

**FUELS TAX RULES COMMITTEE
AGENDA**

The Committee convenes on Wednesday, July 3, 2013, at 1:30 p.m. at:

Idaho State Tax Commission
Room 1CR5 / Plaza IV / 800 Park Ave / Boise, Idaho

1:30 pm – Call to order and Roll Call

1. Committee Chair report Don Williams

2. Discussion on vacating rules with no suggested changes: pages 3-4
 - a. **Rule 115.** This rule gives a conversion formula to adjust the gaseous fuel decal fees when the gasoline tax rate changes.

 - b. **Rule 290.** This rule gives instructions for taxpayers with intrastate vehicles claiming nontaxable miles. It gives presumed MPGs and alternative methods for calculating the refund.

3. Discussion on Final Drafts: pages 5-10
 - a. **Rule 105 (Draft 3).** This rule gives instruction to gaseous fuel distributors on completing the distributor return and records to maintain for exempt sales. Changes include defining manned and unmanned retail outlets, records required for exempt sales, and record requirements for the State Tax Commission when selling gaseous fuel decals.

 - b. **Rule 270 (Draft 4).** This rule gives instruction on what records are required for refund claims. Changes include clarifying the instructions for fuel refunds from single storage tanks and removal of the 60% refund percentage for diesel and 25% refund percentage for gasoline. The alternate percentage will remain. Other changes will add clarification of what can be audited.

 - c. **Rule 410 (Draft 1).** This rule recognizes the governing documents of the International Fuel Tax Agreement (IFTA). Changes to the rule include adding a version identifier.

4. Discussion of incomplete draft rules: pages 11-15
 - a. **Rule 292.** This rule gives instruction for claiming refunds when using power take off (PTO) or auxiliary engines. Standard allowances are given. There are no changes to the standard allowances proposed. Changes are to clarify the rule.
 - b. **Rule 510.** This rule gives instruction on how the transfer fee from the “Petroleum Clean Water Trust Act” is to be administered. Changes include a clarification of receipt of petroleum and petroleum products. A definition of used oil is included.
5. Waiting for more information before proceeding: pages 16-17

Rule 110. This rule gives conversion formulas for propane and natural gas. Changes are based on the proposed IFTA ballot giving a standard conversion for compressed natural gas (CNG).
6. **Motor Fuels Forms Review.**
7. Local reports and items committee members may wish to discuss.
8. Next meeting date: August 8, 2013
9. Adjourn

For all information and updates on rules, please contact Sherry Cann, Rules Coordinator sherry.cann@tax.idaho.gov, or visit the Rules page on our website www.tax.idaho.gov

115.WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES (RULE 115).

The following conversion factors for each vehicle weight class should be multiplied by the new tax rate for gasoline found in Section 63-2402, Idaho Code, and rounded to nearest dollar to adjust the annual gaseous fuels permit fees.

VEHICLE WEIGHT	CONVERSION FACTOR
Zero (0) to eight thousand (8,000) lbs	Two hundred thirty-eight (238)
Eight thousand and one (8,001) to sixteen thousand (16,000) lbs	Three hundred fifty-seven (357)
Sixteen thousand and one (16,001) to twenty-six thousand (26,000) lbs	Seven hundred fourteen (714)
Twenty-six thousand and one (26,001) lbs and above	Eight hundred thirty-three (833)

(5-3-03) (5-3-03)

290. RECORDS REQUIRED FOR INTRASTATE SPECIAL FUELS USERS CLAIMING REFUNDS FOR NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES (RULE 290).

01. Refund Claims, Required Records. Special fuel users, except IFTA licensees, must file a Form 75 with the relevant supplemental worksheet to claim a fuels tax refund. The following information is required to qualify for a refund except for claims based only on the power take-off allowances provided for in Rule 292 of these rules.

(4-5-00)

a. Total miles. The total miles traveled should be included for motor vehicles which have nontaxable uses of special fuels. Special fuel users who qualify to use one of the “Standard MPGs” found in Subsection 290.02 need only record and report Idaho taxable miles.

(4-5-00)

b. Total fuel. The total number of gallons of fuel delivered into the supply tanks of the motor vehicles should be included for motor vehicles which have nontaxable uses of special fuels. The total miles figure and the total fuel figure must be for the same vehicles.

(7-1-98)

c. Actual miles per gallon. The miles per gallon shall be computed by dividing gallons determined according to Subsection 290.01.b. into the number of miles determined according to Subsection 290.01.a. The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example: 4.514 = 4.51 and 4.515 = 4.52.

(4-5-00)

d. Presumed miles per gallon. In the event that the claimant fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that one (1) gallon of special fuel was consumed for every:

(3-30-07)

i. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight; or

(7-1-98)

ii. Five and one-half (5 1/2) miles traveled by vehicles from twenty-six thousand one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight; or

(7-1-98)

iii. Seven (7) miles traveled by vehicles from twelve thousand one (12,001) to twenty-six thousand

(26,000) pounds gross registered vehicle weight; or (7-1-98)

iv. Ten (10) miles traveled by vehicles twelve thousand (12,000) pounds or less gross registered vehicle weight. (3-30-07)

e. The total taxable miles traveled in Idaho. Only taxable miles traveled in Idaho by the motor vehicles which have nontaxable uses of special fuels should be included. Taxable miles are miles driven on any road that is open to the use of the public and maintained by a governmental entity. Such roads may be constructed using concrete, asphalt, gravel, composition, dirt, or other surfaces. (7-1-98)

f. The number of gallons of special fuels consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the miles per gallon determined according to Subsection 290.01.c. and 290.01.d. into the total taxable miles in Idaho according to Subsection 290.01.e. (4-5-00)

02. Alternative Refund Calculation for Special Fuels Users Engaged in Certain Industries. A special rule may be applied for motor vehicles, except IFTA licensees, that use special fuels and accrue both taxable and nontaxable miles. Operators of motor vehicles that use special fuels, except those licensed under IFTA, may, instead of using the computations provided in Subsections 290.01.c. and 290.01.d., presume that when engaged in operations in the following industries and accruing taxable miles in Idaho, that such motor vehicles consume fuel at the following rates:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(4-5-00)

03. Actual MPG Calculation. If an operator has reason to believe the standard on-road miles per gallon (MPG) in Subsection 290.02 is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in Subsection 290.01.c. or presumed MPG provided in Subsection 290.01.d. (3-30-07)

04. Claims Subject to Review or Audit. All fuels tax refund claims are subject to review or audit by the State Tax Commission. (4-5-00)

MOTOR FUELS TAX – RULE 105, NEW RULE 132 (DRAFT 3, FINAL DRAFT)

Current Rule 105 will be moved to Rule 132, with amendments to follow Rule 130, Distributor’s Fuel Tax Reports, and Rule 131, Requirement to File Motor Fuels Distributor Reports Electronically. Rule 105 will combine with Rules 011-104 and Rules 106-109 as reserved rules.

011. – ~~104~~ 109. (RESERVED).

BREAK IN SECTIONS

~~105~~ 132. LICENSED GASEOUS FUELS DISTRIBUTOR’S REPORTS (RULE ~~105~~ 132).

01. Monthly Reports. Every licensed gaseous fuels distributor (distributor) shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: ~~(7-1-99)~~ ()

- a. The total taxable gallons of gaseous fuels delivered into the supply tank of registered motor vehicles; (3-30-07)
- b. The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; (4-5-00)
- c. The tax computation; (7-1-99)
- d. The bad debt amount, if any. (This credit or debit only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor’s records before December 1, 2007.) See Rule 140 of these rules; (4-2-08)
- e. The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous fuels permit sold during that month); and (4-5-00)
- f. The net tax due; (4-5-00)
- g. A receipt schedule reporting the total number of taxable gallons of gaseous fuels sold must be attached to the distributor’s report. (4-5-00)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Failure to Pay Tax and Permit Fees. Any ~~gaseous-fuels~~ distributor required to pay the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to pay such tax or permit fee shall be liable to the State Tax Commission for the amount of tax or permit fee not paid plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. ~~(4-2-08)~~ ()

04. Receipt of Gaseous Fuels. The special fuels tax is not imposed on gaseous fuels when the fuels are received in Idaho. ~~(4-5-00)~~

~~05. Gaseous Fuels.~~ Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the supply tank of a registered, or required to be registered, motor vehicle. ~~(3-30-07)~~ ()

~~06~~ 05. Annual Fees for Gaseous Fuels Permits. Persons operating vehicles powered by gaseous fuels

may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. ~~Gaseous fuels d~~Distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires.

07 06. Documentation of ~~Untaxed~~ Exempt Sales of Gaseous Fuels Delivered into Motor Vehicles. Gaseous fuels delivered into the fuel supply tank of a registered, or required to be registered, motor vehicle are taxable except for: ~~(3-30-07)~~ ()

a. Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the ~~licensed~~ distributor must record ~~on the document of sale,~~ the name of the governmental entity, the license or identification number, and the type of vehicle on the sales document. ~~(7-1-99)~~ ()

b. Gaseous Fuels Decal. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the distributor must record the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" or the decal number must be recorded on the sales document. ~~(4-5-00)~~ ()

c. Manned and Unmanned Stations. A manned station must have a representative at the point of sale to visually inspect the vehicle, including the decal when required, in order to make exempt sales of gaseous fuels. Exempt sales from of gaseous fuel from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it must request approval from the State Tax Commission before making exempt sales of gaseous fuels. ()

08 07. Completion of Gaseous Fuels Receipt Book(s). The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold: (4-5-00)

- a.** The date; (4-5-00)
- b.** The amount; (4-5-00)
- c.** One (1) of the following weight classes: (4-5-00)
 - i.** Zero - eight thousand pounds (0 - 8,000 lbs.); or (4-5-00)
 - ii.** Eight thousand one - sixteen thousand pounds (8,001 - 16,000 lbs.); or (4-5-00)
 - iii.** Sixteen thousand one - twenty-six thousand pounds (16,001 - 26,000 lbs.); or (4-5-00)
 - iv.** Twenty-six thousand one pounds (26,001 lbs.) and over. (4-5-00)
- d.** The current month; (4-5-00)
- e.** The annual permit period; (4-5-00)
- f.** The customer's name and vehicle license plate number; (4-5-00)
- g.** The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)

- h. The signature of the salesperson. (4-5-00)

09 08. Annual Reconciliation of Gaseous Fuels Receipt Books and Decals. A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)

- a. All unused/unsold gaseous fuels decals; (4-5-00)
- b. All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)
- c. All receipt books (pink copies must be intact); and (4-5-00)
- d. A completed gaseous fuels reconciliation form which includes: (4-5-00)
- i. The number of decals ordered for the annual permit period; (4-5-00)
- ii. The number of decals sold for the annual permit period; (4-5-00)
- iii. The balance of decals at the end of the annual permit period; and (4-5-00)
- iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)

10 09. Assessment for Unaccounted for Decals. Two hundred and eight dollars (\$208) will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (4-5-00)

10. Sales of Gaseous Fuels Decals by the State Tax Commission. The State Tax Commission may act as a seller of gaseous fuels decals. The State Tax Commission will maintain records and report sales of decals in a manner sufficient to reconcile its accounts. ()

MOTOR FUELS TAX – RULE 270 (DRAFT 4, FINAL DRAFT)

270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: (4-11-06)

- a. A preprinted identification number; (4-11-06)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. Indian-Owned Retail Outlet. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)

03. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided ~~and retained by the seller for at least three (3) years from the date issued.~~ (7-1-98) ()

04. Invoice Retention. ~~The o~~ Original, altered, or corrected invoices required by ~~Subsections 270.01~~ ~~of~~ this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98) ()

05. Refund Documents. ~~For refund claims under Section 63-2410(5)(c), Idaho Code, a~~ An original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98) ()

06. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are

sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (4-11-06)

a. Use of Fuel from a Single Storage Tank. Idaho tax-paid fuel (~~other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules except as excluded in Subparagraph 270.06.a.i. below~~) purchased and delivered into a single bulk storage tank and withdrawn for both ~~nontaxable~~ and nontaxable uses must be accounted for using either the proration percentage provided by this paragraph or by records showing actual taxable and nontaxable usage. ~~If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless an alternate percentage is requested by the taxpayer and authorized by the State Tax Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The State Tax Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel.~~ (3-30-07) ()

i. No refund is allowed under Paragraph 270.06.a. for fuel purchased for use in motor vehicles licensed under the authority of the International Fuel Tax Agreement (IFTA) or non-IFTA motor vehicles for which a refund for nontaxable use is granted using either Rule 290 or 292 of these rules or, for those claiming refunds of diesel, the claimant has both undyed and dyed diesel tanks. ()

ii. The State Tax Commission must authorize a claimant's proration percentage before the claimant files a refund claim. The authorization request shall itemize all taxable and nontaxable uses by vehicle or type of equipment based on previous experience or anticipated use. The State Tax Commission will allow a refund of fuel taxes paid for nontaxable uses based on an authorized percentage which represents reasonable nontaxable use. ()

iii. Whether using an authorized proration percentage or actual records, the records must be made available upon request. Records required for audits of refunds based on actual use include, but are not limited to: fuel purchase invoices, withdrawal records, and bulk inventory reconciliations. Records required for audits of refunds based on an authorized percentage include, but are not limited to: fuel purchase invoices and equipment lists. Equipment lists must be supported by documentation which includes, but is not limited to: work orders, equipment purchase invoices, sales receipts, rental receipts, and depreciation schedules. ()

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained and identified for both ~~exempt and~~ taxable and nontaxable uses, the seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel ~~is purchased by persons who operate~~ from these tanks are used in motor vehicles that are licensed under IFTA or ~~by persons who operate~~ in non-IFTA motor vehicles ~~who claim refunds~~ for which refunds are granted for nontaxable uses of motor fuels in motor vehicles granted in using either Rule 290 ~~and or~~ Rule 292 of these rules. All fuel invoices must be retained as required by ~~Subsection 270.03 of~~ this rule. ~~Exempt fuel may not be used in motor vehicles registered or required to be registered.~~ (3-30-07) ()

c. Use of Fuel for Other Than Bulk Storage. Fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. (3-30-07)

7. Untaxed motor fuel may not be used in motor vehicles registered or required to be registered unless authorized elsewhere in these rules. Under enforcement provisions of Chapter 24, Title 63, Idaho Code, all fuel tax refund claims are subject to audit by the State Tax Commission and no part of these rules may be construed to imply that an audit may not be performed. ()

MOTOR FUELS TAX – RULE 410 (DRAFT 1, FINAL DRAFT)

410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (RULE 410).

Under the authority of Sections 63-2434, 63-3039, 67-5203, and 63-2442A, Idaho Code, the State Tax Commission and motor fuels users licensed or required to be licensed pursuant to [the International Fuel Tax Agreement \(IFTA\)](#), are governed by the provisions of the ~~International Fuel Tax~~ [IFTA Articles of Agreement, Article I, Section R120 Governing Documents \(revised January 1, 2013\)](#). This section is incorporated by reference. ~~including †~~ The IFTA [Articles of Agreement, Procedures Manual](#) and [Audit Manuals](#) ~~in effect on the effective date of this rule and as subsequently amended~~ [are equally binding on all IFTA members jurisdictions and licensees](#). Idaho ~~M~~ motor fuels users who operate under ~~the International Fuel Tax Agreement~~ [an Idaho IFTA license](#) also must comply with all applicable rules contained in these rules. (7-1-99) ()

MOTOR FUELS TAX – RULE 292 (DRAFT 2)

292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292)

01. Fuel Records Required for Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 171 of these rules regarding application of Idaho Sales and Use Taxes. (4-6-05)

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard [miles per gallon \(MPG\)](#)” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. ~~(3-15-02)~~ ()

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)

05. Power Take-Off and Auxiliary Engine Allowances (Allowances). ~~Power take-off~~ (PTO) allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (4-5-00)

a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the registered motor vehicle’s main engine even to operate the motor vehicle’s PTO unit. (3-30-07)

c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

i. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(4-11-06)

- ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

06. Nonstandard Allowances. A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. ~~Taxpayers must send requests for approval to:~~

~~FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P.O. BOX 36
BOISE, ID 83722-0410~~

The ~~Idaho~~ State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. ~~(4-6-05)~~ ()

07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-International Fuel Tax Agreement (IFTA) licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to ~~mileage and fuel consumption (MPG)~~ information. ~~(4-11-06)~~ ()

08. IFTA Licensees. ~~An IFTA licensee may Q~~ An IFTA licensee may Q qualify ~~ing~~ for ~~Power Take Off (PTO) A and A~~ auxiliary E engine A allowances ~~(Allowances). Allowances~~ listed in Subsection 292.05 of this rule or established as

provided in Subsection 292.06 of this rule ~~may be granted for IFTA licensees~~ by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. (4-6-05) ()

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, the IFTA licensee will recompute the new fleet ~~miles per gallon MPG. Apply t~~ The new fleet miles per gallon MPG is applied to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the IFTA licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (4-5-00) ()

b. ~~Additionally, a~~ copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (4-5-00) ()

c. IFTA licensees must ~~that use~~ an assumed actual MPG when preparing their original IFTA return ~~may not to~~ claim any ~~additional~~ refund. (4-5-00) ()

MOTOR FUELS TAX – RULE 510 (DRAFT 3)

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who first receives any petroleum or petroleum product not excluded from the fee, ~~unless the fee has previously been paid on the same petroleum or petroleum product.~~ Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code. (7-1-99) ()

b. The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required to report ~~it~~ and pay the transfer fee to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94) ()

02. **Receipt of Petroleum Products.** ~~Receipt of petroleum or petroleum products shall be determined~~ According to Section 63-2403, Idaho Code, receipt is determined by the movement of petroleum or petroleum products and not storage. Storage of petroleum or petroleum products is incidental to the movement of the petroleum or petroleum products. Used oil, as defined by 40 CFR Part 279 (July 1, 2000), is presumed to include the transfer fee when generated in Idaho and is not a reportable product on the distributor report. (7-1-99) ()

03. **Exemption to Application of the Transfer Fee.** The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are “received” by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. **Casualty Loss and Shrinkage Not Deductible.** All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product’s use. ~~The~~ Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for fuel lost by fire or similar casualty; see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (4-2-08) ()

05. **Petroleum and Petroleum Products.** The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid,

tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Petroleum Transfer Fee. (4-7-11)

06. Licensed Distributors and Limited Licenses. Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

c. The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)

110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).(DRAFT 2)

110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).

01. In General. In all cases in which any gaseous fuel is sold as a motor fuel and the tax under ~~Chapter 24, Title 63, the authority of Sections 63-2402 and 63-2424,~~ Idaho Code, must be calculated, ~~for any special fuel that is a gaseous fuel~~ the following energy equivalency formulas shall be used to ~~calculate~~ determine the amount of tax due for each energy equivalent to a gallon of gasoline where the BTUs of a gallon of gasoline is equal to 127,000 and the energy equivalents of the gaseous fuels are standard amounts found in Table B.4, “Heat Content for Various Fuels” from of the “Transportation Energy Data Book, Edition 31”. ~~(6-23-94) ()~~

a. ~~One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid.~~ ~~(6-23-94)~~

~~**b.** Four and one fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid.~~ ~~(6-23-94)~~

02. Equivalent BTU's Conversion. ~~Special fuels~~ The tax on gaseous fuels will be computed based upon the equivalent BTU's per gallon by weight or volume of gaseous fuels. ~~The following values will be used in a formula establishing the rate , rounded to the nearest thousandth (0.000), as follows:~~

Gasoline	127,000	BTU's per gallon
Propane	92,000	BTU's per gallon
Natural Gas	100,000	BTU's per gallon

~~(Natural gas 100,000 BTU x current tax rate) = tax per therm~~

~~Gasoline 127,000 BTU~~

~~(Propane 92,000 BTU x current tax rate) = tax per 4 1/4 pounds~~

~~Gasoline-127,000-BTU~~

()

a. Propane. Liquefied Petroleum Gas (LPG) is a gaseous fuel sold as a pressurized liquid which is more commonly known as propane or autogas. The BTUs of a liquid gallon of propane is 91,300. The tax on a liquid gallon of propane is calculated as follows:

$$\frac{91,300 \text{ (BTUs of a liquid gallon of propane)} \times \text{current tax rate of a gallon of gasoline}}{127,000 \text{ (BTUs of a gallon of gasoline)}}$$

()

b. Natural Gas. When compressed natural gas (CNG) is sold it will be taxed at a gasoline gallon equivalent (GGE) which is 126.67 cu. ft. or 5.66 lbs. The tax on one GGE of gaseous fuel is equal to the tax on one gallon of gasoline. All natural gas not sold as liquefied natural gas (LNG) will be taxed in this manner. ()

c. Liquefied Natural Gas. Natural gas can be sold as a cryogenic liquid known as LNG. The BTUs of a liquid gallon of LNG is 84,800. The tax on a liquid gallon of LNG is calculated as follows: ()

$$\frac{84,800 \text{ (BTUs of a liquid gallon of LNG)} \times \text{current tax rate of a gallon of gasoline}}{127,000 \text{ (BTUs of a gallon of gasoline)}}$$

~~(6-23-94)~~ ()

03. Sales at Differing Weights or Volumes. Sales of gaseous fuels at volumes or weights other than those listed in this section must be converted to the volumes and weights used in this section for reporting purposes to ensure that the all gaseous fuels sold are taxed at the equivalent energy of a gallon of gasoline and the correct tax is paid to the State Tax Commission. ()