

SUMMARY OF PROPOSAL #17
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Sales Tax Exemption for Dyed Diesel Fuel

Summary of Proposal for Consideration

To repeal the sales tax exemption on the sale dyed diesel fuel under Arkansas Code § 26-52-401(11)(A)(iii), effective for tax years beginning on or after January 1, 2019.

Fiscal Analysis

Repeal of the exemption may result in an estimated \$15,639,661 per year increase to General Revenue based upon FY17, as provided by the Department of Finance and Administration’s “Sales and Use Tax Revenue Impact of Exemptions” presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

Legal Analysis

Background

Arkansas currently has a sales tax exemption for the sale of dyed diesel fuel. However, dyed diesel fuel is subject to an excise tax under the Distillate Special Fuel Tax pursuant to § 26-56-224.

ACT 87 of 2007 created the sales tax exemption on the sale of dyed diesel fuel, and imposed an excise tax on the sale of dyed diesel fuel under the Distillate Special Fuel Tax, and has not been amended since. The state levies an excise tax on the sale of dyed diesel fuel at the rate of six cents (6¢) per gallon on all dyed distillate special fuel sold, used, or utilized in the state. If the dyed distillate special fuel contains biodiesel fuel, the excise tax is levied only on the portion of the fuel that is not biodiesel fuel. The excise tax does not apply to dyed distillate special fuel sold for consumption by vessels, barges, and other commercial watercraft, railroads, municipal buses or to fuel sold to the United States Government. The excise tax is deposited as follows:

- Seventy-six and six-tenths percent (76.6%) shall be deposited as general revenues;
- Eight and five-tenths percent (8.5%) shall be deposited into the Property Tax Relief Trust Fund; and
- Fourteen and nine-tenths percent (14.9%) shall be deposited into the Educational Adequacy Fund.

Potential Legal Issues

None.

Other States

- Iowa: Sales tax exemption for dyed diesel fuel where the fuel tax has been imposed and paid. (IA St. § 423.3)
- Louisiana: Sales tax exemption for dyed diesel fuel where the fuel tax has been imposed and paid. (LA St. 47:711):
- Mississippi: Sales tax exemption for dyed diesel fuel, subject to fuel tax of 5.75 cents per gallon. (MS St. § 27-55-517)
- Missouri: Sales tax exemption for dyed diesel fuel, subject to excise motor fuel tax, except in the following for commercial off-road use, railroad companies, public mass transportation service operators, auxiliary equipment, and vehicles not required to be licensed. (MO St. § 144.030)
- Oklahoma: Dyed diesel is not subject to motor fuels tax, and instead is subject to sales tax. (OK St. 68 § 500.10)
- Tennessee: Sales tax exemption for dyed diesel fuel, and subject to special gallon diesel tax for commercial carriers and agricultural purposes. (TN St. § 67-3-1401)
- Texas: Sales tax exemption for dyed diesel fuel, and subject to fuel tax. (TX St. § 162.201)