

## CHAPTER 55. MOTOR FUEL

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## CHAPTER 55. MOTOR FUEL

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## CHAPTER 55. MOTOR FUEL

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 710:55-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to motor fuels, special fuels, fuel importers, and fuel transporter.

#### 710:55-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Ethanol"**, means "fuel grade ethanol". Also known as ethyl-alcohol or alcohol.

**"Farm tractor"**, for purposes of this Chapter, *means all tractor-type, motorized farm implements and equipment, but does not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed under the Oklahoma Vehicle License and Registration Act.* [See: 68 O.S. § 500.4(C)]

**"Fuel grade ethanol"**, means ethanol that has been blended with at least 2% gasoline per the US Tax and Trade Bureau to render the product unsuitable for human consumption. This product must meet the American Society for Testing and Materials standard in effect January 1, 1995, and successor rules, as the D-4806 specification for denatured fuel grade ethanol for further blending with gasoline for use as automatic spark-ignition engine fuels.

[Source: Reserved at 12 Ok Reg 2633, eff 6-26-95; Amended at 28 Ok Reg 960, eff 6-1-11]

#### 710:55-1-3. Additional audit procedures

An auditor for the Commission may suggest that a sample motor fuel tax audit, rather than a detailed audit, be performed. The auditor shall select the periods to sample and apply the results to the periods of the audit. The auditor shall prepare forms to be signed by the taxpayer, indicating agreement with the periods and methods used for the sample. [See: 68 O.S. §206]

[Source: Added at 12 Ok Reg 2633, eff 6-26-95]

### SUBCHAPTER 3. MOTOR FUEL TAX [REVOKED]

#### 710:55-3-1. Computation of motor fuels taxes; itemized schedule [REVOKED]

[Source: Amended at 9 Ok Reg 3023, eff 7-13-92; Amended at 12 Ok Reg 2633, eff 6-26-95; Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

#### 710:55-3-2. Persons entitled to deductions for exported gasoline [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-3. Motor fuel or diesel sales to non-licensed purchaser [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-4. Export distributor's bonds [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-5. Certified report of exports [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-6. Export reports must be consistent with records of other states; comity [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-7. Seller's verified claim for deduction of excise tax on motor fuel sold to the United States Government [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-8. Agricultural exemption permit holders must demand and receive invoice [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-9. Tractors must be registered with the Tax Commission in the name of applicant or purchaser of motor fuel [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-10. Distributor's bonds [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-11. Motor fuel indemnity fund [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-12. Filling station records [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**710:55-3-13. Transporters for hire bonds [REVOKED]**

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

**SUBCHAPTER 4. MOTOR FUEL TAX**

**PART 1. LICENSES****710:55-4-100. General licensing requirement**

(a) **Who must obtain license.** The following persons must obtain a license from the Oklahoma Tax Commission prior to engaging in business in this state:

- (1) Supplier
- (2) Terminal operator (Except licensed suppliers)
- (3) Exporter (Except licensed suppliers)
- (4) Transporter (Except licensed suppliers and bonded importers)
- (5) Occasional importer
- (6) Bonded importer
- (7) Tank wagon operator-importer (Except licensed importers who operate one or more bulk plants outside this state.)
- (8) Wholesaler or retailer

(b) **Additional license not required.** A wholesaler or retailer who possesses one of the licenses described in (a) of this Section is not required to secure an additional license for its wholesale or retail business. Other than exceptions noted in (a) of this Section, all other persons must apply for all licenses that may be required.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-101. Permissive supplier's license**

A person acting as a supplier outside the State of Oklahoma may apply for a permissive supplier's license.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-102. Bonds**

(a) **Applicants required to post a bond.** Applicants for the following licenses shall be required to post a bond:

- (1) Terminal operators
- (2) Exporters
- (3) Transporters
- (4) Tank wagon operator-importers
- (5) Suppliers and permissive suppliers
- (6) Bonded importers

(b) **Single bond required from applicant for multiple licenses.** An applicant for more than one license shall be required to post only one (1) bond. The bond shall be posted in the greatest amount required for one of the licenses.

(c) **Computation of amount of bond.** Bonds required for licenses described in this Part shall be posted in amounts determined by (1) through (5) of this subsection:

- (1) **Terminal operators.** Terminal operators must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed Five Hundred Thousand Dollars (\$500,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).

- (2) **Exporters.** Exporters must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed One Million Dollars (\$1,000,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).
- (3) **Transporters.** Transporters must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed One Hundred Thousand Dollars (\$100,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).
- (4) **Tank wagon operators-importers.** Tank wagon operators-importers must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed Fifty Thousand Dollars (\$50,000.00).
- (5) **Suppliers; permissive suppliers; bonded importers.** Suppliers, permissive suppliers, and bonded importers must post a bond in an amount not less than three (3) months estimated tax liability, but not less than One Hundred Thousand Dollars (\$100,000.00), nor more than Two Million Dollars (\$2,000,000.00)
- (d) **Alternative to posting bond for supplier's or bonded importer's licenses.** In lieu of posting a bond, an applicant for a supplier's or bonded importer's license, may show proof of financial responsibility. Proof of financial responsibility shall be evidenced by proof of Five Million Dollars (\$5,000,000.00) net worth. "**Net worth**" means total assets, minus total liabilities, as evidenced in a statement from an independent auditor prepared within six (6) months of the date of application.
- (e) **Form of bond.** All bonds shall be in the form of a surety bond, upon a form provided by the Tax Commission, or a cash deposit or certificate of deposit.
- (f) **Commission may review, rescind eligibility.** Pursuant to the authority granted by 68 O.S. § 500.23(C), the Commission may review eligibility standards, including "**net worth**", of any licensee and may take further actions, including, but not limited to, requiring further assurance of financial responsibility, increasing the amount of required bond, rescission of a permit-holder's eligibility and election to defer payment of motor fuel taxes, or other action needed to ensure remittance of the motor fuel tax.
- (g) **Cancellation of license.** Rescission of a permit-holder's eligibility and cancellation of any license or permit shall be preceded by a hearing pursuant to the terms of 68 O.S. § 212.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

#### **710:55-4-103. Election to be treated as an eligible purchaser**

- (a) **Qualification for eligible purchaser status.** Each person desiring to make an election to be treated as an eligible purchaser shall submit a request for approval. The Tax Commission will not approve an eligible purchaser request submitted by a non-vendor.
- (b) **Amount of bond. If requested by the Tax Commission the bond for an eligible purchaser shall be in an amount not less than three (3) months estimated tax liability.**

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 23 Ok Reg 2836, eff 6-25-06]



## PART 2. REPORTS

### **710:55-4-106. Reports must be filed electronically**

The required monthly reports must be filed electronically in Extensible Markup Language (XML) format or by Excel Imports into the Taxpayer Access Point (TAP).

[Source: Added at 34 Ok Reg 2077, eff 9-11-17]

## PART 3. EXEMPTIONS AND REFUNDS

### **710:55-4-110. Exports by a supplier or sales to licensed exporter for immediate export**

The exemption for motor fuel exported by a supplier licensed in the destination state or sold by a supplier to a licensed exporter for immediate export shall be deducted on the report of the supplier or licensed exporter.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

### **710:55-4-111. Motor fuel acquired by an unlicensed exporter and subsequently exported across state boundaries by a licensed exporter**

Motor fuel acquired by an unlicensed exporter and subsequently exported across state boundaries, by, or on behalf of, a licensed exporter, shall be perfected by a refund claim by the unlicensed exporter. The refund claim must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

### **710:55-4-112. Motor fuel exported by a tank wagon within twenty-five (25) miles of the border**

Motor fuel exported by a tank wagon within twenty-five (25) miles of the border of this state shall be perfected by the exporter by a refund claim. The exporter shall not apply for a refund until its claim exceeds One Thousand Dollars (\$1,000.00).

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

### **710:55-4-113. Sale of K-1 kerosene**

The sale of K-1 kerosene which is exempt by statute shall be perfected by the supplier as a deduction on the monthly report.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

### **710:55-4-114. Procedure for perfecting and claiming exemption for sales to certain exempt entities**

(a) **Exempt entities.** An exemption may be claimed for motor fuel:

- (1) Sold to the United States or any agency or instrumentality thereof;

- (2) Used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children;
- (3) Purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;
- (4) Used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural ambulance service districts, or federally recognized Indian tribes; or
- (5) Used by the Oklahoma Space Industry Development Authority or any spaceport user, as defined in 68 O.S. § 500.10(17).

(b) **Perfection by ultimate vendor.** The exemption for sales of motor fuel for use by the exempt entities described in subsection (a) shall be perfected by the ultimate vendor, by obtaining an exemption certificate signed by the purchasing entity. Upon obtaining the certificate, the ultimate vendor shall complete the sale to the purchasing entity without requiring payment of the motor fuel tax. Upon completion of the sale, the ultimate vendor shall execute an ultimate vendor certificate (on forms provided by the Commission) to its supplier. The ultimate vendor certificate shall include the identity of the purchasing entity.

(c) **Supplier to claim credit.** The supplier shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier after having made reasonable commercial inquiry into the accuracy of the information in the certificate. For purposes of this Section, "**reasonable commercial inquiry**" means that the supplier shall verify:

- (1) That the ultimate vendor certificate is completed in its entirety, including the identity of the purchasing entity; and
- (2) That the purchasing entity is exempt from the payment of motor fuel tax pursuant to paragraphs 5, 6, or 17 of Section 500.10 of Title 68 of the Oklahoma Statutes.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

#### **710:55-4-115. Sales from a fixed retail pump**

(a) If the sale is from a fixed retail pump, the ultimate vendor, having made the sale to the purchasing entity without the tax, may submit a refund claim to the Commission. Such refund claim shall be accompanied by a copy of the certificate presented to the ultimate vendor by the purchasing entity, and must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

(b) If the purchase is charged to a fleet, government fueling, or oil company credit card issued by a supplier to the purchasing entity, the supplier may elect to act as the ultimate vendor. A supplier who elects to act as an ultimate vendor may bill the purchasing entity without the tax and claim a credit against the tax liability on its monthly report. The supplier must maintain necessary records to support the claim for credit.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

#### **710:55-4-116. Motor fuel for farm tractors or stationary engines**

The exempt sale of motor fuel for farm tractors or stationary engines owned or leased

and operated by any person and used exclusively for agricultural purposes shall be perfected by a refund claim filed by the consumer. The refund claim must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid. Refund claims for agricultural use of gasoline shall be less the two and eight one-hundredth cents (\$0.0208) levied under the Motor Fuel Tax Code for gasoline used or consumed for agricultural purposes.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-117. Gasoline, diesel fuel and kerosene sold for use as fuel in aircraft engines**

The exemption for gasoline, diesel fuel and kerosene sold for use as fuel in aircraft engines shall be perfected by the supplier on its monthly report. The supplier shall collect and remit from all purchases of aviation fuel eight one-hundredths of one cent (\$0.0008) per gallon. For purposes of this Section, "**aviation fuel**" means all gasoline, diesel fuel and kerosene which qualifies as "**aviation fuel**" pursuant to 26 U.S.C. §4093.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-118. Motor fuel sold within Indian country by a federally recognized Indian tribe to a member of that tribe**

The exemption for motor fuel sold within Indian country by a federally recognized Indian tribe to a member of that tribe shall be perfected by a claim for refund filed by the consumer with respect to motor fuel purchased by the consumer which the tax imposed had been previously paid. Such a claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid. Members of Indian tribes which have contracted with the State pursuant to Section 500.63 of Title 68 of the Oklahoma Statutes are not eligible for this exemption or refund.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-119. Diesel fuel used in the fuel supply tank of a motor vehicle used to operate attached equipment, in vehicles while parked off the highways, or in trucks used for transporting certain wastes**

(a) The exemption for the portion of diesel fuel which is placed in the fuel supply tank of a motor vehicle and is used to operate equipment attached to the motor vehicle or consumed by the vehicle while the vehicle is parked off the highways of this state shall be perfected by a refund claim filed by the consumer. Such refund claims must be received by the Commission within three (3) years following the last day of the calendar month in which the tax was paid. The formulas set out by (1) through (11) of this Section may be used to compute the amount of the refund to be claimed for diesel fuel used in this manner:

- (1) For gasoline or fuel oil, use 1.5 gallons per 10,000 gallons pumped;
- (2) For bulk cement, use 3 gallons per hour;
- (3) For calcium crystals, use 4 gallons per hour;

- (4) For concrete, use 1.5 gallons per 5 cubic yards;
  - (5) For reefers, use .75 gallons per hour;
  - (6) For grain (dairy pellets), use .10 gallons per ton;
  - (7) For grain (mash), use .225 gallon per ton;
  - (8) For pulp, use .50 gallons per cord, or 2 cords per gallon, or 4.75 gallons per hour;
  - (9) For tree-length pulp, use .0500 gallons per ton, or 20 tons per gallon, or 3.50 gallons per hour;
  - (10) Use accurate mileage or hubometer records to establish miles-per-gallon versus gallons purchased;
  - (11) For "idle time", use system documentation of on-board computers, if available, or in the absence of documentation, .05% (□ of one percent) will be allowed.
- (b) The exemption for fuel used to operate trucks designed, equipped, and used exclusively for garbage, refuse, or solid waste disposal shall be thirty-five percent (35%) of the tax paid on such fuel. However, the taxpayer may claim a greater amount under this subsection if evidence satisfactory to the Tax Commission can be shown to establish an allocation of use for a tax exempt purpose in an amount greater than thirty-five percent (35%).

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-120. Diesel fuel used as heating oil, in railroad locomotives, or used for other nonhighway purposes**

Diesel fuel used as heating oil, in railroad locomotives, or used for other nonhighway purposes shall be perfected by a refund claim filed by the consumer. The claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-121. Motor fuel purchased tax paid and contaminated by a dye or subject to an unexpected loss**

The exemption for motor fuel which was purchased tax paid and contaminated by a dye or subject to an unexpected loss shall be perfected by a refund to the person which suffered the contamination or loss. The claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-122. Diesel fuel to which dye has been added in conformity with requirements established by Internal Revenue Service Code**

The exemption for diesel fuel as to which dye was added in a manner which conforms to federal requirements established by the Internal Revenue Code shall be perfected by a supplier, tank wagon importer, or other importer as a deduction on its monthly report.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

**710:55-4-123. Interest on refunds**

If a refund is not issued within twenty (20) days of the filing, the Commission shall pay interest from the day of the filing of a processible claim for the refund until the date on which the refund is made. The "**date of filing of the claim**" means the date the refund claim is received by the Commission. The "**date on which the refund is made**" means the date on which a refund check is issued. To be "**processable**", all information on the refund claim, including the computations, must be correct and all required documentation must be attached.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 19 Ok Reg 2440, eff 6-27-02]

**SUBCHAPTER 5. IMPORTERS FOR USE [REVOKED]****710:55-5-1. Computation of tax on mileage basis [REVOKED]**

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

**710:55-5-2. Application [REVOKED]**

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

**710:55-5-3. Required assessment [REVOKED]**

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

**710:55-5-4. Credit; refunds [REVOKED]**

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

**SUBCHAPTER 7. SPECIAL FUELS TAX****710:55-7-1. Who must be licensed**

(a) Every person who "uses" special fuel within the State of Oklahoma, within the meanings of the word "use" as defined in 68 O.S. 701(e), shall do so **only** after having first applied for and obtained from the Oklahoma Tax Commission a license covering such use.

(b) A person may apply for a "special fuel dealer's license" or a "special fuel user's license." For definitions of "special fuel dealer" and "special fuel user" see 68 O.S. 701(h) and 68 O.S. 701(i).

(c) Those persons exempted by law are not required to obtain a license. However, persons who carry on both exempt and non-exempt activities must obtain the appropriate license as to the non-exempted activities or uses.

(d) Persons required to obtain a decal under 68 O.S. 723 are not required to also obtain the special fuel dealers' license.

**710:55-7-2. Requirements to obtain special fuel user license**

In addition to the application required to be filed with the Oklahoma Tax Commission, the applicant for a special fuel user license must file **a bond or other acceptable security**, with the Tax Commission. [See: 68 O.S. §709(a)]

- (1) The bond shall be made payable to the State of Oklahoma.
- (2) A **bond or other acceptable security** shall be required for each application for license. The bond will not be in excess of Twenty-five Thousand (\$25,000) Dollars.
- (3) The amount of the bond required shall be:
  - (A) One Thousand (\$1,000) Dollars, in relation to a special fuel user's license; One Thousand (\$1,000) Dollars in relation to a special fuel dealer's license; **or**,
  - (B) Three (3) times the monthly tax liability (or estimated monthly tax liability in the case of a new applicant) if the taxpayer is on a monthly reporting basis.
- (4) The amount of the bond required under 68 O.S. 709(b) and (3) of this subsection shall be determined by the Motor Fuel Section of the Motor Vehicle Division of the Oklahoma Tax Commission. The amount of the bond may be increased or reduced at any time.
- (5) Bonds to be given shall be continuous, rather than on an annual basis.

**710:55-7-3. Special fuel dealer and user; reports and remittances**

Every special fuel dealer and special fuel user is required to file a monthly report with the Oklahoma Tax Commission on a form prescribed and furnished by the Tax Commission.

- (1) The report must be received by the Oklahoma Tax Commission on or before the twentieth day of the calendar month following the calendar month for which the particular report is being made.
- (2) The filing of the report and payment of any tax due shall be delinquent unless received by the Oklahoma Tax Commission on or before the twentieth day following the day on which such report and payment was required to have been filed and paid.

**710:55-7-4. Information required on special fuel dealer reports**

(a) In addition to the information required under 68 O.S. 710(b), every special fuel dealer must show the following information in his periodic report:

- (1) A separate listing of each sale of special fuel on which the special fuel tax has been collected.
- (2) For each sale described in (1) of this subsection at least the following information must be shown:
  - (A) The date of the sale;
  - (B) The invoice number;
  - (C) The name and/or special fuel which was sold;
  - (D) The address of the purchaser;
  - (E) The quantity of such fuel sold.

(b) The information required under (a) of this Section shall not limit the authority of the Oklahoma Tax Commission to require such other information as may be deemed

necessary for the proper administration of the Special Fuel Use Tax Statutes. [See: 68 O.S. § 710(b)]

**710:55-7-5. Credits; refunds**

(a) Where, in any given tax reporting period, a Special Fuel Dealer or Special Fuel User has paid Oklahoma Special Fuel Tax on an amount of special fuel part of which was subsequently and actually consumed in motor vehicles outside the State of Oklahoma, such Dealer or User shall be allowed a "credit" in an amount equal to the special fuel tax rate per gallon times the number of gallons used outside of Oklahoma. The burden is upon the Taxpayer to claim the credit and to furnish sufficient evidence to support this claim.

(b) The credit may be carried over and applied to any month following the month in which the credit arose.

EXAMPLE: X Consumes one thousand (1,000) gallons of special fuel in Oklahoma in January 1988. X purchased special fuel tax paid in Oklahoma in the amount of one thousand five hundred (1,500) gallons in the same month. Assume that X can show that all one thousand five hundred (1,500) gallons were used in January 1988 but that five hundred (500) gallons were consumed outside Oklahoma. X would be entitled to a credit equivalent to the special fuel tax rate times five hundred (500) gallons on the January 1988 monthly report. [See: 68 O.S. § 722]

(c) Instead of carrying the credit over to succeeding months, the Taxpayer is also entitled to claim a refund. Such refund is computed on the same basis as the credit. However, the claim for refund must be made within one (1) year from the first day of the calendar month in which the special fuel was use. Upon the expiration of one (1) year, computed from the first day of the calendar month in which the special fuel was used, the right to claim the refund as to any and all of the amount still remaining, shall be deemed extinguished.

(d) If special fuel is purchased in one month but the use outside Oklahoma, giving rise to a credit or claim for refund under this section, occurs in more than one month, the allowable credit shall be apportioned to each of the months in which the use occurred, based on the actual use and consumption for the month.

EXAMPLE: X purchased five hundred (500) gallons in Oklahoma of special fuel tax paid on September 30, 1988. On that same day X uses fifty (50) gallons in Oklahoma and two hundred (200) gallons outside Oklahoma. The next day, October 1, 1988, X uses the remaining two hundred fifty (250) gallons outside Oklahoma.

As X used two hundred (200) gallons outside Oklahoma on September 30, 1988, he is entitled to claim a credit or refund on that amount on his report for September, 1988. The last month in which he can claim refund attributable to the two hundred (200) gallons is August, 1989.

As to the two hundred fifty (250) gallons, he cannot claim that credit or refund until he submits his October report. Likewise, the last month in which he can claim refund on the two hundred fifty (250) gallons is September, 1989.

**710:55-7-6. Fee in lieu of special fuel tax**

(a) The Oklahoma Special Fuel Tax Code levies a flat fee of Fifty Dollars (\$50.00) on

each automobile, pickup truck or van not exceeding one ton in capacity and using liquefied petroleum gas or natural gas as fuel. If a vehicle is acquired or system installed after July 1, the flat fee is Twenty-five Dollars (\$25.00).

(b) The Oklahoma Special Fuel Tax Code levies a flat fee of One Hundred Dollars (\$100.00) on each passenger automobile, pickup truck or van not exceeding one ton in capacity, using compressed natural gas or liquefied natural gas as fuel. If a vehicle is acquired or system installed after July 1, the flat fee is Fifty Dollars (\$50.00).

(c) Beginning January 1, 1993, the Oklahoma Special Fuel Tax Code levies a flat fee of One Hundred Fifty Dollars (\$150.00) on each vehicle exceeding one ton in capacity, using liquefied petroleum gas, compressed natural gas, or liquefied natural gas as fuel. If a vehicle is acquired after July 1, the flat fee is Seventy-five Dollars (\$75.00).

(d) Payment of the fee is mandatory on vehicles described in (a), (b), and (c) of this Section. Assessment of the fee is in substitution for Special Fuel Tax levied under 68 O.S. §§ 703, 705, 707.1, 707.2 and 707.3, and no tax need be paid at the time of purchase of the fuels for use in vehicles covered by this Section and upon which the required fee has been paid. Once the fee has been paid as to a particular vehicle, a decal is issued for that vehicle. Such decal is to be placed on the lower right hand corner of the front windshield of that vehicle.

(e) The decal is issued to one vehicle only and is not transferable to another vehicle, even though the equipment used to adapt the first vehicle for L.P.G. use is transferred to the second vehicle, such that the first vehicle is no longer capable of using liquefied petroleum gas.

(f) Payment of the fee for the decal is due on January 1 of each calendar year. The decal shall be effective only until December 31 of the year in which the fee is paid regardless of the day and month within that year when the fee is paid.

(g) Payment of the fee levied shall be due on the first day that L.P.G. is used in a vehicle covered by this section and thereafter on January 1 of each calendar year. A taxpayer may make application for the decal with the Oklahoma Tax Commission; the required fee is to be remitted at the time application for the decal is made.

(h) Failure to obtain a proper and current decal within thirty (30) days from the date when application for such decal should have been made shall result in a penalty of twenty percent (20%) of the fee being added to the required fee.

(i) Any vehicle subject to the Fee in Lieu of Special Fuel Tax for which the required decal has not been obtained, shall be subject to payment of the Special Fuel Tax levied on the purchase of L.P.G. for use in that vehicle. Payment of the required Fee and acquisition of the required decal, at a date subsequent to the date due, shall not result in an allowable claim for refund on any Special Fuel Taxes paid prior to the acquisition of the decal.

[Source: Amended at 10 Ok Reg 3841, eff 7-12-93]

## **SUBCHAPTER 8. ELECTRIC VEHICLE CHARGING TAX**

### **710:55-8-1. Purpose**

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 et seq,



and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the "Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021" (68 O.S. §§ 6501 et seq.).

[Source: Added at 40 Ok Reg 1277, eff 8-11-23]

### **710:55-8-2. Definitions**

The following words and terms, when used in the Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Charging station"** means equipment by which electric current is transferred to the power system of an electric vehicle together with the real property upon which such equipment is located or affixed;

**"Charging station operator"** means any person, firm, general partnership, limited partnership, limited liability partnership, corporation, limited liability company or any other lawfully recognized business entity that owns or operates or owns and operates a charging station in the state;

**"Electric vehicle"** means a 100%-electric or plug-in hybrid electric motor vehicle with the following characteristics:

(A) a 100%-electric motor vehicle originally equipped so that the vehicle:

- (i) draws propulsion energy solely from a battery with at least twenty (20) kilowatt hours of capacity, which can be recharged from any external source of electricity,
- (ii) is manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated exclusively on a rail or rails, and
- (iii) which has at least four (4) wheels,

(B) a plug-in hybrid electric motor vehicle which is originally equipped so that the vehicle:

- (i) draws propulsion energy from:
  - (I) an internal combustion engine, and
  - (II) a battery with at least five (5) kilowatt hours of capacity, which can be recharged from an external source of electricity,
- (ii) is manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated exclusively on a rail or rails, and
- (iii) which has at least four (4) wheels,

(C) The term "electric vehicle" does not include a vehicle that is manufactured primarily for off-road use, such as primarily for use on a golf course, and that has a maximum speed of thirty (30) miles per hour or less;

**"Legacy chargers"** means charging stations in operation prior to November 1, 2021, that have never had a metering system in place capable of measuring electricity transferred from the charging station to the vehicle or are incapable of measuring the time elapsed while actively charging a vehicle and placing a fee on the charging session; and

**"Public charging station"** means a location at which a charging station owner or operator conducts for-profit business using a metered system for the delivery of electric power to an electric vehicle and charges the customer either for the electricity

transferred to the power system of the vehicle or for the duration of time during which electricity is transferred to the power system of the vehicle.

[Source: Added at 40 Ok Reg 1277, eff 8-11-23]

### **710:55-8-3. Tax rate**

(a) **Electric vehicle charging tax.** Beginning January 1, 2024, a tax of three cents (\$0.03) per kilowatt hour or an equivalent thereof as determined by the Oklahoma Corporation Commission is levied on the electric current used to charge or recharge the battery or batteries of an electric vehicle.

(b) **Tax base.** The amount of tax shall not include any fees or charges associated with the method for payment for the charging service, but shall be based only upon the rate of tax and the electricity transferred during the charging process.

(c) **Transactions excluded from the levy.** The tax shall not be applicable to the following

(1) Electric vehicles charged at a private residence at which the owner or occupant of the residence uses electric power paid for by the owner or occupant of the residence which is supplied to the residence by a regulated public utility, an electric cooperative or other wholesale level of electric supply, whether or not supplemented by electric power produced by the owner or occupant using solar energy or other methods to provide electric power to the residence.

(2) Electric vehicles charged at charging stations with a charging capacity of less than fifty (50) kilowatts and charging stations that do not require payment for use.

(d) **Charging stations exempted from the levy.** The following electric charging station classifications are exempted from the imposition of tax as provided:

(1) Legacy chargers until November 1, 2041.

(2) Public charging stations that have never charged a fee for their use until November 1, 2041.

(e) **Equivalent rate.** The Oklahoma Corporation Commission shall provide the equivalent tax rate calculation, once deemed final by rule, to the Oklahoma Tax Commission for collection from businesses.

[Source: Added at 40 Ok Reg 1277, eff 8-11-23; Amended at 41 Ok Reg 1650, eff 8-11-24]

### **710:55-8-4. When tax is due**

(a) The electric vehicle charging tax shall be remitted annually for the periods beginning January 1, 2024, and ending December 31, 2028, by each charging station owner or operator on forms prescribed by the Tax Commission. For the periods beginning January 1, 2029, and all subsequent periods, the tax shall be remitted quarterly.

(b) The tax and any required report shall be filed with the Tax Commission not later than the twenty-seventh (27<sup>th</sup>) day of the month following the annual or quarterly periods for which the electric charging for an electric vehicle occurred.

(c) The charging station owner or operator shall separately state on any invoice or billing document provided to the customer the amount of the electric vehicle charging

tax imposed and shall not include the tax amount in the total amount billed to the customer.

[Source: Added at 40 Ok Reg 1277, eff 8-11-23; Amended at 41 Ok Reg 1650, eff 8-11-24]

**710:55-8-5. Charging station registration requirements**

(a) Charging stations in operation prior to November 1, 2021 must register with the Oklahoma Tax Commission, Business Tax Services Division, Oklahoma City, OK 73194 not later than January 31, 2024.

(b) Charging stations which begin operations for the first time on or after November 1, 2021, must register with the Oklahoma Tax Commission, Business Tax Services Division, Oklahoma City, OK 73194 not later than fifteen (15) days after the date as of which the first business operations at the station site begins or by January 31, 2024, whichever is later.

[Source: Added at 40 Ok Reg 1277, eff 8-11-23]

**710:55-8-6. Charging station metering requirements**

Any public charging station for an electric vehicle constructed or which begins operations for the first time on or after November 1, 2023, must utilize a metering system that is capable of imposing the cost for the charging service using a unit per kilowatt hour or a comparable measurement, such as time elapsed while charging and the charging capacity of the charging station. The metering system shall include a system by which an audit of the electricity supplied through the system may be performed to determine the amount of electricity transferred to a customer and the cost charged by the charging station owner or operator for each unit of electricity transferred.

[Source: Added at 40 Ok Reg 1277, eff 8-11-23; Amended at 41 Ok Reg 1650, eff 8-11-24]