

## 12 CSR 10-6.100 Motor Fuel Tax Exemption for Operators of Public Mass Transportation Service

**PURPOSE:** Section 142.817, RSMo, exempts operators of public mass transportation service from motor fuel tax. This rule explains how the exemption is to be claimed.

**PUBLISHER'S NOTE:** The secretary of state has determined that publication of the entire text of the material that is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) In general, fuel used to operate public mass transportation services is not subject to Missouri motor fuel tax. Fuel that is not subject to Missouri motor fuel tax is subject to Missouri state and local sales tax, unless otherwise exempted under Chapter 144, RSMo.

(2) Basic Application.

(A) Operators of public mass transportation services who purchase fuel and paid the Missouri motor fuel tax may obtain a refund of the tax. The operator of the public mass transportation service must certify to the department, on a Form 5141 Public Mass Transportation Operator Exemption Certificate, that the motor fuel will be used exclusively in the operation of the mass transportation service.

1. The operator must submit the claim on a Form 4923 Non-Highway Use Motor Fuel Refund Claim within one (1) year of the date of purchase or April 15 of the year following the purchase, whichever is later.

2. The refund will equal the motor fuel tax, less all applicable state and local sales taxes unless the entity is otherwise exempt from Missouri sales tax.

(B) Ultimate vendors may make bulk sales of motor fuel to the exempt public mass transportation service without collecting the state motor fuel tax. The ultimate vendor that purchased the motor fuel and paid the Missouri motor fuel tax may obtain a refund if the ultimate vendor sold the motor fuel without charging the Missouri motor fuel tax.

1. Operators must furnish the ultimate vendor a Form 5141 Public Mass Transportation Operator Exemption Certificate in order to purchase the motor fuel without being charged the Missouri motor fuel tax.
2. Any ultimate vendor who is a retailer, and not licensed as a supplier or distributor, must submit the claim on a Form 4923 Non-Highway Use Motor Fuel Refund Claim within two (2) years of the date of purchase.
3. If the ultimate vendor is licensed as a Missouri supplier or distributor, the claim for refund must be submitted on a Form 4923 Non-Highway Use Motor Fuel Refund Claim and must be filed within three (3) years of the date of purchase.
4. The ultimate vendor must collect and remit to the department any applicable state and local sales taxes at the rate in effect at the vendor's place of business.

(3) Examples.

(A) A public mass transportation service operator has vehicles that operate on gasoline or gasohol. The operator goes to the pump to fuel its vehicles. The operator will purchase the gasoline or gasohol subject to all taxes and may apply for a refund of the state motor fuel tax.

(B) A public mass transportation service operator has vehicles that operate on diesel fuel. The operator may purchase clear diesel fuel subject to the state motor fuel tax and apply for a refund or if allowed under federal law, it may purchase dyed diesel fuel, which is exempt from state and federal fuel tax. It is required to complete and provide the ultimate vendor with an exemption certificate prior to filling any vehicles or ordering any dyed diesel fuel.

(C) A public mass transportation service operator has bulk storage facilities for the motor fuel used to fuel its vehicles. The ultimate vendor who delivers the motor fuel may sell the product without charging the motor fuel tax. The ultimate vendor would charge any applicable sales tax unless the operator is exempt from sales tax under state law. The ultimate vendor would then apply for a refund of the motor fuel tax it paid on the motor fuel but did not collect from the operator.

(D) A public mass transportation service operator has vehicles that operate on diesel fuel and meet the exemption requirements under federal law. Its routes include states other than Missouri, and the other state does not allow the use of dyed diesel fuel on public roadways. Even though Missouri and the federal government would allow the use of dyed diesel fuel, the operator must purchase and use clear fuel in the vehicles that cross into the neighboring state.

(4) The forms 5141 Public Mass Transportation Operator Exemption Certificate and 4923 Non-Highway Use Motor Fuel Refund Claim are incorporated by reference and made a part of this rule as published by Missouri Department of Revenue, and are available at [www.dor.mo.gov](http://www.dor.mo.gov) or Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO 65101, dated April 25, 2023. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 136.035 and 142.817, RSMo 2016, and sections 142.824 and 144.030, RSMo Supp. 2023.\* Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Original rule filed Aug. 14, 2007, effective Feb. 29, 2008. Amended: Filed July 17, 2023, effective Feb. 29, 2024.

\*Original authority: 136.035, RSMo 1951, amended 2001; 142.817, RSMo 2007; 142.824, RSMo 1998, amended 1999; and 144.030, RSMo 1939, amended 1941, 1943, 1945, 1949, 1961, 1965, 1967, 1969, 1977, 1979, 1980, 1982, 1983, 1985, 1986, 1988, 1989, 1991, 1994, 1995, 1996, 1997, 1998, 1999, 2003, 2004, 2005, 2007.