

DEPARTMENT OF TREASURY
BUREAU OF CONTROLLER OPERATIONS
MOTOR FUEL TAX

(By authority conferred on the department of treasury by section 3 of Act No. 122 of the Public Acts of 1941, as amended, and sections 17, 32, and 62 of Act No. 150 of the Public Acts of 1927, as amended, being SS207.103, 207.117, 207.132, and 207.162 of the Michigan Compiled Laws)

R 207.1 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 150 of the Public Acts of 1927, as amended, being S207.101 et seq. of the Michigan Compiled Laws.

(b) "Boat terminal transfer" means docks, tanks, and equipment contiguous thereto used in unloading gasoline from tank steamers and transferring such gasoline to tanks pending wholesale bulk reshipment. "Boat terminal transfer" also includes tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment.

(c) "Diesel fuel dealer" means any person selling and delivering diesel motor fuel into the fuel supply tanks of motor vehicles in this state. The term "diesel fuel dealer" also means a user, as defined in subdivision

(g), who consumes from his own storage facility.

(d) "Gallonage" means gross gallons as measured at actual concurrent temperature of the motor fuel without adjustment of gallonage for any temperature variance.

(e) "Liquefied petroleum gas licensed dealer" means any person using liquefied petroleum gas within the meaning of "use," which includes all of the following:

(i) Selling or delivering liquefied petroleum gas not previously subjected to tax by placing it into either permanently attached fuel supply tanks or motor vehicles.

(ii) Exchanging or replacing fuel supply tanks of a motor vehicle.

(iii) Delivering liquefied petroleum gas into storage to be consumed in motor vehicles on the public roads and highways.

(iv) The withdrawal of liquefied petroleum gas from the cargo tank of a truck, trailer, or semitrailer for the operation of a motor vehicle upon the public roads and highways of this state, whether such fuel is used in vapor or liquid form by a person who is the holder of a valid license issued by the department.

(f) "Retail dealer" means any person or persons, firm, association, or corporation, both private and municipal, other than a wholesale distributor, that engages in the business of selling or distributing gasoline within this state.

(g) "User" means and includes a natural person, partnership, firm, association, joint stock company, syndicate, and corporation, and any receiver, trustee,

conservator, or any other officer having jurisdiction and control of property by virtue of the provisions of any law, that is

the owner, in this state or any other state, of a motor vehicle propelled by diesel engines or diesel motors and which receives diesel fuel into its fuel supply tank.

(h) "Wholesale distributor" means any person or persons, firm, association, or corporation, both private and municipal, that does any of the following:

(i) Imports gasoline into the state from any other state, territory, or possession of the United States, or foreign country.

(ii) Produces, manufactures, refines, or blends gasoline within this state.

(iii) Receives gasoline from a refiner or manufacturer of gasoline or from a boat terminal transfer in this state for storage and subsequent sale and distribution.

(iv) Receives gasoline from a refiner or manufacturer of gasoline or from a boat terminal transfer in this state solely for storage and consumption.

History: 1979 AC.

R 207.2 Wholesale gasoline distributor, diesel dealer, diesel user, and liquid petroleum gas dealer; licensing; applications; fees.

Rule 2. (1) To procure a license, a wholesale gasoline distributor, diesel dealer, diesel user, and liquid petroleum gas dealer shall file with the department a verified application form prescribed and furnished by the department.

(2) The application of a wholesale distributor of gasoline shall contain the name under which the applicant intends to transact business; the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, the corporate name, the state where incorporated, the date incorporated, the name of its officers and directors and, if a foreign corporation, the name of its resident agent; the location of its place of business, the date such business was established, and any other information the department may require.

(3) The application of a diesel dealer shall include the name and address of the dealer and each place of business operated by such dealer at which diesel motor fuel is or will be dispensed into fuel supply tanks of motor vehicles, and such other information as the department may reasonably require for the purpose of the act.

(4) The diesel user application shall contain the name under which the user registers his or her motor vehicle or vehicles and the name and address of the owner, partnership, or, if a corporation, the names and addresses of the several persons constituting the firm and, if a foreign corporation, the name of its resident agent, the location of its place of business, and such other pertinent information the department may require.

(5) The application of a liquefied petroleum gas dealer shall include the name and address of the dealer and each place of business operated by such dealer at which liquefied petroleum gas will be used within the meaning of the term "use," as referred to in R 207.1(e), and such other information as the department may require.

(6) At the time of applying for a wholesale gasoline distributor's license an applicant shall pay an annual fee of \$5.00.

(7) An applicant for a diesel dealer, diesel user, and liquefied petroleum license shall pay an annual fee of \$1.00.

History: 1979 AC.

R 207.3 Wholesale gasoline distributor license, diesel dealer license, and liquefied petroleum gas dealer license; applicant; surety bond.

Rule 3. (1) If an applicant for a wholesale gasoline distributor license, a diesel dealer license, or a liquefied petroleum gas dealer license cannot satisfy the department as to the applicant's financial responsibility, the applicant shall file with the department a cash or surety bond payable to the state, upon which the applicant is the obligor.

(2) The bond of a wholesale gasoline distributor shall not be less than \$1,000.00 nor more than \$25,000.00.

(3) The bond of a diesel dealer or a liquefied petroleum gas dealer shall not be less than \$500.00 nor more than \$5,000.00.

(4) All bond requirements are determined based on the assumption that the applicant shall comply with the laws pertaining to motor fuel taxes and will promptly file true reports and pay the taxes and penalties provided for or required. Such bonds shall be approved as to the amount and sureties by the department.

(5) The department may require such additional bond as shall be deemed necessary, within the limits in this rule, on giving of 10 days' notice. Upon approval of the department, an applicant may file with the department good and sufficient security or personal bond in such form and amount as the department may require, but the amount of personal bond shall not exceed limitations as outlined.

(6) The department may require a licensee to furnish such additional bond as shall be deemed necessary within the limits outlined on the giving of 10 days' notice in writing.

History: 1979 AC.

R 207.4 Licensed wholesale gasoline distributor, diesel dealer, liquefied petroleum gas dealer, and diesel users; filing reports and remitting tax.

Rule 4. (1) A licensed wholesale gasoline distributor, diesel dealer, liquefied petroleum gas dealer, and diesel user, except a user who acquires all diesel fuel from a dealer or licensed dealer, shall file reports and remit tax due on or before the twentieth day of the month next succeeding the month in which the tax accrued, except that if the twentieth day of a month falls on a Saturday, Sunday, or legal holiday, the tax is due on the next regular business day. A final report is due 20 days after the date of selling or dissolution of a business.

(2) The commissioner of revenue may require filing of reports on other than a monthly basis.

History: 1979 AC.

R 207.5 Rescinded.

History: 1979 AC; 1996 AACS; 1997 AACS.

R 207.6 Rescinded.

History: 1979 AC; 1996 AACS; 1997 AACS.

R 207.7 Licensee; neglecting or refusing to file report or pay tax; computation and collection of tax by department.

Rule 7. If a licensee neglects or refuses to file a report and pay tax due as imposed by Act No. 150 of the Public Acts of 1927, as amended, being SS207.101 to 207.186 of the Michigan Compiled Laws, the department may compute tax due from any information available and may proceed to collect the tax due. The department may use all legal means at its disposal to collect such tax due based upon such computed reports.

History: 1979 AC.

R 207.8 Wholesale gasoline distributor, diesel fuel dealer, user, or liquefied petroleum gas dealer; revocation of license; reinstatement; surety bond.

Rule 8. (1) Before a wholesale gasoline distributor, diesel fuel dealer, user, or liquefied petroleum gas dealer, whose license has been revoked, may apply for or obtain the reinstatement of a license, such wholesale gasoline distributor, diesel dealer, user, or liquefied petroleum gas dealer shall pay to the department any and all delinquent taxes, penalties, interest, and costs that remain unpaid.

(2) An applicant shall file with the department a surety bond, upon which the licensee is the obligor, to secure the prompt filing of true reports and full payment of taxes. The bond shall be in such amount as the department shall determine, not to exceed 4 times the applicable rate of tax per gallon on all taxable gallons for the preceding month.

(3) If no liability was incurred during the preceding month, or if for any reason a computation cannot be made, an amount determined by the department, not exceeding 4 times the applicable rate of tax, may be estimated, which estimate may be based upon any information available.

History: 1979 AC.

R 207.9 Gasoline tax; deduction by wholesale distributor to allow for evaporation and loss; credit to registered retail dealer operating on consignment basis; losses occurring after gasoline incurs taxable status; statutory refund allowance.

Rule 9. (1) In computing gasoline tax, 3% of the quantity of gasoline received by a wholesale distributor shall be deducted to allow for evaporation and loss, if, at

the time of filing the report and paying the tax, the wholesale gasoline distributor submits satisfactory evidence to the department that the amount of tax represented by 1/3 of the deduction has been paid or credited to the registered retail dealers on quantities sold to them during the period covered by the report.

(2) Registered retail dealers operating on a consignment basis shall receive credit as settlement and payment for the product for quantities sold to them, notwithstanding that loss may not have occurred.

(3) Losses occurring after gasoline has incurred taxable status is not subject to refund of tax as the distributor is allowed 3% by statute.

(4) Reimbursement or refund of tax on any loss shall not exceed the statutory allowance provided in section 8 of Act No. 150 of the Public Acts of 1927, as amended, being S207.108 of the Michigan Compiled Laws.

History: 1979 AC.

R 207.10 Licensed wholesale distributor; collection of tax; monies held in trust if not paid to the department.

Rule 10. A licensed wholesale distributor who sells or distributes gasoline for any purpose shall collect tax from the purchaser at the applicable rate per gallon. All monies paid by the purchaser as taxes on gasoline that have not been paid to the department shall be and remain public money, the property of the state, and shall be held in trust in a separate account by the wholesale distributor for the sole use and benefit of the state, until paid to the department.

History: 1979 AC.

R 207.11 Purchases of gasoline entitled to refund of state gasoline tax paid; claims; deduction from refund of sales tax due.

Rule 11. (1) The following purchasers of gasoline are entitled to a refund of the state gasoline tax paid:

(a) Persons using gasoline for any purpose other than to operate vehicles on the public roads and highways of this state.

(b) State and federal governmental units using gasoline in vehicles owned and operated by such entities.

(c) Persons operating passenger vehicles of a capacity of 5 or more under a municipal franchise, license, permit, or agreement.

(d) Political subdivisions of the state.

(e) Nonprofit private, parochial, or denominational schools, colleges, and universities purchasing gasoline for use in school buses owned and operated by such entities.

(f) Persons operating passenger vehicles for the transportation of school students under a certificate of public convenience and necessity issued by the public service commission.

(2) A purchaser shall file a verified claim on forms furnished by the department within 1 year from the date of purchase, as shown by the invoice. Any claim

received within the 1-year period, as evidenced by the postmark, shall be considered timely filed. A refund claim shall comply with the following requirements to qualify for payment after the time limit has been established:

(a) An original numbered invoice (top copy received at time of delivery) for each purchase shall be attached to the claim. The invoice shall contain all of the following:

(i) Name and address of dealer.

(ii) Date of sale.

(iii) Name and address of purchaser.

(iv) Number of gallons, price per gallon, and Michigan gasoline tax shown as a separate item.

(v) The signature of the dealer or his agent.

(b) A claim shall not be considered for gasoline that has not been consumed.

(c) An invoice shall clearly indicate that payment has been made to the supplier.

(d) All invoices become part of the claim and shall not be returned.

(e) A claim accompanied by invoices on which there is evidence of changes shall be disallowed in its entirety.

(f) A claim shall not be approved if the gasoline is used in motor vehicles both on and off the public highways, if use is from the common supply tank of the vehicle.

(g) If highway and nonhighway vehicles are fueled from storage, records of withdrawal shall be maintained showing dates, number of gallons, and vehicle fueled.

(h) If the original invoice is not received, or if it is lost or destroyed, and affidavit to that effect shall be submitted to the department, and if it is determined the cause was not due to carelessness on the part of the purchaser, a duplicate invoice shall be accepted.

(3) If a verified claim of a purchaser shows or indicates that the gasoline used by the claimant is subject to sales tax under Act No. 167 of the Public Acts of 1933, as amended, being SS205.51 to 205.78 of the Michigan Compiled Laws, the department shall deduct from the refund the amount of sales tax due.

History: 1979 AC.

R 207.12 Rescinded.

History: 1979 AC; 1996 AACS; 1997 AACS.

R 207.13 Department; authority to examine records and enter premises to take samples of petroleum products and make tests.

Rule 13. Authorized agents of the department of treasury may examine the books, records, and papers of any wholesale distributor, retail dealer, contract or common carrier, diesel dealer, diesel user, or liquefied petroleum dealer pertaining to products received, sold, shipped, or delivered to verify the accuracy of any statement, report, or return. The department may also enter the premises of any blender or

dealer in petroleum products at all reasonable times to take samples of petroleum products and to make such tests as may be required in the enforcement of the act.

History: 1979 AC.

R 207.14 Gasoline withdrawn from marine or pipeline storage and returned to terminal storage; unauthorized receipt of gasoline by means of landborne equipment into terminal storage.

Rule 14. Gasoline withdrawn from marine or pipeline storage, on which taxes have been paid, shall not be returned to terminal storage without receiving prior authorization from the department of treasury, motor fuel tax division. This does not pertain to gasoline withdrawn and returned for meter test. The unauthorized receipt of gasoline by means of landborne equipment into terminal storage shall result in the conversion of tax-free storage to a tax-paid bulk plant and tax shall be due on inventory on hand.

History: 1979 AC.

R 207.15 Rescinded.

History: 1979 AC; 1996 AACS; 1997 AACS.

R 207.16 Rescinded.

History: 1979 AC; 1996 AACS; 1997 AACS.