



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

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File Code:

NOTICE

DECEMBER 15, 2003

Implementation of 2003 Legislation & Oregon Administrative Rules

This notice is to inform you of legislative and rule making actions passed in 2003 **that will be effective January 1, 2004.**

License Suspension: Oregon House Bill 2222 (2003) gave ODOT the right to immediately suspend an Oregon Motor Vehicle Fuel Dealer's license if the dealer is not in compliance with Oregon Fuels Tax law, upon notification by certified mail to the last known address of the dealer.

- A licensee may request an immediate hearing with ODOT to appeal the suspension.
- ODOT must notify all other licensed dealers of the suspension by a method described in the Oregon Administrative Rules.

Oregon Administrative Rule 735-170-0120 states that each licensed dealer shall provide the ODOT Fuels Tax Group with contact information for the purpose of notification of license suspension or revocation. The information may be in the form of a postal address or e-mail address, and must include a telephone contact. Dealers are responsible to keep ODOT updated with any changes in this contact information.

Please complete the attached form and send to ODOT Fuels Tax Group in the enclosed envelope no later than January 2, 2004.

Exports to Other States - Dealer Must Be Licensed in the Destination State: Oregon House Bill 2223 (2003) requires Oregon Motor Vehicle Fuel Dealers to be licensed as a Motor Vehicle Fuel dealer in the destination state or country at the time of export for an export tax credit to be claimed on their monthly tax report. The license in the destination state or country must allow the dealer to legally import Motor Vehicle Fuel to that state or country. The dealer's license number in the other state or country must be listed on Schedule 7 of the Oregon Motor Vehicle Fuel Multiple Schedule of Disbursements, Form 735-1305. Exports to out-of-state destinations for which the licensed dealer does not have a valid license must be listed as a taxable distribution on Schedule 5.3, Form 735-1305, instead of on Schedule 7. The bill also requires refund claimants to be licensed in the destination state or country before a fuel tax refund based on exported motor vehicle fuel may be allowed.

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Motor Vehicle Fuel Tax - Refund for Bad Debts: Oregon House Bill 2999 (2003) allows dealers to claim a pro-rata tax refund from ODOT for bad debts if:

- The dealer received less than full consideration for the fuel from the purchaser; and
- The dealer has not previously received a refund from ODOT for other motor vehicle fuel taxes not paid by the same purchaser; and
- The bad debt meets all applicable standards for deductibility for federal income tax purposes pursuant to the Internal Revenue Code.

ORS 735-170-0140 describes the method for dealers to claim the refund.

- The dealer must use Amended Oregon Motor Vehicle Tax Report forms 1302MA, 1302AA, or 1302JA as appropriate.
- The dealer must submit the following in order to support the claim:
 - (a) Form 1306, listing the detail fuel loads for which the refund is claimed;
 - (b) A copy of the original Form 1302 and supporting schedule 5.1, 5.2, or 5.3 on Form 1305 that includes the fuel loads for which the refund is claimed;
 - (c) Invoices supporting the fuel sales being claimed as uncollectible;
 - (d) A statement showing the name and address of the purchaser of the fuel;
 - (e) A statement, signed by the licensed dealer, describing what actions have been taken to collect on the account and why the account is now uncollectible;
 - (f) A statement, signed by the licensed dealer, that the dealer has not previously received a refund from ODOT for motor vehicle fuel taxes not paid by the same purchaser;
 - (g) Certification that the debt meets Internal Revenue Service standards for deductibility, and
 - (h) Any additional supporting evidence, such as bankruptcy notices or other public notices, that support the account being uncollectible.

Upon review and approval of the application for refund, the ODOT Fuels Tax Group shall issue the refund within 90 days after the date of approval.

For the purposes of determining the amount of a refund due, the amount of consideration received by the motor vehicle fuel dealer shall be apportioned between the charges for the motor vehicle fuel and the tax for the fuel. The amount of the tax refunded may not exceed the amount of the tax originally paid to ODOT.

If the dealer subsequently collects any amount from any source for which the dealer has received a bad debt refund, the amount collected shall be apportioned between the charges for the fuel and the corresponding tax. The tax collected shall be returned to the department.

This law is not retroactive. Claims for bad debt refunds can only be made on sale transactions made by the dealer on or after January 1, 2004.

Motor Vehicle Fuel Tax – Bonding Requirements: Oregon HB 2211 increases the maximum performance bond requirement to \$1 million for dealers that are not in compliance with fuel tax statutes. ODOT may waive the higher requirement if it is determined that the dealer did not intend to avoid payment of license taxes. Oregon Administrative Rule 735-170-0110 outlines the criteria for determining what constitutes “intent to avoid payment”.

Questions: Should you have questions on any of the changes described above, please contact the Fuels Tax Group at the address, phone number or by e-mail as listed above on the letterhead.

**CONTACT INFORMATION FOR THE PURPOSE OF NOTIFICATION OF OREGON
MOTOR VEHICLE FUEL DEALER LICENSE SUSPENSION OR REVOCATION**

Company Name: _____

Company Address: _____

City / State / Zip: _____

E-mail: (If desired) _____

Telephone Contact: (Required)

Name: _____

Ph # _____

Notes:

- If an e-mail address is entered above, the Fuels Tax Group will use it as the method of contact.
- Use this form to notify the department of any changes in contact information for license suspension or revocation notification purposes.
- The information most recently received by the Fuels Tax Group from each licensed dealer will be the information that fulfills the Department's notice requirements for notification of Oregon Motor Vehicle Fuel Tax license suspension or revocation.

Mail this form to:

ODOT Fuels Tax Group
550 Capitol St NE
Salem, Or 97301-2530