

Historical Tax Law Changes Use Fuel Tax

Laws 1941, Chapter 108 imposed the Use Fuel Tax at a rate of 5¢ per gallon. The tax applied to fuels used to propel motor vehicles on the highways of Arizona when these fuels are not subject to (or specifically exempted from) the Motor Vehicle Fuel Tax. Under this law, the Use Fuel Tax was paid from the Highway Department on or before the 15th day of the month following the month in which the tax accrues. Of the total amount collected, 70% was paid to the State Highway Fund and 30% was distributed to the counties in proportion to the Use Fuel Taxes collected from each county. (Effective July 1, 1941)

Laws 1947, Chapter 65 changed the due date for paying the Use Fuel Tax to the 20th day of the month following the month in which the tax accrues. (Effective June 19, 1947)

NOTE: An amendment to the Arizona Constitution, enacted at the election of November 4, 1952 provided that the distribution formula allocating 70% of the 5¢ tax to the state and 30% to the 14 Arizona counties could not be changed to reduce the county share. The amendment also provided that revenues derived from the Use Fuel Tax could only be used for highway-related purposes. (Effective November 24, 1952)

Laws 1963, Chapter 84 increased the Use Fuel Tax rate to 6¢ on each gallon of fuel used in Arizona. (Effective April 4, 1963)

Laws 1964, Chapter 75 established the Arizona Highway Patrol Fund and authorized the Legislature to appropriate monies from the State Highway Fund to the new Highway Patrol Fund. The Highway Patrol Fund was to receive one-eighth of any amount appropriated from the Highway Fund during each of the first 8 months of the fiscal year. (Effective July 1, 1964)

Laws 1965, Chapter 99 increased the Use Fuel Tax rate to 7¢ on each gallon of fuel used in Arizona. (Effective July 20, 1965)

Laws 1968, Chapter 46 provided that the Use Fuel Tax was levied on vendors of use fuel and on users who acquire fuel without making payment to a vendor. Vendors subject to the tax were authorized to claim a 1% reduction in tax liability as compensation for collecting the tax. Persons paying the Use Fuel Tax as a user were authorized to pay the tax based only on the amount of fuel used in Arizona. For users traveling in interstate commerce, the share of fuel used in Arizona was determined based on the ratio of miles traveled in Arizona to total miles traveled by the vehicle. The due date for paying the Use Fuel Tax was changed to the 25th day of the month following the month in which the tax accrues. (Effective From and After June 30, 1969)

NOTE: A constitutional amendment enacted at the election of November 3, 1970 provided that the 14 Arizona counties should not receive fewer highway user revenue dollars than received in fiscal 1969-70, as long as total highway user revenues equal or exceed the total for fiscal year 1969-70. (Effective November 27, 1970)

Laws 1973, Chapter 146 established the Arizona State Department of Transportation and transferred the responsibility for administering the Use Fuel Tax to the new department. (Effective July 1, 1974)

Laws 1974, Chapter 139 increased the Use Fuel Tax rate to 8¢ on each gallon of fuel used in Arizona. The law also established the Arizona Highway User Revenue Fund and provided that all collections from the Use Fuel Tax were deposited in this fund. Collections in the Highway User Revenue Fund were distributed as follows: Eleven percent to the Arizona Highway Patrol Fund, 57% to the State Highway Fund, 15% to the counties and 17% to the incorporated cities and towns. The Highway Patrol Fund received seven-eighths of an estimate of its share of Highway User Revenue Funds during the first 8 months of each fiscal year. (Effective September 1, 1974)

Laws 1979, Chapter 62 authorized the Motor Vehicle Division to permit motor carriers to file reports and pay taxes for a combination of calendar months. (Effective July 21, 1979)

Laws 1980, Chapter 66 provided that owners and operators of two-axle use fuel powered trucks or passenger automobiles may purchase an annual use fuel permit in lieu of filing a Use Fuel Tax report and paying the tax at the time the report is filed. (Effective July 31, 1980)

Laws 1981, 2nd Special Session, Chapter 2 changed the distribution of the Highway User Revenue Fund. Under this law, a fixed amount was distributed each year from the Highway User Revenue Fund to the Highway Patrol Fund. The balance of collections after making this distribution was allocated as follows: 50% to the State Highway Fund, 20% to the counties and 30% to the incorporated cities and town. Seven percent of the amount distributed to the State Highway Fund was apportioned among cities with a population greater than 300,000. These provisions of the law were effective November 1, 1981. In addition to these provisions, the law also changed the Use Fuel Tax rate to equal the Motor Vehicle Fuel Tax rate. The Motor Vehicle Fuel Tax rate was increased periodically, beginning January 1, 1982. Due to a referendum filed by the voters, the rate increases scheduled for the Motor Vehicle Fuel Tax never became effective. (See Motor Vehicle Fuel Tax)

Laws 1982, Chapter 5 repealed the scheduled increase in the Motor Vehicle Fuel Tax that was enacted by Laws 1981, 2nd Special Session, Chapter 2. In place of this provision, the Vehicle Fuel Tax rate was increased by 5¢ per gallon over a 3-year period. Since the Use Fuel Tax rate was equal to the Vehicle Fuel Tax rate, the Use Fuel Tax was raised as well. The tax was to be imposed at a rate of 10¢ per gallon from July 1, 1982 through June 30, 1983, 12¢ per gallon from July 1, 1983 through June 30, 1984 and 13¢ per gallon thereafter. (Effective February 26, 1982)

Laws 1982, Chapter 109 repealed the provision that allowed use fuel-powered trucks and automobiles with fewer than 3 axles to purchase a Use Fuel Permit instead of paying the Use Fuel Tax. This law established instead a "light class" of vehicles which includes all use fuel-powered vehicles other than "use class motor vehicles.≡ "Use class motor vehicles" are defined as road tractors, truck tractors, trucks with more than two axles or passenger vehicles designed for more than twenty passengers. Under the provisions of this law, use fuel used in "light class" motor vehicles is taxed at the pump instead of being taxed as the fuel is imported or used. This law was effective beginning on January 1, 1983.

Laws 1983, Chapter 6 provided that \$8,000,000 of the amount distributed from the Highway User Revenue Fund to the State Highway Fund was reallocated to the Arizona Highway Patrol Fund in fiscal year 1982-83. (Effective February 11, 1983)

Laws 1983, Chapter 110 authorized persons to purchase use fuel without paying the tax to a vendor, if they hold a valid Single Trip Use Fuel Tax Permit. Persons with a single trip permit were authorized to purchase a maximum of 300 hundred gallons without paying the tax to a vendor. (Effective July 27, 1983).

Laws 1983, Chapter 173 increased the Use Fuel Tax on vehicles operating under a Single Trip Use Fuel Tax Permit. Formerly the tax was \$3 for vehicles traveling 50 miles or less and \$12 for vehicles traveling more than 50 miles on the highways of this state. Under this law, the rate was changed to \$3.75 for vehicles traveling 50 miles or less and \$15 for vehicles traveling more than 50 miles on the highways of this state. The law also authorized the Department of Transportation to issue a Special 30-Day Use Fuel Tax Permit for vehicles that are not in the commercial transportation business, are in the state for a limited period of time and will make limited use of this state's highways. The Use Fuel Tax on this type of permit was \$30. (Effective July 27, 1983)

Laws 1987, Chapter 12 imposed a \$25 administrative penalty for failure to file required reports under the Use Fuel and Motor Carrier Tax. The bill clarified that the use fuel on light class motor vehicles applies only to fuel consumed on Arizona highways and a restricted vendor need only to report highway consumption for use tax purposes. (Effective August 18, 1987)

Laws 1987, Chapter 108 required a licensee to be liable for any Use Fuel or Motor Carrier Tax which accrues to each issued cab card. If a cab card is lost, stolen, or destroyed, liability is relieved 24 hours after the Director receives notice of the loss. (Effective August 18, 1987)

Laws 1987, Chapter 139 prescribed 1.25 terms as the natural gas equivalent to one gallon of motor vehicle fuel for use tax purposes. (Effective August 18, 1987)

Laws 1988, Chapter 122 removed language allowing anyone holding a valid use fuel tax license and bond to buy fuel without paying the Use Fuel Tax to the vendor at time of purchase. Those holding a valid Single Trip Permit are still exempt from the tax. This bill is conditional on New Mexico enacting a similar law which required a vendor to collect the tax from a user upon sale or delivery of the fuel into the user's fuel tank. (Effective September 30, 1988)

Laws 1988, Chapter 252 imposed a lower use fuel tax of 1¢ per gallon on clean burning fuel beginning September 30, 1988. Allowed \$250,000 to be transferred annually from the Air Quality Fund to HURF as reimbursement for revenues lost from the lower use fuel tax. Once lost revenues reach \$250,000 as determined by Department of Transportation, the following tax schedule will be in effect beginning the next January 1 or July 1, whichever occurs first:

- (1) 5¢ per gallon for balance of calendar year in which rate is raised
- (2) 10¢ per gallon for second year
- (3) 15¢ per gallon for third year
- (4) 17¢ per gallon for fourth year and thereafter

Laws 1988, Chapter 271 distributed from HURF the 1¢ tax increase (16¢ to 17¢) on motor vehicle fuel and use fuel to the State Highway Fund. (Effective July 1, 1988)

Laws 1989, Chapter 103 required a vendor to sell and deliver use fuel to an operator of a use class motor vehicle only if the operator holds:

- (1) A valid use fuel tax license
- (2) A valid single trip tax permit
- (3) Operator is exempt from the use fuel tax

Other provisions prescribed issuance of an ex-tax cab card or a tax cab card to certain licensees. Required the Director of the Department of Transportation to estimate and report the net effect of these amendments to the Speaker of the House and President of the Senate by December 1, 1990. (Effective From and After March 31, 1990)

Laws 1989, Chapter 261 clarified various changes to the oxygenated fuels and clean burning use fuel tax legislation of 1988 regarding market penetration of oxygenated fuels and definition of manufacturer's proving ground. (Effective From and After August 31, 1989)

Laws 1990, 3rd Special Session, Chapter 2 distributed from HURF the 1¢ tax increase (17¢ to 18¢) on motor vehicle fuel and use fuel to the State Highway Fund. (Effective October 1, 1990)

Laws 1991, Chapter 304 permitted the Department of Transportation to enter into written agreements with private entities for the construction or lease of transportation facility pilot projects. Any person who pays a toll for the use of such a facility can apply for a refund or credit for Motor Vehicle Fuel Taxes, Use Fuel Taxes, or Motor Carrier Taxes paid while operating a motor vehicle on such a transportation facility. (Effective September 21, 1991)

Laws 1992, Chapter 332 made several changes to the taxation of use fuel (Effective From and After December 31, 1992):

- (1) Distinguished between gaseous and liquid use fuel for payment on the Use Fuel Tax. The collection of liquid use fuel taxes is now required at the distributor level, while gaseous use fuel taxes are collected by the vendor.
- (2) Required a distributor who sells use fuel directly into a vehicle fuel tank be licensed as a vendor and maintain separate business records.
- (3) Eliminated the authority of the Director of Transportation to impose a Use Fuel Tax on use fuel delivered into bulk storage, but applied a one-time 18¢ tax on each gallon of liquid use fuel in bulk storage as of January 1, 1993 on all vendors and users, except certified bulk purchasers.
- (4) Allowed certified bulk purchasers or another licensed distributor to buy liquid use fuel from a distributor without paying the Use Fuel Tax.

- (5) Prohibited certified bulk purchasers from selling, trading, or bartering liquid use fuel.
- (6) Deleted provisions concerning the purchase of fuel from a vendor without payment of the Use Fuel Tax for holders of a valid single trip, Use Fuel Tax permits, use fuel ex-tax cab cards, or use fuel tax bonds.
- (7) Eliminated the 1% tax reimbursement to vendors for costs incurred in collecting the Use Fuel Tax in behalf of the state.
- (8) Expanded the definition of a restricted vendor to include every person who places untaxed use fuel from bulk storage into the fuel tank of a motor vehicle, rather than only light class motor vehicles.
- (9) Repealed the licensure and reporting requirement for restricted distributors of motor vehicle or aviation fuel.

Laws 1993, Chapter 4 revised the population definition used to distribute highway user revenues to include revisions to the decennial or special census certified by the United States Bureau of the Census. (Effective July 17, 1993)

Laws 1993, Chapter 134 contained the following provision affecting the Use Fuel Tax. The bill increases the Special Single Trip Use Fuel Tax Permit from \$15 to \$49 for travel over 50 miles in the state and from \$3.75 to \$12 for travel under 50 miles. The fee for a 30-Day Permit was increased from \$30 to \$98. A use fuel surcharge of 8¢ per gallon was imposed on use fuel used in the propulsion of a use class motor vehicle on a highway in this state to offset the reduction in motor carrier tax rates. A 1¢ per gallon use fuel tax credit is available if:

- (1) The excise tax was paid on use fuel purchased in this state.
- (2) The use fuel was consumed outside this state.
- (3) Paid a use fuel tax in one or more other states or jurisdictions.

The bill established a 5-member Use Fuel Advisory Council to review the determinations of the Department of Transportation regarding the growth or shortfall of use fuel collections to fund further reductions in the motor carrier tax. The bill establishes a Joint Legislative Study Committee on highway user revenues that will develop and submit a report to the Governor, the Speaker of the House of Representatives and the President of the Senate by December 1, 1994. (Effective From and After December 31, 1993)

Laws 1993, Chapter 249 limited the amount of monies that can be used by Department of Public Safety (DPS) for funding of highway patrol costs. The distribution to DPS from either the Highway User Revenue Fund or the State Highway Fund shall not exceed:

- (1) For FY 1995 - \$20 million
- (2) For FY 1996 - \$17.5 million
- (3) For FY 1997 - \$15 million
- (4) For FY 1998 - \$12.5 million
- (5) For FY 1999 and thereafter - \$10 million

The bill also provided \$500,000, for FY 1994, from the State Highway Fund for transportation projects on Arizona's southern border. (Effective July 19, 1993)

Laws 1994, Chapter 55 authorized the Director of the Department of Transportation to allow third parties to issue fuel tax permits in accordance with the rules adopted by the Director. The act also clarified that motor vehicles, trailers and semi-trailers that are exempted from the weight fee are also exempt from the use fuel surcharge of 8¢ per gallon. (Effective Retroactive to January 1, 1994)

The Director of the Department of Transportation may exempt a user from the monthly reporting requirements of use fuel vendors if the user meets all of the following requirements:

- (1) The user holds a valid Fuel Tax License.
- (2) The user establishes, to the satisfaction of the Director that the user's operations are exclusively intrastate.
- (3) The user is exempt from the use fuel surcharge imposed by this section.
- (4) The user is not a user of use fuel for which a tax has not been paid.

The exemption will remain in effect until such time as any condition of the exemption no longer prevails. A user who has been granted an exemption from the monthly reporting requirements and who leaves Arizona may be required, on the user's reentry into the state, to purchase a Single Trip Use Fuel Tax Permit. The fees for the Single Trip Use Fuel Tax Permit shall be computed in the same manner as prescribed for an unlicensed interstate user. The act contains provisions defined in Article IX, Section 22, Constitution of Arizona that requires the affirmative vote of at least two-thirds of both houses. (Effective April 8, 1994)

Laws 1995, 1st Special Session, Chapter 3 deferred the phase-down of the Arizona Highway User Revenue Fund and the State Highway Fund distributions to the Arizona Department of Public Safety by one year. The distribution for FY 1996 will remain at the FY 1995 level of \$20 million. (Effective June 15, 1995)

Laws 1995, Chapter 20 allowed the Arizona Department of Transportation (ADOT) to accept a valid Use Fuel Tax License (in place of a cab card) when registering a motor carrier. Allowed the Director of ADOT to enter into agreements, for the purpose of accepting fees and taxes imposed, by alternative methods, including credit cards, debit cards and electronic fund transfers. Provided rules and procedures by which the Director of ADOT may authorize third parties to issue use fuel and motor carrier licenses. Excluded transmix for the definition of "motor vehicle fuel." (Effective From and After December 31, 1995)

Provided that when a use fuel collection shortfall exists, revised rates shall be effective from and after June 30, instead of April 30. (Effective Retroactive to January 1, 1995)

Laws 1995, Chapter 132 made technical changes to Title 28 (Transportation) and reorganizes the title to allow for the addition of new statutes. Repealed Arizona Revised Statutes Title 2 (Aeronautics), Title 18 (County Highways) and the current Title 28 and reenacts these provisions in a new Title 28. Moved some provisions to more appropriate titles including Title 20 (Insurance), Title 38 (Public Officers and Employees), Title 41 (State Government) and Title 48 (Special Taxing Districts). Instructed Legislative Council to prepare conforming legislation for next session. (Effective From and After December 31, 1996)

Laws 1995, Chapter 147 provided for changes to Title 28 (Transportation) in conjunction with, and conditional to the enactment of, the Title 28 technical rewrite (Laws 1995, Chapter 132). (Effective From and After December 31, 1996)

Laws 2001, Chapter 287 provided a number of technical and clarifying changes to statutes, and combined fuel tax statutes for motor vehicle fuel and use fuel into one article. The act also included several substantive provisions, such as an increase in the bonding levels for fuel suppliers and criminal penalty for fuel tax evasion. (Effective August 9, 2001)

Laws 2004, Chapter 249 required ADOT to deduct a taxpayer's use tax liability from any use fuel tax refund. A use fuel tax of 26¢ per gallon is imposed on diesel fuel used in the state. Currently, if diesel fuel is consumed for a non-highway purpose, it is exempt from the use fuel tax and ADOT refunds the taxes paid. However, diesel fuel that is consumed for a non-highway purpose is subject to the state's use tax (as opposed to the use fuel tax) at a rate of 5.6% (see Use Tax section on page 23). Under this legislation, ADOT is prohibited from issuing use fuel tax refunds until the amount of use tax owed on the fuel is determined. ADOT is then required to issue a refund of the use fuel tax net of any use tax owed. (Effective January 1, 2005)