabama to another state, the licensed exporter/importer is responsible for obtaining the diversion number, applying for a refund, and providing the necessary documentation to prove that the destination state tax was paid.

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Authority: Section 40-2A-7(a)(5) & 40-17-326, Code of Alabama 1975

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