

**79-3408c. Fuel owned on date rate of tax changed; inventory tax or refund; native American licensed retailer exempt, when. (a)**

A tax is hereby imposed on the use, sale or delivery of all motor-vehicle fuel or special fuel owned at 12:01 a.m. July 1, 1999, and on July 1 of each year thereafter, by any licensed distributor or licensed retailer at a rate per gallon, or fraction thereof, equal to the amount, if any, by which the tax per gallon, or fraction thereof, in effect on such date as prescribed by K.S.A. 79-3408, and amendments thereto, exceeds the rate of tax upon such motor-vehicle fuel or special fuel which was in effect on the preceding day. Such tax shall be paid by the licensed distributor or licensed retailer owning such motor-vehicle fuel or special fuel at such time and date. On or before the 25th day of the month in which a tax is imposed under this section, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons, or fraction thereof, of such motor-vehicle fuel or special fuel owned at the time the tax is imposed under this section and such report shall be accompanied by a remittance of the tax due.

Any licensed distributor or licensed retailer who shall fail to make such report or pay such tax, within the time prescribed, shall be subject to the same penalties and interest charges prescribed by the motor-vehicle fuel or special fuel tax law for failure of a licensed distributor to make monthly reports and payments of motor-vehicle fuel or special fuel tax. The provisions of the motor-fuel tax law relating to remedies for the collection of delinquent motor-fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from licensed distributors and licensed retailers. All taxes, penalties and interest collected by the director under the tax imposed by this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the funds and in the amounts specified in K.S.A. 79-34,142, and amendments thereto.

(b) Whenever the rate of tax upon motor-vehicle fuels or special fuels fixed pursuant to K.S.A. 79-3408, and amendments thereto, which become effective on July 1, 1999, or on July 1 in any year thereafter is less than the rate of tax upon such fuel in effect on the preceding day, the licensed distributor or licensed retailer owning such fuel at 12:01 a.m. on the date such reduction in taxes becomes effective shall be entitled to a refund of taxes paid upon such fuel in an amount equal to the amount by which taxes were reduced from the amount of motor-vehicle fuels or special fuels taxes per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of motor-vehicle fuels or special fuels multiplied by the number of gallons of motor-vehicle fuels or special fuels owned by the distributor or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such distributor and retailer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such motor-vehicle fuel or special fuel owned by such distributor or retailer at 12:01 a.m. on the date upon which such tax was reduced. It shall be the duty of the director of taxation to examine all such claims and determine the amount to which each claimant is entitled. In the event any distributor or retailer entitled to such refund shall owe the state any motor-vehicle fuel or special fuel tax, penalties, or interest, the refund authorized by this section shall upon being determined by the director be credited upon the amount of such taxes, penalties and interest. Whenever the director shall determine that any distributor or retailer shall be entitled to a refund under any of the provisions of this section, and such refund cannot be effected by giving credit therefor, as hereinbefore provided, or against the future motor-vehicle fuel or special fuel tax liability of such taxpayer the director shall certify the amount of the refund to the state director of accounts and reports, who shall draw a warrant for the amount so certified on the state treasurer in favor of the distributor or retailer entitled to such refund, and mail, or otherwise deliver, the same to the distributor entitled thereto. Such warrant shall be paid by the state treasurer to such distributor or retailer from the motor-vehicle fuel or special fuel tax refund fund.

(c) The provisions of this section shall not apply to any licensed retailer who is a native American whose licensed place of business or businesses are located on such retailer's reservation, nor to any native American tribes having licensed places of business or businesses located on such tribe's reservation.

**History:** L. 1969, ch. 462, § 2; L. 1976, ch. 426, § 2; L. 1983, ch. 320, § 2; L. 1989, ch. 209, § 32; L. 1992, ch. 106, § 11; L. 1995, ch. 262, § 31; L. 1998, ch. 96, § 3; L. 1999, ch. 137, § 28; L. 2001, ch. 5, § 453; July 1.