



Bill Draft 2013-RBxz-45: Excise Tax Changes.

2013-2014 General Assembly

Committee: Revenue Laws Study Committee
Introduced by:
Analysis of: 2013-RBxz-45

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SUMMARY: *This draft would make various changes to the excise tax statutes, as requested by the Excise Tax Division of the Department of Revenue.*

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation	Effective Date
1	This section applies to the excise tax on alcohol. It would allow a wholesaler or importer of malt beverages and wine to provide security to the Secretary in the form of an irrevocable letter of credit as an alternative to a bond. This form of security is consistent with what is currently allowed under the excise tax statutes for motor fuels and tobacco products. This section also removes the option of a taxpayer providing security in the form of a collateral bond. This option has not been used in recent memory.	When it becomes law
2	This section would amend the tax secrecy provisions to allow the Department to share information with a person who provides a surety bond or irrevocable letter of credit on behalf of a taxpayer if the information is necessary for the Department to collect on the bond or letter of credit in the event the taxpayer does not comply with the tax laws.	When it becomes law
3	This section would allow the Secretary of Revenue to delegate the authority to hold hearings. Under administrative practice, this authority has been delegated to a staff attorney.	When it becomes law
4	This section clarifies that the tax on motor carriers applies to both intrastate motor carriers and to interstate motor carriers. It also updates the reference to the International Fuel Tax Agreement from June 1, 2010, to July 1, 2013. The update in the reference does not make any substantive changes to the tax laws concerning motor carriers.	When it becomes law
5	This section would tax all biodiesel fuel. B100 is not subject to federal excise tax, and as such is not subject to the State excise tax. B99.9 is subject to the State excise tax since it is a blended product. B100 is most commonly used as a motor fuel.	October 1, 2014
6	This section would allow the Secretary to waive or reduce civil penalties imposed under the motor fuel tax statutes under the Department's penalty waiver policy used for other tax schedules. Under current law, a person assessed a civil penalty under the motor fuel tax laws must pay the penalty at the time it is assessed and file a request for a Departmental review of the penalty. Under the change proposed by this section, the penalty would not	When it becomes law



	automatically be payable upon assessment and the administrative process for waiving or reducing it would be simpler and less time consuming. Although a taxpayer must go through the review process for the waiver or reduction of a penalty, the guidelines used to make the decision are the same guidelines currently applied through the penalty waiver policy.	
7	This section would clarify that a shipping document required by the vessel transporting motor fuel is intended to provide permanent information. Under current law, if the document is issued by a refiner or a terminal operator, the document must be machine printed. That requirement is not there for a tank wagon importer. A tank wagon importer is a person who imports motor fuel from a terminal or bulk plant in another state and transports the fuel only by means of a tank wagon. A tank wagon is a truck designed to carry at least 1,000 gallons of motor fuel but is not a transport truck. Motor fuel investigators have found shipping documents to be notes contained on a "grease board" or chalk board or other type of device that can be erased.	October 1, 2014
8	This section would impose a civil penalty for putting an additive in fuel that results in the fuel being dyed red in color if the fuel is used in a highway vehicle that is licensed or required to be licensed. Dyed diesel fuel indicates that the fuel is non-tax-paid fuel. It is a Class 1 misdemeanor to use dyed diesel fuel in a licensed motor vehicle. Motor fuel investigators cannot distinguish between non-tax-paid dyed diesel fuel and tax-paid diesel fuel that turns red because of an additive. The test on the fuel cannot discriminate between the red dye used to dye diesel fuel and the red dye used in an additive. This section would not make the use of such an additive unlawful, but it would subject to the user to a civil penalty. The amount of the penalty is the greater of \$1,000 or five times the amount of motor fuel tax payable on the fuel. The penalty may be waived or reduced by the Secretary under the penalty policy guidelines. It is my understanding that some transmission fluids and that Marvel Mystery oil may dye fuel red when added to the fuel.	October 1, 2014