

MOTOR CARRIER NEWSLETTER

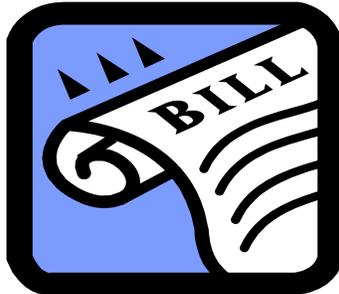


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Welcome to the 2009 First Quarter Edition of the Motor Carrier Newsletter. We hope you find the information contained herein beneficial to you and your company. We encourage you to provide your ideas and comments so that we may include them in future issues.

ATTENTION NEVADA MOTOR CARRIERS



******AB595******

During the 2007 Legislative Session, AB595 amended Chapters 360A, 365, and 366 of the Nevada Administrative Code. The resulting regulation amendments made various changes relating to payment of certain taxes and fees imposed on motor vehicle fuel, aircraft fuel and special fuels. A Workshop and Hearing to allow public testimony was held and the changes resulting from the Workshop and Hearing were subsequently presented to the Legislative Adoption Committee and adopted on December 16, 2008

The following is a brief synopsis, by team, of the changes to the Nevada Administrative Code. For further clarification and information about the changes, please contact the Motor Carrier Division at (775) 684-4711.

Fuel Industry Team

All license types have annual renewal requirements, with the renewal application to be submitted to the Department by December 1 of each year. The Department will impose an administrative fine for an application that is received late in the following amounts:

- (a) If received 1 to 7 calendar days late..... \$100
- (b) If received 8 to 14 calendar days late..... \$200
- (c) If received 15 to 22 calendar days late..... \$300
- (d) If received more that 22 calendar days late.....\$400
- (e) If received after the date on which the licensed expired.....\$500

The definition of immediate family member has been clarified to mean great-grandparent, grandparent, parent, brother, sister, daughter, son, spouse, grandchild or great-grandchild.

A supplier, dealer or exporter shall not conduct business with an unlicensed transporter. A transporter must provide proof of licensure and shall upon the expiration, suspension or revocation of his license immediately notify his customers.

A definition of “good standing”, which means the taxpayer is in compliance with the rules and regulations of the Department and does not allow any payments or delinquent tax returns to any state, district, territory or possession of the United States or a foreign country has been added.



Revenue Team

- Beginning in 2009, Fuel Users who file special fuel tax reports late two or more times in a twelve month period are considered “habitually late” filers and subject to a \$2,500.00 bond requirements.
- Beginning in 2009, the 1st instance administration fine for tax return/payment violations will be a minimum of \$100.00

FUEL USER TEAM



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A definition of “good standing”, which means the taxpayer is in compliance with the rules and regulations of the Department and does not allow any payments or delinquent tax returns to any state, district, territory or possession of the United States or a foreign country has been added.

In the event a special fuel user has been deemed habitually delinquent a bond will be required by that special fuel user under the following amounts. The amount of the bond required will be the greater of:

- (a) The total taxable gallons of special fuel claimed on the most recent tax return of the special fuel user multiplied b the tax rate determined pursuant to NRS 366.190, multiplied by 3; or
- (b) \$2,500

The bond required must be maintained by the special fuel user;

- (a) The first time a special fuel user is found to be habitually delinquent, for 12 months.
- (b) The second time a special fuel user is found to be habitually delinquent, for 24 months.
- (c) The third time a special fuel user is found to be habitually delinquent and for any subsequent finding of habitual delinquency, for 36 months.



Refunds:

A special fuel user who requests a refund based on NRS 366.190 and 366.220 for a motor vehicle with auxiliary equipment will be able to request those refunds in the following amounts based on equipment used:

Thirty percent for a:

Cement mixer
Concrete pumper
Mobile crane
Drill rig

Twenty percent for a:

Commercial garbage, sanitation or refuse truck
Trucks with an auxiliary pump for cleaning sewers, cesspools, septic tanks
Sweeper truck

Ten percent for:

Any other motor vehicle with auxiliary equipment used for a specific function when the vehicle is not traveling on the highways of the State, including, without limitation; a dump truck, a boom truck, a care carrier, a semi-truck wrecker, refrigeration truck, a line truck with a digger, a derrick or an aerial lift, a carpet cleaning truck, a document shredding truck or a tank truck with a pneumatic tank..

NOTE: All refund requests must be accompanied by proof of fuel consumed and equipment type. For example, fueling logs which identify the specific type of equipment and amount of fuel placed into the equipment; receipts showing the fuel placed into the equipment was tax paid. Issuance of a refund by the Department does not guarantee eligibility; and all refunds issued are subject to audit.



AUDIT



The term “careless reporting” includes, without limitation:

- (a) Any alteration of the dates of fueling, types of fuel or amounts of fuel on a tax return;
- (b) Underreporting or non-reporting of the sale of fuel; and
- (c) Reporting a taxable event as a nontaxable event.

The term does not include the filing of an amended tax return or the submission of amended data that reflects additions to or corrections of data originally submitted.

The Department will interpret the term “aggrieved by a decision of the Department” to mean affected by any decision of the Department which has an adverse impact on a petitioner including, without limitation, the assessment of monetary damages assessed by the Department and any other decision that may be appealed.

Aviation fuel and fuel for jet or turbine-powered aircraft is deemed distributed and taxable when the fuel is received by a dealer or supplier for its own use, and the receiving dealer or supplier shall remit the tax. The sale of aviation fuel and fuel for jet or turbine-powered aircraft by a dealer or supplier to another dealer or supplier shall not be deemed taxable. All sales of aviation fuel and fuel for jet or turbine powered aircraft made to unlicensed parties are taxable at the time of sale.

The Department may issue an order to seal a fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier pursuant to NRS 365.605 after providing the required notice if the retailer, dealer or supplier has not shown cause why the fuel pump or metered pipes and hoses of the rack should not be sealed. Upon issuing an order to seal a fuel pump, metered pipe or hoses pursuant to this section, the Department will deliver a copy of the order to the sheriff or the county in which the retailer, dealer or supplier is located for assistance with the enforcement of the order.



Transporters

The records require to be kept pursuant to NRS 365.500 by a transporter include, Without limitation, records in the form of:

1. Delivery tickets
2. Invoices
3. Bills of lading or highway transportation receipts
4. Consortium reports
5. Reports from an independently operated storage facility
6. Reports from a refinery; and
7. Any other relevant document to confirm receipt or delivery of any item listed in Subsection 1 of NRS 365.500.

Records and documents kept pursuant to subsection 1 must include, without limitation:

- (a) An inventory for each tank used for storing fuel, including, without limitation:
 - (1) The type of fuel in each tank;
 - (2) The gains and losses of fuel for each tank;
 - (3) The names of the shippers and receivers of fuel for each tank; and
 - (4) The type and amount of any additive placed into each tank, including, without limitation, transmix, ethanol, biodiesel, dye or any other additive which increases the volume of fuel in the tank.
- (b) A record of import and export activity, including, without limitation:
 - (1) The actual number of barrels or gallons of fuel transported;
 - (2) The origin and destination of fuel transported;
 - (3) All exchanges and transfers of fuel;
 - (4) All transaction dates of imports, exchanges and transfers of fuel; and
 - (5) The types of fuel imported and exported.

“Consortium” means an association or combination of businesses which sell, transport, import or export aviation fuel, fuel for jet or turbine-powered aircraft or motor vehicle fuel, other than aviation fuel, and which are engaged in a joint venture or doing business under a cooperative agreement.

Licensing Team

Staggered Registration

In the 2007 Legislative session, Assembly Bill 5 was passed to allow staggered registration for 100% Nevada Carriers. Carriers with a 100% Nevada fleet were assigned a registration period of either April through March or October through September. All the registration cycles were assigned and sent out with the 2009 renewals.

Some important changes to note with the staggered registration are the changes on the cab cards that are issued and new due date for paperwork and payments.

The cab cards that are being issued to the 100% Nevada carriers do not have expiration dates printed on the card. The expiration date is on the decal that is issued with the cab card and placed on the license plate. A bulletin was sent out to law enforcement informing them of the changes that have been made.

New due dates have also been put into place along with the staggered registration cycles. All required renewal documentation will be due on or before the first day of the month that the registration expires.

Therefore, the renewal paperwork due dates are March 1st, September 1st, and December 1st depending on registration cycle that has been assigned. Payment due dates are January 1st, April 1st, July 1st and October 1st.

Making these changes to the registration cycle will help to make a smoother renewal process for all motor carriers. There will be less people renewing at one time allowing for a faster turn around for issuing new credentials.

Any questions about the staggered registration cycles should be directed to the licensing section of the Nevada Motor Carrier Division.





IRS FORM 2290

There are often many questions regarding the **Federal Heavy Use Tax (Form 2290)** and when it is or isn't required. The **2290** is **required** for **all motor vehicles operating or registered** at a **gross vehicle weight of 55,000 lbs or greater**.

The 2290 must be filed by the last day of the month following the first day of use. **For example, if the first day of use is January 29, 2009 the due date is February 28, 2009.**

Proof of filing:

The IRS defines the first day of use as the first day a vehicle uses its own power on a public highway or street. Carriers are not required to provide the DMV with proof of filing until 60 days from the date of purchase; however the form should still be filed with the IRS. A new 2290 filing is due every July 1st and proof of the new 2290 is required to be submitted with Motor Carrier renewal paperwork. Vehicles that fall under the exempt category for the form 2290 are still required to file with IRS and provide proof of the filing with the registration renewal.

If a vehicle is sold after the 2290 has been filed with the IRS, a new 2290 filing is required under the new owner's name. The previous owner is then able to apply for a refund for the unused portion of their 2290. All refund applications should include a form 8849 and an explanation detailing the facts for each tax credit.

Any questions regarding the Form 2290 should be directed to the Licensing section of the Motor Carrier Division or you may contact the IRS directly. **You can contact the IRS (toll free) at 866-669-4096 or online at www.irs.gov**