

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 178 (as reported with amendment)
Sponsor: Senator George A. McManus, Jr.
Committee: Transportation and Tourism

Date Completed: 3-9-99

RATIONALE

Public Act 225 of 1992 made numerous changes to the motor fuel tax Act, including changing the point at which motor fuel taxes are collected by requiring suppliers (refiners or firms that import fuel to the State) to collect the tax. Public Act 225 also set up a mechanism whereby wholesale distributors may purchase fuel from suppliers and not pay tax on amounts that are intended to be sold to tax-exempt entities. (A wholesale distributor is a business that acquires fuel from a supplier or other distributor for storage and subsequent sale and distribution by tank cars and trucks.) If the fuel is not sold within the quarterly reporting period, however, then the distributor must pay tax on the unsold fuel, even though it may be in storage and sold later for a tax-exempt purpose. In other words, a distributor must prepay the tax but subsequently may file for a refund of taxes paid on fuel sold for a tax-exempt purpose. It has been suggested that diesel fuel purchased as tax-exempt, and not sold but held in storage, should remain exempt from the tax.

CONTENT

The bill would amend the motor fuel tax Act to exempt wholesale distributors of diesel motor fuel from having to prepay taxes on diesel fuel received as tax-exempt but not sold for tax-exempt purposes during a reporting period.

The Act requires the Department of Treasury, upon the distributor's request, to issue an exemption certificate to each wholesale distributor who purchases gasoline or diesel motor fuel for an exempt purpose. The certificate is valid until the end of the calendar year in which the request was filed. By the 20th day of the month following the close of the quarterly reporting period, the distributor must file with the Department a report showing the number of gallons of gasoline or diesel motor fuel received from a supplier or purchased from a wholesale distributor for a tax-exempt purpose and the number of gallons of gasoline and motor fuel sold for a tax-exempt purpose.

At the time of filing the report, each wholesaler must pay to the Department the amount of tax payable at the applicable rate per gallon on all gallons received tax-exempt but not sold for tax-exempt purposes during the reporting period. Under the bill, this current payment requirement would apply to wholesale distributors of gasoline. The bill would impose the same requirement on wholesaler distributors of diesel motor fuel, but would make an exception for those gallons received tax-exempt that had not been sold and were held in the wholesaler's bulk plant. The bill specifies that this provision would apply notwithstanding the Act's prohibition against importing, selling, using, transporting, or storing in the State gasoline or diesel motor fuel for which the tax imposed by the Act has not been paid to the Department of Treasury (MCL 207.103(1)).

MCL 207.112

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Currently, wholesale distributors of diesel fuel are not required to pay the motor fuel tax on gallons of diesel fuel purchased for resale to customers who use the fuel for tax-exempt purposes, such as home heating, agriculture, or off-road use. The distributors are required, however, to pay the tax on diesel fuel purchased as tax-exempt but not sold as tax-exempt, including fuel sitting in storage that eventually will be sold for a tax-exempt purpose. The bill would correct this problem and ensure that wholesalers had to pay the tax only on fuel used for taxable purposes.

Legislative Analyst: L. Arasim

FISCAL IMPACT

This bill would not have an impact on the tax liability of diesel fuel wholesalers.

However, it would end the prepayment of taxes on diesel motor fuel that is eventually sold for tax-exempt purposes, and would delay the payment of taxes for fuel originally claimed as tax-exempt but later sold for nonexempt purposes. This change would result in a loss of revenue to the extent that tax prepayments generate interest earnings for the State. Interest earnings on these prepayments depend on the volume of diesel fuel held by wholesalers and the period of time between the collection of tax receipts and sale of tax-exempt holdings.

Fiscal Analyst: P. Alderfer

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