



**Rules of
Department of Revenue
Division 10—Director of Revenue
Chapter 6—Motor Vehicle Fuel Tax**

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**Title 12—DEPARTMENT
OF REVENUE
Division 10—Director of Revenue
Chapter 6—Motor Vehicle Fuel Tax**

12 CSR 10-6.010 Revocation of Private Rulings

PURPOSE: This rule notifies the public that private ruling letters issued by the Department of Revenue before January 1, 1973 will no longer be honored.

(1) Effective December 31, 1975 all written and verbal rulings issued by the Missouri Department of Revenue to specific taxpayers or groups of specific taxpayers before January 1, 1973 are withdrawn and canceled and are not binding upon the Department of Revenue for any tax liability arising after December 31, 1975.

(2) A ruling is defined to be a decision made by the director of revenue or his/her authorized agents which affects the payment of, accounting for or exemption from motor fuel and special use fuel tax chapter, 142, RSMo (1986).

(3) If a ruling had been made on a specific taxpayer situation, it is necessary that the taxpayer resubmit a request in writing for a ruling on that or any future specific question or problem, setting forth the specific information pertaining to that situation.

AUTHORITY: section 142.300, RSMo 1986. Regulation 10-101 was filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-6.020 Bonding Requirements

PURPOSE: This rule establishes procedures whereby the director may reject surety bonds issued by an insurance company suspended by the Missouri Division of Insurance. The rule also sets forth that the director can require that a new bond shall be posted if the taxpayer has a surety bond issued by a suspended surety company.

(1) When applying for a motor fuel/special fuel license, a cash or surety bond must be submitted with the application. Surety bonds must be executed on a form provided by the department. The director shall maintain a list of approved surety companies licensed to do business in this state.

(2) Those surety companies not complying with chapter 142, RSMo, or which unreason-

ably fail to pay or otherwise provide for payment, within sixty (60) days after receipt of written notification of the licensees becoming delinquent in payment of tax, fees, penalty or interest, are subject to removal from the list of authorized surety companies and no future bonds will be accepted until such time as the director reinstates the surety company.

(3) Prior to the suspension of the authority of a surety company, written notification shall be sent via certified mail to the surety company of the impending suspension. If a written response is not received within ten (10) days stating a good cause why the suspension should not be implemented, the suspension shall be implemented and the surety will remain suspended until such time the restitution is made or the surety company is reinstated at the discretion of the director.

(4) The department shall require all licensees bonded with a surety company whose license to do business in Missouri has been suspended by the Division of Insurance, to obtain a new surety bond with a company whose license is in good standing with the Missouri Division of Insurance.

(5) All motor fuel/special fuel accounts (licensed under chapter 142, RSMo) with surety bonds issued by a suspended surety company are required to replace each bond within sixty (60) days for motor fuel licensees and thirty (30) days for special fuel licensees from the date of notification by the director.

AUTHORITY: sections 142.300 and 142.621, RSMo 1986. Regulation 10-100 was filed Nov. 6, 1975, effective Nov. 16, 1975. Amended: Filed June 17, 1986, effective Sept. 26, 1986.

12 CSR 10-6.030 Motor Fuel Bond Trust Fund

PURPOSE: Section 142.896, RSMo, creates the Motor Fuel Bond Trust Fund as an alternative to posting a surety bond, cash bond, certificate of deposit, or letter of credit for qualifying distributors. This rule sets the rate for contributions made to the fund and the minimum/maximum amount the fund may contain.

(1) In general, all distributors must post a bond with the department. In lieu of posting a surety bond, cash bond, certificate of deposit or letter of credit, a qualifying distributor may contribute to the Motor Fuel Bond Trust Fund, at the rate prescribed by this rule.

(2) Definition of Terms.

(A) Distributor—any person required by section 142.893, RSMo, to obtain a distributor's license.

(B) Qualifying distributor—a distributor that met all the requirements for participating in the Motor Fuel Bond Trust Fund prior to the effective date of this rule, or that completes three (3) consecutive years of satisfactory tax compliance.

(C) Satisfactory tax compliance—the act of filing all reports and making all payments in the time and manner prescribed by Chapter 142, RSMo.

(3) Basic Application of Tax.

(A) Effective July 1, 2006, the contribution rate to the Motor Fuel Bond Trust Fund is \$.0024 per gallon for motor fuel and \$.0013 per gallon for aviation gasoline.

(B) The rate per gallon applies to all gallons purchased from Missouri licensed suppliers and all gallons imported during the month subject to taxes and/or fees.

(C) Qualifying distributors that choose to participate in the fund must make contributions until the fund reaches a maximum of one (1) million dollars, except as noted in subsection (3)(E) below.

(D) When the fund reaches the maximum, participating distributors are not required to make additional contributions to the fund until the fund is reduced to five hundred thousand dollars (\$500,000), at which time the contributions will be reinstated.

(E) A qualifying distributor must pay into the fund for a minimum of one (1) year after it elects to participate even if the fund has reached the one (1)-million dollar cap.

(4) Examples.

(A) A qualifying distributor imports 500,000 gallons of gasoline into Missouri on a monthly basis. Instead of purchasing a surety bond for three times the monthly liability, the distributor chooses to contribute to the Motor Fuel Bond Trust Fund. The monthly contribution required is \$1,200 (500,000 × \$.0024).

(B) A qualifying distributor purchases 100,000 gallons of aviation gasoline for sale in Missouri on a monthly basis. Instead of providing a letter of credit for three times the monthly liability, the distributor chose to contribute to the Motor Fuel Bond Trust Fund. The monthly contribution required is \$130 (100,000 × \$.0013).

(C) A qualifying distributor that has previously posted a cash bond chooses to participate in the Motor Fuel Bond Trust Fund. At the time the distributor makes the election to participate in the fund, the fund contains one



million dollars and participating distributors are not making contributions. As a newly participating distributor, the distributor must make contributions for at least one year even though the fund has reached the maximum.

AUTHORITY: sections 142.896.3 and 142.953, RSMo 2000. Original rule filed Oct. 31, 2005, effective May 30, 2006.*

**Original authority: 142.896, RSMo 1998, amended 1999 and 142.953, RSMo 1998.*

12 CSR 10-6.100 Motor Fuel Tax Exemption for Operators of Public Mass Transportation Service

PURPOSE: Section 142.817, RSMo exempts operators of public mass transportation service from motor fuel tax. This rule explains how the exemption is to be claimed.

(1) In general, fuel used to operate public mass transportation services is not subject to Missouri motor fuel tax. Fuel that is not subject to Missouri motor fuel tax is subject to Missouri state and local sales tax, unless otherwise exempted under Chapter 144, RSMo.

(2) Basic Application.

(A) Operators of public mass transportation services who purchase fuel on or after August 28, 2007, and paid the Missouri motor fuel tax may obtain a refund of the tax. The operator of the public mass transportation service must certify to the department, on a form prescribed by the director, that the motor fuel will be used exclusively in the operation of the mass transportation service.

1. The operator must submit the claim on a form prescribed by the department within one (1) year of the date of purchase or April 15 of the year following the purchase, whichever is later.

2. The refund will equal the motor fuel tax, less all applicable state and local sales taxes unless the entity is otherwise exempt from Missouri sales tax.

(B) Ultimate vendors may make bulk sales of motor fuel to the exempt public mass transportation service on or after August 28, 2007, without collecting the state motor fuel tax. The ultimate vendor that purchased the motor fuel and paid the Missouri motor fuel tax may obtain a refund if the ultimate vendor sold the motor fuel without charging the Missouri motor fuel tax.

1. Operators must furnish the ultimate vendor a Public Mass Transportation Operator Exemption Certificate in order to purchase the motor fuel without being charged the Missouri motor fuel tax. This form is available at the department's central

office, or may be downloaded at <http://www.dor.mo.gov/tax/business/fuel/forms/index.htm>.

2. Any ultimate vendor who is a retailer, and not licensed as a supplier or distributor, must submit the claim on a form prescribed by the director within two (2) years of the date of purchase.

3. If the ultimate vendor is licensed as a Missouri supplier or distributor, the claim for refund must be submitted on a form prescribed by the director and must be filed within three (3) years of the date of purchase.

4. The ultimate vendor must collect and remit to the department any applicable state and local sales taxes at the rate in effect at the vendor's place of business.

(3) Examples.

(A) A public mass transportation service operator has vehicles that operate on gasoline or gasohol. The operator goes to the pump to fuel its vehicles. The operator will purchase the gasoline or gasohol subject to all taxes and may apply for a refund of the state motor fuel tax.

(B) A public mass transportation service operator has vehicles that operate on diesel fuel. The operator may purchase clear diesel fuel subject to the state motor fuel tax and apply for a refund or if allowed under federal law, it may purchase dyed diesel fuel, which is exempt from state and federal fuel tax. It is required to complete and provide the ultimate vendor with an exemption certificate prior to filling any vehicles or ordering any dyed diesel fuel.

(C) A public mass transportation service operator has bulk storage facilities for the motor fuel used to fuel its vehicles. The ultimate vendor who delivers the motor fuel may sell the product without charging the motor fuel tax. The ultimate vendor would charge any applicable sales tax unless the operator is exempt from sales tax under state law. The ultimate vendor would then apply for a refund of the motor fuel tax it paid on the motor fuel but did not collect from the operator.

(D) A public mass transportation service operator has vehicles that operate on diesel fuel and meet the exemption requirements under federal law. Its routes include states other than Missouri, and the other state does not allow the use of dyed diesel fuel on public roadways. Even though Missouri and the federal government would allow the use of dyed diesel fuel, the operator must purchase and use clear fuel in the vehicles that cross into the neighboring state.

AUTHORITY: sections 142.818 and 142.824, RSMo 2000 and sections 136.035 and 144.030, RSMo Supp. 2007. Emergency rule*

filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Original rule filed Aug. 14, 2007, effective Feb. 29, 2008.

**Original authority: 142.818, RSMo 1998; 142.824, RSMo 1998, amended 1999; 136.035, RSMo 1951, amended 2001; and 144.030, RSMo 1939, amended 1941, 1943, 1945, 1949, 1961, 1965, 1967, 1969, 1977, 1979, 1980, 1982, 1983, 1985, 1986, 1988, 1989, 1991, 1994, 1995, 1996, 1997, 1998, 1999, 2003, 2004, 2005, 2007.*