

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 125

Short Title: Roll Back Gas Tax.

(Public)

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Sponsors: Representatives Decker; Allred, Capps, Starnes, and Wood.

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Referred to: Finance.

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February 12, 1997

A BILL TO BE ENTITLED

AN ACT TO ROLL BACK THE VARIABLE RATE GAS TAX TO THE 1989 LEVEL.

The General Assembly of North Carolina enacts:

Section 1. G. S. 105-449.80 reads as rewritten:  
"§ 105-449.80. Tax rate.

The motor fuel excise tax rate is twenty-one and four-tenths cents (21.4¢) a gallon.

(a) ~~Rate.—The motor fuel excise tax rate is a flat rate of seventeen and one half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater.~~

~~The two base periods are six month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six month period that begins the following July 1.~~

(b) ~~Wholesale Price.—The Secretary must determine the average wholesale price of motor fuel for each base period. To do this, the Secretary must use information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel~~

1 for resale, published by the United States Department of Energy in the "Monthly Energy  
2 Review", or equivalent data.

3 The Secretary must compute the average sales price of finished motor gasoline for the  
4 base period, compute the average sales price for No. 2 diesel fuel for the base period, and  
5 then compute a weighted average of the results of the first two computations based on the  
6 proportion of tax collected on each under this Article for the base period. The Secretary  
7 must then convert the weighted average price to a cents-per-gallon rate and round the rate  
8 to the nearest one-tenth of a cent (1/10¢). If the converted cents-per-gallon rate is exactly  
9 between two tenths of a cent (2/10¢) the Secretary must round the rate up to the higher of  
10 the two.

11 (e) Notification.—The Secretary must notify affected taxpayers of the tax rate to  
12 be in effect for each six-month period beginning January 1 and July 1."

13 Section 2. G. S. 105-449.39 reads as rewritten:

14 **"§ 105-449.39. Credit for payment of motor fuel tax.**

15 Every motor carrier subject to the tax levied by this Article is entitled to a credit at the  
16 motor fuel rate for tax paid by the carrier on fuel purchased in the State. ~~A motor carrier~~  
17 ~~who files a quarterly report is entitled to a credit at a rate equal to the flat cents-per-gallon rate~~  
18 ~~plus the variable cents-per-gallon rate of tax in effect during the quarter for which the credit is~~  
19 ~~claimed. A motor carrier who files an annual report is entitled to a credit at a rate equal to the~~  
20 ~~flat cents-per-gallon rate plus the average of the two variable cents-per-gallon rates of tax in~~  
21 ~~effect during the year for which the credit is claimed. To obtain a credit, the motor carrier~~  
22 ~~must furnish evidence satisfactory to the Secretary that the tax for which the credit is~~  
23 ~~claimed has been paid.~~

24 If the amount of a credit to which a motor carrier is entitled for a reporting period  
25 exceeds the motor carrier's liability for that reporting period, the excess may, in  
26 accordance with rules adopted by the Secretary, be refunded to the motor carrier or  
27 carried forward and applied to the motor carrier's tax liability for another reporting  
28 period. Before the Secretary allows a motor carrier a refund, the Secretary may audit the  
29 motor carrier's records or require the motor carrier to furnish a bond under G.S. 105-  
30 449.40."

31 Section 3. G. S. 105-449.45(b) reads as rewritten:

32 "(b) Annual Report. – The Secretary may authorize a motor carrier whose estimated  
33 annual tax liability under this Article does not exceed two hundred dollars (\$200.00) to  
34 file an annual report of its operations. ~~The tax liability of a motor carrier that files an annual~~  
35 ~~report shall be computed at a rate equal to the flat cents-per-gallon rate plus the average of the~~  
36 ~~two cents-per-gallon rates in effect during the year for which the liability is computed.~~

37 An annual report covers a fiscal year beginning on July 1 and ending on the following  
38 June 30 and is due by July 31 after the end of a fiscal year. To file an annual report, a  
39 motor carrier must apply to the Secretary for permission to file on an annual basis. An  
40 application must be submitted by the date set by the Secretary. Once granted permission,  
41 a motor carrier may continue to file an annual report until notified by the Secretary to file  
42 a quarterly report."

43 Section 4. G. S. 105-449.106 reads as rewritten:

1 **"§ 105-449.106. Quarterly refunds for certain local governmental entities, nonprofit**  
2 **organizations, and taxicabs.**

3 (a) Government and Nonprofits. – A local governmental entity or a nonprofit  
4 organization listed below that purchases and uses motor fuel may receive a quarterly  
5 refund, for the tax paid during the preceding quarter, at a rate equal to the ~~amount of the~~  
6 ~~flat cents per gallon rate plus the variable cents per gallon rate in effect during the quarter for~~  
7 ~~which the refund is claimed,~~ motor fuel rate less one cent (1¢) per gallon. Any of the  
8 following entities may receive a refund under this section:

- 9 (1) A county or a municipal corporation.  
10 (2) A private, nonprofit organization that transports passengers under  
11 contract with or at the express designation of a unit of local government.  
12 (3) A volunteer fire department.  
13 (4) A volunteer rescue squad.  
14 (5) A sheltered workshop recognized by the Department of Human  
15 Resources.

16 An application for a refund allowed under this section must be made in accordance  
17 with this Part and must be signed by the chief executive officer of the entity. The chief  
18 executive officer of a nonprofit organization is the president of the organization or  
19 another officer of the organization designated in the charter or bylaws of the organization.

20 (b) Taxi. – A person who purchases and uses motor fuel in a taxicab, as defined in  
21 G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a bus  
22 operated as part of a city transit system that is exempt from regulation by the North  
23 Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund,  
24 for the tax paid during the preceding quarter, at a rate equal to the ~~flat cents per gallon rate~~  
25 ~~plus the variable cents per gallon rate in effect during the quarter for which the refund is~~  
26 ~~claimed,~~ motor fuel rate less one cent (1¢) per gallon. An application for a refund must be  
27 made in accordance with this Part."

28 Section 5. G.S. 105-449.107 reads as rewritten:

29 **"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with**  
30 **power attachments.**

31 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose  
32 other than to operate a licensed highway vehicle may receive an annual refund for the tax  
33 the person paid on fuel used during the preceding calendar year at a rate equal to the  
34 ~~amount of the flat cents per gallon rate in effect during the year for which the refund is claimed~~  
35 ~~plus the average of the two variable cents per gallon rates in effect during that year,~~ motor fuel  
36 rate less one cent (1¢) per gallon. An application for a refund allowed under this section  
37 must be made in accordance with this Part.

38 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the  
39 vehicles listed below may receive an annual refund for the amount of fuel consumed by  
40 any of the following vehicles:

- 41 (1) A concrete mixing vehicle.  
42 (2) A solid waste compacting vehicle.

- 1 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a  
2 power takeoff to unload the feed.
- 3 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a  
4 power takeoff to unload the lime or fertilizer.
- 5 (5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-  
6 449.130, or motor fuel or another type of liquid fuel into storage tanks  
7 and uses a power takeoff to make the delivery.

8 The refund rate shall be computed by subtracting one cent (1¢) from the ~~combined~~  
9 ~~amount of the flat cents per gallon rate in effect during the year for which the refund is~~  
10 ~~claimed and the average of the two variable cents per gallon rates in effect during that~~  
11 ~~year, motor fuel rate~~ and multiplying the difference by thirty-three and one-third percent  
12 (33 1/3%). An application for a refund allowed under this section shall be made in  
13 accordance with this Part. This refund is allowed for the amount of fuel consumed by the  
14 vehicle in its mixing, compacting, or unloading operations, as distinguished from  
15 propelling the vehicle, which amount is considered to be one-third of the amount of fuel  
16 consumed by the vehicle."

17 Section 6. Transitional Provisions. –

18 (a) Every distributor of motor fuel and every provider of alternative fuel must  
19 inventory all fuel that is on hand or in the person's possession as of 12:01 a.m. on July 1,  
20 1997, and must report the results of the inventory to the Secretary of Revenue. The  
21 report of inventory must be made on a form provided by the Secretary and is due by  
22 August 1, 1997. As soon as practicable after receiving a timely report under this  
23 subsection, the Secretary of Revenue shall pay the taxpayer a refund of one and two-  
24 tenths cents (1.2¢) per gallon of reportable inventory.

25 (b) Notwithstanding the provisions of G.S. 105-449.39, as amended by this act, a  
26 credit for tax paid before the effective date of this act shall be at the rate provided in G.S.  
27 105-449.39 before its amendment by this act.

28 (c) Notwithstanding the provisions of G.S. 105-449.107, as amended by this act,  
29 the refund rate for the 1997 calendar year shall be one-half of the applicable rate provided  
30 in G.S. 105-449.107 before its amendment by this act plus one-half of the applicable rate  
31 provided in G.S. 105-449.107 as amended by this act.

32 Section 7. Section 3 of this act becomes effective July 1, 1998, and applies to  
33 annual reports due on or after that date. Section 4 of this act becomes effective October  
34 1, 1997, and applies to refund applications due on or after that date. The remainder of  
35 this act becomes effective July 1, 1997.