

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH60480-MH-19 (5/16)

Short Title: Reduce Gasoline/Diesel Fuel Tax.

(Public)

Sponsors: Representative Allred.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE GASOLINE AND DIESEL FUEL TAXES BY
ELIMINATING THE VARIABLE PORTION OF THE MOTOR FUEL EXCISE
TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80 reads as rewritten:

"§ 105-449.80. Tax rate.

(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢) a ~~gallon.gallon~~ plus a variable wholesale component. The variable wholesale component is either three and one half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater.

The two base periods are six month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six month period that begins the following July 1.

(b) Wholesale Price.—The Secretary must determine the average wholesale price of motor fuel for each base period. To do this, the Secretary must use information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the "Monthly Energy Review", or equivalent data.

The Secretary must compute the average sales price of finished motor gasoline for the base period, compute the average sales price for No. 2 diesel fuel for the base period, and then compute a weighted average of the results of the first two computations

1 based on the proportion of tax collected on each under this Article for the base period.
2 The Secretary must then convert the weighted average price to a cents per gallon rate
3 and round the rate to the nearest one tenth of a cent (1/10¢). If the converted
4 cents per gallon rate is exactly between two tenths of a cent (2/10¢) the Secretary must
5 round the rate up to the higher of the two.

6 (e) Notification.—The Secretary must notify affected taxpayers of the tax rate to
7 be in effect for each six month period beginning January 1 and July 1."

8 **SECTION 2.** G.S. 105-449.107 reads as rewritten:

9 **"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles**
10 **with power attachments.**

11 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose
12 other than to operate a licensed highway vehicle may receive an annual refund for the
13 excise tax the person paid on fuel used during the preceding calendar year. The amount
14 of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year
15 for which the refund is claimed plus the average of the two variable cents-per-gallon
16 rates in effect during that year, less the amount of sales and use tax or privilege tax due
17 on the fuel under this Chapter. An application for a refund allowed under this section
18 must be made in accordance with this Part.

19 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the
20 vehicles listed below may receive an annual refund for the amount of fuel consumed by
21 the vehicle:

- 22 (1) A concrete mixing vehicle.
- 23 (2) A solid waste compacting vehicle.
- 24 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
25 power takeoff to unload the feed.
- 26 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
27 power takeoff to unload the lime or fertilizer.
- 28 (5) A tank wagon that delivers alternative fuel, as defined in
29 G.S. 105-449.130, or motor fuel or another type of liquid fuel into
30 storage tanks and uses a power takeoff to make the delivery.
- 31 (6) A commercial vehicle that delivers and spreads mulch, soils,
32 composts, sand, sawdust, and similar materials and that uses a power
33 takeoff to unload, blow, and spread the materials.
- 34 (7) A commercial vehicle that uses a power takeoff to remove and dispose
35 of septage and for which an annual fee is required to be paid to the
36 Department of Environment and Natural Resources under
37 G.S. 130A-291.1.
- 38 (8) A sweeper.

39 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the
40 following: the sum of the flat cents-per-gallon rate in effect during the year for which
41 the refund is claimed and the average of the two variable cents-per-gallon rates in effect
42 during that year, less the amount of sales and use tax or privilege tax due on the fuel
43 under this Chapter. An application for a refund allowed under this section must be made
44 in accordance with this Part. This refund is allowed for the amount of fuel consumed by

1 the vehicle in its mixing, compacting, or unloading operations, as distinguished from
2 propelling the vehicle, which amount is considered to be one-third of the amount of fuel
3 consumed by the vehicle.

4 (c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales
5 and use tax to be deducted under this section from a motor fuel excise tax refund.
6 Article 5F of this Chapter determines the amount of privilege tax to be deducted under
7 this section from a motor fuel excise tax refund. The sales price and the cost price of
8 motor fuel to be used in determining the amount to deduct is the average of the
9 wholesale prices during the year for which the refund is claimed, using the method set
10 forth in subsection (d) of this section.~~used under G.S. 105-449.80 to determine the~~
11 ~~excise tax rates in effect for the two six-month periods of the year for which the refund~~
12 ~~is claimed.~~

13 (d) Wholesale Price. – The Secretary must determine the average wholesale price
14 of motor fuel annually. To do this, the Secretary must use information on refiner and
15 gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for
16 resale, published by the United States Department of Energy in the "Monthly Energy
17 Review", or equivalent data.

18 The Secretary must compute the average sales price of finished motor gasoline for
19 the year, compute the average sales price for No. 2 diesel fuel for the year, and then
20 compute a weighted average of the results of the first two computations based on the
21 proportion of tax collected on each under this Article for the base period. The Secretary
22 must then convert the weighted average price to a cents-per-gallon rate and round the
23 rate to the nearest one-tenth of a cent (1/10¢). If the converted cents-per-gallon rate is
24 exactly between two-tenths of a cent (2/10¢) the Secretary must round the rate up to the
25 higher of the two."

26 **SECTION 3.** G.S. 150B-2 reads as rewritten:

27 **"§ 150B-2. Definitions.**

28 As used in this Chapter,

29 ...

30 (8a) "Rule" means any agency regulation, standard, or statement of general
31 applicability that implements or interprets an enactment of the General
32 Assembly or Congress or a regulation adopted by a federal agency or
33 that describes the procedure or practice requirements of an agency.
34 The term includes the establishment of a fee and the amendment or
35 repeal of a prior rule. The term does not include the following:

36 ...

37 j. Establishment of the interest rate that applies to tax assessments
38 under G.S. 105-241.21 and the ~~variable component of the~~
39 ~~excise tax on motor fuel under G.S. 105-449.80.~~ average annual
40 wholesale price of motor fuels under G.S. 105-449.107(d).

41 ..."

42 **SECTION 4.** This act becomes effective July 1, 2008, and applies to motor
43 fuel purchased on or after that date.