



States' Biofuels Statutes

STATE OF TEXAS

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Current through the 2014 Legislative Session of the Texas State Legislature.

§ 162.204. Exemptions

- (a) The tax imposed by this subchapter does not apply to:
- (1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;
 - (2) diesel fuel sold to a public school district in this state for the district's exclusive use;
 - (3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;
 - (4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:
 - (A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or
 - (B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;
 - (5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;
 - (6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;
 - (7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;
 - (8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;
 - (9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;
 - (10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;
 - (11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

- (12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;
- (13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:
- (A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and
 - (B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule; or
- (14) diesel fuel sold to a volunteer fire department in this state for the department's exclusive use.
- (b) The exemption provided by Subsection (a)(4) does not apply to diesel fuel that is transported and delivered outside this state in the motor fuel supply tank of a motor vehicle other than an interstate trucker.
- (c) If an exporter described by Subsection (a)(4)(B) does not have an exporter's license issued under this subchapter, the supplier must collect the tax imposed under this subchapter.
- (d) Subsection (a)(4)(A) applies only if the destination state recognizes, by agreement with this state or by statute or rule, a supplier in this state as a valid taxpayer for the motor fuel being exported to that state from this state. The comptroller shall publish a list that specifies for each state, other than this state, whether that state does or does not qualify under this subsection.
- (e) Subsection (a)(4)(B) applies only until the date the destination state recognizes, by agreement with this state or by statute, the out-of-state supplier as a valid taxpayer for the motor fuel being exported to that state from this state, or until January 1, 2006, whichever date is earlier.
- (f) The exemption provided by Subsection (a)(4)(A) does not apply to a sale by a distributor.
- (g) In lieu of claiming the exemption and complying with the labeling requirements provided by Subsection (a)(9), a person to whom Section 162.201 applies may elect to collect and remit the tax otherwise imposed under this subchapter on the materials described by Subsection (a)(9) as if the materials were taxable diesel fuel. The labeling requirements provided by Subsection (a)(9) do not apply to a dealer who sells taxable diesel fuel blended with materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection. Materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection are not exempt from tax under Subsection (a)(9) on a subsequent sale, and a license holder or other purchaser is not entitled to a refund or credit under Subsection (a)(9) for a purchase of taxable diesel fuel blended with those materials.