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STATE OF MICHIGAN  
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TREASURY BUILDING  
LANSING, MICHIGAN 48922

REVENUE ADMINISTRATIVE BULLETIN 1990-21

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MOTOR FUEL TAX  
WHOLESALE DISTRIBUTOR  
2% EVAPORATION AND LOSS DEDUCTION  
CONSIGNMENT SALES  
ABSENCE OF ONE-THIRD LOSS DEDUCTION

RAB-90-21. This bulletin defines the term "consignment sales" used by the Motor Fuel Division for purposes of reviewing the 2% loss deduction and the required pass-through of one-third of the loss deduction to retail dealers by wholesale distributors.

Background

MCL 207.108(1); MSA 7.298(1) requires a wholesale distributor to pass on one-third of the loss deduction to the retail dealers. See Revenue Administrative Bulletin 1988-10 which clarifies this statutory requirement. See Revenue Administrative Bulletin 1990-20 for the current billing rate to be used by wholesale distributors when calculating the amount of tax statutorily required to have been paid or credited to registered retail dealers.

A wholesale distributor's failure to pass on one-third of the loss deduction to a retail dealer may be justified if the quantity of gasoline transferred to the retail dealer is deemed a consignment sale, as defined below.

Consignment Sale Definition

In order to be considered a consignment sale, all of the following requirements must be met:

1. The gasoline remains the property of the wholesale distributor even after it is delivered into the retail dealer's supply tank and even at the time of sale from this supply tank.
2. Any gasoline losses, even on the property of the retail dealer, constitute a loss of the wholesale distributor and not the retail dealer.
3. All taxes on these consignment sale transactions (such as sales taxes) are remitted to the Department of Treasury by the wholesale distributor rather than the retail dealer.
4. The retail dealer receives a fee from the wholesale distributor for executing the sale.

If all of the above apply, then the wholesale distributor need not pass on the one-third of the 2% evaporation and loss deduction to the retail dealer.