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STATE OF MICHIGAN

DEPARTMENT OF TREASURY

TREASURY BUILDING

LANSING, MICHIGAN 48922

REVENUE ADMINISTRATIVE BULLETIN 1988-5

Approved: May 18, 1988

**GASOLINE LOSSES AT TAX FREE TERMINAL FACILITIES;
REQUIREMENTS FOR CALIBRATING GASOLINE METERS**

RAB-88-5. Instances arise where terminal operators claim a tax credit for fuel lost at tax-free terminal facilities. This Bulletin states the Department's position on this issue and sets forth requirements to be followed by terminal operators when calibrating meters at gasoline storage facilities.

Shrinkage Deduction in Computing the Gasoline Tax

The gasoline tax provisions of the Motor Fuel Tax Act, specifically MCL 207.108, provide that wholesale distributors shall be liable for the tax on gasoline. In computing the gasoline tax, a deduction of 2% of the quantity of gasoline received by the wholesale distributor shall be deducted to allow for evaporation and loss.

It is the Department's position that the 2% shrinkage and loss deduction allowable to wholesale distributors is the only credit allowable for loss of the product. This allowable loss provision has been judicially construed to apply to all losses regardless of their cause. Charles E. Austin, Inc. v Kelly, 321 Mich 426, 32 NW2d 694 (1948), cert. denied 69 S.Ct. 56, 335 U.S. 828, 93 L.Ed. 382 (1948).

The evaporation and loss deduction covers all losses of any nature or kind. The Department has no statutory authority to allow any loss deduction in addition to the fixed percentage determined by the legislature.

Requirements for Calibrating Gasoline Meters

The Department recognizes the need to test the accuracy of devices used to measure dispensation of gasoline from storage facilities. The gasoline withdrawn for the purpose of meter tests is subject to tax unless proper procedures are followed. To enable the Department to maintain audit control, the following procedure must be followed to render gasoline drawn for testing meters and returned to storage tax free.

The gasoline terminal operator must:

1. Request authorization to perform the meter tests by writing or telephoning the Department:

Motor Fuel, Cigarette
and Miscellaneous Taxes Division
Michigan Department of Treasury
Treasury Building
Lansing, Michigan 48922
(517) 373-3180

2. Return the fuel drawn to storage.
3. Maintain records indicating:
 - A. The amount of fuel drawn in testing.
 - B. The amount of fuel replaced after testing.
 - C. The error, if any, of the meter tested.
 - D. The date testing was accomplished.