M E M O R A N D U M

TO: **Members of the Transportation Legislation Review Committee**

FROM: **Byron DeLuke, JBC Staff**

SUBJECT: **Colorado Motor Fuel Tax Exemptions and Refunds**

DATE: **August 21, 2012**

Exempt Fuel Sales in Colorado [Section 39-27-102.5, C.R.S.]
Only Colorado fuel licensees (distributor, supplier, blender, or importer) responsible for the collection of the excise tax can sell fuel, which is exempt from the Colorado fuel excise tax, to users.

Gasoline and Special Fuels
Gasoline can only be sold without excise tax to government entities. The gasoline must be requisitioned and used by the government entity and paid for with funds drawn from the government entity. Government entities must apply for and receive an exemption certificate from the Colorado Department of Revenue before they can purchase fuel tax exempt. Government entities can apply for an exemption certificate by completing the Application for Fuel Tax Exemption Certificate for Government or Political Subdivision (DR 0241) available at www.TaxColorado.com.

Most special fuels can be sold without excise tax to government entities, and the same guidelines as gasoline apply. However, sales of clear diesel fuel must include the excise tax. Dyed diesel fuel is sold without excise tax to be used for exempt purposes off road such as agricultural, home heating, or commercial manufacturing.

Aviation Fuels
Aviation fuel is exempt from fuel excise tax when sold to commercial and scheduled air carriers that are exempt from the federal aviation fuel taxes. Aviation fuel sold to government entities is exempt from the Colorado aviation excise tax.

The Environmental Response Surcharge fee is collected on all fuel sold in Colorado, with the exception of: aviation fuel, fuel exported out of Colorado and fuel sold to railroads for off road use. All other deliveries and sales of fuel must be sold tax collected and be reported as such when filing the Distributor Tax Return (DR 7050). The entities purchasing tax-paid fuel and using the fuel for exempt purposes may apply for an exempt fuel tax refund (See following section on Tax Refunds for Exempt Use of Fuel).

Tax Refunds for Exempt Use of Fuel [Section 39-27-103, C.R.S.]
Colorado tax law allows for a refund of fuel tax paid for gasoline, aviation fuel, and special fuels when the fuel is used for approved commercial purposes off Colorado roads. Refunds are not allowed for fuel taxes paid on fuel used for recreational purposes.

Gasoline and Special Fuels
Fuel used to power motor vehicles over the road is taxable and does not qualify for a fuel tax refund. This includes farm or ranch vehicles driving over public access roads. A refund may be claimed for fuel tax paid on gasoline or special fuel purchased in Colorado and used for the following purposes:

- Operating stationary engines, motor boats or motor vehicles on or over fixed rails for commercial purposes;
- Operating tractors, trucks, or other farm implements or machinery off-road when used for agricultural purposes on farms or ranches;
- Cleaning and dyeing;
- Operating any motor vehicle or machine owned by the United States or any of its agencies, the state of Colorado or any of its agencies, any town, city, county, or Colorado school district, and any other political subdivision of Colorado; and
- Any other use of equipment or machinery for commercial purposes off public roads.

Aviation Fuels
A refund may be claimed for fuel tax paid on aviation fuels purchased in Colorado and used for the following purposes:

- Operating a state licensed agricultural applicator aircraft from a private landing facility used solely and exclusively for agricultural applications (aviation fuel tax will only be refunded to a maximum of 50 percent of tax paid); and
- Aircraft operated by scheduled air carriers or commuter airlines operating flights on a regular schedule.

Motor fuel used for aviation purposes (listed above) on which the gasoline or special fuel tax has been paid qualify for a refund of the motor fuel tax paid to the extent it exceeds the aviation fuel tax due. Fixed Based Operators (FBOs) at airports may request a fuel tax refund for fuel sold to U.S. government agencies, when the tax is not paid by the government agency (U.S. Air Force or military aircraft). The FBO must comply with the fuel tax refund regulations and processing procedures.