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REVENUE ADMINISTRATIVE BULLETIN 2013-3

Approved: March 12, 2013

NOTICE OF PREPAID SALES TAX RATES ON FUEL IN EFFECT FOR THE MONTH OF APRIL 2013

(Replaces Revenue Administrative Bulletin 2013-2)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB 2013-3. This Revenue Administrative Bulletin (RAB) sets forth the sales tax prepayment rates applicable to the purchase or receipt of gasoline and diesel fuel pursuant to Section 6a of the General Sales Tax Act, MCL 205.56a, for the month of **April 2013**. Under Public Act 509 of 2012 and Public Act 1 of 2013, the prepaid sales tax requirements under Section 6a have been expanded from gasoline only to any “fuel” beginning April 1, 2013. Fuel includes both “gasoline” and “diesel fuel” as those terms are defined in Section 6(a)(11). Public Act 1 of 2013 also requires that the Department determine and publish prepaid rates for both gasoline and diesel fuel every month beginning April 1, 2013.

Effective for the period March 1, 2013 through March 31, 2013, the prepaid sales tax rate (applicable **ONLY** for the purchase or receipt of gasoline) is **18.1** cents per gallon as previously reported in RAB 2013-2. **There is no prepaid sales tax requirement for diesel fuel until April 1, 2013.**

This RAB also identifies the calculation method used to determine the prepaid sales tax rate for gasoline and diesel fuel. This RAB supersedes RAB 2013-2.

ISSUES

- I. What are the applicable prepaid sales tax rates for gasoline and diesel fuel?
- II. Why does the Department change the prepaid sales tax rates?
- III. How will changes in the prepayment rates be announced?
- IV. What are the recent historical prepayment rates for gasoline and diesel fuel?

CONCLUSIONS

- I. Effective for the period March 1, 2013 through March 31, 2013, the prepaid sales tax rate (applicable ONLY for the purchase or receipt of gasoline) is **18.1** cents per gallon. There is no prepaid sales tax requirement for diesel fuel until April 1, 2013.

Effective for the period April 1, 2013 through April 30, 2013, the prepaid sales tax rates for the purchase or receipt of gasoline and diesel fuel are:

- Gasoline: **20.4** cents per gallon.
- Diesel Fuel: **22.7** cents per gallon.

- II. Through March 31, 2013, Section 6a(3) of the General Sales Tax Act requires that the Department determine the prepayment rate (applicable only to gasoline) every 3 months unless the Department certifies that the change in the average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the prepayment rate then in effect.

Beginning April 1, 2013, Section 6a(4) of the General Sales Tax Act requires that the Department determine the prepayment rates for both gasoline and diesel fuel every month.

- III. The Department will publish an RAB setting forth prepayment rates for both gasoline and diesel fuel no later than the tenth day of the month immediately preceding the month in which the rates are effective. **The RAB will be published in the Reference Library (Revenue Administrative Bulletins) section of the Michigan Department of Treasury website at: www.michigan.gov/treasury.**

- IV. Recent historical prepayment rates for gasoline and diesel fuel, as applicable, are set forth below:

- a. Effective September 1, 2009 through May 31, 2010 the rate was established at 12.4 cents per gallon for gasoline.
- b. Effective June 1, 2010 through May 31, 2011 the rate was established at 14.2 cents per gallon for gasoline.
- c. Effective June 1, 2011 through August 31, 2011 the rate was established at 17.6 cents per gallon for gasoline.
- d. Effective September 1, 2011 through February 29, 2012 the rate was established at 21.3 cents per gallon for gasoline.
- e. Effective March 1, 2012 through May 31, 2012 the rate was established at 17.9 cents per gallon for gasoline.
- f. Effective June 1, 2012 through February 28, 2013 the rate was established at 20.5 cents per gallon for gasoline.
- g. Effective March 1, 2013 through March 31, 2013 the rate was established at 18.1 cents per gallon for gasoline.

LAW & ANALYSIS

Pursuant to Public Act 1 of 2013, Section 6a(3) of the General Sales Tax Act requires that the Department (through March 31, 2013) determine the prepayment rate (applicable only to gasoline) every 3 months unless the Department certifies that the change in the average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the prepayment rate then in effect. MCL 205.56a(3).

Effective April 1, 2013, the sales tax prepayment collection and reporting obligations under Section 6a of the General Sales Tax Act are expanded pursuant to Public Act 509 of 2012 to include a broader category of fuels. MCL 205.56a(2). This is accomplished by requiring prepayments with respect to “fuel,” which is a defined term added to Section 6a(11) by Public Act 509 of 2012. The term “fuel” includes both “gasoline” (which includes, among other things, alcohol and any oxygenate that can be blended for use in a motor fuel) and “diesel fuel” (which excludes dyed diesel fuel and kerosene) as those terms are defined in Section 6a(11). MCL 205.56a(11). Therefore, beginning April 1, 2013, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of “fuel” shall prepay a portion of the sales tax at a rate determined and certified by the Department.

Under Section 6a(4) of the General Sales Tax Act, as amended by Public Act 509 of 2012 and Public Act 1 of 2013, the prepayment rates for both gasoline and diesel fuel will be determined by the Department on a monthly basis and published by the Department no later than the 10th day of the month immediately preceding the month in which the new prepayment rates will be in effect. MCL 205.56a(4). The prepayment rate for gasoline will be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline and the prepayment rate for diesel fuel will be based on 6% of the statewide average retail price of a gallon of undyed No.2 ultra-low sulfur diesel fuel. Each rate will be rounded up to the nearest 1/10 of 1 cent.

The prepayment rates for gasoline and diesel fuel effective for the month of **APRIL 2013** were determined by the Department based on the statewide average retail prices of self-serve unleaded regular gasoline and undyed No.2 ultra-low sulfur diesel fuel for the period commencing February 1, 2013 and ending February 28, 2013.

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