

2/22/09

Recently a number of volunteer ambulance squads have received notices from fleet credit card issuers such as Wright Express and ExxonMobil advising that the card issuers would have to bill the squads for the cost of fuel plus NYS taxes. The card issuers were following a court decision that applied to government entities and applying it to independent non-profit agencies.

Squads that have not made arrangements with their local motor fuel providers to compute the taxes and deduct them from bills passed on to the fleet card issuers now have to file the necessary forms with NYS Department of Taxation and Finance to receive refunds of the taxes.

The NYS Volunteer Ambulance & Rescue Association is pursuing a legislative change to restore the old less burdensome arrangement. A letter was sent on 2/19/09 to NYS Assemblyman Robert K. Sweeney asking to amend a bill introduced last session to include volunteer ambulance corps and volunteer fire departments.

Adobe Acrobat copies are attached:

02-19-09 Letter to Sweeney

08-30-08 Notice from ExxonMobil

08-13-08 NYS Dept of Taxation & Finance Guidance

Jim Downey

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To be removed from the NYSVA&RA e-mail list please send a message to jamesbdown@aol.com



New York State Volunteer Ambulance and Rescue Association, Inc.

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February 19, 2009

Hon. Robert K. Sweeney
NYS Assembly Member
Legislative Office Building – Rm. 625
Albany, New York, 12248

Dear Assemblyman Sweeney:

Re: Sales of Fuel to Exempt VFD's & VAC's

We write with regard to refund of sales, excise and diesel fuel tax paid by credit card by Volunteer Fire Departments and Volunteer Ambulance Corps that are exempt from the payment of such taxes.

In September 2007 a new interpretation by the Department of Tax and Finance prohibited fuel distributors (fleet fuel card service companies, etc) from applying for refunds of state, local sales/diesel and excise taxes. Many VFDs and VACs have been using fleet fuel cards to better manage their fuel purchases and because, prior to the ruling, taxes were deducted without the burdensome paperwork required to secure a refund after the fact. Government entities were also impacted by this interpretation.

Last session the Assembly passed a bill (A 8015) sponsored by Assembly Member Farrell that would have allowed card issuers to apply for a credit or refund of exempt taxes for government entities that were cardholders. We would request the assistance of your good offices to ask Assembly Member Farrell to add qualifying exempt volunteer fire departments and volunteer ambulance services to the bill. It is important to note that this would not create any new tax exemptions but would simply reduce the paperwork and administrative burden on VFD's and VAC's , which are already exempt from these taxes.

Thank you for your consideration and assistance.

Sincerely,

Michael J. Mastrianni, Jr.
President

ExxonMobil Fleet Card Services*

August 30, 2007

Re: Fuels Tax Exemption Guidance from the State of New York

Dear ExxonMobil Tax Exempt Customer:

The State of New York recently issued tax guidance related to exemptions for fuel purchased with credit cards on or after September 1, 2007. The new interpretation prohibits fuel distributors from applying for refunds of state, local sales and excise fuel taxes.

Therefore, effective September 1, 2007, ExxonMobil Card Services will no longer process transactions originating in New York as tax exempt transactions. That is, the price of the product billed to cardholders will include state and local sales and excise taxes even if the cardholder is exempt from the payment of such taxes

We hope that in the future we will again be able to deduct taxes from the price billed to tax exempt cardholders. The New York State Department of Taxation and Finance has proposed new legislation which would allow card issuers to apply for credit or refund of exempt taxes for cardholders. The bill (Senate S. 4558) is currently before the Legislature for approval. If you would like to comment on the pending legislation, you can contact the Senate Finance Committee at 1-518-455-2597 or your NY state legislators.

We will keep you informed of any changes which may impact the exemption of fuel taxes at the state, county and local level in NY. If you have any questions, please call our Tax Specialists at 1-866-841-3542.

Sincerely,

ExxonMobil Card Services

*The ExxonMobil Fleet Card is issued and administered by Wright Express Financial Services Corporation.



New York State Department of
TAXATION and FINANCE
Taxpayer Guidance Division
Building 9, Room 146
W. A. Harriman Campus
Albany, NY 12227

August 13, 2007

TO: All registered distributors of automotive fuel and certain credit card issuers

RE: Fuel purchased with government credit cards on or after September 1, 2007

As explained below, claims for refunds or credits of State and local sales and excise taxes paid on purchases of automotive fuel made with a government credit card on or after September 1, 2007, must be made by the government entity that purchased such fuel or by the retail gas station who sold the fuel. Under governing legal precedent, the Department can no longer allow refund or credit claims by third parties, including credit card issuers or fuel distributors, because these parties are not authorized by the Tax Law to receive a refund or credit for taxes on automotive fuel.

Currently, tax exempt purchases of automotive fuel by government entities using credit cards are often transacted as follows:

- Despite the exempt status of the government entity, it is not possible, as a practical matter, for the retail station to back out the taxes at the time of sale. For this reason, the sale from the retail gas station to the government entity includes taxes;
- The retail gas station is paid the full amount of the transaction, including taxes, by selling its accounts receivable to its fuel distributor;
- The government entity is billed by the credit card company only for the price of fuel, not including the taxes;
- The fuel distributor is reimbursed by the credit card company only for the price of fuel, not including the taxes; and
- The fuel distributor then claims a credit or refund of the taxes not passed through to the government entity.

In other cases, the credit card company transacts directly with the retail gas station and seeks the refund from the Tax Department.

Based on court rulings interpreting the Tax Law, the Department has concluded that a third party (the fuel distributor or the credit card company) is not entitled to a refund or credit of the taxes paid on the fuel. Only the vendor making the sale (the retail gas station) or the government entity itself, as the exempt purchaser, is eligible to receive a refund or credit of any tax paid on the fuel. If you have any questions or need assistance regarding refund claims, please contact the Department's Transaction and Transfer Tax Bureau at (518) 457-3498.

The enclosed copies of NYT-G-07(1)M, (5)S, *Refunds or Credits for Sales and Excise Taxes on Credit Card Purchases of Automotive Fuel by Government Entities*, and NYT-G-07(4)S, *Credit Card Purchases of Automotive Fuel by Governmental Entities*, provide additional information on this issue.

The Department has proposed legislation to expand the parties eligible under the Tax Law to apply for a credit or refund (Senate Bill S. 4558). This bill is currently before the Legislature for approval.