

CHAPTER 33**(HB 43)**

AN ACT relating to motor fuel taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.344 is amended to read as follows:

- (1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel. No refund shall be authorized unless applications and all necessary information are filed with the cabinet on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. In lieu of the tax refund procedure~~[-herein]~~, the tax on special fuels ***and the tax on gasoline used for the purpose of operating or propelling stationary engines or tractors for agricultural purposes*** may be credited by the dealer to the purchaser as provided in KRS 138.358. The dealer and the purchases shall be subject to the same rules, conditions, and responsibilities as provided in KRS 138.344 to 138.355. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).
- (2) The information to be required from the permit holder, by the cabinet, in order that the refund may be allowed, shall be as follows:
 - (a) Name and address of permit holder permit number
 - (b) Total number of gallons purchased and total purchase price (Invoices to be attached to refund application.)
 - (c) Total number of gallons used on highways
 - (d) Total number of gallons on which refund is claimed (Line b minus line c.)
 - (e) Other information as the cabinet may require to reasonably protect the revenues of the Commonwealth.

Section 2. KRS 138.358 is amended to read as follows:

- (1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.
- (2) Any special fuels dealer who sells ***gasoline or*** special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer

obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use **gasoline or** the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

- (3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.
- (4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Revenue Cabinet may require dealers claiming the credit authorized in this subsection to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

Approved March 07, 2002