

Historical Tax Law Changes Underground Storage Tank Tax

Laws 1990, Chapter 328 established the Underground Storage Tank (UST) Tax on certain petroleum products and hazardous substances regulated under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980. The tax rate is 1¢ per gallon of regulated substance placed in a tank in a calendar year and the Director of ADOT acts as the collecting agent for the Director of DEQ.

Laws 1991, Chapter 214 amended the definition of an owner of an underground storage tank (UST) to include a person who owns or owned the property at the time on which an UST was located if:

- (1) The Department of Environmental Quality is unable to determine the person who owned the tank immediately before discontinuation of its use, and
- (2) The property owner uses the tank for storing or dispensing the regulated substances.

This bill excluded (1) a person who holds a certain indicia of ownership and (2) the state or a political subdivision that comes into the possession of property upon which an UST is located pursuant to eminent domain or environmental nuisances. (Effective September 21, 1991)

Laws 1993, 6th Special Session, Chapter 1 segregated monies that were collected and generated in Maricopa County from monies collected and generated in other counties. Monies from Maricopa County were to be placed in an Area A Account. Beginning in FY 1997, 50% of the monies received from the Area A portion of the Underground Storage Tank Tax and 50% of the interest income earned will be deposited in the Emission Inspection Fund. (Effective February 10, 1993)

Laws 1995, Chapter 229 clarified that the Assurance Account may be used to provide for reimbursable costs of corrective actions pertaining to soil and groundwater remediation and raised the coverage ceiling from \$225,000 to \$1,000,000 for persons with a \$25,000 deductible policy. (Effective July 1, 1996)

Laws 1995, Chapter 235 changed in A.R.S. Title 49, Chapter 6 (Underground Storage Tank Regulation), the heading of Article 4 from "Loan Account" to "Grant Account" and corrected loan account references in statute. (Effective July 13, 1995)

Laws 1996, Chapter 292 repealed a statutory provision that terminated the Assurance Account on December 31, 2003. This act also repealed a requirement that 50% of Area A Assurance account revenues be deposited into the Vehicle Emissions Inspection Fund. Additionally, the act raised the amount that is subject to 90% coverage to \$1,000,000 for qualified applicants.

Laws 2001, Chapter 341 transferred all unobligated balances from the UST Grant Account to the newly created Municipal Tank and Corrective Action Program Account on December 31, 2001. Monies in the new account will be used by DEQ to perform permanent closures of USTs in cities and towns with fewer than 15,000 people.

Laws 2004, Chapter 273 repealed the UST Program and the associated 1¢ excise tax on or after July 1, 2011. The program will be replaced by the RSF. The legislation sets June 30, 2010 as the last date to make a claim against the Assurance Account. RSF is to receive \$60,000,000 from the Assurance Account. Any amount in excess of \$60,000,000 goes to the General Fund. If the Assurance Account total is less than \$60,000,000, the 1¢ tax will continue to be imposed until a balance of \$60,000,000 is accumulated in the RSF, or until December 31, 2013, whichever comes first. At that point, the UST Program and the tax will be repealed. The RSF will then be the funding source for underground storage tanks where the owner cannot be located.

Laws 2005, Chapter 332 suspended the administrative cap established in A.R.S. § 49-1051B2 and B3 for FY 2006 and DEQ may transfer \$6,031,000 from the Assurance Account of the UST Revolving Fund for administrative costs of the UST Leak Prevention Program and funding for the Used Oil Program.

Laws 2006, Chapter 349 suspended the administrative cap established in A.R.S. § 49-1051B2 and B3 for FY 2007 and DEQ may transfer \$6,331,000 from the Assurance Account of the UST Revolving Fund for administrative costs of the UST Leak Prevention Program and funding for the Used Oil Program.

Laws 2007, Chapter 262 suspended the administrative cap established in A.R.S. § 49-1051B2 and B3 for FY 2008 and FY 2009 and DEQ may transfer \$6,531,000 from the Assurance Account of the UST Revolving Fund for administrative costs of the UST Leak Prevention Program and funding for the Used Oil Program.

Laws 2009, 3rd Special Session, Chapter 5 suspended the administrative cap established in A.R.S. § 49-1051B2 and B3 for FY 2010 and DEQ may transfer \$6,531,000 from the Assurance Account of the UST Revolving Fund for administrative costs of the UST Leak Prevention Program and funding for the Used Oil Program.

Laws 2010, 7th Special Session, Chapter 7 suspended the administrative cap established in A.R.S. § 49-1051B2 and B3 for FY 2011 and DEQ may transfer \$6,531,000 from the Assurance Account of the UST Revolving Fund for administrative costs of the UST Leak Prevention Program and funding for the Used Oil Program.