

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171 of the Tax Law, the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner of Taxation and Finance, hereby proposes to make and adopt the following amendments to the Motor Fuel Tax Regulations as published in Article 1 of Subchapter A of Chapter III of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such amendments to read as follows:

Section 1. Paragraph (1) of subdivision (c) of section 415.1 of such regulations is amended to read as follows:

(c) (1) Unless otherwise provided in this Part, a claim for refund, credit or reimbursement must be filed with the Department of Taxation and Finance within [two] three years from:

(i) the date of the purchase, in the case of the purchaser; or

(ii) the date of the sale, in the case of the seller, of the motor fuel so subject to refund, credit or reimbursement.

Section 2. Subdivision (b) of section 415.2 of such regulations is amended to read as follows:

(b) "Moneys paid in error." (1) Where motor fuel upon which the motor fuel tax has been paid is sold under any circumstances such that if the tax had not been paid the sale would not have been considered taxable under article 12-A of the Tax Law, such tax paid in error may be refunded. A claim for refund of motor fuel tax erroneously paid must disclose the nature of the erroneous payment and be filed with the department within [two] three years from the time the erroneous payment was made or within [two] three years from the time the tax-paid motor fuel was so sold.

(2) Where a distributor and the Department of Taxation and Finance have consented in writing pursuant

to section 419.1 of this Title to extending the period of time in which a determination of tax may be made and such agreement is made within the [two-year] three-year periods specified in paragraph (1) of this subdivision, the period of time in which a distributor may file a claim for refund of motor fuel tax erroneously paid will not expire prior to six months after the expiration of the extended period within which a determination of tax may be made.

Section 3. Subdivision (h) of section 415.3 of such regulations is amended to read as follows:

(h) Where a distributor and the Department of Taxation and Finance have consented in writing pursuant to section 419.1 of this Title to extending the period of time in which a determination of tax may be made and such agreement is made within [two] three years from the date of the purchase of motor fuel subject to reimbursement, the period of time in which the distributor may file a claim for reimbursement under this section will not expire prior to six months after the expiration of the extended period within which a determination of tax may be made.

Section 4. Section 415.5 of such regulations is amended to read as follows:

Section 415.5 Erroneous payments to claimant. (Tax Law, section 289-c(3))

In the event of an erroneous or excessive payment to a claimant, the Department of Taxation and Finance may recover such amount from the claimant in the same manner as a tax imposed by article 12-A of the Tax Law. Determinations of erroneous or excessive payments must be made within [two] three years after the date of such erroneous or excessive payment.

Dated: Albany, New York
May 15, 2007

Barbara G. Billet
Acting Commissioner and Executive Deputy
Commissioner of Taxation and Finance