

39-27-102.5. Exemptions on tax imposed - ex-tax purchases.

(1) (Deleted by amendment, L. 2005, p. 866, § 2, effective July 1, 2005.)

(1.5) Except as otherwise provided in paragraphs (a) and (b) of subsection (2) of this section, paragraph (b) of subsection (3) of this section, and section [39-27-102](#) (1) (b), indelible dye meeting federal regulations must be added to special fuel before or upon withdrawal at a terminal or refinery rack for that special fuel to be exempt from the excise tax imposed pursuant to this part 1. Such tax-exempt special fuel shall not be used for taxable purposes; except that dyed special fuel may be used for a taxable purpose to the extent that such use is allowed under federal law or regulations with such fuel being subject to the excise tax imposed pursuant to this part 1. For purposes of this subsection (1.5), "taxable purpose" means any use on which an excise tax on special fuel is imposed pursuant to this part 1. The terminal operator shall ensure that tax-exempt special fuel is dyed before it leaves the terminal. The seller shall give notice to the purchaser in accordance with federal regulations that the dyed special fuel is not legal for taxable use.

(2) (a) Dyed diesel fuel purchased to propel farm vehicles, when the same are being used on farms and ranches, farm tractors, and implements of husbandry only incidentally operated or moved on a highway, when operated off the public highways, and vehicles or construction equipment operated within the confines of highway construction projects when the same are actually being used in the construction of such highways shall be exempt from the excise tax imposed pursuant to this part 1. In accordance with section [39-27-104](#) (1) (d.5), dyed diesel fuel may be blended by a licensed distributor with biodiesel fuel after withdrawal at a terminal or refinery rack up to the maximum federally allowable blend. Such blended special fuel shall be exempt from the excise tax imposed pursuant to this part 1, so long as it is purchased for the purposes set forth in this paragraph (a). A person who purchases undyed special fuel for the purposes set forth in this paragraph (a) may, in accordance with section [39-27-103](#), apply to the department of revenue for a refund of the excise tax paid thereon.

(b) (I) (Deleted by amendment, L. 2005, p. 866, § 2, effective July 1, 2005.)

(II) Dyed diesel purchased by the state of Colorado, any of its agencies, any town, city, county, city and county, school district of this state, or any other political subdivision of this state shall be exempt from the excise tax imposed pursuant to this part 1 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities. A person who purchases dyed diesel fuel for the purposes set forth in this subparagraph (II) may, in accordance with section [39-27-103](#), apply to the department of revenue for a refund of the excise tax paid thereon.

(III) Any state or local governmental entity referred to in subparagraph (II) of this paragraph (b) may obtain an exemption certificate from the executive director of the department of revenue pursuant to subsection (3) of this section. Upon receipt of an exemption certificate, such governmental entity may purchase from a distributor undyed special fuel without payment of the excise tax imposed pursuant to this part 1 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities.

(c) Any person operating a vehicle other than a qualified motor vehicle pursuant to the motor fuel tax cooperative agreement entered into under part 3 of this article may bring into this state for the operation of such vehicle only the amount of special fuel that is in the ordinary fuel tank attached to such vehicle without being liable for the payment of the tax under this part 1.

(3) (a) The tax collected by the distributor pursuant to this section is deemed to have been received by the distributor at the time such fuel is acquired irrespective of when payment is received by the distributor for the amount of the invoice, including the tax, and the tax required to be collected by the distributor constitutes a debt owed by the distributor to this state.

(b) The executive director of the department of revenue shall issue an exemption certificate to a user of special fuel to purchase undyed special fuel from a distributor without payment of the tax if such user is exempt under the provisions of paragraph (b) of subsection (2) of this section.

(c) With each sale of special fuel made without payment of the tax pursuant to this subsection (3), the distributor shall secure evidence that the user has authorization from the executive director of the department of revenue to purchase special fuel ex-tax, together with the distributor's name and address and such other information as the executive director may require.

(4) (Deleted by amendment, L. 2000, p. 1932, § 15, effective October 1, 2000.)

(5) (a) The tax imposed by section [39-27-102](#) (1) (a) (II) (B) shall not apply to any motor vehicle that has been registered in this state, that is powered by liquefied petroleum gas or natural gas, and for which a valid decal has been acquired as provided in this subsection (5). The owners or operators of such motor vehicles shall, in lieu of the tax imposed under section [39-27-102](#) (1) (a) (II) (B), pay an annual license tax fee on each such vehicle in accordance with the following schedule of motor vehicle gross weights:

Gross Weight in Pounds	Annual License Tax Fee
(I) 1-10,000	\$ 70.00
(II) 10,001-16,000	100.00
(III) Over 16,000	125.00

(b) The executive director of the department of revenue shall annually, starting January 1 of each year commencing in 1984, collect or cause to be collected from owners or operators of the motor vehicles specified in paragraph (a) of this subsection (5) the annual license tax fee. Applications for such licenses shall be supplied by the department of revenue. In the case of a motor vehicle that is purchased or converted to liquefied petroleum gas or natural gas by January 1 of any year, a license shall be purchased for a fractional period of such year, and the amount of the license tax shall be reduced by one-twelfth for each complete month that shall have elapsed since the beginning of such year.

(c) Upon payment of the tax required by this subsection (5), the executive director of the department of revenue shall issue a decal, which shall be valid for the current calendar year and shall be attached to the

upper right-hand corner of the front windshield on the motor vehicle for which it was issued.

(d) The identifying decal and license tax fee paid for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle. Such transfer shall be accomplished in accordance with rules promulgated by the executive director of the department of revenue.

(e) It is unlawful for any person to operate a motor vehicle required to have a liquefied petroleum gas or natural gas decal upon the highways of this state without such decal unless such motor vehicle is titled outside Colorado and all Colorado purchases are taxed pursuant to section [39-27-102](#) (1) (a) (II) (B) or such vehicle is otherwise exempt from the provisions of this part 1.

(f) No person shall put, or cause to be put, liquefied petroleum gas or natural gas into the fuel tank of a motor vehicle required to have a liquefied petroleum gas or natural gas decal unless the motor vehicle has such decal attached to it or written or electronic evidence that a valid decal has been acquired for the motor vehicle and such evidence has been provided to such person or such person's employer. Sales of fuel placed in the fuel tank of a motor vehicle not displaying such decal or otherwise evidencing acquisition of a valid decal and for which the distributor is obligated to collect the tax specified by section [39-27-102](#) (1) (a) (II) (B) shall be recorded upon an invoice, which invoice shall include the date, the motor vehicle license number, the number of gallons or, in the case of natural gas, the energy equivalent in gallons placed in such fuel tank, and the tax due thereon.

(g) Any person violating any provision of this subsection (5) is subject to the penalty provisions of sections [39-27-114](#) and 39-27-120.

(h) Motor vehicles displaying a liquefied petroleum gas or natural gas decal are exempt from the licensing and reporting requirements stated in the remainder of this part 1.

(6) (a) The department of revenue shall promulgate rules allowing for payment of the annual license tax fee, if applicable, and acquisition of the decal as set forth in subsection (5) of this section by a user directly from a vendor or distributor of liquefied petroleum gas or natural gas.

(b) Such rules shall permit each vendor or distributor who participates in the program to return decals that are not issued by the vendor or distributor and remit the applicable annual license tax fees collected by the vendor or distributor not earlier than one hundred twenty days from the time decals are supplied to the vendor or distributor by the department of revenue.

(7) Motor vehicles that are owned or operated by a nonprofit transit agency that receives public funds and that are used exclusively in performing the agency's nonprofit functions and activities shall be exempt from the provisions of subsection (5) of this section and from the special fuel tax imposed by section [39-27-102](#) (1) (a) (II) (B) upon liquefied petroleum gas and natural gas. A person who purchases special fuel for the purposes set forth in this subsection (7) may, in accordance with section [39-27-103](#), apply to the department of revenue for a refund of the excise tax paid thereon.

(8) The department of revenue is authorized to promulgate reasonable rules, consistent with this part 1, concerning annual license tax fees collected and decals issued pursuant to subsections (5) and (6) of this section, including, but not limited to, reporting procedures, reporting forms, and the penalties described in sections [39-27-114](#) and 39-27-120.

Source: L. 2000: Entire section added with relocated provisions, p. 1932, § 15, effective October 1. L. 2002: (2)(a), (2)(b)(I), (2)(b)(II), and (7) amended, p. 552, § 1, effective May 24. L. 2005: (1), (1.5), (2)(b)(I), IP(5)(a), (5)(b), (5)(e), (5)(f), (6)(a), and (7) amended, p. 866, § 2, effective July 1. L. 2009: (1.5) and (2)(a) amended, ([SB 09-098](#)), ch. 195, p. 877, § 2, effective August 5.

Editor's note: This section is similar to former § 39-27-202 as it existed prior to 2000.

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