

**PROPOSED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R010-20

March 13, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, NRS 373.083.

A REGULATION relating to special fuel taxes; authorizing certain persons who use special fuel in motor vehicles operated or intended to be operated interstate to submit to the Department of Motor Vehicles a request for reimbursement for taxes on special fuel that consists of diesel fuel imposed by certain counties pursuant to existing procedures for obtaining reimbursement for taxes on special fuel imposed by counties; eliminating certain internal references; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the board of county commissioners of a county whose population is less than 100,000 to impose a tax on diesel fuel sold in the county in an amount not to exceed 5 cents per gallon. (NRS 373.062) Existing law also authorizes a person who pays such a tax imposed in a county in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year is 10,000,000 gallons or more to file with the Department of Motor Vehicles a request for reimbursement of the tax on diesel fuel which is consumed outside this State. (NRS 373.083) Existing law requires the Department to pay such requests for reimbursement using the existing system established by regulation to pay requests for reimbursement of certain other taxes on special fuel. (NRS 373.083) **Sections 1-4** of this regulation add the tax on diesel fuel sold in certain counties whose population is less than 100,000 to the types of taxes on special fuel for which reimbursement may be requested and paid using this existing system.

Under existing law the provisions of NRS 373.0667, which provide for the imposition of an additional tax on motor vehicle fuel and various special fuels in counties whose population is less than 100,000, did not become effective because a ballot measure placed on the ballot at the general election held on November 8, 2016 was not approved by the voters of any such county. (Section 19 of Assembly Bill No. 191, chapter 366, Statutes of Nevada 2015, at page 2067) **Sections 1-4** of this regulation eliminate references to NRS 373.0667.

Section 1. NAC 373.140 is hereby amended to read as follows:

373.140 1. ~~1A~~ *Except as otherwise provided in this subsection, a taxpayer may, in the manner prescribed by this chapter, request reimbursement of any tax imposed on special fuels pursuant to NRS 373.062, 373.066 ~~1~~ or 373.0663 ~~1~~ for that portion of the special fuel purchased by the taxpayer which is consumed outside this State. A taxpayer may not request reimbursement of any tax imposed on special fuels pursuant to NRS 373.062 in a county if the Department determines that in the fiscal year ending on June 30 of the calendar year for which the taxpayer would be requesting reimbursement, the total number of gallons of diesel fuel sold in that county is less than 10,000,000 gallons.*

2. A request for reimbursement of the tax imposed on special fuels pursuant to NRS 373.062, 373.066 ~~1~~ or 373.0663 ~~1~~ must:

- (a) Be submitted to the Department on a form prescribed by the Department.
- (b) Be accompanied by payment of the fee prescribed by NAC 373.170.
- (c) Be received by the Department not later than April 1 of the calendar year immediately following the calendar year for which the taxpayer is requesting reimbursement.
- (d) Include a request for reimbursement of the tax imposed pursuant to NRS 373.062, 373.066 ~~1~~ or 373.0663 ~~1~~ on all special fuels purchased by the taxpayer during the calendar year immediately preceding the date by which, pursuant to paragraph (c), the request must be received by the Department.
- (e) Include evidence satisfactory to the Department that the taxpayer filed a quarterly tax return pursuant to the International Fuel Tax Agreement that corresponds to each quarter of the calendar year during which the special fuel was purchased and for which the taxpayer is requesting reimbursement.

(f) Include a copy of a fuel receipt meeting the requirements of subsection 3 or any other evidence satisfactory to the Department to establish the number of gallons of special fuel purchased by the taxpayer and for which the taxpayer is eligible for reimbursement.

(g) Include evidence satisfactory to the Department to establish the number of miles traveled outside this State.

3. A fuel receipt of which a copy is submitted pursuant to paragraph (f) of subsection 2 must be unaltered and:

(a) Include evidence of the purchase of special fuel in a county of this State which imposes a tax on special fuels pursuant to NRS **373.062**, 373.066 ~~§~~ **or** 373.0663 ; ~~for 373.0667;~~ and

(b) Meet the requirements for a fuel receipt set forth under the Articles of Agreement of the International Fuel Tax Agreement.

4. A request for reimbursement shall be deemed to be received by the Department:

(a) If delivered by mail, on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope properly addressed to the Department;

(b) If delivered by a private postal or courier service, on the business day last preceding the date of actual delivery to the Department; or

(c) If submitted electronically, on the date the request for reimbursement is received by the Department.

5. The Department will deny a request for reimbursement which ~~is~~:

(a) **Is** not received by the Department on or before the date specified in paragraph (c) of subsection 2 ~~§~~; **or**

(b) Requests reimbursement of a tax imposed pursuant to NRS 373.062 in a county for which the Department has determined that in the fiscal year ending on June 30 of the calendar year for which the taxpayer is requesting reimbursement, the total number of gallons of diesel fuel sold in that county is less than 10,000,000 gallons.

Sec. 2. NAC 373.150 is hereby amended to read as follows:

373.150 Upon timely receipt of a complete request submitted pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS *373.062*, 373.066 ~~or~~ 373.0663 ~~or 373.0667~~ and receipt of any other information required by the Department, the Department will determine whether to grant or deny the request for reimbursement. If the Department approves a request for reimbursement of the tax imposed on special fuels pursuant to NRS *373.062*, 373.066 ~~or~~ 373.0663 , ~~or 373.0667~~ for each county in which a tax is imposed on special fuels pursuant to NRS *373.062*, 373.066 ~~or~~ 373.0663 : ~~or 373.0667~~

1. The reimbursement must be paid only from money deposited into the trust account for the county during the current fiscal year in accordance with the provisions of NAC 373.160;

2. The total amount of money which must be paid by the county in any fiscal year to reimburse any amounts owed to taxpayers must not exceed 20 percent of the total amount of money collected by the county from any tax imposed on special fuels pursuant to NRS *373.062*, 373.066 ~~or~~ 373.0663 ; ~~or 373.0667~~; and

3. The reimbursement must not be paid from any money received by the county from any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding on June 12, 2013, secured by those taxes or of any bonds that refund such bonds, provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

Sec. 3. NAC 373.160 is hereby amended to read as follows:

373.160 1. For each county in which a tax is imposed pursuant to NRS *373.062 and in which the total number of gallons of diesel fuel sold in the county during the immediately preceding fiscal year is 10,000,000 gallons or more, the Department will establish and administer an interest bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.062. For each county in which a tax is imposed pursuant to NRS 373.0663 , ~~for 373.0667,~~* the Department will establish and administer an interest-bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.0663 , ~~for 373.0667,~~ as applicable, each month. After the expiration of the term of any bonds outstanding on June 12, 2013, secured by the proceeds of any tax imposed pursuant to NRS 373.066, for each county in which a tax is imposed pursuant to NRS 373.066, the Department will establish and administer an interest-bearing trust account and will deposit into the trust account an amount equal to 20 percent of the total amount of taxes collected by the county pursuant to NRS 373.066 each month.

2. Except as otherwise provided in subsection 4, the money deposited by the Department into any trust account created pursuant to subsection 1 must be used only to pay requests for reimbursement approved by the Department pursuant to NAC 373.150.

3. If in any year the total amount of requests for reimbursement approved by the Department exceeds the amount of money deposited into the trust account of the county during the current fiscal year, the Department will pay the approved requests for reimbursement on a pro rata basis. For the purposes of this subsection, “pro rata basis” means that the amount of each request for reimbursement approved by the Department will be proportionally reduced by multiplying the amount of reimbursement approved by the ratio of the total amount of money deposited into the

trust account during the current fiscal year, exclusive of interest, divided by the total amount of requests for reimbursement approved by the Department.

4. At the end of each fiscal year and after the payment of all requests for reimbursement approved by the Department, the Department will distribute to each county for which a trust account has been created pursuant to subsection 1 any balance remaining in the trust account, including the amount of any accrued interest.

Sec. 4. NAC 373.180 is hereby amended to read as follows:

373.180 1. The Department or any of its authorized agents may investigate or conduct an examination or audit of any taxpayer who receives a reimbursement of any tax imposed on special fuels pursuant to NRS **373.062**, 373.066 ~~+~~ **or** 373.0663 ~~for 373.0667~~ to:

(a) Determine whether the taxpayer was eligible for the amount of reimbursement received; and

(b) Verify any supporting documentation relating to the request for reimbursement submitted by the taxpayer to the Department.

2. In investigating or conducting an examination or audit of any taxpayer who submits a request pursuant to this chapter for reimbursement of any tax imposed on special fuels pursuant to NRS **373.062**, 373.066 ~~+~~ **or** 373.0663 , ~~for 373.0667~~ the Department or any of its authorized agents may examine any books, accounts and records, receipts, invoices and other documents or information relating to the request for reimbursement.

3. All the taxpayer's books, accounts and records, receipts, invoices and other documents and information relating to a request for reimbursement submitted pursuant to this chapter must be available for inspection by the Department or any of its authorized agents during normal business hours.

4. The fact that any of the books, accounts and records, receipts, invoices and other documents and information described in subsection 3 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination at the time and place those documents and information become available.

5. All books, accounts and records, receipts, invoices and other documents and information used by a taxpayer to support a request for reimbursement submitted pursuant to this chapter must be maintained by the taxpayer for at least 4 years after the date on which the request for reimbursement was received by the Department.