

1 AN ACT in relation to taxes.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Section 13 as follows:

6 (35 ILCS 505/13) (from Ch. 120, par. 429)

7 Sec. 13. Refund of tax paid. Any person other than a
8 distributor or supplier, who loses motor fuel through any
9 cause or uses motor fuel (upon which he has paid the amount
10 required to be collected under Section 2 of this Act) for any
11 purpose other than operating a motor vehicle upon the public
12 highways or waters, shall be reimbursed and repaid the amount
13 so paid.

14 Any person who purchases motor fuel in Illinois and uses
15 that motor fuel in another state and that other state imposes
16 a tax on the use of such motor fuel shall be reimbursed and
17 repaid the amount of Illinois tax paid under Section 2 of
18 this Act on the motor fuel used in such other state.
19 Reimbursement and repayment shall be made by the Department
20 upon receipt of adequate proof of taxes paid to another state
21 and the amount of motor fuel used in that state.

22 Claims for such reimbursement must be made to the
23 Department of Revenue, duly verified by the claimant (or by
24 the claimant's legal representative if the claimant has died
25 or become a person under legal disability), upon forms
26 prescribed by the Department. The claim must state such
27 facts relating to the purchase, importation, manufacture or
28 production of the motor fuel by the claimant as the
29 Department may deem necessary, and the time when, and the
30 circumstances of its loss or the specific purpose for which
31 it was used (as the case may be), together with such other

1 information as the Department may reasonably require. No
2 claim based upon idle time shall be allowed.

3 Claims for full reimbursement for taxes paid on or before
4 December 31, 1999 must be filed not later than one year after
5 the date on which the tax was paid by the claimant. If,
6 however, a claim for such reimbursement otherwise meeting the
7 requirements of this Section is filed more than one year but
8 less than 2 years after that date, the claimant shall be
9 reimbursed at the rate of 80% of the amount to which he would
10 have been entitled if his claim had been timely filed.

11 Claims for full reimbursement for taxes paid on or after
12 January 1, 2000 must be filed not later than 2 years after
13 the date on which the tax was paid by the claimant.

14 The Department may make such investigation of the
15 correctness of the facts stated in such claims as it deems
16 necessary. When the Department has approved any such claim,
17 it shall pay to the claimant (or to the claimant's legal
18 representative, as such if the claimant has died or become a
19 person under legal disability) the reimbursement provided in
20 this Section, out of any moneys appropriated to it for that
21 purpose.

22 Any distributor or supplier who has paid the tax imposed
23 by Section 2 of this Act upon motor fuel lost or used by such
24 distributor or supplier for any purpose other than operating
25 a motor vehicle upon the public highways or waters may file a
26 claim for credit or refund to recover the amount so paid.
27 Such claims shall be filed on forms prescribed by the
28 Department. Such claims shall be made to the Department,
29 duly verified by the claimant (or by the claimant's legal
30 representative if the claimant has died or become a person
31 under legal disability), upon forms prescribed by the
32 Department. The claim shall state such facts relating to the
33 purchase, importation, manufacture or production of the motor
34 fuel by the claimant as the Department may deem necessary and

1 the time when the loss or nontaxable use occurred, and the
2 circumstances of its loss or the specific purpose for which
3 it was used (as the case may be), together with such other
4 information as the Department may reasonably require. Claims
5 must be filed not later than one year after the date on which
6 the tax was paid by the claimant.

7 The Department may make such investigation of the
8 correctness of the facts stated in such claims as it deems
9 necessary. When the Department approves a claim, the
10 Department shall issue a refund or credit memorandum as
11 requested by the taxpayer, to the distributor or supplier who
12 made the payment for which the refund or credit is being
13 given or, if the distributor or supplier has died or become
14 incompetent, to such distributor's or supplier's legal
15 representative, as such. The amount of such credit
16 memorandum shall be credited against any tax due or to become
17 due under this Act from the distributor or supplier who made
18 the payment for which credit has been given.

19 Any credit or refund that is allowed under this Section
20 shall bear interest at the rate and in the manner specified
21 in the Uniform Penalty and Interest Act.

22 In case the distributor or supplier requests and the
23 Department determines that the claimant is entitled to a
24 refund, such refund shall be made only from such
25 appropriation as may be available for that purpose. If it
26 appears unlikely that the amount appropriated would permit
27 everyone having a claim allowed during the period covered by
28 such appropriation to elect to receive a cash refund, the
29 Department, by rule or regulation, shall provide for the
30 payment of refunds in hardship cases and shall define what
31 types of cases qualify as hardship cases.

32 In any case in which there has been an erroneous refund
33 of tax payable under this Section, a notice of tax liability
34 may be issued at any time within 3 years from the making of

1 that refund, or within 5 years from the making of that refund
2 if it appears that any part of the refund was induced by
3 fraud or the misrepresentation of material fact. The amount
4 of any proposed assessment set forth by the Department shall
5 be limited to the amount of the erroneous refund.

6 If no tax is due and no proceeding is pending to
7 determine whether such distributor or supplier is indebted to
8 the Department for tax, the credit memorandum so issued may
9 be assigned and set over by the lawful holder thereof,
10 subject to reasonable rules of the Department, to any other
11 licensed distributor or supplier who is subject to this Act,
12 and the amount thereof applied by the Department against any
13 tax due or to become due under this Act from such assignee.

14 If the payment for which the distributor's or supplier's
15 claim is filed is held in the protest fund of the State
16 Treasury during the pendency of the claim for credit
17 proceedings pursuant to the order of the court in accordance
18 with Section 2a of the State Officers and Employees Money
19 Disposition Act and if it is determined by the Department or
20 by the final order of a reviewing court under the
21 Administrative Review Law that the claimant is entitled to
22 all or a part of the credit claimed, the claimant, instead of
23 receiving a credit memorandum from the Department, shall
24 receive a cash refund from the protest fund as provided for
25 in Section 2a of the State Officers and Employees Money
26 Disposition Act.

27 If any person ceases to be licensed as a distributor or
28 supplier while still holding an unused credit memorandum
29 issued under this Act, such person may, at his election
30 (instead of assigning the credit memorandum to a licensed
31 distributor or licensed supplier under this Act), surrender
32 such unused credit memorandum to the Department and receive a
33 refund of the amount to which such person is entitled.

34 For claims based upon taxes paid on or before December

1 31, 2000, a claim based upon the use of undyed diesel fuel
2 shall not be allowed except (i) if allowed under the
3 following paragraph or (ii) for undyed diesel fuel used by a
4 commercial vehicle, as that term is defined in Section
5 1-111.8 of the Illinois Vehicle Code, for any purpose other
6 than operating the commercial vehicle upon the public
7 highways and unlicensed commercial vehicles operating on
8 private property. Claims shall be limited to commercial
9 vehicles that are operated for both highway purposes and any
10 purposes other than operating such vehicles upon the public
11 highways.

12 For claims based upon taxes paid on or after January 1,
13 2000, a claim based upon the use of undyed diesel fuel shall
14 not be allowed except (i) if allowed under the preceding
15 paragraph or (ii) for claims for the following:

16 (1) Undyed diesel fuel used (i) in a manufacturing
17 process, as defined in Section 2-45 of the Retailers'
18 Occupation Tax Act, wherein the undyed diesel fuel
19 becomes a component part of a product or by-product,
20 other than fuel or motor fuel, when the use of dyed
21 diesel fuel in that manufacturing process results in a
22 product that is unsuitable for its intended use or (ii)
23 for testing machinery and equipment in a manufacturing
24 process, as defined in Section 2-45 of the Retailers'
25 Occupation Tax Act, wherein the testing takes place on
26 private property.

27 (2) Undyed diesel fuel used by a manufacturer on
28 private property in the research and development, as
29 defined in Section 1.29, of machinery or equipment
30 intended for manufacture.

31 (3) Undyed diesel fuel used by a single unit
32 self-propelled agricultural fertilizer implement,
33 designed for on and off road use, equipped with flotation
34 tires and specially adapted for the application of plant

1 food materials or agricultural chemicals.

2 (4) Undyed diesel fuel used by a commercial motor
3 vehicle for any purpose other than operating the
4 commercial motor vehicle upon the public highways. Claims
5 shall be limited to commercial motor vehicles that are
6 operated for both highway purposes and any purposes other
7 than operating such vehicles upon the public highways.

8 (5) Undyed diesel fuel used by a unit of local
9 government in its operation of an airport if the undyed
10 diesel fuel is used directly in airport operations on
11 airport property.

12 (6) Undyed diesel fuel used by refrigeration units
13 that are permanently mounted to a semitrailer, as defined
14 in Section 1.28 of this Law, wherein the refrigeration
15 units have a fuel supply system dedicated solely for the
16 operation of the refrigeration units.

17 (7) Undyed diesel fuel used by power take-off
18 equipment as defined in Section 1.27 of this Law.

19 (8) Undyed diesel fuel used by a small business
20 owner for landscape or construction equipment if all of
21 the following conditions are met:

22 (A) The landscape or construction equipment is
23 used off road.

24 (B) The small business owner does not have an
25 on-site tank to hold dyed diesel fuel.

26 (C) The small business owner is located in a
27 metropolitan statistical area in Illinois. For
28 purposes of this item (8), "metropolitan statistical
29 area" means a geographical area designated as a
30 metropolitan statistical area by the federal office
31 of management and budget and having such designation
32 on January 1, 2000.

33 Any person who has paid the tax imposed by Section 2 of
34 this Law upon undyed diesel fuel that is unintentionally

1 mixed with dyed diesel fuel and who owns or controls the
2 mixture of undyed diesel fuel and dyed diesel fuel may file a
3 claim for refund to recover the amount paid. The amount of
4 undyed diesel fuel unintentionally mixed must equal 500
5 gallons or more. Any claim for refund of unintentionally
6 mixed undyed diesel fuel and dyed diesel fuel shall be
7 supported by documentation showing the date and location of
8 the unintentional mixing, the number of gallons involved, the
9 disposition of the mixed diesel fuel, and any other
10 information that the Department may reasonably require. Any
11 unintentional mixture of undyed diesel fuel and dyed diesel
12 fuel shall be sold or used only for non-highway purposes.

13 The Department shall promulgate regulations establishing
14 specific limits on the amount of undyed diesel fuel that may
15 be claimed for refund.

16 For purposes of claims for refund, "loss" means the
17 reduction of motor fuel resulting from fire, theft, spillage,
18 spoilage, leakage, or any other provable cause, but does not
19 include a reduction resulting from evaporation or shrinkage
20 due to temperature variations.

21 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)