

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 146

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO TAXATION OF MOTOR FUELS; REPEALING SECTION 63-2410, IDAHO
2 CODE, RELATING TO A REFUND OF GASOLINE TAX PROCEDURE; AMENDING SECTION
3 63-2408, IDAHO CODE, TO REMOVE OBSOLETE REFERENCES; AND AMENDING SEC-
4 TION 63-2423, IDAHO CODE, TO REMOVE OBSOLETE REFERENCES AND TO PROVIDE A
5 PROCEDURE FOR REFUNDS.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section [63-2410](#), Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 2. That Section 63-2408, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-2408. AIRCRAFT ENGINE FUEL TAX. (1) An excise tax is hereby imposed
13 on all aircraft engine fuel received in this state. The tax is to be paid by
14 the distributor, and measured by the total number of gallons received by him,
15 at the rate of seven cents (7¢) per gallon of aviation gasoline, and six cents
16 (6¢) per gallon of jet fuel. The tax, together with any penalty and/or inter-
17 est due, shall be remitted with the monthly distributor's report required in
18 section 63-2406, Idaho Code.

19 ~~(2) For gasoline, other than aircraft engine fuel, used in aircraft en-~~
20 ~~gines, the refund of gasoline tax provided in section 63-2410, Idaho Code,~~
21 ~~shall be the amount of gasoline tax paid less the aviation gasoline fuel tax~~
22 ~~required in this section.~~

23 ~~(3)~~ A tax is hereby imposed on fuel which is placed into the fuel supply
24 tank of aircraft in this state on which tax is not collected under subsection
25 (1) of this section, the tax shall be payable at the rate established in sub-
26 section (1) of this section, to the commission by the user or consumer of the
27 fuels and shall be a debt owing to the state until it is paid. The tax shall
28 be imposed without regard to whether the fuel is used in the performance of a
29 government contract.

30 SECTION 3. That Section 63-2423, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid
33 his special fuels tax directly to the distributor from whom it was purchased
34 shall be refunded the amount of:

35 (a) Except as provided in subsection (2) of this section, any special
36 fuels tax paid on special fuels used for purposes other than operation
37 or propulsion of motor vehicles upon the highways in the state of Idaho;

38 (b) Any tax paid on special fuels used in motor vehicles owned or leased
39 and operated by an instrumentality of the federal government or of the

1 state of Idaho, including the state and all of its political subdivi-
2 sions;

3 (c) Any tax paid on gaseous special fuels placed into the main supply
4 tank of a vehicle displaying a valid gaseous special fuels permit under
5 section 63-2424, Idaho Code;

6 (d) Any special fuels tax paid on special fuels exported for use out-
7 side the state of Idaho. Special fuels carried from the state in the
8 fuel tank of a motor vehicle will not be deemed to be exported from the
9 state unless it is subject to a like or similar tax in the jurisdiction
10 to which it is taken and that tax is actually paid to the other jurisdic-
11 tion; and

12 (e) Any tax, penalty or interest erroneously or illegally paid or col-
13 lected.

14 (2) No refund of special fuels tax shall be paid on:

15 (a) Special fuels used in a recreational vehicle; or

16 (b) Special fuels used in noncommercial motor boats or in motor boats
17 operated by a governmental entity; or

18 (c) Special fuels used while idling a registered motor vehicle, pur-
19 suant to the definition of "idling" as provided in section 63-2401,
20 Idaho Code.

21 ~~(3) Refunds authorized in this section shall be claimed in the same man-~~
22 ~~ner as applies to refunds of gasoline tax under section 63-2410, Idaho Code,~~
23 ~~and shall be subject to interest computed pursuant to subsection (5) of that~~
24 ~~section. The claimant shall present to the commission a statement accompa-~~
25 ~~nied by a verification of the use determined by an audit of his operations~~
26 ~~conducted as prescribed by the state tax commission; or his claim may be ver-~~
27 ~~ified by the filing of a receipt or proof showing the payment of tax on the~~
28 ~~special fuels.~~

29 (4) (a) All claims for refund of special fuels taxes arising under this
30 section may be filed separately or in conjunction with the claimant's
31 income tax return due pursuant to chapter 30, title 63, Idaho Code. When
32 filed in conjunction with the income tax return, the refund will be a
33 refundable credit to income tax. The special fuels tax refund claimed
34 must be for tax paid on special fuels actually purchased during the tax-
35 able year to which the income tax return relates. The special fuels tax
36 refund due will be offset against any other taxes, penalties or interest
37 due before any balance is refunded by the commission to the claimant.
38 Subject to a limitation as to the amount of refund to be claimed as the
39 commission may provide by rule, refund claims may be submitted and paid
40 for any period not greater than one (1) year or less than one (1) month.

41 (b) If a claimant is not required to file an income tax return, the
42 claimant will file claims using a calendar year filing cycle on forms
43 and in the manner as the commission may provide. The refund claim must
44 be for taxes paid on special fuels actually purchased in the calendar
45 year preceding the filing and the refund claim will be due on or before
46 the fifteenth day of April following the close of the calendar year. Re-
47 fund claims may be submitted and paid for any period not greater than one
48 (1) year or less than one (1) month.

49 (c) Claims for refunds under this section shall be filed in the manner
50 prescribed in section 63-3072, Idaho Code. Such credit or refund shall

1 include interest at the rate established in section 63-3045, Idaho
2 Code, computed from sixty (60) days following the later of the due date
3 of the claimed refund under paragraph (a) or (b) of this subsection or
4 the filing of the claim. No refund will be paid under this section un-
5 less a written claim for such refund has been filed with the commission
6 within three (3) years after the due date, including extensions, of the
7 income tax return in regard to which the claim relates or the due date of
8 the claim established in paragraph (b) of this subsection.

9 (d) The commission may require that all claims be accompanied by the
10 original signed invoice or invoices issued to the claimant, showing the
11 total amount of gasoline on which a refund is claimed and the reason, the
12 amount of the tax and any additional information required by the commis-
13 sion. Each separate delivery shall constitute a purchase and a separate
14 invoice shall be prepared, at least in duplicate, to cover the delivery.
15 All invoices, except those prepared by a computer or similar machine,
16 shall be prepared in ink or double-spaced carbon shall be used between
17 the original and first duplicate.

18 (5) (a) Should the commission find that the claim contains errors,
19 it may correct the claim and approve it as corrected, or the com-
20 mission may require the claimant to file an amended claim. The
21 commission may require any person who makes a claim for refund to
22 furnish a statement under oath, giving his occupation, descrip-
23 tion of the machine or equipment in which the special fuels was
24 used, the place where used and any other information as the commis-
25 sion may require. If the commission determines that any claim has
26 been fraudulently presented, or is supported by an invoice or in-
27 voices fraudulently made or altered, or that any statement in the
28 claim or affidavit is willfully false and made for the purpose of
29 misleading, the commission may reject the claim in full. If the
30 claim is rejected, the commission may suspend the claimant's right
31 to any refund for purchases made during a period not to exceed one
32 (1) year beginning with the date the rejected claim was filed, and
33 it shall take all other action deemed appropriate.

34 (b) The commission has authority, in order to establish the validity of
35 any claim, to examine the books and records of the claimant for that pur-
36 pose, and failure of the claimant to accede to the demand for the exami-
37 nation may constitute a waiver of all rights to the refund claimed.

38 (6) In the event of the loss or destruction of the original invoice or
39 invoices, the person claiming a refund may submit a duplicate copy of the in-
40 voice certified by the vendor, but payment based on the duplicate invoice
41 shall not be made until one (1) year after the date on which the special fuels
42 was purchased.