

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 461

SENATORS FERNS AND CLINE, *original sponsors*

[Passed March 8, 2018; in effect 90 days from passage]

1 AN ACT to amend and reenact §11-14C-31 of the Code of West Virginia, 1931, as amended,
2 relating to petitions for refunds of motor fuel excise tax by certain taxpayers; extending
3 time periods for certain taxpayers to file petition for refunds; and maintaining current time
4 period to file petition for refunds of taxes paid on motor fuel sold for certain purposes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-31. Claiming refunds.

1 (a) Any person seeking a refund pursuant to §11-14C-9(c) or §11-14C-9(d) of this code
2 shall present to the commissioner a petition for refund in the form required by the commissioner
3 and provide the information required by the commissioner. The Tax Commissioner may require
4 the petitioner to provide the original or duplicate original sales slips or invoices from the distributor
5 or producer or retail dealer, as the case may be, showing the amount of the purchases, together
6 with evidence of payment thereof, and a statement stating how the motor fuel was used: *Provided,*
7 That sales slips or invoices marked “duplicate” are not acceptable: *Provided, however,* That
8 certified copies of sales slips or invoices are acceptable: *Provided further,* That copies of sales
9 slips and invoices may be used with any application for refund made under authority of §11-14C-
10 9(c)(15) of this code when the motor fuel is used to operate tractors and gas engines or threshing
11 machines for agricultural purposes: *And provided further,* That a refund claim made under the
12 authority of §11-14C-9(c)(1) of this code and a refund claim made under the authority of §11-14C-
13 9(d)(1) of this code shall be accompanied by such verification as prescribed by the Tax
14 Commissioner: *And provided further,* That billing statements and electronic invoices are
15 acceptable in lieu of original invoices at the discretion of the Tax Commissioner: *And provided*
16 *further,* That the person claiming a refund under §11-14C-9(c) or §11-14C-9(d) of this code shall
17 retain for at least three years following the postmark date of the application for refund a copy of
18 the invoices, sales slips, and billing statements for which the refund was claimed.

19 (b) Any person claiming a refund pursuant to §11-14C-30 of this code shall file a petition
20 in writing with the commissioner. The petition shall be in the form and with supporting records as
21 required by the commissioner and made under the penalty of perjury.

22 (c) The right to receive any refund under the provisions of this section is not assignable
23 and any assignment thereof is void and of no effect. No payment of any refund may be made to
24 any person other than the original person entitled to claim the refund except as otherwise
25 expressly provided in this article. The commissioner shall cause a refund to be made under the
26 authority of this section only when the claim for refund is filed with the commissioner within the
27 following time periods:

28 (1) A petition for refund under §11-14C-30 of this code, other than for evaporation loss,
29 shall be filed with the commissioner within three years from the end of the month in which: (A)
30 The tax was erroneously or illegally paid; (B) the gallons were exported or lost by casualty; or (C)
31 a change of rate took effect;

32 (2) A petition for refund under §11-14C-30 of this code for evaporation loss shall be filed
33 within three years from the end of the year in which the evaporation occurred;

34 (3) A petition for refund under §11-14C-9(c) or §11-14C-9(d) of this code shall be filed with
35 the commissioner within one year from the end of the calendar year for purchases of motor fuel
36 during the calendar year: *Provided*, That any application for refund made under authority of §11-
37 14C-9(c)(15) of this code when the motor fuel is used to operate tractors and gas engines or
38 threshing machines for agricultural purposes shall be filed within 12 months from the month of
39 purchase or delivery of the motor fuel: *Provided, however*, That all persons authorized to claim a
40 refundable exemption under the authority of §11-14C-9(c)(1) through §11-14C-9(c)(6) of this code
41 and §11-14C-9(d)(1) through §11-14C-9(d)(6) of this code shall do so no later than December 31
42 for the purchases of motor fuel made during the preceding fiscal year ending June 30: *Provided*
43 *further*, That a petition for refund under §11-14C-9(d)(10) of this code shall be filed with the

44 commissioner on or before the last day of January, April, July, and October for purchases of motor
45 fuel during the immediately preceding calendar quarter.

46 (d) Any petition for a refund not timely filed is not construed to be or constitute a moral
47 obligation of the State of West Virginia for payment. Every petition for refund is subject to the
48 provisions of §11-10-14 of this code.

49 (e) The commissioner may make any investigation considered necessary before refunding
50 to a person the tax levied by §11-14C-5 of this code. The commissioner may also subject to audit
51 the records related to a refund of the tax levied by §11-14C-5 of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2018.

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Governor