

Notice

Notice Number: Taxation of Motor Fuel Used Off-Highway
Tax Type: Kansas Retailers' Sales Tax
Brief Description: Taxation of Fuel Used Off-Highway
Keywords:
Effective Date: 02/18/1980

Body:

NOTICE

TO: Contractors, Farmers and Ranchers

FROM: Sales and Excise Tax Bureau

SUBJECT: Sales and use Tax - Taxability of Motor Fuel Consumed in Off-Highway Land Improvement Projects

It has been brought to the attention of the Sales and Excise Tax Bureau that there is a misunderstanding by many contractors, farmers and ranchers concerning the application of Kansas retailers' sales tax or consumers' compensating use tax to motor fuels purchased for certain off-highway uses.

Motor fuels (gasoline, gasohol, diesel and L-P gas) which are consumed in the off-high operation of motor vehicles or excavation and construction equipment in connection with the construction of farm ponds, terraces, waterways, grading, landscaping, and in the preparation of building sites, etc. are subject to either the three percent (3%) (effective 6/1/92 the tax rate increased to 4.9%) Kansas retailers' sales tax or consumers' compensating use tax.

The tax would apply to any fuels which are exempt from the imposition of a motor fuel tax including fuels purchased with the motor fuel tax paid if such tax is refundable under the provisions of the Kansas Motor Fuel Tax Act.

EXEMPT USES

Motor fuels consumed in the production or processing of agricultural products or the irrigation of crops for ultimate sale at retail are exempt from Kansas retailers' sales tax or consumers' compensating use tax. Exempt uses include fuel consumed in plowing, disking, harrowing, planting or seeding, cultivating and harvesting. Exempt uses would not include fuel consumed in the construction of farm ponds, waterways and terraces, etc.

Motor fuels consumed in the performance of construction projects which qualify for exemption under the authority of K.S.A. 79-3606(d) and (e) are exempt from Kansas retailers' sales tax and consumers' compensating use tax.

At the present time "Project Exemption Certificates" are issued only to the following entities:

1. Political subdivisions of the state of Kansas.
2. Public or private nonprofit hospitals.
3. Public or private elementary or secondary schools.
4. Public or private nonprofit educational institutions.
5. Government of the United States.
6. Agencies and instrumentalities of the government of the United States.

Contractors desiring to purchase fuel without sales tax for tax exempt projects are required to secure a numbered Project Exemption Certificate from the hospital, school or governmental agency from whom the work is to be performed and provide a copy of the certificate to their fuel suppliers prior to, or at the time tax exempt fuel is first purchased for the project. If a tax exempt entity cannot provide a contractor with a project exemption certificate prior to the time work is begun the contractor must assume that the project does not qualify for tax exemption status and must pay retailers' sales or consumers' compensating use tax on fuel purchased for the project.

Motor fuel purchased in bulk where its taxable or nontaxable use cannot be determined until it is actually consumed should be purchased without retailers' sales tax. Persons buying motor fuel in bulk without retailers' sales tax are required to file a consumers' compensating use tax return reporting the cost of motor fuels withdrawn from storage for taxable off-highway uses

and remit the three percent (effective 6/1/92 the tax rate increased to 4.9%) tax due directly to the Kansas Department of Revenue.

Persons buying motor fuel in bulk solely for taxable non-highway use should pay sales tax to their supplying dealer.

Additional questions concerning the application of sales or use tax to the off-highway use of motor fuel should be directed to the Sales and Excise Tax Bureau, Kansas Department of Revenue, Topeka, Kansas 66625, or telephone number (913) 296-2461.

Date Composed: 10/07/1997 Date Modified: 10/10/2001

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