

ORIGINAL HOUSE  
BILL NO. 0013

ENROLLED ACT NO. 3, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

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

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

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

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

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

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

(a) Taxable event. The following shall apply:

(ii) The tax imposed by W.S. ~~39-17-104(e)~~ 39-17-104(a)(iii) shall cease to be collected on the first day of the third month following the date the department of

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environmental quality notifies the director of the department of transportation that the balance of the corrective action account created by W.S. 35-11-1424 exceeds ten million dollars (\$10,000,000.00) and the environmental pollution financial responsibility account created by W.S. 35-11-1427 exceeds one million dollars (\$1,000,000.00). The tax shall again be collected beginning on the first day of the third month following the date the department of environmental quality notifies the director of the department of transportation that the balance of the corrective action account has fallen below four million dollars (\$4,000,000.00).

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

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

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

~~(b)(ii)~~ Notwithstanding ~~subsection (a) of this section~~ paragraph (i) of this subsection, gasoline sold for use in aircraft shall be taxed at four cents (\$.04) per gallon except for those fuels exempted under W.S. 39-17-105;

~~(c)(iii)~~ In addition to the tax collected pursuant to ~~subsections (a) and (b) of this section~~ paragraphs (i) and (ii) of this subsection, there is levied

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and shall be collected a license tax of one cent (\$.01) per gallon on all gasoline used, sold or distributed for sale or use in this state except for those fuels exempted under W.S. 39-17-105(a).

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

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

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

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

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(d) Credits. The following shall apply:

(iv) Until July 1, 2003, any person who has a tax liability in Wyoming for the sale of ethanol based motor fuel or gasoline sold for the purpose of blending into an ethanol based motor fuel may redeem a valid credit with the department to satisfy in part any tax liability imposed under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and ~~(b)(ii)~~. To qualify to redeem tax credits under this paragraph, an ethanol producer shall purchase at least one million dollars (\$1,000,000.00) of Wyoming origin grain stocks during the calendar year in which the tax credits were earned. Each ethanol producer shall verify the origin of the grain stocks. In the event of natural damage to a significant portion of available Wyoming grain stock as determined by the Wyoming department of agriculture, the one million dollar (\$1,000,000.00) purchase requirement of this paragraph shall not apply. In no circumstances may the amount of tax credits redeemed by any person under this section exceed the existing tax liability of the person under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and ~~(b)(ii)~~. The total of all tax credits redeemed under this section shall not exceed two million dollars (\$2,000,000.00) per year. The department shall promulgate rules to implement this section;

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

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

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the taxes collected pursuant to W.S. ~~39-17-104(e)~~  
39-17-104(a)(iii).

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

(a) As used in this article:

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

(xxi) "Diesel fuels" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than forty-six (46) degrees American petroleum industry gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles for operation upon public roads and highways. The term "diesel fuels" includes kerosene and any type of additive when the additive is mixed or blended into diesel fuel, excluding a pour point depressant. For the purposes of collecting the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii) the term "diesel fuel" includes all diesel fuel consumed or purchased for any and all purposes;

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

(xxvii) "User" means any person who uses diesel fuel within this state in an internal combustion engine for the generation of power to propel a motor vehicle upon a

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highway and, for the purposes of collecting the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), includes any person who uses diesel fuel within this state for any and all purposes;

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

(a) Taxable event. The following shall apply:

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

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

(iv) A Wyoming licensed supplier, distributor, refiner or importer who is unable to recover the license taxes due from a bulk sale to a licensee who is other than an end-user and is not owned, rented or leased by the supplier, distributor, refiner or importer requesting the credit is not liable for the taxes and may credit the amount of unpaid taxes against a later remittance of taxes required under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i). The

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department shall promulgate rules to implement this paragraph.

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

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

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

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

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

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

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(c) Exchanges or sales of diesel fuel between suppliers are exempt from the license tax under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i). Diesel fuel directly exported, other than in the fuel supply tank of a motor vehicle, by a supplier is exempt from the license tax under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i).

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

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

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

(c) Refunds. The following shall apply:

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

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

(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

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distribution for use, of diesel fuel in Wyoming. The refund request is invalid if not submitted within one (1) year.

**39-17-211. Distribution.**

(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).

**39-21-109. Taxpayer remedies.**

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

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk