



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

2013-2014 General Assembly

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

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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 | Subsection (c) of 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 a 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 subsection also removes the option of a taxpayer providing security in the form of a bond based upon obligations of a governmental unit. This option has not been used in recent memory and is not a form of collateral allowed in other tax schedules. In the few instances where it has been used, the Department's experience has shown that the bonds are often rolled over into a personal CD when the bond matures rather than another governmental bond. Subsections (a) and (b) of this section modernize the statutes and clarify that the letter of credit must be issued by a bank acceptable to the Secretary and available to the State as a beneficiary. | When it becomes law |
| 2 | This section would allow a wholesale dealer or retail dealer of other tobacco products to provide the Department a manufacturer's tax affidavit in lieu of a notarized tax affidavit as supporting documentation for a tax refund. A dealer that has stale or unsalable tobacco products upon which the tax has been paid is allowed a refund of that amount. The majority of states allow a dealer to use manufacturer tax affidavits as supporting documentation. The allowance of a written certification from the manufacturer signed under perjury of law does not lessen the accountability of the taxpayer and it expedites the administration of the refund. The change in the statute has been requested by taxpayers. ¹ | |
| 3 | 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 | When it becomes law |

¹ U.S. Smokeless Tobacco Brands operates a secure website that allows distributors to access affidavits and credit memos for their returns. Each affidavit includes an accurate list of product eligible for return in a state along with an electronically signed statement.



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| | does not comply with the tax laws. | |
| 4 | 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 |
| 5 | 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 |
| 6 | 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 |
| 7 | 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 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. | When it becomes law |
| 8 | 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 |