

Article 34. - MOTOR VEHICLE FUEL TAXES

79-3491a. LP-gas owned on date rate of tax changed; inventory tax or refund. (a) A tax is hereby imposed on all LP-gas motor fuels owned at 12:01 a.m. July 1, 1999, and on July 1 of each year thereafter, by any LP-gas motor fuels user or LP-gas motor fuels dealer at a rate per gallon, or fraction thereof, equal to the amount, if any, by which the tax per gallon, or fraction thereof, in effect on such date as prescribed by K.S.A. 79-3492, and amendments thereto, exceeds the rate of tax per gallon actually paid upon such fuel. Such tax shall be paid by the LP-gas motor fuel user or LP-gas motor fuel dealer owning such LP-gas motor fuels at such time and date. On or before the 25th day of the month in which such tax is imposed under this section, every such LP-gas motor fuel user and LP-gas motor fuel dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons, or fraction thereof, of such LP-gas motor fuels owned by the user or dealer at the time the tax is imposed under this section, and such report shall be accompanied by a remittance of the tax due.

Any LP-gas motor fuels user or LP-gas motor fuels dealer who shall fail to make such report or pay such tax, within the time prescribed, shall be subject to the same penalties and interest charges prescribed by the liquefied petroleum motor fuel tax law for failure of a licensed distributor to make monthly reports and payments of LP-gas motor fuel tax. The provisions of the liquefied petroleum motor fuel tax law relating to remedies for the collection of delinquent LP-motor fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from LP-gas motor fuels users and LP-gas motor fuels dealers. All taxes, penalties and interest collected by the director under the tax imposed by this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the funds and in the amounts specified in K.S.A. 79-34,142, and amendments thereto.

The words and phrases used in this section shall have the meanings ascribed to them in K.S.A. 79-3490, and amendments thereto.

(b) Whenever the rate of tax upon LP-gas motor fuels fixed pursuant to K.S.A. 79-3492, and amendments thereto, which becomes effective on July 1, 1999, or on July 1 in any year thereafter, is less than the rate of tax upon such fuels in effect on the preceding day, the user or dealer owning such fuels at 12:01 a.m. on the date such reduction in taxes becomes effective shall be entitled to a refund of taxes paid upon such fuels in an amount equal to the amount by which taxes were reduced from the amount of tax per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of LP-gas motor fuels multiplied by the number of gallons of fuel owned by the user or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such user or dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such LP-

gas motor fuels owned by such user or dealer at 12:01 a.m. on the date upon which such tax was reduced. It shall be the duty of the director of taxation to examine all such claims and determine the amount to which any claimant is entitled. In the event any user or dealer entitled to such refund shall owe the state any LP-gas motor fuels tax, penalties or interest, the refund authorized by this section shall upon being determined by the director be credited upon the amount of such taxes, penalties and interest. Whenever the director shall determine that any user or dealer shall be entitled to a refund under any of the provisions of this section, and such refund cannot be effected by giving credit therefor, as hereinbefore provided, or against the future LP-gas motor fuel tax liability of such taxpayer the director shall certify the amount of the refund to the state director of accounts and reports, who shall draw a warrant for the amount so certified on the state treasurer in favor of the user or dealer entitled to such refund, and mail, or otherwise deliver, the same to the user or dealer entitled thereto. Such warrant shall be paid by the state treasurer to such user or dealer from the LP-gas motor fuels tax refund fund which is hereby established in the state treasury.

(c) A fund designated as the LP-gas motor fuels tax refund fund not to exceed \$1,000,000 shall be set apart and maintained by the director of taxation from the LP-gas motor fuels tax collected under the provisions of article 34 of chapter 79 of Kansas Statutes Annotated, and amendments thereto, and held by the state treasurer for the payment of all refunds authorized by this section.

History: L. 1983, ch. 320, § 9; L. 1989, ch. 209, § 37; L. 1999, ch. 137, § 31; L. 2001, ch. 5, § 456; July 1.

79-3492. LP-gas motor fuel tax; rate of tax; computation; tax imposed upon user or dealer. Except as otherwise provided in this act, a tax per gallon, or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141, and amendments thereto, is hereby imposed on the LP-gas user or LP-gas dealer who places such LP-gas fuel into the fuel supply tank or tanks of any motor vehicle while such vehicle is within this state except that in those instances in which LP-gas is withdrawn from the cargo tank of a motor vehicle for the operation thereof upon the public highways of the state, the tax shall be imposed upon and measured only by that volume of LP-gas so withdrawn and used multiplied by the tax rate per gallon provided in this act.

History: L. 1959, ch. 405, § 3; L. 1973, ch. 402, §3; L. 1976, ch. 426, § 7; L. 1983, ch. 320, § 8; L. 1989, ch. 209, § 38; July 1.

79-3492a. Same; alternative method of computing tax; mileage basis; special permit decals. Alternatively to the methods otherwise set forth in this act, upon application to the director on forms prescribed by the director, the tax may be computed on a mileage basis by an LP-gas user. For the purpose of determining the amount of the tax computed on such basis, the number of gallons of LP-gas used on the highways of this state shall be determined by using the following schedule for calculating the number of miles per gallon which a gallon of LP-gas would propel motor vehicles:

Gross weight

6,000 pounds or less 12 miles per gallon

More than 6,000 pounds and not more than 12,000 pounds 10 miles per gallon

More than 12,000 pounds and not more than 24,000 pounds 7 miles per gallon

More than 24,000 pounds and not more than 42,000 pounds 6 miles per gallon

More than 42,000 pounds and not more than 66,000 pounds 4 miles per gallon

More than 66,000 pounds 3 miles per gallon

The director shall issue special permit decals for each motor vehicle authorized to pay the tax on a mileage basis.

History: L. 1973, ch. 402, § 4; July 1.

79-3492b. LP-gas motor fuel tax; alternative method of computation and payment of tax. Alternatively to the methods otherwise set forth in this act, special LP-gas permit users operating motor vehicles on the public highways of this state may upon application to the director on forms prescribed by the director elect to pay taxes in advance on LP-gas for each and every motor vehicle owned or operated by them and propelled in whole or in part with LP-gas during the calendar year and thereafter to purchase LP-gas tax free in lieu of securing a bonded user's permit and filing monthly reports and tax payments and keeping the records otherwise provided for in this act. The amount of such tax for each motor vehicle shall, except as otherwise provided, be based upon the gross weight of the motor vehicle and the number of miles it was operated on the public highways of this state during the previous year pursuant to the following schedules:

In the event any additional motor vehicles equipped to use LP-gas as a fuel are placed in operation by a special LP-gas permit user after the first month of any calendar year, a tax shall become due and payable to this state and is hereby imposed at the tax rate prescribed herein prorated on the basis of the weight and mileage for the months operated in the calendar year. The director shall issue special permit decals for each motor vehicle on which taxes have been paid in advance as provided herein, which shall be affixed on each such vehicle in the manner prescribed by the director.

History: L. 1973, ch. 402, § 5; L. 1983, ch. 330, § 2; L. 1984, ch. 361, § 1; L. 1987, ch. 389, § 1; L. 1989, ch. 209, § 39; L. 1989, ch. 209, § 40; L. 1989, ch. 209, § 41; L. 1989, ch. 209, § 42; L. 1999, ch. 137, § 32; L. 2002, ch. 201, § 3; L. 2010, ch. 156, § 35; June 3.

9-3492c. Same; director may require higher mileage rate for a taxpayer. In authorizing a special LP-gas permit user to pay taxes in advance for the privilege of thereafter purchasing such product tax free without securing another user's permit and performing the functions required of each user, it is expressly provided that if the director determines that taxes paid in advance for a special LP-gas permit user's permit are wholly inadequate to compensate for the taxable gallons being used by the permittee on the public highways, the director may require such permittee to pay taxes based upon a higher mileage rate in the permit user's weight class which if not paid will be cause for revocation of the permit.

History: L. 1973, ch. 402, § 6; L. 1983, ch. 330, § 3; Jan. 1, 1984.

79-3492d. Same; destruction or disposal of vehicle; notice to director; removal or transfer of decal. If any motor vehicle on which taxes have been paid in advance by a special LP-gas permit user for which a permit decal has been issued shall, prior to the end of the calendar year, be destroyed, sold, traded or otherwise disposed of, or for any reason the permittee ceases to be the owner or operator thereof, the permittee shall be required to remove such decal and immediately give notice in writing to the director of such destruction, sale or other disposition thereof. Failure to remove such permit decals and to notify the director in writing of such removals as above provided shall be grounds for cancellation of the special LP-gas user permit or for requiring such person to secure a user's license, except that when a motor vehicle upon which the tax has been paid in advance is sold or transferred by one special LP-gas permit user to another special LP-gas permit user or to a person who shall qualify for and obtain a special LP-gas user permit, the director may issue written authority to transfer the decal issued and attached to said motor vehicle and all rights and obligations thereunder to the purchasing special LP-gas permit user in such manner and form as may be required by the director.

History: L. 1973, ch. 402, § 7; L. 1983, ch. 330, § 4; Jan. 1, 1984.

79-3492e. Same; refund of unused portion of advance taxes; affidavit to director. If a motor vehicle shall be destroyed or sold or transferred so that it shall no longer qualify for the special LP-gas user permit decal, then in that event the owner or operator shall be entitled to a return of the unused portion of the advance taxes theretofore paid to the director for that calendar year. The owner or operator shall submit to the director an affidavit identifying the vehicle, and stating the circumstances entitling him or her to a refund, the initial date of disuse or conversion, the permit and decal number assigned, mileage for the calendar year and all other information reasonably required by the director. Upon receipt of the affidavit and when satisfied as to the circumstances, the director shall cause to be refunded to the owner or operator that portion of his or her tax payment that corresponds to the number of complete months remaining in the calendar year for which the tax has been paid, beginning with the month following the date on which the vehicle was no longer utilized. No refund shall be made if the use of the vehicle ceased within the last month of the calendar year.

History: L. 1973, ch. 402, § 8; L. 1983, ch. 330, § 5; Jan. 1, 1984.