

HOUSE BILL NO. HB0013

Fuel tax revision.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing
2 clarification on the fuel tax rate as specified; amending
3 related provisions; modifying exemptions; repealing
4 antiquated provisions; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 39-14-801(b), 39-17-103(a)(ii),
9 39-17-104(a) through (c), 39-17-105(a) and (c),
10 39-17-109(d)(iv), 39-17-111(f), 39-17-201(a)(xvi), (xxi),
11 (xxvi) and (xxvii), 39-17-203(a)(ii) and (b)(iv),
12 39-17-204(a) and (b), 39-17-205(b) through (e),
13 39-17-209(c)(i), (v)(intro) and (vi), 39-17-211(c) and
14 39-21-109 are amended to read:

15

16 **39-14-801. Severance tax distributions; distribution**
17 **account created; formula.**

1

2 (b) [LUST] Before making distributions from the
3 severance tax distribution account under subsections (c)
4 and (d) of this section, an amount equal to the amount of
5 tax collected under W.S. ~~39-17-104(e)~~ 39-17-104(a)(iii) and
6 ~~39-17-204(b)~~ 39-17-204(a)(ii) for the same period shall be
7 distributed to the corrective action account created by
8 W.S. 35-11-1424 and to the financial responsibility account
9 created by W.S. 35-11-1427 in an inverse proportion to the
10 amount in the two (2) accounts.

11

12 **39-17-103. Imposition.**

13

14 (a) Taxable event. The following shall apply:

15

16 (ii) The tax imposed by W.S. ~~39-17-104(e)~~
17 39-17-104(a)(iii) shall cease to be collected on the first
18 day of the third month following the date the department of
19 environmental quality notifies the director of the
20 department of transportation that the balance of the
21 corrective action account created by W.S. 35-11-1424
22 exceeds ten million dollars (\$10,000,000.00) and the
23 environmental pollution financial responsibility account
24 created by W.S. 35-11-1427 exceeds one million dollars

1 (\$1,000,000.00). The tax shall again be collected beginning
2 on the first day of the third month following the date the
3 department of environmental quality notifies the director
4 of the department of transportation that the balance of the
5 corrective action account has fallen below four million
6 dollars (\$4,000,000.00).

7

8 **39-17-104. Taxation rate.**

9

10 (a) Except as otherwise provided by this section and
11 W.S. 39-17-105, the total tax on gasoline shall be fourteen
12 cents (\$.14) per gallon. The rate shall be imposed as
13 follows:

14

15 (i) There is levied and shall be collected a
16 license tax of ~~eleven cents (\$.11) per gallon for the~~
17 ~~period July 1, 1998, through June 30, 2002, and thereafter~~
18 thirteen cents (\$.13) per gallon on all gasoline used, sold
19 or distributed for sale or use in this state except for
20 those fuels exempted under W.S. 39-17-105~~;~~.

21

22 ~~(b)(ii)~~ Notwithstanding ~~subsection (a) of this~~
23 ~~section paragraph (i) of this subsection~~, gasoline sold for
24 use in aircraft shall be taxed at four cents (\$.04) per

1 gallon except for those fuels exempted under W.S.
2 39-17-105;

3
4 ~~(e)(iii)~~ In addition to the tax collected
5 pursuant to ~~subsections (a) and (b) of this section~~
6 paragraphs (i) and (ii) of this subsection, there is levied
7 and shall be collected a license tax of one cent (\$.01) per
8 gallon on all gasoline used, sold or distributed for sale
9 or use in this state except for those fuels exempted under
10 W.S. 39-17-105(a).

11

12 **39-17-105. Exemptions.**

13

14 (a) Gasoline exported or sold at a Wyoming terminal
15 rack and directly exported outside the state, other than in
16 the fuel supply tank of a motor vehicle, by a person
17 licensed ~~only~~ as an exporter in this state is exempt from
18 the license tax imposed under W.S. ~~39-17-104(a)~~
19 39-17-104(a)(i) through ~~(e)(iii)~~. The exempt sales shall
20 be reported on or before the last business day of the month
21 on forms provided by the department. The sales reports are
22 invalid if not submitted to the department within one (1)
23 year following date of sale. Gasoline directly exported,
24 other than in the fuel supply tank of a motor vehicle, by a

1 Wyoming licensed supplier, is exempt from the additional
2 license tax imposed under W.S. ~~39-17-104(e)~~
3 39-17-104(a)(iii). Exchanges and sales of gasoline between
4 suppliers are exempt from the license tax under this
5 section.

6
7 (c) There is granted a credit to the purchaser and
8 user of gasoline used for agricultural purposes and
9 purchased from a Wyoming licensed distributor or importer
10 an amount equal to seventy percent (70%) of the gasoline
11 license taxes imposed by W.S. ~~39-17-104(a)~~ 39-17-104(a)(i)
12 and ~~(b)~~ (ii) on bulk gasoline purchased for agricultural
13 purposes. A Wyoming licensed distributor or importer shall
14 collect the gasoline license tax on bulk gasoline sales
15 less the amount of the credit granted under this section at
16 the time of invoice on the bulk gasoline.

17

18 **39-17-109. Taxpayer remedies.**

19

20 (d) Credits. The following shall apply:

21

22 (iv) Until July 1, 2003, any person who has a
23 tax liability in Wyoming for the sale of ethanol based
24 motor fuel or gasoline sold for the purpose of blending

1 into an ethanol based motor fuel may redeem a valid credit
2 with the department to satisfy in part any tax liability
3 imposed under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and ~~(b)~~
4 (ii). To qualify to redeem tax credits under this
5 paragraph, an ethanol producer shall purchase at least one
6 million dollars (\$1,000,000.00) of Wyoming origin grain
7 stocks during the calendar year in which the tax credits
8 were earned. Each ethanol producer shall verify the origin
9 of the grain stocks. In the event of natural damage to a
10 significant portion of available Wyoming grain stock as
11 determined by the Wyoming department of agriculture, the
12 one million dollar (\$1,000,000.00) purchase requirement of
13 this paragraph shall not apply. In no circumstances may
14 the amount of tax credits redeemed by any person under this
15 section exceed the existing tax liability of the person
16 under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and ~~(b)~~ (ii). The
17 total of all tax credits redeemed under this section shall
18 not exceed two million dollars (\$2,000,000.00) per year.
19 The department shall promulgate rules to implement this
20 section;

21

22 **39-17-111. Distribution.**

23

1 (f) All taxes collected under W.S. ~~39-17-104(e)~~
2 39-17-104(a)(iii) shall be transferred to the state
3 treasurer who shall deposit them only into the state
4 highway fund. The provisions of this section and W.S.
5 39-17-105(c) shall not apply to the tax imposed by W.S.
6 ~~39-17-104(e)~~ 39-17-104(a)(iii). Any refund for any
7 overpayment of this one cent (\$.01) tax shall be taken from
8 the taxes collected pursuant to W.S. ~~39-17-104(e)~~
9 39-17-104(a)(iii).

10

11 **39-17-201. Definitions.**

12

13 (a) As used in this article:

14

15 (xvi) "Person" means, for purposes of collecting
16 the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), an
17 individual, partnership, corporation, joint stock company
18 or other association or entity, public or private;

19

20 (xxi) "Diesel fuels" means those combustible
21 gases and liquids commonly referred to as diesel fuel or
22 any other volatile liquid of less than forty-six (46)
23 degrees American petroleum industry gravity test, except
24 liquid petroleum gas, when actually sold for use in motor

1 vehicles for operation upon public roads and highways. The
2 term "diesel fuels" includes kerosene and any type of
3 additive when the additive is mixed or blended into diesel
4 fuel, excluding a pour point depressant. For the purposes
5 of collecting the tax provided by W.S. ~~39-17-204(b)~~
6 39-17-204(a)(ii) the term "diesel fuel" includes all diesel
7 fuel consumed or purchased for any and all purposes;

8

9 (xxvi) "Use" means the consumption of fuel in a
10 motor vehicle upon a highway and includes the reception of
11 diesel fuel into any tank on a motor vehicle which is used
12 by the engine that generates motive power for the vehicle
13 and, for the purposes of collecting the tax provided by
14 W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), includes all diesel
15 fuels consumed for any and all purposes;

16

17 (xxvii) "User" means any person who uses diesel
18 fuel within this state in an internal combustion engine for
19 the generation of power to propel a motor vehicle upon a
20 highway and, for the purposes of collecting the tax
21 provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), includes
22 any person who uses diesel fuel within this state for any
23 and all purposes;

24

1 **39-17-203. Imposition.**

2

3 (a) Taxable event. The following shall apply:

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5 (ii) The tax imposed by W.S. ~~39-17-204(b)~~
6 39-17-204(a)(ii) shall cease to be collected on the first
7 day of the third month following the date the department of
8 environmental quality notifies the director of the
9 department of transportation that the balance of the
10 corrective action account created by W.S. 35-11-1424 and
11 the environmental pollution financial responsibility
12 account created by W.S. 35-11-1427 exceed ten million
13 dollars (\$10,000,000.00) in each account. The tax shall
14 again be collected beginning on the first day of the third
15 month following the date the department of environmental
16 quality notifies the director of the department of
17 transportation that the balance of the corrective action
18 account or the environmental pollution financial
19 responsibility account has fallen below four million
20 dollars (\$4,000,000.00);

21

22 (b) Basis of tax. The following shall apply:

23

1 (iv) A Wyoming licensed supplier, distributor,
2 refiner or importer who is unable to recover the license
3 taxes due from a bulk sale to a licensee who is other than
4 an end-user and is not owned, rented or leased by the
5 supplier, distributor, refiner or importer requesting the
6 credit is not liable for the taxes and may credit the
7 amount of unpaid taxes against a later remittance of taxes
8 required under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i). The
9 department shall promulgate rules to implement this
10 paragraph.

11

12 **39-17-204. Taxation rate.**

13

14 (a) Except as otherwise provided by this section and
15 W.S. 39-17-205, the total tax on diesel fuels shall be
16 fourteen cents (\$.14) per gallon. The rate shall be
17 imposed as follows:

18

19 (i) There is levied and shall be collected a
20 license tax of ~~eleven cents (\$.11) per gallon for the~~
21 ~~period July 1, 1998, through June 30, 2002, and thereafter~~
22 thirteen cents (\$.13) per gallon on all diesel fuels used,
23 sold or distributed for sale or use in this state; ~~;~~

24

1 ~~(b)(ii)~~ In addition to the tax collected
2 pursuant to ~~subsection (a) of this section~~ paragraph (i) of
3 this subsection, there is levied and shall be collected a
4 license tax of one cent (\$.01) per gallon on all diesel
5 fuels used, sold or distributed for sale or ~~used~~ use in
6 this state except for those fuels exempted in W.S.
7 39-17-205(b) and (e).

8

9 **39-17-205. Exemptions.**

10

11 (b) Diesel fuel sold at a Wyoming terminal rack and
12 directly exported, other than in the fuel supply tank of a
13 motor vehicle, by a person licensed ~~only~~ as an exporter in
14 this state is exempt from the license tax imposed under
15 W.S. ~~39-17-204(a) and (b)~~ 39-17-204(a)(i) and (ii). The
16 exempt sales shall be reported on or before the last
17 business day of the month on forms provided by the
18 department. The sales reports are invalid if not submitted
19 to the department within one (1) year following the date of
20 sale.

21

22 (c) Exchanges or sales of diesel fuel between
23 suppliers are exempt from the license tax under W.S.
24 ~~39-17-204(a)~~ 39-17-204(a)(i). Diesel fuel directly

1 exported, other than in the fuel supply tank of a motor
2 vehicle, by a supplier is exempt from the license tax under
3 W.S. ~~39-17-204(a)~~ 39-17-204(a)(i).

4
5 (d) Dyed diesel fuel as defined in W.S.
6 39-17-201(a)(ix) is exempt from the license tax under W.S.
7 ~~39-17-204(a)~~ 39-17-204(a)(i).

8
9 (e) Diesel fuel directly exported, other than in the
10 fuel supply tank of a motor vehicle, by a Wyoming licensed
11 supplier is exempt from the additional license tax imposed
12 under W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii).

13
14 **39-17-209. Taxpayer remedies.**

15
16 (c) Refunds. The following shall apply:

17
18 (i) Undyed diesel fuel purchased for
19 agricultural purposes as defined in W.S. 39-17-201(a)(i) is
20 exempt from a percentage of the license tax under W.S.
21 ~~39-17-204(a)~~ 39-17-204(a)(i) as declared by the applicant;

22
23 (v) The license tax under W.S. ~~39-17-204(a)~~ and
24 ~~(e)~~ 39-17-204(a)(i) is subject to refund on the following:

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39-17-211. Distribution.

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39-21-109. Taxpayer remedies.

(vi) The license tax under W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii) is subject to refund on all diesel fuel sold in Wyoming for transportation of people, goods and equipment in interstate commerce and used outside Wyoming, provided that there is an adequate system for determining whether or not the diesel fuel is used in Wyoming. Nothing in this paragraph shall apply to the use, or sale or distribution for use, of diesel fuel in Wyoming. The refund request is invalid if not submitted within one (1) year.

(c) All taxes collected under W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii) shall be transferred to the state treasurer who shall deposit them only into the state highway fund. The provisions of subsection (d) of this section shall not apply to the tax imposed by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii). Any refund for any overpayment or for any other refund authorized by law of this one cent (\$.01) tax shall be taken from the taxes collected pursuant to W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii).

1

2 The tax imposed and paid pursuant to this chapter shall be
3 a tax credit against sales taxes paid by the same person
4 when that person is exempt from the fuel tax due under W.S.
5 ~~39-17-104(a)~~ 39-17-104(a)(i) or ~~39-17-204(a)~~
6 39-17-204(a)(i), but is not exempt from sales tax on that
7 fuel.

8

9 **Section 2.** W.S. 39-17-104(d), 39-17-111(g),
10 39-17-204(c) and (d) and 39-17-211(f) are repealed.

11

12 **Section 3.** This act is effective immediately upon
13 completion of all acts necessary for a bill to become law
14 as provided by Article 4, Section 8 of the Wyoming
15 Constitution.

16

17

(END)