



POLICY STATEMENT

Revised: August 31, 1999
Date Issued: October 31, 1997
Re: Liquid Fuels and Fuels Tax

Sales to Exempt Entities by Registered Distributors and Non-licensed Motor Fuel Dealers

Exempt Entities.

The Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(e), exempts the U. S. Government, Commonwealth of Pennsylvania and its political subdivisions, volunteer fire, rescue and ambulance associations, second class county port authorities, nonprofit-nonpublic schools (k-12), and 15 Pa.C.S. § 7333 exempts Pennsylvania rural electric cooperatives from payment of the tax imposed on motor fuels.

Exempt Sales by Registered Distributors and Dealers.

Registered distributors and dealers may make tax-free sales directly to exempt entities as provided in this statement of policy. The following common transactions illustrate how such sales may be made:

Bulk Sales. A Pennsylvania registered distributor sells product, in bulk, to an exempt entity, which stores such product in its own tank. Such tax-free sales are permitted without an exemption certificate. The invoice evidencing the sale must be in the name of the exempt entity. A Pennsylvania registered distributor may also sell at retail, tax free, to any exempt entity.

Dealer Sales. Company D, a Pennsylvania registered distributor, sells product, in bulk, to one of its retail dealers, Company R, who is not licensed to handle tax-free product. Company D invoices Company R for the fuel sold, and collects the tax from R for remission to the Commonwealth. Thereafter, Company R makes a sale at retail (for example, to a state employee using a state automobile with a credit card issued by the PA Dept. of General Services). The credit card slip created evidencing the sale is made out showing the full retail price, including the tax.

Bulletin Number 97-01, "Dealer Credit Card Sales," requires these sales to be made tax-free to the Commonwealth and any other exempt entity. To comply with this requirement, the retail dealer R passes the credit card sale back to its distributor D, and D credits R for the entire amount of the credit card transaction. Thereafter, the exempt entity is billed for the fuel by D, the registered distributor, net of the tax. D then deducts the gallons sold to the exempt entity on Line 11 "Dealer Sales" of its monthly Liquid Fuels and Fuels Tax report. Thus, D is reimbursed for the tax previously paid to the Department of Revenue on product ultimately sold to the exempt entity.

Exempt Sales by Non-permitted Dealers/Retailers.

Non-permitted retailer R sells product, in bulk or via a key/card-controlled dispensing system, to an exempt entity. Because R is a non-permitted retailer, its inventory of product has already been taxed. R invoices the exempt entity for the cost of the fuel, and separately states the tax on the invoice. The tax-exempt purchaser has two ways to effect a tax-free purchase:

- (1) The exempt entity pays retailer R the full amount shown on the invoice(s), and thereafter requests reimbursement of the tax from the Commonwealth's Board of Finance and Revenue on an annual basis upon petition to the Board; or
- (2) The exempt entity completes an "assignment of rights" to such reimbursement for the tax shown on the invoice(s), and provides the assignment to its retailer, R. Dealers may separately invoice the tax amount so as not to confuse outstanding liabilities with assigned rights. The assignment must be on a form approved by the Department of Revenue. The exempt entity only pays for the cost of the product purchased without tax. The retailer R submits the assignment along with a refund request, to the Pennsylvania Department of Revenue - Bureau of Motor Fuel Taxes, to obtain a reimbursement equivalent to the amount of tax associated with the assignment.

Dealers may petition for reimbursements on a quarterly, semi-annual or annual basis. The Department will also entertain monthly petitions in cases where the tax reimbursement exceeds \$500.

Sales of Dyed Diesel Fuel.

Any Pennsylvania distributor or retailer may sell dyed diesel fuel tax free. It should be noted that the only parties that may legally use this fuel on Pennsylvania highways are those authorized to do so by IRS regulations. Those authorized include governmental units, certain bus operators, and operators of vehicles not designed for highway use. Furthermore, such dyed diesel fuel must be low-sulfur diesel fuel.

Given the above, all exempt entities and sellers of fuel may effect tax-free sales in a manner that will facilitate exempt sales within the petroleum distribution system. Questions regarding the above should be forwarded to the Bureau of Motor Fuel Taxes, at the above address, or telephone (717) 783-2518.

Attachment - Bulletin No. 97-01