

Notice

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KANSAS DEPARTMENT OF REVENUE

NOTICE 07-04

2007 Motor Fuel Legislative Update

The following Bills were enacted by the 2007 Legislature:

House Bill 2145 creates the Kansas retail dealer incentive for renewable fuels and biodiesel, effective January 1, 2009. A summarization of the bill is provided below.

New Section 7 includes definitions, as they pertain to the incentive.

New Section 8 (a) On January 1, 2009, and quarterly thereafter, the director of accounts and reports shall transfer \$400,000 from the state general fund to the Kansas retail dealer incentive fund. On and after July 1, 2009, the unobligated balance in the Kansas retail dealer incentive fund shall not exceed \$1.5 million. If the unobligated balance of the fund exceeds \$1.1 million at the time of a quarterly transfer, the transfer shall be limited to the amount necessary for the fund to reach a total of \$1.5million.

(b) There is hereby created in the state treasury the Kansas retail dealer incentive fund. All moneys in the Kansas retail dealer incentive fund shall be expended by the secretary of the department of revenue for the payment of incentives to Kansas retail dealers who sell and dispense renewable fuels or biodiesel through a motor fuel pump in accordance with the provisions of sections 7 through 12, and amendments thereto.

(c) All moneys remaining in the Kansas retail dealer incentive fund upon the expiration of sections 7 through 12, and amendments thereto, shall be credited by the state treasurer to the state general fund.

New Sec. 9 (a) and (b) provides that a retail dealer of motor fuel shall be paid an incentive for the selling or dispensing of renewable fuels through a motor fuel pump, and in order to be eligible for such incentive all of the following must apply:

(1) The retail dealer sells and dispenses renewable fuels through a motor fuel pump in the quarter in which the incentive is claimed.

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) In order to receive the incentive, the retail dealer must calculate their renewable fuels distribution percentage which is the sum of the retail dealer's total renewable fuels blended into gasoline expressed as a percentage of the retail dealer's total gasoline gallonage, in the retail dealer's applicable determination period. The retail dealer's renewable fuels threshold percentage is 10% for any quarter of the determination period beginning on January 1, 2009, and ending December 31, 2009. Each year, the percentage increases by 1% and ends with a total of 25% beginning on and after January 1, 2025.

(d) The incentive may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses renewable fuel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses renewable fuels.

(e) The retail dealer's incentive is calculated by multiplying the retail dealer's total renewable fuel gallonage by an incentive rate, which may be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The incentive rate is as follows:

(1) For any quarter in which the retail dealer has attained a renewable fuels threshold percentage for the determination period, the incentive rate is 6.5 cents.

(2) For any quarter in which the retail dealer has not attained a renewable fuels threshold percentage for the determination period, the

incentive rate shall be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The amount of the adjusted incentive rate is as follows:

(A) If the retail dealer's renewable fuels threshold percentage disparity equals 2% or less, the incentive rate is 4.5 cents.

(B) A retail dealer is not eligible for an incentive if the retail dealer's renewable fuels threshold percentage disparity equals more than 2%.

New Sec. 10. (a) and (b) provides that a retail dealer of biodiesel shall be paid an incentive for the selling or dispensing of biodiesel and in order to be eligible for such incentive all of the following must apply:

(1) The retail dealer sells and dispenses biodiesel in the quarter in which the incentive is claimed.

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) and (1) In order to receive the incentive, the retail dealer must calculate their distribution percentage which is the sum of the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total diesel and biodiesel gallonage, in the retail dealer's applicable determination period.

(2) The retail dealer's biodiesel threshold percentage is 2% for any quarter of the determination period beginning January 1, 2009 and ending December 31, 2009. Each year thereafter, up to and including 2016, the percentage increases by 2%, for a percentage of 16% for 2016. Beginning on January 1, 2017 the percentage increases by 1% each year and ends with a total of 25% January 1, 2025 through December 31, 2025.

(d) The incentive may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses biodiesel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses biodiesel.

(e) The retail dealer's incentive is calculated by multiplying the retail dealer's biodiesel gallonage by the incentive rate for any quarter in which the retail dealer has attained a biodiesel threshold percentage for the determination period, the incentive rate is three cents.

New Sec. 11. (a) The retail dealer shall file electronically for the incentive for selling or dispensing of renewable fuels or biodiesel beginning January 1, 2009, and quarterly thereafter in the manner required by the department of revenue. The retail dealer shall file such information as the secretary of revenue may require by rules and regulations, but shall include the total number of gallons of renewable fuels or biodiesel sold.

New Sec. 13. The incentive expires January 1, 2026.

House Bill 2013 amends K.S.A. 79-3403 and indicates that 'No motor-vehicle fuels or special fuel manufacturer's license shall be required for any consumer who is blending motor-vehicle fuel or special fuel purchased for such consumer's own use, and not for resale, from a distributor or retailer who is the holder of a valid, unsuspended and unrevoked motor-vehicle fuels or special fuels distributor's or retailer's license'. This bill was effective 3/22/07, upon publication in the Kansas Register.

For a detailed, full text copy of each bill, please visit the Kansas Legislature's website at www.kslegislature.org.

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To obtain additional copies of this or any other notice call the Kansas Department of Revenue's voice mail forms request line at 785-296-4937 or download them from our web site: www.ksrevenue.org. If you have any questions about this notice, please contact our Motor Fuel Tax Unit.

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