

1 AN ACT concerning taxes.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Motor Fuel Tax Law is amended by changing  
5 Section 13 as follows:

6 (35 ILCS 505/13) (from Ch. 120, par. 429)

7 Sec. 13. Any person other than a distributor or  
8 supplier, who loses motor fuel through any cause or uses  
9 motor fuel (upon which he has paid the amount required to be  
10 collected under Section 2 of this Act) for any purpose other  
11 than operating a motor vehicle upon the public highways or  
12 waters, shall be reimbursed and repaid the amount so paid.

13 Any person who purchases motor fuel in Illinois and uses  
14 that motor fuel in another state and that other state imposes  
15 a tax on the use of such motor fuel shall be reimbursed and  
16 repaid the amount of Illinois tax paid under Section 2 of  
17 this Act on the motor fuel used in such other state.  
18 Reimbursement and repayment shall be made by the Department  
19 upon receipt of adequate proof of taxes paid to another state  
20 and the amount of motor fuel used in that state.

21 Claims for such reimbursement must be made to the  
22 Department of Revenue, duly verified by the claimant (or by  
23 the claimant's legal representative if the claimant has died  
24 or become a person under legal disability), upon forms  
25 prescribed by the Department. The claim must state such  
26 facts relating to the purchase, importation, manufacture or  
27 production of the motor fuel by the claimant as the  
28 Department may deem necessary, and the time when, and the  
29 circumstances of its loss or the specific purpose for which  
30 it was used (as the case may be), together with such other  
31 information as the Department may reasonably require. No

1 claim based upon idle time shall be allowed, except for idle  
2 time validated by means of an electronic engine monitoring  
3 device agreed upon by the taxpayer and the Department for  
4 fuel consumed during nonhighway use by vehicles of the second  
5 division, as defined in the Illinois Vehicle Code. For  
6 purposes of this Section, "idle time" means the period of  
7 time the vehicle is running while the driver is at rest, in  
8 line waiting to deliver, delivering, warming the engine, or  
9 keeping the engine warm. Claims for full reimbursement must  
10 be filed not later than one year after the date on which the  
11 tax was paid by the claimant.

12 If, however, a claim for such reimbursement otherwise  
13 meeting the requirements of this Section is filed more than  
14 one year but less than 2 years after that date, the claimant  
15 shall be reimbursed at the rate of 80% of the amount to which  
16 he would have been entitled if his claim had been timely  
17 filed.

18 The Department may make such investigation of the  
19 correctness of the facts stated in such claims as it deems  
20 necessary. When the Department has approved any such claim,  
21 it shall pay to the claimant (or to the claimant's legal  
22 representative, as such if the claimant has died or become a  
23 person under legal disability) the reimbursement provided in  
24 this Section, out of any moneys appropriated to it for that  
25 purpose.

26 Any distributor or supplier who has paid the tax imposed  
27 by Section 2 of this Act upon motor fuel lost or used by such  
28 distributor or supplier for any purpose other than operating  
29 a motor vehicle upon the public highways or waters may file a  
30 claim for credit or refund to recover the amount so paid.  
31 Such claims shall be filed on forms prescribed by the  
32 Department. Such claims shall be made to the Department,  
33 duly verified by the claimant (or by the claimant's legal  
34 representative if the claimant has died or become a person

1 under legal disability), upon forms prescribed by the  
2 Department. The claim shall state such facts relating to the  
3 purchase, importation, manufacture or production of the motor  
4 fuel by the claimant as the Department may deem necessary and  
5 the time when the loss or nontaxable use occurred, and the  
6 circumstances of its loss or the specific purpose for which  
7 it was used (as the case may be), together with such other  
8 information as the Department may reasonably require. Claims  
9 must be filed not later than one year after the date on which  
10 the tax was paid by the claimant.

11 The Department may make such investigation of the  
12 correctness of the facts stated in such claims as it deems  
13 necessary. When the Department approves a claim, the  
14 Department shall issue a refund or credit memorandum as  
15 requested by the taxpayer, to the distributor or supplier who  
16 made the payment for which the refund or credit is being  
17 given or, if the distributor or supplier has died or become  
18 incompetent, to such distributor's or supplier's legal  
19 representative, as such. The amount of such credit  
20 memorandum shall be credited against any tax due or to become  
21 due under this Act from the distributor or supplier who made  
22 the payment for which credit has been given.

23 Any credit or refund that is allowed under this Section  
24 shall bear interest at the rate and in the manner specified  
25 in the Uniform Penalty and Interest Act.

26 In case the distributor or supplier requests and the  
27 Department determines that the claimant is entitled to a  
28 refund, such refund shall be made only from such  
29 appropriation as may be available for that purpose. If it  
30 appears unlikely that the amount appropriated would permit  
31 everyone having a claim allowed during the period covered by  
32 such appropriation to elect to receive a cash refund, the  
33 Department, by rule or regulation, shall provide for the  
34 payment of refunds in hardship cases and shall define what

1 types of cases qualify as hardship cases.

2 In any case in which there has been an erroneous refund  
3 of tax payable under this Section, a notice of tax liability  
4 may be issued at any time within 3 years from the making of  
5 that refund, or within 5 years from the making of that refund  
6 if it appears that any part of the refund was induced by  
7 fraud or the misrepresentation of material fact. The amount  
8 of any proposed assessment set forth by the Department shall  
9 be limited to the amount of the erroneous refund.

10 If no tax is due and no proceeding is pending to  
11 determine whether such distributor or supplier is indebted to  
12 the Department for tax, the credit memorandum so issued may  
13 be assigned and set over by the lawful holder thereof,  
14 subject to reasonable rules of the Department, to any other  
15 licensed distributor or supplier who is subject to this Act,  
16 and the amount thereof applied by the Department against any  
17 tax due or to become due under this Act from such assignee.

18 If the payment for which the distributor's or supplier's  
19 claim is filed is held in the protest fund of the State  
20 Treasury during the pendency of the claim for credit  
21 proceedings pursuant to the order of the court in accordance  
22 with Section 2a of the State Officers and Employees Money  
23 Disposition Act and if it is determined by the Department or  
24 by the final order of a reviewing court under the  
25 Administrative Review Law that the claimant is entitled to  
26 all or a part of the credit claimed, the claimant, instead of  
27 receiving a credit memorandum from the Department, shall  
28 receive a cash refund from the protest fund as provided for  
29 in Section 2a of the State Officers and Employees Money  
30 Disposition Act.

31 If any person ceases to be licensed as a distributor or  
32 supplier while still holding an unused credit memorandum  
33 issued under this Act, such person may, at his election  
34 (instead of assigning the credit memorandum to a licensed

1 distributor or licensed supplier under this Act), surrender  
2 such unused credit memorandum to the Department and receive a  
3 refund of the amount to which such person is entitled.

4 No claim based upon the use of undyed diesel fuel shall  
5 be allowed except for undyed diesel fuel used by a commercial  
6 vehicle, as that term is defined in Section 1-111.8 of the  
7 Illinois Vehicle Code, for any purpose other than operating  
8 the commercial vehicle upon the public highways and  
9 unlicensed commercial vehicles operating on private property.  
10 Claims shall be limited to commercial vehicles that are  
11 operated for both highway purposes and any purposes other  
12 than operating such vehicles upon the public highways. The  
13 Department shall promulgate regulations establishing specific  
14 limits on the amount of undyed diesel fuel that may be  
15 claimed for refund.

16 For purposes of claims for refund, "loss" means the  
17 reduction of motor fuel resulting from fire, theft, spillage,  
18 spoilage, leakage, or any other provable cause, but does not  
19 include a reduction resulting from evaporation or shrinkage  
20 due to temperature variations.

21 (Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)