

## D. Temporary Recycling Surcharge

### 1. Estimated Payment and Interest Provisions Modified to Conform to Franchise and Income Tax Provisions (1993 Act 16, amend secs. 71.09(1)(b) and (2), 71.29(1)(b), 77.95, and 77.96(2) and (5) and create sec. 77.947, effective dates are given below).

#### a. Due Date of Temporary Recycling Surcharge

For taxable years beginning on or after January 1, 1993, the temporary recycling surcharge is due on the unextended due date of the taxpayer's Wisconsin franchise or income tax return. If a taxpayer receives an extension of time to file its Wisconsin franchise or income tax return, 12% interest applies to the unpaid temporary recycling surcharge during the extension period.

Under prior law, the temporary recycling surcharge was due on the due date, including extensions, for filing the taxpayer's Wisconsin franchise or income tax return. However, a taxpayer receiving an extension of time to file generally was required to make an estimated temporary recycling surcharge payment, based on the prior year's gross tax or net business income, by the unextended due date of the tax return.

#### b. Quarterly Estimated Temporary Recycling Surcharge Payments

For taxable years beginning on or after January 1, 1994, persons may be required to make quarterly payments to prepay the temporary recycling surcharge.

Partnerships that owe at least \$200 of surcharge are to make quarterly estimated surcharge payments using the rules and due dates applicable for individuals under sec. 71.09, Wis. Stats. (1991-92), as amended by this Act. If required estimated surcharge payments are not made, underpayment interest under sec. 71.84(1), Wis. Stats., may apply.

Individuals, estates, and trusts add the surcharge to their net income tax (including the alternative minimum tax) to determine whether estimated payments are required and, if so, the

amount of the required installment payments. If the sum of the net tax and surcharge due is at least \$200, a calendar year filer generally must make equal installment payments on or before April 15, June 15, September 15, and January 15. In most cases, the amount that must be prepaid is the smaller of 100% of the tax and surcharge shown on the prior year's return, or 90% of the tax and surcharge shown on the current year's return. Individuals, estates, and trusts make estimated tax and surcharge payments using Form 1-ES. If required estimated tax and surcharge payments are not made, underpayment interest may apply.

For example, an individual owes \$5,400 of net income tax and \$220 of temporary recycling surcharge for the 1994 calendar year. For 1993, the individual had reported \$6,000 of net income tax and \$300 of temporary recycling surcharge. The individual must have made quarterly estimated tax and surcharge payments for 1994 of \$1,264.50  $(\$5,400 + \$220) \times 90\% \times \frac{1}{4}$ .

### 2. Temporary Recycling Surcharge for Partnerships Modified (1993 Act 16, amend secs. 77.92(4) and 77.93(3) and create sec. 77.92(4m), effective for taxable years beginning on or after January 1, 1993).

#### a. Which Partnerships Are Subject to the Surcharge?

The temporary recycling surcharge applies to all partnerships, except partnerships engaged only in farming, that derive income from business transacted in Wisconsin, from property in Wisconsin, or from services performed in Wisconsin for the taxable year. Prior law imposed the surcharge on all partnerships, except partnerships engaged only in farming, required to file a Wisconsin partnership return under sec. 71.20(1), Wis. Stats. (1991-92), which stated that "every partnership" must file a return.

The surcharge continues to apply to partnerships engaged in farming that have at least \$1,000 of net farm profit.

### b. What Is a "Partnership"?

For purposes of the surcharge, "partnership" has the meaning given in IRC sec. 761(a) and excludes entities that have elected not to be treated as partnerships under IRC sec. 761(a). Under this Code section, the term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on.

An unincorporated organization may elect not to be treated as a partnership under federal regulations if it is established (a) for investment purposes only and not for the active conduct of a business, (b) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted, or (c) by dealers in securities for a short period for the purpose of underwriting, selling, or distributing a particular issue of securities, if the income of the members of the organization may be adequately determined without the computation of partnership taxable income.

### c. What Is Partnership "Net Business Income"?

For a partnership, "net business income" subject to the surcharge is computed by adding items (1) through (4) and subtracting item (5). Income, gain, loss, and deductions from farming are excluded from "net business income."

- Add:
- (1) taxable income as calculated under IRC sec. 703
  - (2) income and gains that are separately stated under IRC sec. 702
  - (3) payments to partners that are treated as made to one who is not a partner under IRC sec. 707(a)
  - (4) development zone credits claimed
- Subtract:
- (5) items of loss and deduction that are separately stated under IRC sec. 702

Under prior law, "net business income" meant the ordinary income from trade or business activities.

### 3. Gross Receipts Requirement Increased for Sole Proprietorships and Partnerships (1993 Act 16, amend sec. 77.94(1)(b), effective for taxable years beginning on or after January 1, 1994).

The temporary recycling surcharge applies to sole proprietorships and partnerships that are not engaged in farming if they have at least \$4,000 of gross receipts. Under prior law, the surcharge applied to nonfarm sole proprietorships and partnerships having at least \$1,000 of gross receipts.

### 4. Effective Date of Temporary Recycling Surcharge Rate Changes Modified (1993 Act 16, amend sec. 77.945, effective for taxable years beginning on or after January 1, 1994).

Annually, in time for consideration by the Legislature's Joint Committee on Finance (JCF) at its December meeting, the Department of Revenue is required to establish the temporary recycling surcharge rates, subject to JCF's approval. The new rates will apply for taxable years beginning on the January 1 after the department notifies JCF. For example, if a rate change is proposed in December 1993 and approved by JCF, the new rates will first apply to taxable years beginning on January 1, 1994. Under prior law, new rates first applied to taxable years ending after April 1.

If JCF disapproves the proposed rates, the rates then in effect will continue in effect.

## E. Sales and Use Taxes

### 1. Surrender of Seller's Permit Requirement Eliminated for Occasional Sales Exemption (1993 Act 16, amend sec. 77.51(9)(am), effective August 12, 1993.)

The conditions that must be met for the sale of business assets to qualify as an exempt occasional sale are changed.

Under prior law, the sale of tangible personal property, other than inventory held for sale, previously used by a seller to conduct its business at a location, was exempt from Wisconsin sales or use tax as an occasional sale if both of the following conditions were met:

- a. The sale of tangible personal property occurred after the seller ceased actively operating

as a seller of tangible personal property or taxable services at that location.

- b. The seller delivered its seller's permit to the Department of Revenue for cancellation within 10 days after the last sale at that location of tangible personal property, other than inventory.

The amendment to sec. 77.51(9)(am), Wis. Stats. (1991-92), eliminates the condition that the seller must surrender its seller's permit within 10 days of the last sale (condition "b"). However, condition "a" above still applies.

**Note:** This amendment applies to all sales of tangible personal property meeting condition "a" above, if the last sale of that property occurs on or after August 12, 1993, regardless of whether the seller ceased actively operating the business before, on, or after August 12, 1993.

**Example 1:** Company A ceases actively operating as a seller of tangible personal property and taxable services on August 1, 1993 (i.e., prior to the August 12, 1993, effective date of the amendment to sec. 77.51(9)(am), Wis. Stats. (1991-92)). Company A sells its business assets, other than inventory held for sale, on August 30, 1993, (i.e., on or after the August 12, 1993, effective date of the amendment to sec. 77.51(9)(am), Wis. Stats. (1991-92)). Company A does not deliver its Wisconsin seller's permit to the department for cancellation.

Since the sale of business assets by Company A takes place on or after the August 12, 1993, effective date of the amendment to sec. 77.51(9)(am), Wis. Stats. (1991-92), it is exempt from Wisconsin sales and use taxes as an occasional sale.

**Example 2:** Company C ceases actively operating as a seller of tangible personal property and taxable services on May 31, 1993. Company C sells its business assets, other than inventory held for sale, to various companies over a period of 3 months, the last sale occurring on August 30, 1993 (i.e., on or after the August 12, 1993, effective date of the amendment to sec. 77.51(9)(am), Wis. Stats. (1991-92)). Company C does not deliver its Wisconsin seller's permit to the department for cancellation.

Since the last sale of business assets by Company C takes place on or after August 12, 1993, the sales of business assets during the period of June 1, 1993, to August 30, 1993, are exempt from Wisconsin sales or use tax as occasional sales.

## **2. Impose Use Tax on Tangible Personal Property Manufactured, Processed, or Otherwise Altered In or Outside Wisconsin and Used in Wisconsin (1993 Act 16, repeal and recreate sec. 77.53(1), effective August 12, 1993.)**

Use tax is imposed on the storage, use, or other consumption of tangible personal property manufactured, processed, or otherwise altered, in or outside Wisconsin, by the person who stores, uses, or consumes it, from material purchased from any retailer.

This provision reverses the effect of the Circuit Court of Dane County decision in *Morton Buildings, Inc. vs. Wisconsin Department of Revenue* (February 10, 1992).

The following examples illustrate the application of use tax under this provision:

**Example 1:** Company A, located in Minnesota, has its own print shop. Company A has nexus in Wisconsin. All paper and ink used by Company A to print advertising brochures are transferred from a supplier to Company A in Minnesota. No Wisconsin or Minnesota sales or use tax is paid on the paper and ink transferred from the supplier to Company A. After printing, the advertising brochures are mailed by Company A to its customers in Wisconsin.

The paper and ink used to print the advertising brochures that are mailed to Wisconsin customers are subject to Wisconsin use tax.

**Example 2:** Company B, a manufacturer of office furniture, is headquartered in Wisconsin. Company B has 10 desks, which were manufactured in its plant in Texas, delivered to its headquarters in Wisconsin for use by its employees. The raw materials (e.g., steel, laminate, etc.) used to manufacture the desks were transferred by suppliers to Company B outside Wisconsin.

The raw materials used to manufacture the desks that are used by Company B in Wisconsin are subject to Wisconsin use tax.

**Example 3:** Company C, located in Michigan, manufactures automobiles. Employees of Company C who are located in Wisconsin are provided, for business use, automobiles manufactured by Company C. The raw materials (e.g., tires, engines, steel, etc.) used in manufacturing these automobiles were transferred from suppliers to Company C in Michigan.

The raw materials used to manufacture automobiles that are used by Company C employees in Wisconsin are subject to Wisconsin use tax.

**Example 4:** Company D, located in Illinois, is a producer of modular homes. Raw materials (lumber, trusses, hardware, etc.) used to produce its modular homes were transferred from suppliers to Company D in Illinois without Wisconsin or Illinois sales or use tax. Company D erects the modular homes in Wisconsin.

The raw materials used by Company D to produce the modular homes which are erected in Wisconsin are subject to Wisconsin use tax.

**Example 5:** Company E is an asphalt contractor located in Iowa. Raw materials used in manufacturing asphalt outside Wisconsin are transferred from suppliers to Company E outside Wisconsin without sales or use tax. Company E uses the asphalt in road construction in Wisconsin.

The raw materials used by Company E to manufacture asphalt used in road construction in Wisconsin are subject to Wisconsin use tax.

**Example 6:** Company F, located in Illinois, sells and erects silos in Wisconsin. Steel rods, used in erecting the silos, are bent at Company F's plant located in Illinois. The rods are transferred from suppliers to Company F outside Wisconsin without sales or use tax.

The rods bent by Company F outside Wisconsin and used in real property construction in Wisconsin are subject to Wisconsin use tax.

**3. Definition of Storage and Use Revised for Raw Materials Incorporated Into Printed Materials** (1993 Act 16, amend sec. 77.51(22)(a) and repeal and recreate sec. 77.51(18), effective for materials purchased and first stored in Wisconsin on or after October 1, 1993.)

"Storage" and "use" for purposes of imposing Wisconsin use tax under sec. 77.53(1), Wis. Stats. (1991-92), do not include the keeping, retaining, or exercising any right or power over raw materials by a publisher or printer of printed materials for processing, fabricating, or manufacturing into, attachment to, or incorporation into printed materials to be transported outside Wisconsin, and thereafter used solely outside Wisconsin.

**Example:** Company A, a Wisconsin company, publishes catalogs to promote the sale of its products. Company A, on October 1, 1993, purchases paper from an out-of-state company which does not have nexus in Wisconsin. The paper is delivered to a Wisconsin printer on October 4, 1993, who prints the catalogs for Company A. The catalogs are subsequently shipped outside Wisconsin for use solely outside Wisconsin.

The paper is not "stored" or "used" in Wisconsin and, therefore, is not subject to Wisconsin use tax.

**Note:** If the paper was purchased and delivered to Wisconsin prior to October 1, 1993, the effective date of this provision, the paper would be subject to Wisconsin use tax.

**4. Exemption Created for Certain Items Sold by Department of Agriculture, Trade, and Consumer Protection** (1993 Act 16, create sec. 77.54(42), effective October 1, 1993.)

Sales of the following items by the Wisconsin Department of Agriculture, Trade, and Consumer Protection are exempt from Wisconsin sales or use tax:

- Animal identification tags to persons who are required or authorized to use those identification tags.
- Standard samples representing product or commodity grades.

## F. Excise Taxes

### 1. Motor Vehicle Fuel Tax — Point of Collection of Tax on Gasoline and Diesel Fuel Changed

- a. Imposition Changed** (1993 Act 16, amend Subchapter I (title), Subchapter II (title), secs. 78.01(1), 78.015(1) and (3), 78.07(title), (3) and (4), 78.10(1), (2), (4), (5) and (6), 78.11(1)(b), (2), (3) and (4), 78.12(1), (3) and (3m), 78.13, 78.15, 78.19, 78.22(title), (1), (2) and (4), 78.57(9)(c), 78.59(2), 78.65(1), 78.66(title), (1) and (2), 78.67, 78.68(2)(intro.) and (9), 78.70(2) and (4), 78.71, 78.73(1)(dm), (dr) and (e), 78.75(1m)(a), (b), (c) and (e) and (2), 78.77(1), (2), (3), (4) and (5), 78.78(1) and (2), 78.80(1), (2) and (3) and 78.82; consolidate, amend and renumber sec. 78.07(1)(intro.) and (a) to 78.07(1); repeal secs. 78.01(2)(c), 78.07(1)(b) and (c) and (2), 78.10(8), 78.14, 78.17 and 78.18; create sec. 78.215; and amend and renumber sec. 78.58(3)(a) to 78.58(3) and 78.84 to 78.585, effective April 1, 1994.)

The collection point of the excise tax on gasoline and diesel fuel is moved to the point of first "receipt" in Wisconsin, which is generally the terminal/refinery level. Currently, the collection point for gasoline is the wholesale level and the collection point for diesel fuel is the retail/user level. This change imposes the excise tax on gasoline at the same level as imposed by the federal government.

A new category of license is created, a *supplier* (as defined in Part b). It is estimated that there will be approximately 50 licensed suppliers. Prior law required monthly tax payment from approximately 750 motor fuel wholesalers and 2,200 special fuel dealers and users.

While most sections in the prior motor vehicle fuel tax law have been revised by 1993 Act 16, the basic framework of the new law is:

- No person other than a supplier is permitted to import, store, sell, or transport gasoline or diesel fuel in Wisconsin without first paying the motor vehicle fuel tax or having accrued liability for the motor vehicle fuel

tax. This requirement applies even if the product is acquired out-of-state.

- Suppliers, and persons licensed to collect and remit taxes to other states, can export product tax free. All other persons are required to pay the destination state tax to the supplier and present proof of export. (See Part p for additional information).
  - The tax is imposed on gasoline and diesel fuel when the fuel is removed from the terminal or refinery rack. However, no tax is imposed upon diesel fuel that is withdrawn for an exempt use (see Part d) if an indelible dye has been added to the fuel before or at the time of withdrawal (see Part e).
- b. Definitions** (1993 Act 16, create secs. 78.005(intro.), (1), (2), (3), (5), (6), (7), (8), (9), (13), (13m), (14), (15), (16), (17) and (18) and 78.64; repeal secs. 78.02(title), 78.03(title), 78.04, 78.05, 78.06(title), 78.08, 78.16, 78.41, 78.42, 78.43, 78.44, 78.45(title) and 78.46(title); renumber sec. 78.02 to 78.005(4); amend and renumber secs. 78.03(1) to 78.005(12) and 78.06 to 78.005(10); and consolidate, amend and renumber sec. 78.03(2) and (3) to 78.005(11), effective April 1, 1994.)

The following definitions apply for purposes of the motor vehicle fuel tax:

- "Alcohol" means fuel ethanol, except denaturant and water, that is at least 98% ethanol by volume. "Alcohol" also means ethanol derivative substances that are capable of use as a blendstock, including ethyl tertiary butyl ether, methanol, methanol derivative substances and methyl tertiary butyl ether.
- "Blending" means the mixing of one or more petroleum products, with or without another product, and regardless of the original character of the product blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle. "Blending" does not include mixing that occurs in refining by the original refiner of crude petroleum nor mixing of lubricating

oil in the production of lubricating oils and greases.

- “Bulk plant” means a motor vehicle fuel storage facility, other than a terminal, that is primarily used to redistribute motor vehicle fuel by vehicles that have a capacity of 4,200 gallons or less.
- “Diesel fuel” means any liquid fuel capable of use in discrete form or as a blended component in the operation of diesel-type engines in motor vehicles including number one and number two fuel oils, except that K-1 kerosene is not “diesel fuel” unless it is blended with diesel fuel for use in motor vehicles that have a diesel-type engine.
- “Export” means deliver across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.
- “Gasoline” means gasoline, casing head or natural gasoline, benzol, benzine, naphtha, and any blend stock or additive that is sold for blending with gasoline other than products typically sold in containers of less than 5 gallons. “Gasoline” includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, including a product obtained by blending together any one or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle. “Gasoline” also includes transmix. “Gasoline” does not include diesel fuel, commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed or sold for exclusive use other than as a fuel for a motor vehicle.
- “Import” means deliver across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.
- “Licensee” means a person who is licensed under sec. 78.09.
- “Manufacturing” means producing motor vehicle fuel by refining or preparing motor vehicle fuel by any process involving substantially more than the blending of motor vehicle fuel.
- “Mobile machinery and equipment” includes a vehicle which is self-propelled by an internal combustion engine or motor but not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, such as farm tractors, ditch digging apparatus, power shovels, drag lines, earth-moving equipment and machinery and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers and earth-moving scrapers. “Mobile machinery and equipment” does not include dump trucks or self-propelled vehicles originally designed for the transportation of persons or property to which machinery has been attached, such as truck-mounted transit mixers, cranes, shovels, welders, air compressors, well-boring apparatus, corn shellers, lime spreaders and feed grinders.
- “Motor vehicle” means any automobile, truck, truck-tractor, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor and licensed for highway use, except that “motor vehicle” does not include mobile machinery and equipment.
- “Motor vehicle fuel” means gasoline or diesel fuel.
- “Retail dealer” means a person, other than a wholesale distributor, who engages in the business of selling or distributing motor vehicle fuel to the end user in this state.
- “Supplier” includes a person who imports, or acquires immediately upon import, motor vehicle fuel by pipeline or marine vessel from a state, territory or possession of the United States or from a foreign country into a terminal and who is registered under 26 USC 4101 for tax-free transactions in gasoline. “Supplier” also includes a person who

produces in this state; or imports into a terminal or bulk plant; or acquires immediately upon import by truck, railcar or barge into a terminal; alcohol or alcohol derivative substances. "Supplier" also includes a person who produces, manufactures or refines motor vehicle fuel in this state. "Supplier" does not include a retail dealer or wholesaler who merely blends alcohol with gasoline before the sale or distribution of the product. "Supplier" does not include a terminal operator who merely handles in a terminal, motor vehicle fuel consigned to the terminal operator.

- "Terminal" means a motor vehicle fuel storage and distribution facility that is supplied by a pipeline or a marine vessel and from which motor vehicle fuel may be removed at a rack. "Terminal" does not include any facility at which motor vehicle fuel blend stocks and additives are used in the manufacture of products other than motor vehicle fuel and from which no motor vehicle fuel is removed.
- "Terminal operator" means the person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If co-venturers own a terminal, "terminal operator" means the person who is appointed to exercise the responsibility for, or physical control over, and operation of the terminal.
- "Transmix" means the buffer between two different products in a pipeline shipment, or a mix of two different products in a refinery or terminal, that results in an off-grade mixture.
- "Wholesaler distributor" means a person who acquires motor vehicle fuel from a supplier or from another wholesaler distributor for subsequent sale at wholesale and distribution by tank cars or tank trucks or both.

Definitions in current law for "motor fuel," "blending," "wholesaler," "broker," "dealer," "motor vehicle," "mobile machinery and equipment," "special fuel," and "use" are repealed.

- c. **Gasoline Exemptions** (1993 Act 16, amend sec. 78.01(2)(title), (a), (b), (d), (e) and (f) and repeal sec. 78.01(2)(c) and (3), effective April 1, 1994.)

Gasoline is exempt from the motor vehicle fuel tax if:

- It is exported by a person licensed to export. Gasoline carried out of Wisconsin in the ordinary fuel tank of a motor vehicle is not gasoline exported.
- It is sold to and used by the United States or its agencies if that sale is evidenced by proper documentation.
- It is sold to a common motor carrier as defined in ch. 194, Wis. Stats. (1991-92), if that carrier certifies to the department that the gasoline is for use in the operation of a motor vehicle for the urban mass transportation of passengers as defined in sec. 71.38, Wis. Stats. (1991-92).
- It is sold for nonhighway use in mobile machinery and equipment and delivered directly into the consumer's storage tank in an amount of not less than 100 gallons if the supplier obtains from the consumer a valid exemption certificate prescribed by the department.
- It is sold to a general aviation fuel dealer licensed under sec. 78.56, Wis. Stats. (1991-92), for use in an aircraft, as defined in sec. 78.55(2), Wis. Stats. (1991-92), and delivered directly into the dealer's storage tank in a volume of at least 100 gallons.

- d. **Diesel Fuel Exemptions** (1993 Act 16, create sec. 78.01(2m) and (2p), effective April 1, 1994.)

No motor vehicle fuel tax is imposed under sec. 78.01(1), and no supplier, wholesaler or retail dealer may collect a motor vehicle fuel tax, on diesel fuel that is purchased by an end user if that fuel fulfills one of the following conditions:

- It is exported by a person licensed to export.

- It is sold to and used by the United States or one of its agencies and that sale is evidenced by proper documentation.
- It is sold for use as a heating oil.
- It is sold for use in trains.
- It is sold to a common motor carrier, as defined in sec. 194.01(1), Wis. Stats. (1991-92), if that carrier certifies to the department that the diesel fuel is to be used in the operation of a motor vehicle for the urban mass transportation of passengers, as defined in sec. 71.38, Wis. Stats. (1991-92).
- It is sold for off-highway use.
- It is exported by an unlicensed person who has paid the tax on it to the state of destination, as evidenced by a bill of lading.

**e. Dyed Diesel Fuel** (1993 Act 16, create sec. 78.01(2p), effective April 1, 1994.)

When an indelible dye has been added to diesel fuel either before or upon withdrawal at a terminal or refinery rack, the dyed fuel may only be sold for exempt usage (see Part d above). The dye may be either dye required to be added per the federal Environmental Protection Agency (blue dye required per EPA reg 40 CFR Parts 80 and 86 for high sulfur diesel fuel sold in the United States for off-road use on or after October 1, 1993) or dye that meets the specifications and amount required by the department.

**f. Refunds for Exempt Transactions** (1993 Act 16, create sec. 78.01(2r), effective April 1, 1994.)

Refunds can be obtained from the department by wholesale distributors and retail dealers of the Wisconsin motor vehicle fuel taxes paid relating to gasoline and undyed diesel fuel sold for exempt usage (see Parts c and d above).

**g. Diesel Fuel Inventory Tax Payment Required** (1993 Act 16, create nonstatutory provision, effective April 1, 1994.)

Any person who, on April 1, 1994, holds for sale, resale or use, undyed diesel fuel on which the tax is due but not paid, shall pay the tax on that fuel to the department on or before May 15, 1994.

**h. Gasoline Shrinkage Allowance Reduced** (1993 Act 16, repeal and recreate sec. 78.12(4), effective April 1, 1994.)

The 1½% shrinkage allowance provided under prior law is repealed.

For reporting and paying the motor vehicle fuel tax on gasoline, licensees are allowed to reduce the number of taxable gallons by 1.35%, effective April 1, 1994. Of this amount, 1.25% must be passed on to a wholesale distributor when the distributor pays the gasoline tax to the licensee.

**i. Due Date of Motor Vehicle Fuel Tax Payment** (1993 Act 16, repeal and recreate sec. 78.12(5), effective April 1, 1994.)

Taxes on motor vehicle fuel sold during a month are due on the 15th day of the next month.

**j. Due Date of Motor Vehicle Fuel Tax Report** (1993 Act 16, repeal and recreate sec. 78.12(2), effective April 1, 1994.)

Reports detailing a licensee's motor vehicle fuel transactions during a month are due no later than the last day of the next month.

**k. Department May Require Electronic Filing and Payment** (1993 Act 16, repeal and recreate sec. 78.12(2) and (5), effective April 1, 1994.)

The department may require motor vehicle fuel licensees to transfer tax revenue electronically to the appropriate state account.

The department may also require that certain monthly reports required of motor vehicle fuel licensees relating to terminal operation, imports and exports of fuel, and production, refining, blending, or manufacture of fuel be filed electronically.