

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 249

SENATE BILL 1174

AN ACT

AMENDING SECTION 28-5612, ARIZONA REVISED STATUTES; RELATING TO USE TAX COLLECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-5612, Arizona Revised Statutes, is amended to
3 read:

4 28-5612. Refund procedure; violation

5 A. A person who is seeking a refund and who is not licensed as a
6 supplier, interstate user, restricted distributor or use fuel vendor shall:

7 1. File an application with the director within six months after the
8 date of sale.

9 2. Submit proof satisfactory to the director of the following:

10 (a) The purpose for which the fuel was used.

11 (b) The tax paid purchase.

12 3. Make an application in a form prescribed by the department that
13 requests the following information:

14 (a) Name and address of the claimant.

15 (b) Period covered by the claim showing dates.

16 (c) Location of equipment, if applicable.

17 (d) Gallons on which a refund is claimed.

18 (e) Amount of the refund claimed.

19 (f) Other information required by the director.

20 B. The claim shall not be under oath but shall contain or be
21 accompanied by a written declaration that it is made under penalties of
22 perjury and, if it is for motor vehicle fuel, that it complies in all
23 respects with section 28-5611 relating to refunds.

24 C. The original invoice or a duplicate that is satisfactory to the
25 director and that includes the following information shall accompany the
26 application:

27 1. The date of purchase.

28 2. The seller's name and address.

29 3. The number of gallons purchased.

30 4. The type of fuel purchased.

31 5. The price per gallon of the fuel.

32 6. Other information required by the director.

33 D. If a person files a claim for a refund pursuant to this section for
34 motor fuel exported, the person shall make satisfactory proof of export to
35 the director and file the claim within three months after the date of export
36 in the form and containing the information required by the director. The
37 original invoice or an acceptable duplicate shall accompany the claim.

38 E. The director shall accept only one application for refund of motor
39 fuel taxes for any one person within a six month period if the aggregate
40 total of all motor fuel taxes paid and for which a refund is claimed does not
41 equal at least ten dollars.

42 F. IF A PERSON WHO IS EXEMPT FROM USE FUEL TAXES PURSUANT TO SECTION
43 28-5610 SUBMITS A CLAIM FOR A REFUND PURSUANT TO THIS SECTION FOR USE FUEL
44 TAXES, THE DEPARTMENT SHALL NOT PAY THE REFUND UNTIL THE DEPARTMENT
45 DETERMINES THE DIFFERENCE BETWEEN THE AMOUNT OF THE REFUND AND THE AMOUNT OF

1 THE USE TAX THAT IS IMPOSED UNDER TITLE 42, CHAPTER 5, ARTICLE 4 ON THE FUEL
2 EXEMPT FROM USE FUEL TAXES IF OWED BY THE PERSON. IF THE DEPARTMENT
3 DETERMINES THAT THE AMOUNT OF THE REFUND IS GREATER THAN THE AMOUNT OWED FOR
4 THE USE TAX, THE DEPARTMENT SHALL DEPOSIT THE AMOUNT OWED FOR THE USE TAX
5 PURSUANT TO SUBSECTION M OF THIS SECTION AND REFUND THE AMOUNT OF THE
6 DIFFERENCE TO THE PERSON. IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF
7 THE REFUND IS LESS THAN THE AMOUNT OWED FOR THE USE TAX, THE DEPARTMENT SHALL
8 FORWARD ANY BALANCE DUE INFORMATION TO THE DEPARTMENT OF REVENUE FOR
9 COLLECTION.

10 ~~F.~~ G. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, if the
11 director does not issue a refund within sixty days after a complete
12 application for refund is filed as prescribed in this article, the director
13 shall pay interest at the rate of eleven per cent per year from the date the
14 complete application for refund is filed until the date on which the refund
15 is made.

16 ~~G.~~ H. If the director denies a refund, the director shall notify the
17 claimant that the refund is denied. The director's denial is final unless
18 the applicant makes a written request for a hearing as prescribed in section
19 28-5924.

20 ~~H.~~ I. It is unlawful for a person to knowingly operate a motor
21 vehicle on the highways or a watercraft on the waterways using motor vehicle
22 fuel or use fuel that has been sold to a person making a claim pursuant to
23 this section.

24 ~~I.~~ J. In addition to other penalties prescribed by law, the director
25 shall not give a person who violates this section a refund on motor fuel
26 purchased during the six months succeeding the date the director advises the
27 person by mail of the director's discovery of the violation.

28 ~~J.~~ K. A person whose right to a refund is suspended may bring an
29 action in superior court in Maricopa county to set aside the suspension.

30 ~~K.~~ L. The director may recover excess refunds from the person to whom
31 the refund was made. The director shall assess the claimant the amount of
32 the excess refund and interest. The director shall compute interest at one
33 per cent per month of the amount of excess refund due beginning on the date
34 of refund and until the date the assessment is paid.

35 M. THE DEPARTMENT OF TRANSPORTATION SHALL DEPOSIT, PURSUANT TO
36 SECTIONS 35-146 AND 35-147, USE TAX REVENUES COLLECTED PURSUANT TO SUBSECTION
37 F OF THIS SECTION IN THE STATE GENERAL FUND BY THE END OF EACH MONTH AND
38 NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF USE TAX COLLECTED EACH
39 MONTH.

40 Sec. 2. Effective date

41 This act applies to taxable years beginning from and after December 31,
42 2004.

APPROVED BY THE GOVERNOR MAY 19, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2004.

Passed the House May 10, 2004

by the following vote: 51 Ayes,

0 Nays, 9 Not Voting

Jake Flake
Speaker of the House

Speman L. Moore
Chief Clerk of the House

Passed the Senate March 15, 2004

by the following vote: 29 Ayes,

6 Nays, 1 Not Voting

Ken Blumenthal
President of the Senate

Charrine B. Ballington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1174

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 13, 2004,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

Klu Blumett
President of the Senate
Chamion Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of May, 2004

at 1:22 o'clock P. M.

Jennifer Updegraff
Secretary to the Governor

Approved this 19 day of

May, 2004,

at 1:00 o'clock P. M.

Jon R. Arpaia
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19 day of May, 2004,

at 2:52 o'clock P. M.

Janice K. Brewer
Secretary of State

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