

LAW AND ANALYSIS

Fuels tax is imposed on a distributor when it first receives fuel in Idaho. *See* Idaho Code section 63-2402. The distributor may provide fuel to a retail outlet, or it may act as a retailer by selling fuel to the end consumer. When a consumer purchases fuel for nontaxable uses, it may claim a fuels tax refund for the amount of tax that the distributor previously paid on that fuel.

To accomplish this, the consumer may claim separately or in conjunction with their income tax return, pursuant to Chapter 30, Title 63, Idaho Code on Form 75.

When filed in conjunction with an income tax return, the refund will be a credit towards income tax. The fuels tax refund claimed must be for tax paid on gasoline purchased by the consumer during the taxable year to which the income tax return relates. The refund due will be offset against any other taxes, penalties, or interest due before the Tax Commission refunds any balance to the claimant. *See* Idaho Code section 63-2410. In this case, Petitioners filed for a fuels tax refund using Form 75 while submitting in conjunction with Form 40, requesting a credit that would reduce the amount of individual income tax due.

Petitioners are required to keep records supporting the gallons consumed in a nontaxable manner. The records required for fuels tax refund claims are established in IDAPA 35.01.05.270, this rule states in pertinent part:

03. Records Required – Generally. A claimant must have fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment using the fuel in a nontaxable manner. Fuel purchase records must contain the information required by Rule 150 of these rules. Fuel purchase records must be reissued if altered or corrected. (3-31-22)

04. Records Required – Retail Fuel Purchases. When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is required. The vehicles or piece of equipment using the fuel must be recorded on the receipt. If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats,

identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles. (3-31-22)

In order to establish the validity of any claim, the Tax Commission has the authority to examine the books and records of any claimant for that purpose and failure of the claimant to consent to the demand for the examination may constitute a waiver of all rights to the refund claimed. *See* Idaho Code section 63-2410. In this case, Petitioners did not provide these records. Petitioners purchased fuel and claimed it was for an exempt purpose, but they did not provide any of the information requested to support this claim. Without adequate records, the Tax Commission is unable to determine the accuracy of their nontaxable gallons. The Tax Commission finds RO properly denied Petitioners' claim for a fuel tax refund.

CONCLUSION

On appeal, a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Tax Commission's decision is erroneous." *Parker v. Idaho State Tax Comm'n.* 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (*citing Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires Petitioners provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioners did not provide adequate evidence. They have not met their burden.

THEREFORE, the Notice is hereby APPROVED with interest calculated at the rate set forth in Idaho Code section 63-3045(6), in accordance with the provisions of this decision and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following tax, and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$361	\$15	\$376

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioners' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
a copy of the within and foregoing DECISION was served by sending the same by United States
mail, postage prepaid, in an envelope addressed to:



Receipt No.
