

RULES

Motor Fuels Tax Rules as of July 2016

810-8-1-.01. Criteria for Governing Bodies of Counties and Incorporated Municipalities to Receive Refund of Motor Fuel Excise Taxes.

- (1) According to the provisions of Section 40-17-329, Code of Alabama 1975, governing bodies of counties and incorporated municipalities are entitled to a refund of the motor fuel excise taxes under the following conditions:
 - (a) A licensed governing body of the county or incorporated municipality has the right to apply for a refund on a quarterly basis for the motor fuel excise tax paid to the vendor.
 - (b) If a licensed incorporated municipality or county governing body purchases motor fuel from a licensed distributor, the licensed distributor has the right to apply for a refund on a monthly basis for the taxes paid by the licensed distributor for motor fuel sold to the licensed exempt agency.
 - (c) A credit card issuer may apply on a quarterly basis for a refund of the motor fuel excise taxes on sales of taxable motor fuel to a licensed exempt entity if the sale occurs at a retail pump available to the general public and the sale is charged to a credit card issued to the licensed exempt entity.
- (2) In order to qualify as a governing body of the county or incorporated municipality, the governing body of the county or incorporated municipality must meet the following requirements:
 - (a) The governing body of a county or incorporated municipality is that body of the county or incorporated municipality which performs the legislative function and has the ultimate power to determine the policies of the county or incorporated municipality and control the activities of the county or incorporated municipality.
 - (b) Governing bodies of counties and incorporated municipalities include county commissions and city councils or city commissions or town councils.
 - (c) Purchases of motor fuel by a governing body of a county or incorporated municipality must be supported by an invoice or other documentation specifically billed to that governing body. It is further required that payments be made directly by the governing body. Any unsubstantiated purchases may result in a refund reduction if payment for the motor fuel is not made from an account controlled solely by the governing body of the county or incorporated municipality.

(Sections 40-2A-7(a)(5), 40-17-323, and 40-17-329 Code of Alabama 1975. Filed July 26, 2013, effective August 30, 2013.)

810-8-1-.02 Application of Excise Tax on Blendstocks.

- (1) Blended fuel, as defined in Section 40-17-322, Code of Alabama 1975, is a mixture composed of gasoline or diesel fuel and any other liquid that can be used as a motor fuel in a highway vehicle. Therefore, blendstocks, as defined under Section 4081, Title 26 of the United States Code, not used to produce a finished

motor fuel that can be used in a highway vehicle is not taxable under Section 40-17-326, Code of Alabama 1975. The excise tax applies when blendstocks are blended with gasoline or diesel fuel.

(2) If the blendstocks are blended with gasoline or diesel fuel below the rack and imported into Alabama, then the excise tax applies at the time the blended product is imported into Alabama in accordance with Section 40-17-326(b) Code of Alabama 1975.

(3) If the blendstocks are blended with gasoline or diesel fuel in this state outside the bulk transfer terminal system, then the blender is required to pay the tax in accordance with Section 40-17-326(d), Code of Alabama 1975.

(4) In accordance with Section 40-17-332(g), Code of Alabama 1975, blenders are required to obtain a blender's license.

(5) Any person who engages in business for which a blender's license is required without obtaining a blender's license may be subject to civil penalties in accordance with Section 40-17-351, Code of Alabama 1975.

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Authority: Sections 40-2A-7(a)(5), 40-17-322 and 40-17-326, Code of Alabama 1975.

History: Effective October 1, 1978

Repealed: Filed June 29, 2012, effective August 3, 2012.

New rule: Filed October 27, 2014, effective December 1, 2014.

Amended: July 30, 2016.

810-8-1-.04. Sales of Motor Fuel in the Bulk Transfer/Terminal System.

(1) In accordance with Section 40-17-326(c), Code of Alabama 1975, tax is imposed on the sale or transfer of motor fuel in the bulk transfer/terminal system in Alabama by an Alabama supplier to a person who does not hold an Alabama supplier's license. The supplier shall collect the tax imposed from the person who orders the sale or transfer in the bulk transfer/terminal system. A bulk transfer/terminal system is a motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals approved by the Internal Revenue Service. Motor fuel in a refinery, pipeline, terminal, or marine vessel transporting motor fuel to a refinery or terminal is in the bulk transfer/terminal system provided all operators are licensed and registered as required by the Internal Revenue Service.

(2) Based upon the definition of bulk transfer/terminal system as provided in Section 40-17-322, pipelines are considered to be a part of the bulk transfer/terminal system. Therefore, a tax-free transaction can only occur in the pipeline if all parties involved in the transaction have valid Alabama supplier's licenses. Otherwise, the tax is to be collected from the person ordering the sale or transfer in the bulk transfer/terminal system.

(Sections 40-2A-7(a)(5), 40-17-322, 40-17-323 and 40-17-326(c) Code of Alabama 1975. Effective August 3, 2012. Amended September 12, 2013. Effective October 17, 2013.)

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.

(Sections 40-2A-7(a)(5) & 40-17-326, Code of Alabama 1975. Filed January 27, 2015. Effective March 3, 2015.)

810-8-1-11. Refund Policy Pertaining to the Exemption of Certain Organizations from State Gasoline and Diesel Fuel Excise Taxes.

(1) With respect to gasoline and diesel fuel excise taxes which are required by law to be added to the price of the gasoline and diesel fuel, those organizations specifically exempt from such taxes, excluding those entities listed in Section 40-17-329(e), shall pay the appropriate tax at time of purchase and the amount of such tax shall be refunded to such organizations on a quarterly basis.

(2) Request for such refund shall be made on forms furnished by the Department of Revenue, properly attested to, along with a copy of the original purchase invoices and any other information that the Department may deem necessary. The purchase invoice must show the following.

(a) Date of Sale,

(b) Name and Address of Vendor,

(c) Type of Fuel,

(d) Number of Gallons,

(e) Invoice Number, and

(f) Tax as Separate Line Item or a Statement on the purchase invoice that the State Excise Tax has been included in the price per gallon.

(3) The statute of limitations for filing a refund petition is within two (2) years from the date that the fuel was purchased.

(4) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Section 40-2A-7(a)(5), 40-17-323 and 40-17-329, Code of Alabama 1975) (Effective May 1, 1976. Amendment filed December 14, 1987. Filed with LRS April 22, 1993. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996. Amended October 1, 2010. Amended August 3, 2012.)

810-8-1-12. Alabama Scrap Tire Environmental Fee Application and Filing Procedure.

- (1) Section 22-40A-14, Code of Alabama 1975, requires that a scrap tire environmental fee of \$1 per tire shall be collected by a tire dealer at the point of sale from the consumer on all new, used and retread tires whether or not mounted on a rim or wheel.
- (2) The term “tire dealer” as used in this rule shall mean any person engaged in the sale of tires to the consumer whether or not mounted on a rim or wheel.
- (3) The tire dealer shall file with the Department of Revenue for a scrap tire environmental fee account number on a form provided by the department. The form shall require the following:
 - (a) Tire dealer’s legal name and address,
 - (b) FEIN and/or Social Security Number,
 - (c) Alabama sales tax number,
 - (d) Name, address, and social security number of partners or corporate officers,
 - (e) If reporting for more than one location, address of locations,
 - (f) Signature of person filing application.
- (4) Upon receipt of the application from the tire dealer, the department shall assign an account number to the tire dealer and will provide to the tire dealer the forms necessary for the filing and payment of the scrap tire environmental fee.
- (5) Every tire dealer is required to file a report each month on forms provided by the department. A report must be filed with the department even if no fee is due. The report is due on or before the twentieth (20) day of each calendar month being a true and correct statement of the information required on the report for the preceding calendar month. The report shall be accompanied by a remittance payable to the “State of Alabama” for the amount of the fee shown to be due. Failure to receive a report form does not relieve the tire dealer from the obligation of making a report on or before the due date.
- (6) In respect to the reporting of the tire dealer, if a report is not timely filed and/or paid, the tire dealer is not allowed the 7% discount and is assessed the appropriate penalties and interest as required by Sections 40-2A-11 and 40-1-44, Code of Alabama 1975.

(Sections 40-2A-7(a)(5), and 22-40A-14 Code of Alabama 1975. Effective December 9, 2003, amended December 22, 2009, amended October 1, 2010)

810-8-1-.12.01 Electronic Filing of Scrap Tire Environmental Fee Returns.

- (1) Section 22-40A-14, Code of Alabama 1975, as amended, requires persons to report certain taxes on a form prescribed by the department and to pay the amount of taxes shown due. Pursuant to Chapter 30 of Title 40, the department is authorized to accept tax returns reported on an electronic form filed electronically.
 - (2) Effective April 1, 2011 the monthly Scrap Tire Environmental Fee Return will be required to be filed electronically.
 - (3) Under certain circumstances a taxpayer may request a waiver from the Commissioner to file in another department approved manner. These circumstances include:
 - (a) No Computer,
 - (b) No Internet Access,
 - (c) Incompatible Computer Hardware,
 - (d) Any special circumstance (i.e. physical disability) deemed worthy of a waiver by the Commissioner of Revenue.
 1. A request for waiver must be submitted in writing and include the business name and address, account number and reason(s) why a method other than the prescribed method is necessary.
 - (3) The scrap tire environmental fee return will be considered timely filed when due if filed electronically by the last day before the return is considered delinquent. The amount due with the return will be considered timely paid if paid in accordance with the rules of the electronic funds transfer provider.
- (Sections 40-2A-7(a)(5), and 22-40A-14, Code of Alabama 1975. Effective March 30, 2011.)

810-8-1-.13. Miscellaneous Refund Provisions.

- (1) In accordance with the provisions of Section 40-17-329(d)(g)(i)(k)(l), Code of Alabama 1975, the following miscellaneous refunds can be filed with the department:
 - (a) Licensed aviation fuel purchasers who sell jet fuel to a certificated or licensed air carrier that purchases jet fuel within this state and uses the jet fuel to propel aircraft powered by jet or turbine engines operated in scheduled all-cargo operations being conducted on international flights or in international commerce can file for refund of the jet fuel excise tax on a monthly basis on a form prescribed by the department.
 - (b) A licensed air carrier with a hub operation in this state can file for a refund of the jet fuel excise tax on a quarterly basis on a form prescribed by the department.
 - (c) End users who paid the gasoline fuel excise tax on gasoline blendstocks not used in the manufacture of gasoline or motor fuel may file for a refund of the gasoline excise tax on a quarterly basis on a form prescribed by the department.
 - (d) Any person or business licensed with the department in the sale of motor fuel that paid the excise tax paid on transmix not used as a motor fuel or that is delivered to a refinery for further processing may file for return of the motor fuel excise tax on a quarterly basis on a form prescribed by the department.
 - (e) Tax paid on motor fuel within the bulk transfer system in which a second tax has been paid or the fuel was exported to another state or country can be refunded to the entity paying the second tax or exporting the fuel on a monthly basis. A supplier that deals in transactions within the bulk transfer system and each person engaged in business in this state as a supplier must first obtain an Alabama supplier's license. Therefore, the refund must be requested by an Alabama licensed supplier and requested on forms prescribed by the department.

- (2) Copies of invoices showing that the tax was paid and any other documentation deemed necessary by the department to substantiate the claim must be submitted with the petition. The petition must be filed on either the quarterly or monthly basis as stated in the refund provisions and cannot include any other period.
- (3) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was purchased.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-329(d)(g)(i)(k)(l), Code of Alabama 1975. Effective August 3, 2012. Amended December 9, 2015, effective January 13, 2016.)

810-8-1-14. Loss of Taxable Fuel Petition for Refund For Losses and Contamination of Motor Fuel.

- (1) Any person or business who is licensed with the department in the sale of motor fuel may petition for a refund of state excise taxes paid on fuel that is lost or destroyed as a direct result of a sudden or unexpected casualty or becomes unsalable or unusable as highway fuel.
- (2) Copies of insurance reports or any other documentation as required by the department in order to substantiate the claim must be attached to the petition.
- (3) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was destroyed or contaminated.
- (4) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011- 565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-329(j), Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-17. Dyed Motor Fuel for a Motor Vehicle used Exclusively "Off the Highway".

- (1) The excise tax does not apply with respect to dyed diesel fuel which the user establishes to the satisfaction of the Department is used in the exclusive operation of a motor vehicle "off the highway".
- (2) "Off the highway" includes private property, a way or place permanently or temporarily closed to public use for the purpose of vehicular travel.
- (3) "Off the highway" motor vehicle is any vehicle which presently does not have to be registered for highway use.
- (4) A motor vehicle displaying a license plate from this state or any other state is presumed to use diesel fuel exclusively for use on the highways of this state and the excise tax will apply. When a vehicle licensed by this state is permanently withdrawn from highway use for exclusive "off the highway" use, license plates must be removed from the vehicle or the excise tax will apply.
- (5) A public highway or highway consists of every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle located either within a municipality or in unincorporated territory, and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "Public Highway" shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions.

(6) A motor vehicle is operated upon the highway if it moves any distance upon the paved or unpaved portion of the highway. A vehicle is not considered operating on the highway when the vehicle merely crosses the highway from private property on one side to private property directly on the other, and the vehicle is not operated for any distance in the general direction of the highway in making the crossing.

(7) Examples of "off the highway" use are:

- (a) Motor vehicles operating exclusively in a coal pit.
- (b) Motor vehicles operating exclusively on a highway construction site closed to public use.
- (c) Motor vehicles operating exclusively on private property within the confines of a plant.

(8) A motor vehicle cannot be designated for both "highway" and "off the highway" use. The exemption from tax applies to motor vehicles used exclusively "off the highway."

(9) Any user claiming exemption from excise tax for "off the highway" use shall accurately maintain adequate records to show the operations claimed to be exempt.

(10) Adequate records substantiating exclusive "off the highway" use shall contain the following documentation:

- (a) Make, model, number designation of the vehicle, e.g., Ford Dump Truck, Number 102.
- (b) Specific area of motor vehicle operation, e.g., plant area only.
- (c) Daily log showing distance travelled and amount of fuel used by the motor vehicle.

(11) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-221(b), Code of Alabama 1975. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996. Amended August 3, 2012.)

810-8-1-20. Motor Fuel Sales to the United States.

Sales of motor fuel to the United States, its agencies and instrumentalities including units of the National Guard are exempt from the excise tax.

(a) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5) and 40-17-323, Code of Alabama 1975. Amended August 3, 2012.)

810-8-1-21.01. Refund of Diesel Fuel Excise Tax for Off-Road Use.

(1) With respect to diesel fuel tax which is required to be added to the price of undyed diesel fuel, those taxpayers who use undyed diesel fuel off-road in designated off-road equipment shall pay the appropriate

tax at time of purchase and the amount of the tax shall be refunded to the taxpayers on a quarterly basis.

(2) Off-road equipment includes but is not limited to self-propelled equipment such as tractors, mobile cranes, fork lifts and stationary equipment such as generators, boilers, and reefer units.

(3) Request for refund shall be made on forms prescribed by the Department of Revenue, properly attested to along with a copy of purchase invoices, withdrawal log, list of off-road equipment including equipment identification number, and any other documentation required by department.

(4) The purchase invoice must show the following:

(a) Date of Sale,

(b) Name and Address of Vendor,

(c) Type of Fuel,

(d) Number of Gallons,

(e) Invoice Number, and

(f) Tax as Separate Line Item or a Statement on the purchase invoice that the State Excise Tax has been included in the price per gallon.

(5) The claimant shall maintain a daily withdrawal log of all undyed motor fuel for off-road use. This log should include:

(a) The date of withdrawal,

(b) The type of equipment,

(c) The equipment identification number, and

(d) The number of gallons placed in the off-road vehicle or equipment.

(6) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was purchased.

(7) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011- 565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323, 40-17-329, and 40-17-330, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-22. Exemptions Pertaining to the Additional Excise Tax on Lubricating Oil.

(1) The additional excise tax, as provided for in Section 40-17-220, does not apply with respect to that lubricating oil which the permit holder establishes to the satisfaction of the Department as being:

(a) Sold to the United States.

- (b) Used to propel aircraft powered by reciprocating engines.
- (c) Used to propel ships, vessels, barges, railroad locomotives, and other railroad equipment.
- (d) Sold for agricultural purposes. The additional excise tax applies for lubricating oil used in motor vehicles travelling the highways of this state although engaged exclusively in agricultural purposes, or only incidentally operated upon a highway in moving between farms or parts of farms contiguous or in close proximity.
- (e) Sold to governing bodies of counties and incorporated municipalities.
 1. The governing body of a county or incorporated municipality is that body of the county or incorporated municipality which performs the legislative function and has the ultimate power to determine the policies of the county or incorporated municipality and control the activities of the county or incorporated municipality.
 2. Governing bodies of counties and incorporated municipalities exempt from the additional excise tax include county commissions and city councils or city commissions or town councils.
 3. Sales claimed by the permit holder as being made to a governing body of a county or incorporated municipality for highway use must be supported by invoice or other documents specifically billed to that governing body. It is further required that payments be made directly by the governing body. Any questionable sales may be substantiated or disallowed by determining whether payment for the lubricating oil is made from an account controlled solely by the governing body of the county or incorporated municipality.
- (f) Used in off-road vehicles which presently do not require state licensing; specifically, but not limited to, forklifts and other like devices not for use on the streets and highways of this state.
- (g) Sold to city and county boards of education.
- (h) Sold to private and church school systems which essentially offers the same curriculum as offered in grades K-12 in the public schools, the Alabama Institute for Deaf and Blind, and the Department of Youth Services.

(Sections 40-2A-7(a)(5), 40-17-220, 40-2-11, 40-17-323 and 40-17-221, Code of Alabama 1975. Adopted August 21, 1986. Amended December 14, 1987. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 26, 1996, effective May 31, 1996. Amended effective August 3, 2012. Amended July 26, 2013, Effective August 30, 2013.)

810-8-1-23. Exempt Entity Petition for Refund for Tax-Paid Gasoline & Undyed Diesel Fuel.

- (1) An exempt entity that is listed in 40-17-329(e), Code of Alabama 1975, who purchases gasoline and or undyed diesel fuel with the state excise tax paid can file for refund of the tax on forms prescribed by the department. The petition must be filed on a quarterly basis with a separate petition for each quarter and cannot include purchases for any other period.
- (2) The documentation that must be submitted with the petition for refund is a copy of receipts/invoices, credit card company report of purchases, or any other information that may be required by the department. The credit card report must include the dates of credit card purchases made by the exempt entity, name of vendor and location, invoice number, product type, and the

number of gasoline and/or undyed diesel fuel gallons purchased.

- (3) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was purchased by the exempt entity.
- (4) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-329(e) and 40-17-323, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-24. Credit Policy Regarding Wholesale Oil/Import License Fee on Biodiesel Sold to a Licensed Supplier When Delivered to a Terminal.

(1) Section 40-17-174(e), Code of Alabama 1975, provides an exemption from the wholesale oil license fee for biodiesel sold to a licensed supplier when delivered to a terminal. The wholesale oil license fee is levied upon the selling of diesel fuel across the rack at the terminal and upon the import of the diesel fuel unless the permissive supplier, as defined in Section 40-17-322, Code of Alabama 1975, collects the import fee. Since the wholesale oil/ import license fee is due on all diesel fuel that crosses the rack at the terminal in Alabama and on all diesel fuel imported into Alabama, the licensed supplier can take a credit on the annual wholesale oil/import license fee return for the gallons of biodiesel received by the licensed supplier at the terminal for which the licensed supplier has paid the wholesale oil/import license fee.

(2) Request for credit of the gallons of biodiesel sold to the licensed supplier at the terminal shall be made on forms furnished by the Department of Revenue. The licensed supplier is responsible for maintaining a copy of the original purchase invoices and any other information that the Department may deem necessary. The purchase invoice must show the following:

- (a) Date of Sale,
- (b) Name and Address of entity from whom the biodiesel was purchased,
- (c) Type of fuel as "biodiesel",
- (d) Number of Gallons,
- (e) Invoice Number, and
- (f) Amount charged for the wholesale oil/import license fee.

(3) The statute of limitations for claiming this credit for the wholesale oil/import license fee is within 2 years from the date of payment of the tax.

(4) The licensed importer can exclude the gallons of biodiesel sold directly to the licensed supplier when the biodiesel fuel is delivered to the terminal from the gallons listed on the Wholesale Oil/Import License Fee Annual Return as Gallons Imported into Alabama by the Importer.

(5) This rule shall be effective October 1, 2014.

(Section 40-2A-7(a)(5) and 40-17-174, Code of Alabama 1975. New rule: Filed January 3, 2014, effective February 7, 2014. Amended May 23, 2016.)

810-8-1-25. Refund Policy Regarding Wholesale Oil License Fee on Diesel Fuel Diverted to Another State.

(1) Section 40-17-174(a), Code of Alabama 1975, levies a wholesale oil license fee upon the selling

of diesel fuel across the rack at the terminal. If the wholesale oil license fee is charged on the initial sale of the diesel fuel at the terminal and the fuel is legally diverted, the purchaser can apply for a refund of the wholesale oil license fee on an annual basis. Payment for the wholesale oil/import license fee is due annually by October 14; therefore, the Department cannot issue a refund on taxes until they have been remitted to the State by the licensee responsible for paying the taxes.

- (2) Request for refund shall be made on forms furnished by the Department of Revenue, properly attested to, along with a copy of the original purchase invoices and any other information that the Department may deem necessary. The purchase invoice must show the following:
- (a) Date of Sale,
 - (b) Name and Address of the Purchaser,
 - (c) Type of fuel,
 - (d) Number of Gallons,
 - (e) Invoice Number, and
 - (f) Amount charged for the wholesale oil/import license fee.
- (3) The statute of limitations for filing a refund for the wholesale oil license fee refund is within 2 years from the date of payment of the tax.

(Section 40-2A-7(a)(5) and 40-17-174, Code of Alabama 1975. New rule: Filed January 3, 2014, effective February 7, 2014.)

810-8-1-.25.02. Permit Issued to Pay Lubricating Oil Tax Directly to the Department of Revenue.

- (1) Any person, distributor, storer, retail dealer, user, or user who sells to others, unable to determine at the time of purchase, transport, delivery, storage, or sale of lubricating oil the applicability of the additional excise tax levied in Section 40-17-220 may apply for a permit. This permit will allow the holder to purchase lubricating oil free of all lubricating tax and pay such taxes directly to the Department of Revenue.
- (2) Application for lubricating oil permit will be made upon forms prepared by the Department. Upon receipt and approval of the application by the Department, a lubricating oil numbered permit will be issued to the applicant.
- (3) The lubricating permit holder shall purchase all lubricating products tax free and is not required to remit to the seller the excise tax levied in Section 40-17-171 or the additional excise tax levied in Section 40-17-220. The permit holder must furnish to each vendor from whom lubricating oil is purchased the assigned permit number.
- (4) The lubricating permit holder is required to file a lubricating tax return for each month on a form prescribed by the Department. A return must be filed with the Department even though no lubricating oil is purchased, distributed, sold, used, or tax is due. The return is due on or before the twentieth (20th) day of each calendar month being a true and correct statement of the information required on the return for the next preceding calendar month.
- (5) The monthly lubricating tax return shall be prepared in duplicate. The original accompanied by a remittance payable to "State of Alabama" for the amount of tax shown to be due shall be filed with the Department and the duplicate shall be retained by the permit holder. Failure to receive a return form does not relieve the permit holder from the obligation of making a return on or before the due date.
- (6) As respects the lubricating permit holder's tax reporting, the tax is deemed to have been collected at the time of the sale irrespective of when payment for the amount of the invoice including the tax is received by the permit holder. Failure to collect the tax from the purchaser does not relieve the permit

holder from this liability to pay the Department the amount of the tax to be collected.

- (7) The lubricating permit holder must keep records to substantiate any item appearing on the monthly lubricating tax return. Records must be maintained in a form satisfactory to the Department and shall be made available for inspection or audit by the Department. Records must be retained by the permit holder for a period not less than three years.
- (8) The lubricating permit holder conducting business at different locations requires only one permit, if monthly lubricating tax returns are prepared at one central location.
- (9) A lubricating permit holder claiming sales or use of lubricating oil exempt from the additional excise tax as enumerated in Section 40-17-220(c), (1) through (8) must exercise reasonable care to assure that lubricating oil will be so used. Each exempt sale of lubricating oil must be supported by a copy of the original invoice showing invoice number, date, number of gallons, and the correct name and address of the purchaser. A user of lubricating oil must keep records substantiating the exempt use.
- (10) The lubricating permit is a personal privilege and is not transferable. The permit may be cancelled by the Department upon notice by registered mail to the holder thereof.
- (11) Vendors of lubricating oil must maintain a file of permit holders names and numbers to substantiate tax free sales of lubricating oil to permit holders. Vendors selling tax free lubricating oil to non-permit holders could incur liability for the tax due.
- (12) Violations of these regulations carry the same penalties as are prescribed for violations of the law itself.

(Sections 40-2A-7(a)(5), 40-17-171, and 40-17-220, Code of Alabama 1975. Adopted through APA effective October 17, 1985. Amended December 14, 1987. Amended October 27, 2014 to be effective December 1, 2014.)

810-8-1-26. Licensed Distributor Refund for Sales to Licensed Exempt Entities.

- (1) A licensed distributor who has sold gasoline and/or undyed diesel fuel without the state excise tax to an exempt entity that is licensed with the department in accordance with Section 40-17-332(j), Code of Alabama 1975, can file for a refund on forms prescribed by the department. However, sales of taxable gasoline and diesel fuel to licensed exempt entities that occur at a fixed retail pump available to the general public and that are charged to a credit card issued to the exempt entity are not allowed to be claimed on the Licensed Distributor Refund form. These sales must be claimed on the Credit Card Issuer Refund form. However, the following sales to licensed exempt entities can be included on the Licensed Distributor Refund form:
 - (a) Distributor lockbox sales at fixed pumps not available to the general public, or
 - (b) Sales from a licensed distributor owned retail station on credit, not with a credit card, and billed directly to the licensed exempt entity by the licensed distributor.
- (2) A summary listing of sales to licensed exempt entities must be attached to the petition for refund. The listing must include the licensed exempt entity name, exempt license number, and the number of gasoline and/or undyed diesel fuel gallons sold.
- (3) The petition must be filed on a monthly basis with a separate petition for each month and cannot include sales for any other period.
- (4) Licensed distributors will also be eligible to receive an administrative allowance of two cents

(\$.02) on each gallon of gasoline and diesel fuel claimed on sales to licensed exempt entities. The administrative allowance does not cover sales of taxable gasoline and diesel fuel to exempt entities that occur at a fixed retail pump available to the general public and that are charged to a credit card issued to the exempt entity.

(5) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was sold to the licensed exempt entity.

(6) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-329(b), Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-27. Licensed Exporter Refunds.

(1) Any entity, other than a licensed supplier, who exports motor fuel to another state, must obtain an Alabama Exporter's License. The licensed exporter is required to file a monthly exporter return showing the amount of motor fuel exported from Alabama. The exporter return will serve as a petition for refund for Alabama tax paid motor fuel that is exported to another state. The refund amount will be netted against any liability that may be shown on the exporter return as due to the state.

(2) The refund will not be processed until the licensed exporter submits to the department the documentation proving to the department's satisfaction that the other state(s) taxes were paid. That proof can include a copy of the other state(s) tax return, a certification from the other state(s) that the tax was paid, or any other documentation deemed necessary by the department.

(3) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-346, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-28. Diesel Fuel Defined for Wholesale Oil License Fee/Import License Fee.

Section 40-17-174, Code of Alabama 1975, requires that each person, firm, corporation, or agency selling diesel fuel across the rack at a terminal in Alabama pay a wholesale oil license fee on each gallon of diesel fuel sold during the preceding fiscal year. Also, importers of diesel fuel are required to pay an import license fee on each gallon of diesel fuel imported during the preceding fiscal year, unless the permissive supplier collects the import license fee from the person who purchases the diesel fuel for import into this state. Diesel fuel is defined in Code Section 40-17-322. Transmix, as defined in Section 40-17-322, is not taxable for the wholesale oil license fee/import license fee.

(Sections 40-2A-7(a)(5), 40-17-174 and 40-17-322, Code of Alabama 1975. Effective November 21, 2013.)

810-8-1-29. Deposits in Lieu of Surety Bonds.

(1) Those licensees listed in Section 40-17-335, where a surety bond is required may, in lieu of posting a surety bond, deposit with the department certified funds equivalent to the amount of bond fixed by the department:

(2) The deposit must be sent directly to the Business & License Tax Division.

(3) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323, 40-17-335, Code of Alabama. Effective October 1, 1982, Amended January 22, 2009. Amended August 3, 2012.)

810-8-1-.31. Sale.

(1) Sale shall mean and include in addition to its ordinary meaning and usage, any barter, exchange, gift or other disposition. In every case where motor fuel or lubricating oil is sold, bartered, exchanged, given away or otherwise disposed of, such motor fuel shall be determined to have been sold.

(2) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-220, 40-17-221 and 40-17-323. Amended August 3, 2012.)

810-8-1-.47.01. Dyed Motor Fuels Sold for Exclusive Off-Road Use.

(1) The Department of Revenue will permit the tax free sale of dyed diesel fuels exclusively for off-road use under the following conditions:

(a) Dispensing equipment shall be marked, "DYED DIESEL FUEL - NONTAXABLE USE ONLY - PENALTY FOR TAXABLE USE."

(b) Any distributor selling dyed diesel fuels exclusively for off-road use to a retail outlet must issue an invoice for each sale. Invoices issued for each sale shall contain the invoice number, date of sale, number of gallons, and the correct name and address of each purchaser. The following statement must appear on the front of each invoice: "Dyed Diesel Fuel, Non-Taxable Use Only-Penalty for Taxable Use".

(2) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Section 40-17-323 and 40-17-356, Code of Alabama 1975. Emergency regulation filed with LRS June 12, 1992, effective June 12, 1992. Notice filed with LRS July 22, 1992. Certification filed with LRS October 23, 1992, effective November 27, 1992. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996. Amended August 3, 2012.)

810-8-1-.53. Electronic Filing of Lubricating Oils Tax Returns.

(1) Section 40-17-182, Code of Alabama 1975, as amended, requires persons to report the lubricating oils tax on a form prescribed by the department and to pay the amount of tax that is shown as due. Pursuant to Chapter 30 of Title 40, the department is authorized to accept tax returns reported on a form filed electronically. Therefore, effective October 1, 2012, the monthly lubricating oils tax return will be required to be filed electronically.

(2) Under certain circumstances a taxpayer may request a waiver from the Commissioner to file in another department approved manner. These circumstances include:

- (a) No Computer,
- (b) No Internet Access,
- (c) Incompatible Computer Hardware,
- (d) Any special circumstance (i.e. physical disability) deemed worthy of a waiver by the Commissioner of Revenue.

(1) A request for waiver must be submitted in writing and include the business name and address, account number and reason(s) why a method other than the prescribed method is necessary.

(3) The lubricating oils return will be considered timely filed when due for these taxes if filed electronically by the last day before the return is considered delinquent. The amount due with the return will be considered timely paid if paid in accordance with the rules of the electronic funds transfer provider.

(4) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-182 and 40-17-323, Code of Alabama 1975. Effective March 30, 2011. Amended August 3, 2012.)

810-8-1-.54. Electronic Filing of Returns and Reports.

(1) Article 12 of Chapter 17 of Title 40, Code of Alabama 1975, as amended, requires persons to report certain taxes on a form prescribed by the department and to pay the amount of taxes shown due. Pursuant to Chapter 30 of Title 40, the department is authorized to accept tax returns reported on an electronic form filed electronically.

(2) Effective October 1, 2012 the following returns and reports will be required to be filed electronically:

- (a) Supplier/Permissive Supplier Monthly Return,
- (b) Terminal Operator Monthly Report,
- (c) Terminal Operator Annual report,
- (d) Importer Monthly Return,
- (e) Exporter Monthly Return,
- (f) Transporter Monthly Report, and
- (g) Blender Monthly Tax Report.

(3) Effective with the return for Fiscal Year 2013-2014 due in October 2013, the annual Wholesale Oil/Import License Fee return will be required to be filed electronically.

(4) Under certain circumstances a taxpayer may request a waiver from the Commissioner to file in

another department approved manner. These circumstances include:

- (a) No Computer,
- (b) No Internet Access,
- (c) Incompatible Computer Hardware,
- (d) Any special circumstance (i.e. physical disability) deemed worthy of a waiver by the Commissioner of Revenue.

1. A request for waiver must be submitted in writing and include the business name and address, account number and reason(s) why a method other than the prescribed method is necessary.

(5) The returns and reports listed above will be considered timely filed when due if filed electronically by the last day before the return or report is considered delinquent. The amount due with the return will be considered timely paid if paid in accordance with the rules of the electronic funds transfer provider.

(6) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-340,
Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-.56. Sales Records of a Licensed Distributor.

(1) Every licensed distributor must keep a sales record showing each sale of motor fuel, the person to whom each sale was made and the address, the commodity sold, date and invoice number, gallonage, and value of each sale. The sales record must show the gallonage subject to excise tax and sold tax-free.

(2) The distributor shall prepare a serially numbered invoice for each sale of fuel whether the fuel is sold for highway use motor vehicles or for off-road use. A single invoice covering multiple deliveries of fuel made during a period of time not to exceed a calendar month shall constitute an invoice for each sale. If the multiple invoice includes taxed and tax-free sales, the taxed sales must be so designated. The invoice shall be delivered to the purchaser and a copy retained by the distributor.

(3) A sales invoice shall contain the following information:

- (a) The name and address of the distributor,
- (b) The date of sale,
- (c) The name and address of the purchaser,
- (d) Whether the sale is a credit or cash sale,
- (e) The number of gallons of motor fuel sold, the price per gallon and the total amount of the sale,
- (f) The amount of excise tax or other taxes such as sales tax charged. The amount of excise tax charged need not be shown if the price per gallon includes the tax and the invoice so states. The excise tax on motor fuel is to be paid only once by the distributor or supplier and excise tax paid motor fuel is not subject to any other excise tax levied by the state such as sales tax, and

- (g) The location/destination where the fuel is delivered if other than purchaser's business address.
- (4) A sales invoice from a licensed distributor showing a purchase of excise tax-paid fuel constitutes a receipt for the purchaser of excise tax included on the invoice.
 - (a) If a licensed distributor sells undyed motor fuel tax-free to an exempt entity, the sales invoice must contain the following statement: "FUEL SOLD AT A TAX-EXCLUDED PRICE - WE CERTIFY THAT THE DIESEL FUEL DOES NOT CONTAIN VISIBLE EVIDENCE OF DYE."
- (5) A sales invoice for dyed motor fuel must contain the following statement - "Dyed Diesel Fuel, Nontaxable Use Only-Penalty for Taxable Use".
- (6) Records must be maintained in a form satisfactory to the department and shall be made available for inspection and audit by the department including adequate documentation of tax-free sales of gasoline and diesel fuel to licensed exempt entities.
- (7) The amendments to this regulation which were filed with the Legislative Reference Service on March 20, 2012 will be effective for transactions occurring on or after October 1, 2012 which are subject to the provisions of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5) and 40-17-323, Code of Alabama 1975. Effective June 3, 1996, amended December 13, 1999, Emergency Amendment effective January 5, 2000, expires May 3, 2000, amended May 15, 2000. Amended August 3, 2012.)

810-8-1-.57. Net Gallons.

- (1) All fuel tax returns and reports required under Article 12 of Chapter 17 of Title 40 must be reported on a net gallon basis.
- (2) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), and 40-17-323, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-.58. Motor Fuel Floor-Stocks Tax Return.

- (1) All licensed distributors who have motor fuel in storage on which the Alabama excise tax has not been paid as of September 30, 2012 must file a motor fuel floor-stocks tax return on or before November 15, 2012 showing the number of gallons of untaxed motor fuel.
- (2) Motor fuel on which the excise tax has not been paid that is in a terminal storage and is owned by a licensed supplier as of October 1, 2012 will be allowed as a deduction on the return. These gallons should be accounted for on the terminal operator's return by the terminal operator as beginning inventory for the licensed supplier's terminal storage.
- (3) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-331, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-.59. Motor Fuel Back Up Tax Report.

- (1) The Motor Fuel Back Up Tax Report is to be submitted for non-taxed motor fuel that was sold or

consumed for taxable purposes, taxable motor fuel that was used for taxable purposes on which an exemption or refund was allowed, or aviation gasoline or jet fuel taxed at the aviation or jet fuel rates that is used for purposes other than for fuel in an aircraft. Any documentation required by the department to explain why the tax is due must be submitted with the report.

- (2) The tax liability as listed on this report is in addition to any other penalty that may be imposed.
- (3) The report should only be filed when there is reportable activity.
- (4) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-328, Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-.60. Credit Card Issuer Petition for Refund for Gasoline & Undyed Diesel Fuel Purchases by Licensed Exempt Entities.

- (1) Section 40-17-332(j), Code of Alabama 1975, provides that the exempt entities listed in Section 40-17-329(e), must be issued an exemption license in order to purchase motor fuel with the state excise tax exempt. When purchases of gasoline and/or undyed diesel fuel are made by these licensed exempt entities at a fixed retail pump available to the general public using a credit card and the credit card issuer bills the licensed exempt entity for the fuel less the state excise tax, then the credit card issuer may file for a refund of the state excise taxes.
- (2) A credit card issuer is any financial institution or other organization that issues a credit card. Therefore, a licensed distributor that issues a credit card for use by an exempt entity is considered a credit card issuer and is not eligible for the two cents (\$.02) per gallon administrative allowance provided in Section 40-17-330(b).
- (3) The petition must be filed on a quarterly basis with a separate petition for each quarter and cannot include purchases for any other period and must be filed on forms prescribed by the department.
- (4) The documentation that must be attached to the petition for refund is a listing/report of purchases made by the licensed exempt entity. The listing/report must include the date of credit card purchases made by the licensed exempt entity, licensed exempt entity name, fuel tax exemption number, name of vendor and location, invoice number, product type, and the number of gasoline and/or undyed diesel fuel gallons billed by the credit card issuer without the tax.
- (5) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was purchased by the licensed exempt entity using the issuer's credit card.
- (6) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-329(f), Code of Alabama 1975. Effective September 3, 2012.)

810-8-1-.63. Supplier Twenty Day Notification.

- (1) Section 40-17-343(a), Code of Alabama 1975, provides that suppliers or permissive suppliers may

deduct from the next monthly return those tax payments that were not remitted from the previous month to the supplier or permissive supplier by any licensed distributor or licensed importer who removed motor fuel on which the tax is due from the supplier's or permissive supplier's terminal if the state is notified within 20 business days after the return is due.

(2) This information must be submitted on forms that are prescribed by the department and the supplier or permissive supplier cannot take the deduction until the department issues an authorized letter of credit which indicates that the department received the 20 day notification within the 20 business days and has approved the credit.

(3) This regulation will become effective on October 1, 2012, to coincide with the effective date of Act 2011-565, known as the Alabama Terminal Excise Tax Act.

(Sections 40-2A-7(a)(5), 40-17-323 and 40-17-343(a), Code of Alabama 1975. Effective August 3, 2012.)

810-8-1-.64. Motor Fuel Discounts.

(1) In accordance with the provisions of Section 40-17-340(e), Code of Alabama 1975, suppliers and permissive suppliers (as defined in Code Section 40-17-322) who timely file a return with the payment due may deduct from the amount of tax payable with the return an administrative discount of one half of one percent (.005) of the amount of tax payable to the state. In addition, Code Section 40-17-343(b) provides that suppliers and permissive suppliers who timely file a return with the payment due may deduct, from the amount of tax payable with the return, an administrative discount of one tenth of one percent (.001) of the amount of tax payable to the state, not to exceed two thousand dollars (\$2,000) per month.

(2) If a licensed supplier or permissive supplier does not timely file the required return and remit the total payment due, the discounts will not be prorated and no discount will be allowed.

(Sections 40-2A-7(a)(5) and 40-17-323, Code of Alabama 1975. Effective October 1, 2012.)

810-8-1-.65. Wholesale Oil License Fee/Import License Fee Return Required..

(1) Section 40-17-174, Code of Alabama 1975, requires that each person, firm, corporation, or agency selling diesel fuel across the rack at a terminal in Alabama pay a wholesale oil license fee, as provided for therein, on each gallon of diesel fuel sold during the preceding fiscal year. Also, importers of diesel fuel are required to pay an import license fee, as provided for in Section 40-17-174, on each gallon of diesel fuel imported during the preceding fiscal year, unless the permissive supplier, as defined in Section 40-17-322, collects the import license fee from the person who purchases the diesel fuel for import into this state. If the permissive supplier collects the import fee, the permissive supplier is required to remit the fee to the Department of Revenue. The wholesale oil license fee/import license fee and corresponding tax return is due within 2 weeks of the beginning of the new fiscal year even if the taxpayer is no longer licensed or has ceased operations within the prior fiscal year. This license fee is collected by the taxpayer for the use of the state and is therefore due to the State of Alabama for any portion of the year.

(Section 40-2A-7(a)(5) & 40-17-174, Code of Alabama 1975. Filed July 26, 2013, effective August 30, 2013.)

810-8-1-.66 Inspection Fee Bond Calculation (NEW RULE)

(1) In accordance with Section 8-17-96, Code of Alabama 1975, suppliers or permissive suppliers selling

gasoline or undyed diesel fuel to a licensed exempt entity other than the federal government, or suppliers or permissive suppliers selling dyed diesel fuel or dyed kerosene at the rack at an out-of-state terminal to an importer for delivery into Alabama that is not a bonded distributor and does not have a valid inspection fee permit issued by the Alabama Department of Revenue, or the person first selling, the person importing, or anyone who makes application to become a bonded distributor for dyed diesel fuel, dyed kerosene, or lubricating oil must post a surety bond for the minimum amount referenced in Section 8-17-96(d), Code of Alabama 1975.

(2) Section 8-17-96(d), Code of Alabama 1975, allows the Revenue Commissioner the authority to require any additional bond amount to insure the prompt payment of all inspection fees due to the state.

(3) The additional bond amount will be computed based upon twice the average monthly liability. (average monthly gallons for all product types * inspection fee rates based upon product type * 2 = additional bond amount). Bond will never be less than \$5,000.00.

(4) This regulation will become operative on October 1, 2016, to coincide with the effective date of Act 2015-54.

Author: Bonita Calhoun
 Authority: Sections 40-2A-7(a)(5), 8-17-84, and 8-17-96, Code of Alabama 1975.
 History: Effective July 30, 2016

810-8-1-.67 Inspection Fee Floor-Stocks Return. (NEW RULE)

(1) All bonded distributors, permitted under Section 8-17-80, Code of Alabama 1975, with the Alabama Department of Agriculture and Industries as the first sellers, who have gasoline in storage below the rack on which the Alabama inspection fee has not been paid as of September 30, 2016 must file an inspection fee floor-stocks return showing the number of gallons of untaxed gasoline and remit payment due on or before December 31, 2016.

(2) This regulation will become operative on October 1, 2016, to coincide with the effective date of Act 2015-54.

Author: Bonita Calhoun
 Authority: Sections 40-2A-7(a)(5), 8-17-84 and 8-17-95, Code of Alabama 1975.
 History: Effective July 30, 2016

810-8-1-.68 Electronic Filing of Inspection Fee Returns. (NEW RULE)

(1) Effective October 1, 2016, Section 8-17-97(d), Code of Alabama 1975, requires persons to file the inspection fee report electronically through the Department of Revenue's electronic filing system.

(2) Under certain circumstances a taxpayer may request a waiver from the Commissioner to file in another department approved manner. These circumstances include:

- (a) No Computer,
- (b) No Internet Access,
- (c) Incompatible Computer Hardware,
- (d) Any special circumstance (i.e. physical disability) deemed worthy of a waiver by the Commissioner of Revenue.

1. A request for waiver must be submitted in writing and include the business name and address, account number and reason(s) why a method other than the prescribed method is necessary.
- (3) The inspection fee return will be considered timely filed when due if filed electronically by the last day before the return or report is considered delinquent. The amount due with the return will be considered timely paid if paid in accordance with the rules of the electronic funds transfer provider.
- (4) This regulation will become operative on October 1, 2016, to coincide with the effective date of Act 2015-54.

Author: Bonita Calhoun
Authority: Sections 40-2A-7(a)(5), 8-17-84, and 8-17-97, Code of Alabama 1975.
History: Effective July 30, 2016

810-8-1-.69 Inspection Fee Back Up Tax Report. (NEW RULE)

- (1) The Inspection Fee Back Up Report is to be submitted for non-taxed dyed diesel fuel, dyed kerosene, and/or lubricating oil that was sold or consumed for taxable purposes or taxable dyed diesel fuel, dyed kerosene, and/or lubricating oil that was used for taxable purposes on which an exemption or refund was allowed. Any documentation required by the department to explain why the inspection fee is due must be submitted with the report.
- (2) The liability as listed on this report is in addition to any other penalty that may be imposed.
- (3) The report should only be filed when there is reportable activity.
- (4) This regulation will become operative on October 1, 2016, to coincide with the effective date of Act 2015-54.

Author: Bonita Calhoun
Authority: Sections 40-2A-7(a)(5), 8-17-84 and 8-17-87, Code of Alabama 1975.
History: Effective July 30, 2016