

**79-3491a. LP-gas owned on date rate of tax changed; inventory tax or refund.** (a) A tax is hereby imposed on all LP-gas motor fuels owned at 12:01 a.m. July 1, 1999, and on July 1 of each year thereafter, by any LP-gas motor fuels user or LP-gas motor fuels dealer 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. 79-3492, and amendments thereto, exceeds the rate of tax per gallon actually paid upon such fuel. Such tax shall be paid by the LP-gas motor fuel user or LP-gas motor fuel dealer owning such LP-gas motor fuels at such time and date. On or before the 25th day of the month in which such tax is imposed under this section, every such LP-gas motor fuel user and LP-gas motor fuel 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 LP-gas motor fuels owned by the user or dealer at the time the tax is imposed under this section, and such report shall be accompanied by a remittance of the tax due.

Any LP-gas motor fuels user or LP-gas motor fuels dealer 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 liquefied petroleum motor fuel tax law for failure of a licensed distributor to make monthly reports and payments of LP-gas motor fuel tax. The provisions of the liquefied petroleum motor fuel tax law relating to remedies for the collection of delinquent LP-motor fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from LP-gas motor fuels users and LP-gas motor fuels dealers. 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.

The words and phrases used in this section shall have the meanings ascribed to them in K.S.A. 79-3490, and amendments thereto.

(b) Whenever the rate of tax upon LP-gas motor fuels fixed pursuant to K.S.A. 79-3492, and amendments thereto, which becomes effective on July 1, 1999, or on July 1 in any year thereafter, is less than the rate of tax upon such fuels in effect on the preceding day, the user or dealer owning such fuels 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 fuels in an amount equal to the amount by which taxes were reduced from the amount of tax per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of LP-gas motor fuels multiplied by the number of gallons of fuel owned by the user or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such user or dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such LP-gas motor fuels owned by such user or dealer 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 any claimant is entitled. In the event any user or dealer entitled to such refund shall owe the state any LP-gas motor fuels 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 user or dealer 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 LP-gas motor 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 user or dealer entitled to such refund, and mail, or otherwise deliver, the same to the user or dealer entitled thereto. Such warrant shall be paid by the state treasurer to such user or dealer from the LP-gas motor fuels tax refund fund which is hereby established in the state treasury.

(c) A fund designated as the LP-gas motor fuels tax refund fund not to exceed \$1,000,000 shall be set apart and maintained by the director of taxation from the LP-gas motor fuels tax collected under the provisions of article 34 of chapter 79 of Kansas Statutes Annotated, and amendments thereto, and held by the state treasurer for the payment of all refunds authorized by this section.

**History:** L. 1983, ch. 320, § 9; L. 1989, ch. 209, § 37; L. 1999, ch. 137, § 31; L. 2001, ch. 5, § 456; July 1.