

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds.

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

- (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;
- (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon;
- (3) the tax on all aviation fuel other than gasoline is three and two-tenths cents a gallon; and
- (4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however,

(A) in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection;

(B) notwithstanding (A) of this paragraph, through June 30, 2004, the tax on motor fuel sold or otherwise transferred within the state is eight cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection if the motor fuel

(i) is at least 10 percent alcohol by volume, has been produced from the processing of lignocellulose derived from wood, and was produced in a facility that processes lignocellulose from wood, but this reduction in the rate of tax applies to motor fuel sold or transferred that contains alcohol that was produced only during the first five years of the facility's processing of lignocellulose from wood; or

(ii) is at least 10 percent alcohol by volume, has been produced from the processing of waste seafood, and was produced in a facility that processes alcohol from waste seafood, but this reduction in the rate of tax applies to motor fuel sold or transferred that contains alcohol that was produced only during the first five years of the facility's processing of alcohol from waste seafood.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

- (1) the tax on aviation gasoline consumed is four and seven-tenths cents a gallon;
- (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon;
- (3) the tax on all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however,

(A) in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection;

(B) notwithstanding (A) of this paragraph, through June 30, 2004, the tax on motor fuel consumed by a user within the state is eight cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection if the motor fuel

(i) is at least 10 percent alcohol by volume, has been produced from the processing of lignocellulose derived from wood, and was produced in a facility that processes lignocellulose from wood, but this reduction in the rate of tax applies to motor fuel consumed by a user that contains alcohol that was produced only during the first five years of the facility's processing of lignocellulose from wood; or

(ii) is at least 10 percent alcohol by volume, has been produced from the processing of waste seafood, and was produced in a facility that processes alcohol from waste seafood, but this reduction in the rate of tax applies to motor fuel consumed by a user that contains alcohol that was produced only during the first five years of the facility's processing of alcohol from waste seafood.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, may be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the department showing all fuel which the dealer or user has distributed or used during the month.

(d) *[Repealed, Sec. 3 ch 166 SLA 1976].*

(e) Sixty percent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in [AS 19.10.150](#), including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) *[Repealed, Sec. 35 ch 126 SLA 1994].*

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under [AS 43.40.050](#) (a), other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Transportation and Public Facilities for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(l) *[Repealed, Sec. 3 ch 182 SLA 1990].*

Sec. 43.40.015. Exemption from collection of tax.

(a) A dealer who has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel need not collect the motor fuel tax. However, as to fuel for which the tax was not collected and for which a certificate of use was not obtained, if the department determines that the fuel was put to a use that is taxable under this chapter, the dealer is liable for the tax and subject to a civil penalty under [AS 43.05.220](#) (a) whether or not the dealer's belief that the fuel sold or transferred would not be used as motor fuel was reasonable.

(b) Except for sale or transfer of fuel under (d) of this section, if the motor fuel tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee at the time of

the first sale or transfer of the fuel stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The form of the certificate of use shall be prescribed by the department by regulation. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection.

(c) A certificate of use must be renewed annually for exemptions listed under [AS 43.40.100](#) (2).

(d) A certificate of use is not required

(1) for fuel exempted under [AS 43.40.100](#) (2)(C) or (J); and

(2) for fuel exempted under [AS 43.40.100](#) (2)(I) other than fuel sold or transferred under this exemption to a person who is engaged in construction or mining activity.

Sec. 43.40.020. Penalty for violation. [Repealed, Sec. 46 ch 113 SLA 1980. For criminal penalties, see [AS 43.05.290](#)].

Repealed or Renumbered

Sec. 43.40.025. Handling of tax in sales or transfers of motor fuel in certain credit transactions. [Repealed, Sec. 3 ch 82 SLA 1998, effective July 1, 2008].

Repealed or Renumbered

Sec. 43.40.030. Refund for nonhighway use.

(a) Except as specified in [AS 43.40.010](#) (j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid.

Sec. 43.40.035. Other refunds and credits.

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements of [AS 43.40.015](#) have been fulfilled; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by [AS 43.40.010](#) (a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the reseller, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier.

(c) For fuel sold to federal, state, and local government agencies for official use and purchased with a government credit card, the credit card issuer may apply for a refund of any motor fuel tax assessed on the purchase if the tax is not billed by the credit card issuer to the government agency making the purchase.

Sec. 43.40.040. Applications and permits for refund. [Repealed, Sec. 45 ch 113 SLA 1980. For current law, see [AS 43.40.050](#) (a)].

Repealed or Renumbered

Sec. 43.40.050. Refund claim by affidavit or other documentation.

(a) A person who claims a refund under [AS 43.40.030](#) shall present the claim for the refund to the commissioner by affidavit upon a form provided by the commissioner. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information that the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under [AS 43.40.030](#) or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within

the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department.

(d) A credit card issuer who claims a refund under AS 43.40.035 shall present the refund claim to the department on a form prescribed by the department together with documentation of the claim required by the department.

Sec. 43.40.060. Separate invoices.

The department may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim.

Sec. 43.40.070. Refund warrants.

Upon approval of a refund claim by the department, a disbursement shall be made from the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim.

Sec. 43.40.080. Examination of books and records.

(a) To determine the validity of a claim for refund, the department may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The department may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) *[Repealed, Sec. 46 ch 113 SLA 1980].*

Sec. 43.40.085. Preservation of books and records.

Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel that are taxed under this chapter.

Sec. 43.40.090. Criminal violation. [Repealed, Sec. 46 ch 113 SLA 1980].

Repealed or Renumbered

Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain fuel sold for use in jet propulsion aircraft operating in flights that continue from foreign countries.

(a) The provisions of this section apply to disallow the exemption for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft operating in flights that continue from foreign countries if, for motor fuel produced by a refiner,

(1) the refiner determines, on or after July 1, 1997, that the refiner will expand capacity or expand the refinery to produce more residual fuel oil used in watercraft;

(2) on or after the July 1, 1997, the refiner has voluntarily committed by agreement entered into with the commissioner that, if the refiner expands its oil refining capacity in order to produce additional supplies of fuel for use in jet propulsion aircraft that qualify for the tax exemption, when the refiner expands capacity, the refiner will

(A) use the refiner's best efforts to advertise for, recruit, and employ in the construction activities associated with expanding refinery capacity resident workers who have experience in the specific fields in which they are hired to work;

(B) contract with licensed Alaska firms to prepare materials that are used in construction activities and to provide services in conjunction with activities associated with expanded refinery capacity and, in contracting with those firms, to encourage the refiner's contractors to employ and, when necessary, train state residents; and

(C) enter into contracts with Alaska-licensed vendors, contractors, and suppliers for the provision of supplies and services used in conjunction with activities associated with expanding refinery capacity; and

(3) the commissioner determines that a dealer or user claiming the exemption for motor fuel acquired from a refiner who has entered into an agreement described in (2) of this subsection acquired the motor fuel for which the exemption is claimed from a refiner who has not complied with the requirements of the agreement in completing expansion of its oil refining capacity under the agreement described in (1) of this subsection.

(b) For purposes of this section,

(1) the term "resident worker" means an individual who

(A) is physically present in the state with the intent to remain in the state indefinitely and has a home in the state;

(B) demonstrates that intent by maintaining a residence in the state;

(C) possesses a resident fishing, trapping, or hunting license, or receives a permanent fund dividend; and

(D) may be required to state under oath that the individual is not claiming residency outside of the state or obtaining benefits under a claim of residency outside of the state;

(2) the phrases "Alaska-licensed contractors" and "Alaska firms" mean a contractor or firm that

(A) has held an Alaska business license for one year before performing any work in connection with the commitment described in (a) of this section;

(B) has maintained for one year a place of business within the state that deals in the supplies, services, or construction of the nature required for the commitment described in (a) of this section; and

(C) is

(i) a sole proprietorship and the proprietor is an Alaska resident;

(ii) a partnership and more than 50 percent of the partners are Alaska residents;

(iii) a corporation that has been incorporated in the state or is authorized to do business in the state; or

(iv) a joint venture composed entirely of ventures that qualify under this subparagraph.

Sec. 43.40.100. Definitions.

In this chapter,

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine, or mechanical contrivance that is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights

(i) to foreign countries; or

(ii) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel sold or transferred between qualified dealers;

(G) fuel sold to federal, state, and local government agencies for official use;

(H) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(I) fuel used to heat private or commercial buildings or facilities;

(J) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(K) fuel used in stationary power plants of 100 kilowatts or less that generate electrical power for commercial enterprises not for resale; or

(L) residual fuel oil used in and on watercraft if the residual fuel oil is sold or transferred in the state or consumed by a user; for purposes of this subparagraph, "residual fuel oil" means the heavy refined hydrocarbon known as number 6 fuel oil that is the residue from crude oil after refined petroleum products have been extracted by the refining process and that may be consumed or used only when sufficient heat is provided to the oil to reduce its viscosity rated by kinetic unit and to give it fluid properties sufficient for pumping and combustion;

(3) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department;

(4) "user" means a person consuming or using motor fuel, who

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by [AS 43.40.010](#).

Sec. 43.40.110. - 43.40.120l Additional tax levy on transfers or consumption of motor fuel. [Repealed, Sec. 8 ch 158 SLA 1970].

Repealed or Renumbered

Sec. 43.43.010. - 43.43.060l Disaster relief tax. [Repealed, Sec. 1 ch 48 SLA 1969].

Repealed or Renumbered

Sec. 43.43.110. - 43.43.160l Disaster severance tax. [Repealed, Sec. 2 ch 247 SLA 1970].

Repealed or Renumbered