

ARTICLE 10. SPECIAL FUEL TAX

Rule 1. Definitions

45 IAC 10-1-1 “Administrator” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 1. The term “administrator” shall mean the administrative head of the Indiana department of state revenue or an authorized agent thereof. (*Department of State Revenue; Reg 6-6-2.1-103(a)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 291*)

45 IAC 10-1-2 “Fuel oil distributor” defined (Repealed)

Sec. 2. (*Repealed by Department of State Revenue; filed Apr 30, 1986, 3:34 pm: 9 IR 2189*)

45 IAC 10-1-3 “Sale” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 3. For purposes of this chapter [45 IAC 10], the term “sale” shall mean the transfer of title for compensation. (*Department of State Revenue; Reg 6-6-2.1-103(b)(020); filed Jan 3, 1983, 2:29 pm: 6 IR 291*)

45 IAC 10-1-4 “Licensed special fuel dealer” defined (Repealed)

Sec. 4. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

45 IAC 10-1-5 “Licensed special fuel user” defined (Repealed)

Sec. 5. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

45 IAC 10-1-6 “Motor vehicle” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 6. (a) A “motor vehicle” is a vehicle which is propelled by an internal combustion engine or motor and is designed for highway use.

(b) Vehicles “designed for highway use” are those vehicles which are primarily adapted for, and engaged in highway transportation. All vehicles plated for general highway transportation or capable of being plated pursuant to Indiana law are presumed to be primarily adapted for and engaged in highway transportation.

(c) Fire trucks, fire protection apparatus, and ambulances owned by a municipality or by a person, police vehicles, and street equipment, as well as other vehicles publicly or privately owned which are primarily adapted for, and engaged in highway transportation are motor vehicles.

(d) The term “motor vehicle” shall not be construed to include road construction or maintenance machinery, vehicles not capable of being plated pursuant to Indiana law, well-boring or well-drilling apparatus, ditch-digging apparatus or other similar equipment which is occasionally operated or moved over public highways.

(e) Vehicles which operate on rails are not motor vehicles.

(f) Vehicles designed and operated primarily as farm implements for drawing farm machinery are not motor vehicles.

(g) Tractors, plows, mowing machines, harvesters, Big A's, and other agricultural implements, including farm machinery when mounted and transported upon a trailer, are not motor vehicles when operated on a farm or when traveling upon public highways from one field to another, or to or from places of repair, or supply.

(h) Vehicles exclusively operated on private property and not engaged in highway transportation are not motor vehicles.

–EXAMPLES–

(1) An automobile manufacturer tests cars on a test track located on the manufacturer's property. During such testing, the cars

are neither fully equipped nor assembled. Although the automobiles' design may be for highway use, such cars are neither adapted for nor engaged in highway transportation, and therefore, would not be considered motor vehicles.

(2) In a mining operation, haulage trucks not capable of being plated are employed to transport coal from a pit to a crusher, and then to a processing plant. The roadway between the pit and the crusher is a private roadway, wholly owned by the mining company. The roadway between the crusher and the processing plant is a public highway. Since the haulage trucks are not capable of being plated pursuant to Indiana law, such vehicles presumably would not be motor vehicles even though they do occasionally travel upon Indiana highways.

(3) Same facts as in example (2) except that the haulage trucks are either plated or capable of being plated pursuant to Indiana law. Haulage trucks which operate exclusively from the pit to the crusher would not be considered motor vehicles since they would not be engaged in highway transportation. Haulage trucks which travel from the crusher to the plant or which occasionally travel upon public highways would be considered motor vehicles since they would be engaged in highway transportation.

(i) Certain classes of motor vehicles which have a common fuel reservoir for the purpose of locomotion along the highway and for operation of equipment with another commercial purpose, while motor vehicles for purposes of this chapter [45 IAC 10], may upon determination by the administrator be declared exempt in part from taxation under this Act. (*Department of State Revenue; Reg 6-6-2.1-103(e)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 291; filed Apr 30, 1986, 3:34 pm: 9 IR 2178*)

45 IAC 10-1-7 “Person” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 7. (a) The term “person” shall mean any natural person, partnership, corporation, joint venture, firm, association, a representative appointed by a court, or the state, or its political subdivision, or other legal entity.

(b) For purposes of this chapter [45 IAC 10], a corporate subsidiary shall be considered a “person”.

(c) For purposes of this chapter [45 IAC 10], a corporate division shall not be considered a person. (*Department of State Revenue; Reg 6-6-2.1-103(f)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 291*)

45 IAC 10-1-8 “Public highway” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 8. Regulatory definition of “public highway” is used synonymously with the Act. (*Department of State Revenue; Reg 6-6-2.1-103(g)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 292*)

45 IAC 10-1-9 “Special fuel” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 9. (a) “Special fuel” is all combustible gases and liquids except gasoline (as defined in IC 6-6-1.1), that are:

(1) suitable for generation of power in an internal combustion engine; or

(2) used exclusively for heating, industrial, and farm purposes other than for the operation of motor vehicles.

(b) For purposes of this chapter [45 IAC 10], gasohol is not considered special fuel.

(c) For purposes of this chapter [45 IAC 10], each 120 cubic feet of compressed natural gas (CNG) adjusted to a base temperature of 60 degrees Fahrenheit and a pressure of 14.73 pounds per square inch will be considered as one (1) gallon of special fuel. (*Department of State Revenue; Reg 6-6-2.1-103(h)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 292; filed Apr 30, 1986, 3:34 pm: 9 IR 2179*)

45 IAC 10-1-10 “Special fuel dealer” defined (Repealed)

Sec. 10. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

45 IAC 10-1-11 “Special fuel dealer; sales through a self-service pump” defined (Repealed)

Sec. 11. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-12 “Use” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 12. The term “use” shall mean the delivery or placing of special fuel into the fuel supply tank of a motor vehicle. “Use” shall not be construed to mean consumption of special fuel. *(Department of State Revenue; Reg 6-6-2.1-103(j)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 293)*

45 IAC 10-1-13 “Special fuel user” defined (Repealed)

Sec. 13. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-14 “Special fuel user; leasing and rental of motor vehicles” defined (Repealed)

Sec. 14. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-15 “Authorized unlicensed user” defined (Repealed)

Sec. 15. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-16 “Taxable storage facility” defined (Repealed)

Sec. 16. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-17 “Authorized unlicensed special fuel dealer” defined (Repealed)

Sec. 17. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-1-18 “Metered pump” defined

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-103

Sec. 18. For purposes of these regulations [45 IAC 10], the term “metered pump” shall mean a stationary pump which is capable of metering the amount of special fuel dispensed from it. *(Department of State Revenue; Reg 6-6-2.1-103(o)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 295)*

45 IAC 10-1-19 “Supplier” defined (Repealed)

Sec. 19. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

Rule 2. Imposition of Tax

45 IAC 10-2-1 Special fuel tax; imposition

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 1. Except as otherwise provided, a tax known as the special fuel tax is imposed upon:

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- (1) the delivery or placing of special fuel into the fuel supply tank of a motor vehicle in Indiana;
- (2) the delivery or placing of special fuel into the taxable storage facility of an authorized unlicensed user or authorized unlicensed dealer;
- (3) the total number of gallons of special fuel on hand in an authorized unlicensed user's taxable storage facility at the time the Special Fuel Tax Collection Agreement becomes effective; and
- (4) the total number of gallons of special fuel on hand in an authorized unlicensed dealer's taxable storage facility at the time the Special Fuel Tax Collection Agreement becomes effective.

(Department of State Revenue; Reg 6-6-2.1-201(010); filed Jan 3, 1983, 2:29 pm: 6 IR 295; errata, 6 IR 1250)

45 IAC 10-2-2 Dealer's liability (Repealed)

Sec. 2. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-2-3 User's liability (Repealed)

Sec. 3. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-2-4 Authorized unlicensed user's liability (Repealed)

Sec. 4. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-2-5 Authorized unlicensed dealer's liability (Repealed)

Sec. 5. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-2-6 Rate

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 6. The tax rate for special fuel is fifteen cents (\$0.15) per gallon on and after June 1, 1985. *(Department of State Revenue; Reg 6-6-2.1-201(060); filed Jan 3, 1983, 2:29 pm: 6 IR 296; filed Apr 30, 1986, 3:34 pm: 9 IR 2180)*

45 IAC 10-2-7 Inventory tax

Authority: IC 6-8.1-3-3

Affected: IC 6-8.1

Sec. 7. (a) Authorized unlicensed special fuel dealers having title to special fuel in storage and held for sale on the effective date of an increase in the license rate tax imposed under IC 6-6-2.1-201 are subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased license tax rate.

(b) Authorized unlicensed special fuel dealers subject to the inventory tax shall:

- (1) take an inventory to determine the gallonage in storage for purposes of determining the inventory tax;
- (2) report the gallonage on forms provided by the administrator; and
- (3) pay the tax due within thirty (30) days of the inventory date.

(c) The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage as determined under subsection (a). The inventory tax rate is equal to the difference of the increased license tax rate minus the previous license tax rate.

(d) The inventory tax is a listed tax for purposes of IC 6-8.1. *(Department of State Revenue; Reg 6-6-2.1-202(010); filed Jan 3, 1983, 2:29 pm: 6 IR 296; filed Apr 30, 1986, 3:34 pm: 9 IR 2180)*

Rule 3. Exemptions

45 IAC 10-3-1 Special fuel sold for export

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 1. (a) Special fuel sold for export or exported from Indiana is a nontaxable transaction.

(b) Special fuel purchased and placed into the fuel supply tank of a motor vehicle in Indiana and consumed outside the state shall not be considered "exported" special fuel. (*Department of State Revenue; Reg 6-6-2.1-301(1)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 296*)

45 IAC 10-3-2 Special fuel sold to or used by the U.S. government

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 2. Special fuel sold to the United States or an agency or instrumentality thereof or placed into the fuel supply tank of a governmental motor vehicle is exempt from tax. (*Department of State Revenue; Reg 6-6-2.1-301(2)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 296*)

45 IAC 10-3-3 Special fuel sold to or used by post exchanges and federal reservations

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 3. Special fuel sold to a post exchange or other concessionaire located on a federal reservation within Indiana or placed into the fuel supply tank of a governmental motor vehicle is exempt from tax. (*Department of State Revenue; Reg 6-6-2.1-301(3)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 296*)

45 IAC 10-3-4 Collection of tax permitted

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 4. Special fuel tax imposed upon the placing of special fuel into the fuel supply tank of nongovernmental motor vehicles located on a post exchange or federal reservation shall be collected, reported, and remitted to the administrator where permitted by federal law. (*Department of State Revenue; Reg 6-6-2.1-301(3)(020); filed Jan 3, 1983, 2:29 pm: 6 IR 296*)

45 IAC 10-3-5 Sales to a public transportation corporation

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 5. (a) Special fuel sold to or used by a public transportation corporation is exempt so long as the special fuel is placed into the fuel supply tank of a motor vehicle operated by a public transportation corporation for the sole purpose of transporting persons for compensation within the Indiana territory of that corporation.

(b) A public transportation corporation is a municipally owned public transportation system that:

- (1) operates buses or other motor vehicles designed to carry more than six passengers, exclusive of the driver; and
- (2) operates over designated and definite routes within one municipality and its suburban territory or within and between two or more municipalities located not more than ten miles apart, and within their suburban territories.

(A) For purposes of this section the suburban territory of a municipality consists of the areas within one mile outside its corporate boundaries and one additional mile for each fifty thousand population or major fraction thereof, in the municipality.

(c) To be afforded this exemption, qualifying carriers must embark, transport and disembark passengers within the Indiana territory of the public transportation corporation. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a public transportation corporation for the purpose of transporting persons over indefinite routes, or over definite and designated routes of which any portion of the routes are outside the corporation's Indiana territory, is subject to tax.

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–EXAMPLE–

A qualifying public transportation corporation's carrier loads passengers within its Indiana territory. Subsequently, the carrier travels outside the boundaries prescribed by this section, and then returns to disembark passengers. Special fuel sold to or used by the carrier along this entire route is subject to tax. (*Department of State Revenue; Reg 6-6-2.1-301(4)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 296; errata, 6 IR 1250*)

45 IAC 10-3-6 Sales to public transit department

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 6. (a) Special fuel sold to or used by a public transit department of a municipality is exempt provided that the special fuel is placed into the fuel supply tank of a motor vehicle operated by a public transit department for the sole purpose of transporting persons for compensation within a service area, no part of which is more than five miles outside the corporate limits of the municipality, and no part of which is outside Indiana.

(b) To be afforded this exemption, qualifying carriers must embark, transport, and disembark passengers within the service area of the municipality. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a public transit department for the purpose of transporting persons over routes of which any portion of the routes are more than five miles outside the corporate limits of the municipality or outside Indiana, is subject to tax.

–EXAMPLE–

A qualifying public transit department's carrier loads passengers within its Indiana territory. Subsequently, the carrier travels six (6) miles outside the corporate limits of the municipality and disembarks its passengers. Special fuel sold to or used by the carrier along this entire route is subject to tax. (*Department of State Revenue; Reg 6-6-2.1-301(5)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 297*)

45 IAC 10-3-7 Sales to common carriers

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 7. (a) Special fuel sold to or used by a common carrier is exempt provided that the special fuel is placed into the fuel supply tank of a common carrier for the sole purpose of transporting passengers within a service area which is not larger than one county and counties contiguous to that county, all of which are located in Indiana.

(b) For purposes of this section, the term “common carrier” shall mean any person that holds itself out to the general public to engage in the transportation by motor vehicle of passengers for compensation whether over regular or irregular routes.

(c) For purposes of this section, the term “common carrier” shall not be construed to mean motor vehicles that are operated by public transportation corporations or public transit departments.

(d) To be afforded this exemption, common carriers must embark, transport, and disembark passengers within the service area of the common carrier. Special fuel sold and delivered into the fuel supply tank of a motor vehicle operated by a common carrier for the purpose of transporting persons over routes that are outside the service area of the common carrier is subject to tax.

–EXAMPLE–

(1) A taxicab company operates in Marion and Hamilton counties. The company's taxicab embarks a passenger in Marion county and travels directly over an irregular route to Hamilton county, where the passenger is disembarked. Special fuel sold to or used by the taxicab along the entire route is exempt.

(2) A church bus transports parishioners for compensation within the boundaries of one county. Special fuel sold to or used by the bus would be subject to tax since the service is held out to the parishioners rather than to the general public. (*Department of State Revenue; Reg 6-6-2.1-301(6)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 297*)

45 IAC 10-3-8 Special fuel used for transportation, application of plant food materials or agricultural chemicals

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 8. (a) Special fuel placed into the fuel supply tank of self-propelled equipment which is specially adapted for over-the-road usage and operated for the transportation and application of plant food materials or agricultural chemicals is nontaxable so long as

the self-propelled equipment is not a motor vehicle.

(b) Special fuel placed into a motor vehicle which is specially adapted for over-the-road usage and the transportation and application of plant food material, or agricultural chemicals is exempt only to the extent that the motor vehicle is used for such operation.

(c) A motor vehicle to which equipment specially adapted for over-the-road usage and the transportation and application of plant food materials or agricultural chemicals is permanently attached is a motor vehicle which is specially adapted for over-the-road usage and application of plant food materials or agricultural chemicals. A motor vehicle from which such equipment may be removed or unhitched is not a motor vehicle which is specially adapted for over-the-road usage and application of plant food materials or agricultural chemicals. (*Department of State Revenue; Reg 6-6-2.1-301(7)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 297*)

45 IAC 10-3-9 Special fuel used in ready mix concrete trucks

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 9. (a) Thirty percent (30%) of special fuel which is withdrawn from a licensed special fuel user's storage facility and is placed into the fuel supply tank of a ready mix concrete truck by the licensed special fuel user is exempt from tax.

(b) This exemption is not afforded to authorized unlicensed users and persons that are not licensed as special fuel users.

-EXAMPLE-

The owner and driver of a ready mix concrete truck is a licensed special fuel user. While away from the taxpayer's special fuel storage facility the licensee stops at a diesel fuel service station on which special fuel self-service pumps are located. The licensee purchases special fuel from the licensed special fuel dealer and places the special fuel into the fuel supply tank of a ready mix concrete truck owned by the licensee. Although the owner is a licensed special fuel user and physically placed special fuel into the fuel supply tank of a ready mix concrete truck, the licensed special fuel user is not afforded the thirty percent (30%) exemption since the special fuel was not withdrawn from the special fuel storage facility owned by the licensed special fuel user. (*Department of State Revenue; Reg 6-6-2.1-301(8)(010); filed Jan 3, 1983, 2:29 pm: 6 IR 298*)

45 IAC 10-3-10 Presumption of taxability; recordkeeping; exemption certificates

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 10. (a) As a general rule, all special fuel acquired by a nonlicensed person is presumed to be acquired for the operation of a motor vehicle.

(b) Every licensed and nonlicensed person who has a special fuel storage facility and acquires special fuel must keep adequate books and records so that the administrator may determine the amount of the person's special fuel tax liability.

(c) A licensed special fuel dealer is not required to produce further evidence of exemption or nontaxability if the purchaser provides an exemption certificate which certifies, in form prescribed by the administrator, that the acquisition of special fuel is exempt from the tax.

(d) A person must retain the books and records for a period of at least three (3) years after the date the final payment of the particular tax liability was due, unless after an audit, the administrator consents to earlier destruction. In addition, if the limitation on assessments is extended beyond three (3) years for a particular tax liability, the person must retain the books and records until the assessment period is over. A person must allow inspection of the books, records, and returns by the administrator or authorized agents at all reasonable times. (*Department of State Revenue; Reg 6-6-2.1-301(020); filed Jan 3, 1983, 2:29 pm: 6 IR 298; filed Apr 30, 1986, 3:34 pm: 9 IR 2180*)

45 IAC 10-3-11 Proportional exemptions for special fuel used in motor vehicles with common fuel reservoirs

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-201

Sec. 11. (a) A special fuel taxpayer is entitled to a proportional use exemption for tax paid on use of special fuel for a commercial purpose when the special fuel is placed into the fuel supply tank of the taxpayer's motor vehicle which has a common fuel supply reservoir for both locomotion on a public highway and a commercial purpose which is exempt from the special fuel tax,

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and if the person is the purchaser of the special fuel and has paid the special fuel tax thereon.

(b) For purposes of subsection (a), proportional use exemptions shall be presumed to be as follows:

(1) For tank trucks, twenty-four percent (24%) of the special fuel placed into the fuel supply tank of a tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of pumping equipment.

(2) For sanitation trucks, forty-one percent (41%) of the special fuel placed into the fuel supply tank of a sanitation truck which has a common fuel reservoir for both locomotion on the highway and the operation of refuse collection equipment.

(3) For refrigeration trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a refrigeration truck which has a common fuel reservoir for both locomotion on the highway and the operation of the refrigeration equipment.

(4) For mobile cranes, forty-two percent (42%) of the special fuel placed into the fuel supply tank of a mobile crane which has a common fuel reservoir for both locomotion on the highway and the operation of the crane.

(5) For bulk feed trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a bulk feed truck which has a common fuel reservoir for both locomotion on the highway and the operation of pumping equipment.

(6) For milk tank trucks, thirty percent (30%) of the special fuel placed into the fuel supply tank of a milk tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of pumping equipment.

(7) For lime spreader trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a lime spreader truck which has a common fuel reservoir for both locomotion on the highway and the operation of spreading equipment.

(8) For spray trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a spray truck which has a common fuel reservoir for both locomotion on the highway and the operation of spraying equipment.

(9) For seeder trucks, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a seeder truck which has a common fuel reservoir for both locomotion on the highway and the operation of seeding equipment.

(10) For leaf trucks, twenty percent (20%) of the special fuel placed into the fuel supply tank of a leaf truck which has a common fuel reservoir for both locomotion on the highway and the operation of shredding equipment.

(11) For boom trucks or block booms, twenty percent (20%) of the special fuel placed into the fuel supply tank of a boom truck or block boom which has a common fuel reservoir for both locomotion on the highway and the operation of the boom equipment.

(12) For service trucks with a jackhammer or pneumatic drill, fifteen percent (15%) of the special fuel placed into the fuel supply tank of a service truck with a jackhammer or pneumatic drill which has a common fuel reservoir for both locomotion on the highway and the operation of the jackhammer or pneumatic drill.

(13) For trucks with a power take-off hydraulic winch, twenty percent (20%) of the special fuel placed into the fuel supply tank of a truck with a power take-off hydraulic winch which has a common fuel reservoir for both locomotion on the highway and the operation of the hydraulic winch.

(14) For wreckers, ten percent (10%) of the special fuel placed into the fuel supply tank of a wrecker which has a common fuel reservoir for both locomotion on the highway and the operation of the hoist.

(15) For semitractor wreckers, thirty-five percent (35%) of special fuel placed into the fuel supply tank of a semitractor wrecker which has a common fuel reservoir for both locomotion on the highway and the operation of the hoist.

(16) For car carriers with a hydraulic winch, ten percent (10%) of special fuel placed into the fuel supply tank of a car carrier with a hydraulic winch which has a common fuel reservoir for both locomotion on the highway and the operation of the hydraulic winch.

(17) For dump trucks, twenty-three percent (23%) of special fuel placed into the fuel supply tank of a dump truck which has a common fuel reservoir for both locomotion on the highway and the operation of the dump mechanism.

(18) For semitractor and dump trailer combinations (commonly referred to as dump trailers), fifteen percent (15%) of special fuel placed into the fuel supply tank of a semitractor and dump trailer combination which has a common fuel reservoir for both locomotion on the highway and the operation of the dump mechanism.

(19) For semitractor and trailer combinations (commonly referred to as tank transports), fifteen percent (15%) of special fuel placed into the fuel supply tank of a semitractor and tank trailer combination which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.

(20) For pneumatic tank trucks, fifteen percent (15%) of special fuel placed into the fuel supply tank of a pneumatic tank truck which has a common fuel reservoir for both locomotion on the highway and the operation of the pumping equipment.

(21) For sanitation receptacle carriers (commonly referred to as sanitation dump trailers), fifteen percent (15%) of special fuel placed into the fuel supply tank of a sanitation receptacle carrier which has a common fuel reservoir for both locomotion on the highway and the operation of the winching or dumping mechanism.

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(22) For line trucks or aerial lift trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a line truck or aerial lift truck which has a common fuel reservoir for both locomotion on the highway and the operation of the lift equipment.

(23) For digger-derrick trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a digger-derrick truck which has a common fuel reservoir for both locomotion on the highway and the operation of the other commercial equipment.

(24) For sewer cleaning trucks, sewer jets, or sewer vacuators, thirty-five percent (35%) of special fuel placed into the fuel supply tank of a sewer cleaning truck, a sewer jet, or a sewer vacuum which has a common fuel reservoir for both locomotion on the highway and the operation of the cleaning equipment.

(25) For hot asphalt distribution trucks, ten percent (10%) of special fuel placed into the fuel supply tank of a hot asphalt distribution truck which has a common fuel reservoir for both locomotion on the highway and the operation of the distribution equipment.

(26) For snow plow trucks, ten percent (10%) of special fuel placed into the fuel supply tank of a snow plow truck which has a common fuel reservoir for both locomotion on the highway and the operation of the plow.

(27) For carpet cleaning vans, fifteen percent (15%) of special fuel placed into the fuel supply tank of a carpet cleaning van which has a common fuel reservoir for both locomotion on the highway and the operation of the cleaning equipment.

(28) For salt spreaders or dump trucks with spreaders, fifteen percent (15%) of special fuel placed into the fuel supply tank of a salt spreader or a dump truck with a spreader which has a common fuel reservoir for both locomotion on the highway and the operation of the spreading equipment.

(29) For sweeper trucks, twenty percent (20%) of special fuel placed into the fuel supply tank of a sweeper truck which has a common fuel reservoir for both locomotion on the highway and the operation of the sweeping equipment.

(30) For bookmobiles, twenty-five percent (25%) of special fuel placed into the fuel supply tank of a bookmobile which has a common fuel reservoir for both locomotion on the highway and the operation of other commercial equipment.

(31) For buses, ten percent (10%) of special fuel placed into the fuel supply tank of a bus which has a common fuel reservoir for both locomotion on the highway and the operation of other commercial equipment.

(32) For fire trucks, forty-eight percent (48%) of special fuel placed into the fuel supply tank of a fire truck which has a common fuel reservoir for both locomotion on the highway and the operation of other commercial equipment.

(33) For super suckers, ninety percent (90%) of special fuel placed into the fuel supply tank of a super sucker which has a common fuel reservoir for both locomotion on the highway and the operation of other commercial equipment.

(c) Notwithstanding the provisions of subsection (b) (1-33) [subsection (b)], special fuel taxpayers operating listed motor vehicles which consume greater portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway than provided in subsection (b) (1-33) [subsection (b)] are eligible for a greater exemption to be determined by the administrator after:

(1) a showing by the licensed special fuel user or dealer of the portion of special fuel used for the operation of equipment other than for locomotion on the public highway; and

(2) presentation of documents and information as requested by the administrator.

(d) The exemptions in this section are not afforded to the following:

(1) Authorized unlicensed users.

(2) Authorized unlicensed dealers.

(3) Persons not licensed as special fuel users or special fuel dealers.

(e) Notwithstanding the provisions of subsection (b) (1-33) [subsection (b)], special fuel taxpayers operating motor vehicles not listed in subsection (b) (1-33) [subsection (b)] which consume portions of fuel from a common fuel reservoir for a commercial purpose other than locomotion on a public highway are eligible for a proportional use exemption to be determined by the administrator after:

(1) a showing by the licensed special fuel user or dealer of the portion of special fuel used for the operation of equipment other than for locomotion on the public highway; and

(2) presentation of documents and information as requested by the administrator.

(f) The exemptions in this section are afforded only to licensed special fuel dealers and licensed special fuel users. However, any person may obtain a refund of special fuel tax for a proportion of the special fuel purchased and placed directly into the fuel supply tank of a motor vehicle from a metered pump at a retail outlet. (*Department of State Revenue; Reg 6-6-2.1-301(030); filed Jan 3, 1983, 2:29 p.m.: 6 IR 298; filed Apr 30, 1986, 3:34 p.m.: 9 IR 2181; filed Mar 6, 1991, 2:20 p.m.: 14 IR 1370*)

45 IAC 10-3-12 Sales by licensed special fuel dealers (Repealed)

Sec. 12. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-3-13 Sales by authorized unlicensed dealers (Repealed)

Sec. 13. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

Rule 4. Licenses

45 IAC 10-4-1 Dealer's license requirements (Repealed)

Sec. 1. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-2 Dealer's license; application (Repealed)

Sec. 2. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-3 User license requirements (Repealed)

Sec. 3. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-4 Fuel oil distributor's license (Repealed)

Sec. 4. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-5 Application for fuel oil distributor's license (Repealed)

Sec. 5. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-6 Bond of dealer and user licenses (Repealed)

Sec. 6. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-4-7 Dealer's and user's licenses; cancelled bond

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 7. (a) If a licensed special fuel dealer's or licensed special fuel user's bond on file becomes cancelled or otherwise invalid, the licensee must furnish the administrator with a bond satisfying the requirements provided by this chapter [45 IAC 10].

(b) The bond so furnished by the licensee shall be dated so that no lapse in time occurs between the effective date of the new bond and the date on which the previous bond became cancelled or otherwise invalid.

(c) If the licensed special fuel dealer or licensed special fuel user fails to furnish such bond within the time period prescribed by the administrator, the licensee shall be subject to immediate license cancellation. *(Department of State Revenue; Reg 6-6-2.1-408(020); filed Jan 3, 1983, 2:29 pm: 6 IR 300)*

45 IAC 10-4-8 Bond increases; financial statement

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-409

Sec. 8. (a) Periodically, the administrator may review a licensed special fuel user's or licensed special fuel dealer's account

to determine whether the licensee's bond on file is in an amount large enough to adequately cover the licensee's tax liability.

(b) If the administrator determines that the licensee's financial condition warrants the bond on file to be in a larger amount, the administrator may require the licensee to furnish such bond provided that such bond satisfies the requirements of section 408 of this chapter [45 IAC 10-4-6 and 45 IAC 10-4-7].

(c) If the licensee fails to provide such bond within the time period prescribed by the administrator, the licensee may be subject to license cancellation in the same manner as prescribed by section 415 of this chapter [45 IAC 10-4-14 and 45 IAC 10-4-15].

(d) The administrator may require an audited financial statement. (*Department of State Revenue; Reg 6-6-2.1-409(010); filed Jan 3, 1983, 2:29 pm: 6 IR 300; errata, 6 IR 1250; filed Apr 30, 1986, 3:34 pm: 9 IR 2182*)

45 IAC 10-4-9 Waiver of bond

Authority: IC 6-8.1-3-3

Affected: IC 6-6-1.1

Sec. 9. The administrator may waive the bond requirement if:

(1) a special fuel user or special fuel dealer is also bonded as a gasoline distributor under IC 6-6-1.1; and

(2) a rider is issued to include special fuel tax liability for a specified amount;

(3) a special fuel user or a special fuel dealer is authorized to pay the tax as required by this chapter [45 IAC 10] to his supplier as provided in IC 6-6-2.1-505 [45 IAC 10-5-8 through 45 IAC 10-5-15]; or

(4) a special fuel dealer sells and delivers or sells and causes to be delivered special fuel exclusively for heating, industrial and farm purposes other than for the operation of motor vehicles.

(*Department of State Revenue; Reg 6-6-2.1-410(010); filed Jan 3, 1983, 2:29 pm: 6 IR 300; filed Apr 30, 1986, 3:34 pm: 9 IR 2182*)

45 IAC 10-4-10 Investigation of application

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 10. (a) Prior and subsequent to the administrator's issuing of a license, or approval of Special Fuel Tax Collection Agreement, the administrator may make any investigation considered necessary for the enforcement of this Act [IC 6-6].

(b) The administrator may contact a supplier of special fuel to determine a person's tax liability. (*Department of State Revenue; Reg 6-6-2.1-412(010); filed Jan 3, 1983, 2:29 pm: 6 IR 300*)

45 IAC 10-4-11 Issuance of license

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 11. Upon determining that the licensing requirements have been met, the administrator may issue the applicant a license to remain effective unless cancelled under this chapter [45 IAC 10]. (*Department of State Revenue; Reg 6-6-2.1-412(020); filed Jan 3, 1983, 2:29 pm: 6 IR 300*)

45 IAC 10-4-12 Licenses nonassignable

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 12. A license issued under this chapter [45 IAC 10] is not assignable and and [sic.] is valid only for the person in whose name it is issued.

-EXAMPLE-

Taxpayer A is a licensed special fuel dealer who owns and operates a filling station at which special fuel is sold. Taxpayer A retires. Taxpayer B, assumes ownership and continues to operate under the prior license. Since the special fuel dealer's license was issued to Taxpayer A, Taxpayer B is operating without a license, and therefore, is operating illegally. (*Department of State Revenue; Reg 6-6-2.1-413(010); filed Jan 3, 1983, 2:29 pm: 6 IR 300*)

45 IAC 10-4-13 Display of license

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1-414

Sec. 13. A license or a reasonable facsimile thereof issued to the licensee by the administrator shall be prominently displayed by a licensed special fuel dealer at each place in Indiana where the licensee is engaged in business. (*Department of State Revenue; Reg 6-6-2.1-414(010); filed Jan 3, 1983, 2:29 pm: 6 IR 301; filed Apr 30, 1986, 3:34 pm: 9 IR 2182*)

45 IAC 10-4-14 Cancellation of user's or dealer's license

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1; IC 6-8.1-5-4

Sec. 14. Except as otherwise provided, the administrator may, after a hearing, cancel a license issued to a special fuel user or special fuel dealer if either:

- (1) files a false monthly report of the information required by this chapter [45 IAC 10]; or
- (2) fails or refuses to file a monthly report, required by this chapter [45 IAC 10]; or
- (3) is determined to be operating illegally; or
- (4) fails or refuses to pay the full amount of the tax imposed by this chapter [45 IAC 10] on or before the due date established by IC 6-6-2.1-501 and IC 6-6-2.1-503; or
- (5) fails or refuses to comply with the record keeping requirements or fails or refuses to allow inspection of his records or fails or refuses to furnish copies of any federal returns that he has filed as provided by IC 6-8.1-5-4; or
- (6) knowingly breaks the seal on a pump sealed as ordered by the administrator pursuant to IC 6-6-2.1-1007 and IC 6-6-2.1-1011.

(*Department of State Revenue; Reg 6-6-2.1-415(010); filed Jan 3, 1983, 2:29 pm: 6 IR 301; filed Apr 30, 1986, 3:34 pm: 9 IR 2182*)

45 IAC 10-4-15 Cancellation of dealer's license

Authority: IC 6-8.1-3-3
Affected: IC 6-2.5-7-2

Sec. 15. The administrator may, after a hearing, cancel a license issued to a licensed special fuel dealer if the dealer:

- (1) collects the taxes imposed by this chapter [45 IAC 10] from a special fuel user or another special fuel dealer without an authorized agreement under IC 6-6-2.1-505;
- (2) delivers special fuel into the taxable storage facility of a special fuel user or special fuel dealer and fails to notify the department in writing of that purchaser's name or provide any other information reasonably requested by the administrator regarding the purchaser as required by IC 6-6-2.1-701(c);
- (3) fails or refuses to display the total price per unit on fuel dispensed from a metered pump or advertises that fuel at a price different from the price required to be displayed on the metered pump as provided for in IC 6-2.5-7-2.

(*Department of State Revenue; Reg 6-6-2.1-415(020); filed Jan 3, 1983, 2:29 pm: 6 IR 301; errata, 6 IR 1250; filed Apr 30, 1986, 3:34 pm: 9 IR 2183*)

45 IAC 10-4-16 Cancellation of license on licensee's request; requisites

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 16. (a) Upon written request to the administrator by the licensee, the administrator may cancel a license effective sixty (60) days from the date of receipt of the written request.

(b) The administrator may, prior or subsequent to cancelling a license, make any necessary investigation to determine the amount of tax, penalty, and interest which has not been paid by the licensee to the administrator.

(c) A person whose license has been cancelled must retain books and records for a period of at least three (3) years plus the current year after the effective date of cancellation. A person must allow inspection of the books, records, and returns by the administrator or its authorized agents at all reasonable times during this period. (*Department of State Revenue; Reg 6-6-2.1-416(010);*

filed Jan 3, 1983, 2:29 pm: 6 IR 301)

45 IAC 10-4-17 Cancellation of fuel user's and dealer's license; inactivity

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 17. The administrator may, upon determining that a licensed special fuel dealer or licensed special fuel user has not engaged in that business for a period of six (6) months, and is no longer engaged in that business, cancel the license by giving a sixty (60) day notice mailed to the person's last known address. (*Department of State Revenue; Reg 6-6-2.1-417(010); filed Jan 3, 1983, 2:29 pm: 6 IR 301*)

45 IAC 10-4-18 Notice of license cancellation

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1-415

Sec. 18. (a) For purposes of IC 6-6-2.1-415, the licensee shall be given at least fifteen days notice of the hearing and proposed cancellation by:

- (1) registered mail;
- (2) at his last known address.

(b) The licensee may appear at the time and place given in the notice to show cause why his license should not be cancelled. (*Department of State Revenue; Reg 6-6-2.1-415(030); filed Apr 30, 1986, 3:34 pm: 9 IR 2183*)

45 IAC 10-4-19 Cancellation of bond; release of surety

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1-419

Sec. 19. (a) The surety of a licensed special fuel user or a licensed special fuel dealer may cancel a bond issued to a licensed special fuel user or a licensed special fuel dealer upon notifying the administrator.

(b) The cancellation shall be effective sixty (60) days after written notice is received by the administrator.

(c) The release does not affect any liability accruing before expiration of the sixty (60) day period. (*Department of State Revenue; Reg 6-6-2.1-419(a)(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2183*)

45 IAC 10-4-20 Notice of bond cancellation; replacement bond

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1-408

Sec. 20. (a) Upon receiving notice of a surety's cancellation of a bond issued to a licensee, the administrator shall notify the licensed special fuel user or licensed special fuel dealer that the surety furnishing the bond has requested release.

(b) The licensed special fuel user or licensed special fuel dealer must file with the administrator a replacement bond which meets the requirements of IC 6-6-2.1-408, within the sixty (60) day period (see 45 IAC 10-4-19); or

(c) The administrator shall cancel the user or dealer's license. (*Department of State Revenue; Reg 6-6-2.1-419(b)(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2183*)

Rule 5. Monthly Reports; Payment of Tax

45 IAC 10-5-1 Monthly reports by users; filing requirements (Repealed)

Sec. 1. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

45 IAC 10-5-2 Due date of user's monthly report (Repealed)

Sec. 2. (Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)

45 IAC 10-5-3 User's monthly tax payment (Repealed)

Sec. 3. (Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)

45 IAC 10-5-4 Monthly reports by dealers; filing requirements (Repealed)

Sec. 4. (Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)

45 IAC 10-5-5 Monthly reports by dealers; due date (Repealed)

Sec. 5. (Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)

45 IAC 10-5-6 Monthly reports by dealers; mileage factor

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 6. A licensed special fuel dealer who delivers special fuel by tank car, tank truck, transport unit or other similar motor vehicle which has a common reservoir for the dispensing and consumption of special fuel, must, if the licensed special fuel dealer is unable to precisely determine the amount of special fuel consumed by such vehicle, compute special fuel tax liability on the basis that one (1) gallon of special fuel was placed into the fuel supply tank of such motor vehicle per every four (4) miles traveled by such vehicle. (*Department of State Revenue; Reg 6-6-2.1-503(030); filed Jan 3, 1983, 2:29 pm: 6 IR 302*)

45 IAC 10-5-7 Monthly payment by dealers; collection allowances

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-504

Sec. 7. (a) Upon filing each monthly report, a licensed special fuel dealer is required to remit to the administrator an amount equal to the special fuel tax liability accrued during the preceding calendar month.

(b) In order to compensate a licensed special fuel dealer for collecting, reporting and remitting the special fuel tax, a licensed special fuel dealer is entitled to deduct, if the tax is timely remitted, a collection allowance.

(c) The collection allowance equals one and six-tenths percent (1.6%) of the licensed special fuel dealer's special fuel tax liability accrued during the preceding calendar month for:

(1) selling and delivering, or selling and causing to be delivered, special fuel into the fuel supply tank of motor vehicles other than motor vehicles owned by the licensed special fuel dealer;

(2) selling and delivering, or selling and causing to be delivered, special fuel into the taxable storage facility of an authorized unlicensed user;

(3) selling and delivering, or selling and causing to be delivered, special fuel into the taxable storage facility of an authorized unlicensed dealer;

(d) A licensed special fuel dealer is not entitled to the one and six-tenths percent (1.6%) collection allowance for placing special fuel into motor vehicles owned by the licensed special fuel dealer, and therefore the licensed special fuel dealer must remit one hundred percent (100%) of the special fuel tax imposed upon placing special fuel into such motor vehicles.

–EXAMPLE–

During March, Company A, a licensed special fuel dealer, placed 50 gallons of special fuel into a company owned diesel powered truck, sold 300 gallons of special fuel to various customers through a metered pump into the fuel supply tank of motor vehicles, and sold 100 gallons of special fuel into a taxable storage facility of an authorized unlicensed dealer. In April, the licensed special fuel dealer is entitled to retain one and six-tenths percent (1.6%) of the tax collected on the 400 gallons of special fuel sold to others, if timely remitted, but must remit one hundred percent (100%) of the special fuel tax imposed upon placing the special fuel into the fuel supply tank of the company's motor vehicle. (*Department of State Revenue; Reg 6-6-2.1-504(010); filed Jan 3, 1983, 2:29 pm: 6 IR 302; errata, 6 IR 1250; filed Apr 30, 1986, 3:34 pm: 9 IR 2184*)

45 IAC 10-5-8 Payment of tax by authorized unlicensed user (Repealed)

Sec. 8. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-5-9 Payment of tax by authorized unlicensed dealer (Repealed)

Sec. 9. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-5-10 Payment of tax; improper collection

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 10. (a) A licensed special fuel dealer shall not collect special fuel tax from a purchaser upon placing special fuel into a special fuel storage facility unless the licensed special fuel dealer and purchaser have entered into a Special Fuel Tax Collection Agreement.

(b) A licensed special fuel dealer who improperly collects special fuel tax is deemed to be operating illegally and is subject to license cancellation. *(Department of State Revenue; Reg 6-6-2.1-505(030); filed Jan 3, 1983, 2:29 pm: 6 IR 304)*

45 IAC 10-5-11 Collection agreement; authorization; effective date

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-505

Sec. 11. (a) Upon approval, the administrator shall notify in writing the persons who are parties to the Special Fuel Tax Collection Agreement of the authorization granted.

(b) The authorization is effective on the date specified by the administrator. *(Department of State Revenue; Reg 6-6-2.1-505(040); filed Jan 3, 1983, 2:29 pm: 6 IR 304; filed Apr 30, 1986, 3:34 pm: 9 IR 2186)*

45 IAC 10-5-12 Collection agreement; termination

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-505

Sec. 12. Any party to a Special Fuel Tax Collection Agreement may terminate the agreement by giving thirty (30) days written notice to the other parties. *(Department of State Revenue; Reg 6-6-2.1-505(050); filed Jan 3, 1983, 2:29 pm: 6 IR 304; filed Apr 30, 1986, 3:34 pm: 9 IR 2186)*

45 IAC 10-5-13 Payment of tax; authorized unlicensed user's separate special fuel tax collection agreements (Repealed)

Sec. 13. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-5-14 Authorized unlicensed dealer's separate special fuel tax collection agreements; payment of tax (Repealed)

Sec. 14. *(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)*

45 IAC 10-5-15 Payment of tax; termination of special fuel tax collection agreement upon a licensed special fuel dealer's license being cancelled

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 15. (a) Any Special Fuel Tax Collection Agreement to which a licensed special fuel dealer is a party is automatically terminated upon the licensed special fuel dealer's license being cancelled.

(b) Any person who is a party to a Special Fuel Tax Collection Agreement with a special fuel dealer whose license has been cancelled shall be notified in writing by the administrator of its termination. (*Department of State Revenue; Reg 6-6-2.1-505(080); filed Jan 3, 1983, 2:29 pm: 6 IR 305*)

45 IAC 10-5-16 Users subject to special fuel tax collection agreement; final report of gallonage on hand; payment of tax

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 16. (a) In addition to paying the tax liability accrued during the preceding month, a licensed special fuel user who becomes an authorized unlicensed user must pay, upon the filing of the licensee's last report, the special fuel tax imposed upon the number of gallons of special fuel on hand in the taxable storage facility at the time the Special Fuel Tax Collection Agreement becomes effective.

(b) In the event the licensee has previously paid special fuel tax on such gallons, the licensee may deduct such previously paid tax from the imposed tax liability. (*Department of State Revenue; Reg 6-6-2.1-506(010); filed Jan 3, 1983, 2:29 pm: 6 IR 305*)

45 IAC 10-5-17 Dealers subject to special fuel tax collection agreement; final report of gallonage on hand; payment of tax

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 17. (a) In addition to paying the tax liability accrued during the preceding month, a licensed special fuel dealer who becomes an authorized unlicensed dealer must pay, upon the filing of the licensee's last report, the special fuel tax imposed upon the number of gallons of special fuel on hand in the taxable storage facility at the time the Special Fuel Tax Collection Agreement becomes effective.

(b) In the event the licensee has previously paid special fuel tax on such gallons, the licensee may deduct such previously paid tax from the imposed tax liability.

-EXAMPLE-

(1) On July 31, a licensed special fuel dealer has 2,000 gallons of special fuel on hand in his storage facility. On August 1, the licensed special fuel dealer enters into a Special Fuel Tax Collection Agreement with his supplier, and the Special Fuel Tax Collection Agreement is approved by the administrator. Upon the filing of the last report, the licensed special fuel dealer, who as of August 1 is an authorized unlicensed dealer, must pay to the administrator an amount equal to the special fuel tax liability for July plus the special fuel tax imposed upon the 2,000 gallons of special fuel on hand at the time the Special Fuel Tax Collection Agreement becomes effective.

(2) Same facts as in (1) except that the licensee had previously paid special fuel tax on the 2,000 gallons. In this instance, the licensee would not owe special fuel tax on the 2,000 gallons remaining on hand at the time the Special Fuel Tax Collection Agreement becomes effective, since such tax was previously paid. (*Department of State Revenue; Reg 6-6-2.1-506(020); filed Jan 3, 1983, 2:29 pm: 6 IR 305; errata, 6 IR 1250*)

45 IAC 10-5-18 Special fuel tax collection agreement; dealer as a party

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 18. A licensed special fuel dealer who is a party to a Special Fuel Tax Collection Agreement shall report and remit the tax collected as a result of the agreement as provided by sections 503 and 504 of this chapter [45 IAC 10-5-4 through 45 IAC 10-5-7]. (*Department of State Revenue; Reg 6-6-2.1-507(010); filed Jan 3, 1983, 2:29 pm: 6 IR 306*)

45 IAC 10-5-19 Discontinuance of licensee's business

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-414; IC 6-6-2.1-518

Sec. 19. (a) If a licensee ceases to do business in Indiana, the licensee must give written notice to the administrator at least

fifteen (15) days before discontinuance.

(b) Any tax, penalty and interest which was accrued under this chapter [45 IAC 10] is due and payable at the time of discontinuance.

(c) A licensee who fails to notify the administrator as provided by this chapter [45 IAC 10] is presumed to be operating in the business for which the license was issued, and therefore is subject to the reporting and remitting requirements of this chapter [45 IAC 10].

(d) The licensee shall surrender his license certificate to the administrator and destroy all identification issued by the department under IC 6-6-2.1-414. (*Department of State Revenue; Reg 6-6-2.1-518(010); filed Jan 3, 1983, 2:29 pm: 6 IR 306; filed Apr 30, 1986, 3:34 pm: 9 IR 2186*)

Rule 6. Refund of Tax

45 IAC 10-6-1 Refund of tax or penalty erroneously paid

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 1. Upon determining that a person has erroneously paid any tax and/or penalty imposed by this chapter [45 IAC 10], and upon receiving a claim for refund as prescribed in section 802 [45 IAC 10-6-2], the administrator may refund the payment. (*Department of State Revenue; Reg 6-6-2.1-801(010); filed Jan 3, 1983, 2:29 pm: 6 IR 306*)

45 IAC 10-6-2 Refund claim; limitations

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1; IC 6-8.1

Sec. 2. (a) Any claim for refund filed under this chapter [45 IAC 10] must be in a form prescribed by the administrator, must describe in detail the reason the refund should be allowed, and must be filed within one (1) year after the date of payment of the erroneously collected tax.

(b) To apply for a refund, the prescribed form must be accurately completed, signed, and returned to the Indiana Department of Revenue, Motor Fuel Tax Division, Room #218B, State Office Building, Indianapolis, Indiana. A detailed description of all information pertaining to the request must be submitted. Any evidence such as receipts, bills of sale, monthly reports, invoices or other matters pertaining to the requested refund should be returned with the form. (*Department of State Revenue; Reg 6-6-2.1-802(010); filed Jan 3, 1983, 2:29 pm: 6 IR 306*)

45 IAC 10-6-3 Loss or destruction of fuel; refund of tax paid

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 3. (a) An authorized unlicensed user or an authorized unlicensed dealer who has purchased or acquired special fuel in Indiana and has paid the tax imposed by this chapter [45 IAC 10] on that fuel is entitled to a refund (without interest) of the amount of tax paid on special fuel in excess of one hundred (100) gallons which is lost or destroyed except by evaporation, or shrinkage, while the authorized unlicensed user or authorized unlicensed dealer owns the fuel.

(b) To obtain the refund, the authorized unlicensed user or authorized unlicensed dealer must:

- (1) within thirty (30) days after loss, notify the administrator in writing of the amount of special fuel lost or destroyed; and
- (2) within forty (40) days after notice is given, file with the administrator a sworn affidavit by the person having custody of the special fuel at the time of loss or destruction setting forth in full the circumstances and amount of the loss or destruction and any other information the administrator may require.

(c) The administrator may make any necessary investigation to verify the claimant's loss. (*Department of State Revenue; Reg 6-6-2.1-803(010); filed Jan 3, 1983, 2:29 pm: 6 IR 306*)

45 IAC 10-6-4 In case of loss, destruction; record keeping by licensee, authorized unlicensed dealer and user

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 4. (a) For audit or investigative purposes, adequate records should be maintained whereby special fuel is acquired or purchased by a licensee, authorized unlicensed user, or authorized unlicensed dealer in Indiana, and is lost or destroyed in excess of one hundred (100) gallons, except by evaporation, or shrinkage.

(b) Adequate records will include such documents as insurance claims, police records and sworn affidavits. (*Department of State Revenue; Reg 6-6-2.1-803(020); filed Jan 3, 1983, 2:29 pm: 6 IR 307*)

45 IAC 10-6-5 Refund of tax paid by mistake; authorized unlicensed user and dealer

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 5. An authorized unlicensed user or authorized unlicensed dealer is entitled to a refund without interest for the amount of any special fuel tax which:

(1) due to a clerical error, was erroneously paid to the authorized unlicensed user's or authorized unlicensed dealer's supplier; and

(2) has been remitted to the administrator by the supplier.

(*Department of State Revenue; Reg 6-6-2.1-804(010); filed Jan 3, 1983, 2:29 pm: 6 IR 307; errata, 6 IR 1250*)

45 IAC 10-6-6 Refunds restricted

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 6. (a) An authorized unlicensed user or authorized unlicensed dealer may only claim a refund for:

(1) loss or destruction of special fuel as provided in section 803 [*45 IAC 10-6-3 and 45 IAC 10-6-4*]; and

(2) clerical error as provided in section 804 [*45 IAC 10-6-5*].

(b) An authorized unlicensed user or authorized unlicensed dealer may not file a claim for refund for special fuel tax paid on special fuel placed into the authorized unlicensed user's or authorized unlicensed dealer's taxable storage facility which is subsequently withdrawn and used for an exempt or nontaxable purpose.

–EXAMPLE–

(1) Special fuel is sold from the authorized unlicensed dealer's taxable storage facility into the refrigeration unit of a truck. Although a licensed special fuel dealer may sell such fuel tax exempt, an authorized unlicensed dealer must charge special fuel tax on the transaction. However, the fuel purchaser may file a claim pursuant to the provisions set forth in Indiana Code 6-6-2.1-801, and Indiana Code 6-6-2.1-802 for refund of the tax paid to the authorized unlicensed dealer.

(2) Special fuel is withdrawn from an authorized unlicensed user's taxable storage facility and placed into the fuel supply tank of a farm tractor owned by the authorized unlicensed user. Although the tractor is not a motor vehicle as defined in section 103 [*45 IAC 10-1-1*], the authorized unlicensed user may not file a claim for refund for tax that he paid previously to his supplier on such fuel. (*Department of State Revenue; Reg 6-6-2.1-805(010); filed Jan 3, 1983, 2:29 pm: 6 IR 307*)

Rule 7. Tax Evasion; Sealing Pumps

45 IAC 10-7-1 Reward for tax evasion report

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 1. (a) The administrator may pay a reward to a person, except a state officer, employee, former employee or relative thereof, who notifies the administrator in writing of another person who has failed to pay the tax imposed by this chapter [*45 IAC 10-1-1*].

(b) The reward may not exceed ten percent (10%) of the delinquent tax, penalty, and interest ultimately collected from the other

person as a result of the notification. (*Department of State Revenue; Reg 6-6-2.1-1006(010); filed Jan 3, 1983, 2:29 pm: 6 IR 307*)

45 IAC 10-7-2 Sealing of pump; impoundment of vehicle or tank

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-1007

Sec. 2. (a) The administrator may seal a special fuel tank or pump or impound any vehicle or tank that does not have a sealable pump if:

- (1) a licensed special fuel user or licensed special fuel dealer becomes delinquent in payment of any amount due under this chapter [45 IAC 10];
- (2) there is evidence that the revenue of a licensed special fuel user or licensed special fuel dealer is in jeopardy;
- (3) a special fuel dealer or special fuel user is operating without the license required by this chapter [45 IAC 10]; or
- (4) an authorized unlicensed user or an authorized unlicensed dealer is operating outside the authority granted by the administrator.

(b) Upon the administrator's sealing of a special fuel tank, a person is prohibited from withdrawing special fuel from the sealed tank. Furthermore, a person is prohibited from subsequently purchasing special fuel for bulk storage without the written consent of the administrator.

(c) The pumps may be sealed until all reports are filed, and the fees, interest, tax and penalties imposed by this chapter [45 IAC 10] are paid.

(d) Seals may only be removed by an authorized employee of the motor fuel tax division or by a person receiving written approval from the administrator. (*Department of State Revenue; Reg 6-6-2.1-1007(010); filed Jan 3, 1983, 2:29 pm: 6 IR 307; filed Apr 30, 1986, 3:34 pm: 9 IR 2186*)

45 IAC 10-7-3 Gallonage totalizers

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-1007; IC 6-6-2.1-1011

Sec. 3. (a) Special fuel dealers shall allow the administrator to seal gallonage totalizers of metered pumps operated by or on behalf of the special fuel dealer.

(b) If the administrator determines that a metered pump operated by or on behalf of a special fuel dealer is without an effectively sealable gallonage totalizer, the special fuel dealer shall, at the administrator's request:

- (1) adapt the pump to the administrator's specifications so that it may be effectively sealed; or
- (2) replace, in whole or in part, the pump, with a pump which employs an effectively sealable gallonage totalizer, as determined by the administrator.

(c) A special fuel dealer's failure to comply with the administrator's request made under IC 6-6-2.1-1011 shall be considered evidence that the revenue of the special fuel dealer is in jeopardy, upon which the administrator may seal the pumps of the special fuel dealer pursuant to IC 6-6-2.1-1007.

(d) No person shall replace or change the totalizer on a metered special fuel pump without an authorized employee of the motor fuel tax division present, except:

- (1) upon malfunction or breakage of the totalizer and;
- (2) written affidavit executed by the person who made the change or replacement and stating therein:
 - (A) the date and time of the change or replacement; and
 - (B) the reason for the change or replacement; and
 - (C) the old and new readings on the totalizer; and
 - (D) any other information which the administrator may reasonably request;
- (3) by a person or company who is registered or registers with the administrator on a form prescribed by the administrator; or
- (4) by the owner or operator of the metered pump.

(*Department of State Revenue; Reg 6-6-2.1-1011(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2187*)

Rule 8. Display of Facility

45 IAC 10-8-1 Storage facility of authorized unlicensed user or dealer; display

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 1. (a) An authorized unlicensed user or authorized unlicensed dealer shall prominently display the words “taxable fuel” on the taxable storage facility to which the authorized unlicensed user or authorized unlicensed dealer has exclusive access.

(b) The words “taxable fuel” must be marked near the opening of the facility into which the special fuel is placed. If the storage facility is underground, the words must be marked on the cap of the intake pipe into which the special fuel is placed. (*Department of State Revenue; Reg 6-6-2.1-1106(010); filed Jan 3, 1983, 2:29 pm: 6 IR 308*)

Rule 9. Intentional Violation of Rules

45 IAC 10-9-1 Intentional failure to pay tax; offense

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 1. A licensed special fuel dealer who knowingly fails to pay the tax to the administrator as required by section 504 of this chapter [45 IAC 10-5-7] commits a Class D felony. (*Department of State Revenue; Reg 6-6-2.1-1201(010); filed Jan 3, 1983, 2:29 pm: 6 IR 308*)

45 IAC 10-9-2 Intentional breakage of seal

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1-1007; IC 6-6-2.1-1011

Sec. 2. A person not authorized by IC 6-6-2.1 who knowingly:

- (1) breaks a seal on a special fuel pump or tank; or
- (2) withdraws or removes special fuel from a sealed special fuel pump or tank; or
- (3) fails or refuses to report meter readings on a special fuel pump or tank

sealed under IC 6-6-2.1-1007 or IC 6-6-2.1-1011, commits a Class D felony. (*Department of State Revenue; Reg 6-6-2.1-1207(010); filed Jan 3, 1983, 2:29 pm: 6 IR 308; filed Apr 30, 1986, 3:34 pm: 9 IR 2187*)

45 IAC 10-9-3 Reckless or intentional violation; offense

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

Sec. 3. (a) A person commits a Class B misdemeanor if a person:

- (1) recklessly fails to file a report, return, or statement required by this chapter [45 IAC 10];
- (2) knowingly makes a false statement in a return or report to the administrator, or in connection with an application for the refund of any tax claimed to have been erroneously paid under this chapter [45 IAC 10];
- (3) knowingly collects a refund or pays a refund of tax on fuel actually placed into the fuel supply tank of a motor vehicle; or
- (4) knowingly acts as a special fuel user, a special fuel dealer, fuel oil distributor, authorized unlicensed user, or authorized unlicensed dealer without a license or authorization.

(b) A person who commits one of the aforementioned offenses with the intent to evade the tax imposed by this chapter [45 IAC 10] or to defraud this state commits a Class D felony.

(c) Each day during which a person acts as a special fuel user, a special fuel dealer, or a fuel oil distributor without a license constitutes a separate offense. (*Department of State Revenue; Reg 6-6-2.1-1208(010); filed Jan 3, 1983, 2:29 pm: 6 IR 308*)

45 IAC 10-9-4 Violation; offenses

Authority: IC 6-8.1-3-3
Affected: IC 6-6-2.1

SPECIAL FUEL TAX

Sec. 4. (a) Except as provided in section 1208 of this chapter [45 IAC 10-9-3], a person who violates a provision of this chapter [45 IAC 10] commits a Class C infraction.

(b) A person who commits such offenses with the intent to evade the tax imposed by this chapter [45 IAC 10] and to defraud the state commits a Class D felony. (*Department of State Revenue; Reg 6-6-2.1-1212(010); filed Jan 3, 1983, 2:29 pm: 6 IR 308*)

45 IAC 10-9-5 Failure to collect tax from authorized unlicensed users or dealers; penalties

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1

Sec. 5. (a) A licensed special fuel dealer who knowingly delivers special fuel into the taxable storage facility of an authorized unlicensed user or authorized unlicensed dealer with whom a Special Fuel Tax Collection Agreement has been approved, and fails to collect the tax imposed by this chapter [45 IAC 10] on that fuel, is subject to a penalty equal to ten percent (10%) of the tax due on that special fuel in addition to the tax and other penalties imposed.

(b) A licensed special fuel dealer who violates paragraph (a) of this regulation [this section] with respect to more than one delivery to the same authorized unlicensed user or authorized unlicensed dealer is subject to a fifty percent (50%) penalty of the total amount of the deficiency of the tax in addition to the tax and other penalties imposed. (*Department of State Revenue; Reg 6-6-2.1-1213(010); filed Jan 3, 1983, 2:29 pm: 6 IR 309*)

45 IAC 10-9-6 Display of tax rate

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-1214

Sec. 6. A special fuel dealer shall state the rate of tax separately from the price of the special fuel on all sales or delivery slips, bills, invoices, and statements that indicate the price of special fuel except when the special fuel is sold through a metered pump. (*Department of State Revenue; Reg 6-6-2.1-1214(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2187*)

Rule 10. Delivery Reports; Collection of Tax

45 IAC 10-10-1 Report of deliveries

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-604

Sec. 1. (a) Reports of all special fuel deliveries in Indiana shall be made, under oath, to the administrator by:

- (1) common, contract, or private carriers transporting special fuel in interstate or intrastate commerce;
- (2) persons transporting special fuel in any manner from outside Indiana to a point in Indiana other than a refinery or terminal;
- (3) persons engaged in transporting special fuel in Indiana for others.

(b) The reports of all deliveries of special fuel in Indiana shall be made under oath.

(c) The reports of all deliveries of special fuel in Indiana shall be made monthly on forms prescribed by the administrator.

(d) The reports of all deliveries of special fuel in Indiana shall disclose:

- (1) the name and address of the person to whom deliveries of special fuel have actually been made; and
- (2) the name and address of the originally named consignee, if special fuel has been delivered to a person other than the original consignee; and
- (3) the point of origin, point of delivery, date of delivery, number and initials of each tank car, and number of gallons contained in each car, if the special fuel has been shipped by rail; and
- (4) the name of the product and number of gallons contained in the boat, barge, or vessel, if the special fuel has been shipped by water; and
- (5) the license plate number and number of gallons contained in each tank truck, if the special fuel has been shipped by motor truck; or
- (6) the manner in which the special fuel has been delivered if the delivery was other than described in this section; and
- (7) such additional information relating to special fuel shipments as the administrator may reasonably require.

(*Department of State Revenue; Reg 6-6-2.1-604(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2188*)

45 IAC 10-10-2 Collection and payment by dealer

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-701

Sec. 2. (a) The tax on special fuel sold and delivered in Indiana into:

- (1) the fuel supply tanks of a motor vehicle; or
- (2) the taxable storage facility of an authorized unlicensed user or authorized unlicensed special fuel dealer; or
- (3) sold by a licensed special fuel dealer through a self service pump;

shall be collected from the purchaser and be paid monthly to the administrator.

(b) The special fuel dealer shall hold the tax money in trust for the state until it is paid to the administrator.

(c) Every officer, employee, or member of a partnership or corporation who is under a duty to remit the tax is personally liable for the tax. (*Department of State Revenue; Reg 6-6-2.1-701(010); filed Apr 30, 1986, 3:34 pm: 9 IR 2188*)

45 IAC 10-10-3 Payment by user

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-701

Sec. 3. The tax imposed on special fuel delivered in Indiana into the storage of a licensed special fuel user or acquired by a licensed special fuel user for a purpose other than:

- (1) delivery into the fuel supply tank of a motor vehicle by a licensed special fuel dealer;
- (2) delivery into the taxable storage facility of an authorized unlicensed user by a licensed special fuel dealer; or
- (3) delivery through a self service pump of a licensed special fuel user;

shall be paid monthly by the user to the administrator after the special fuel has been used. (*Department of State Revenue; Reg 6-6-2.1-701(020); filed Apr 30, 1986, 3:34 pm: 9 IR 2188*)

45 IAC 10-10-4 Notice of delivery by dealer

Authority: IC 6-8.1-3-3

Affected: IC 6-6-2.1-701

Sec. 4. A special fuel dealer who delivers special fuel into the taxable storage facility of a special fuel user or special fuel dealer shall notify the department in writing:

- (1) of the purchaser's name; and
- (2) any other information which the administrator reasonably requests;

at the time and in the name prescribed by the administrator. (*Department of State Revenue; Reg 6-6-2.1-701(030); filed Apr 30, 1986, 3:34 pm: 9 IR 2188*)

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