# WEST VIRGINIA CODE: §11-14-11

**§11-14-11. Refund of tax because of certain nonhighway uses; statute of limitations and effective date.**

(a) The tax imposed by this article shall be refunded to any person who shall buy in quantities of twenty-five gallons or more, at any one time, tax-paid gasoline or special fuel, when consumed for the following purposes:

(1) As a special fuel for internal combustion engines not operated upon highways of this state; or (2) Gasoline consumed to operate tractors and gas engines or threshing machines for agricultural purposes, when such operation is not, in whole or in part, upon the highways of this state; or

(3) Gasoline used by any railway company, subject to regulation by the Public Service Commission of West Virginia, for any purpose other than upon the highways of this state; or

(4) Gasoline consumed in the business of manufacturing or producing natural resources or in mining or drilling therefor, or in the transportation of natural resources solely by means of unlicensed vehicles or vehicles licensed under the motor vehicle laws of this state, either as a motor fuel or for any other purpose and which gasoline is not in any part used upon the highways of this state; or

(5) Gasoline consumed in motorboats or other watercraft operated upon the navigable waters of this state; or

(6) Gasoline or special fuel used to power a power take-off unit on a motor vehicle. When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, the person claiming the refund may present to the Tax Commissioner a statement of his claim and shall be allowed a refund for fuel used in operating a power take-off unit on a cement mixer truck or garbage truck equal to twenty-five percent of the tax imposed by this article paid on all fuel used in such a truck.

(b) Such tax shall be refunded upon presentation to the commissioner of an affidavit accompanied by the original or top copy sales slips or invoices, or certified copies thereof, from the distributor or producer or retail dealer, showing such purchases, together with evidence of payment thereof, which affidavit shall set forth the total amount of such gasoline or special fuel purchased and consumed by such user, other than upon any highways of this state, and how used; and the Tax Commissioner upon the receipt of such affidavit and such paid sales slips or invoices shall cause to be refunded such tax paid on gasoline or special fuel purchased and consumed as aforesaid.

(c) The right to receive any refund under the provisions of this section shall not be assignable and any assignment thereof shall be void and of no effect, nor shall any payment

WV Legislature

be made to any person other than the original person entitled thereto using gasoline or special fuel as hereinbefore in this section set forth. The Tax Commissioner shall cause a refund to be made under the authority of this section only when the claim for such refund is filed with the Tax Commissioner, upon forms prescribed by the Tax Commissioner, within six months from the month of purchase or delivery of the gasoline or special fuel, except that any application for refund made under authority of subdivision (2) above shall be filed within twelve months from the month of purchase or delivery of such gasoline or special fuel. Any claim for a refund not timely filed shall not be construed to be or constitute a moral obligation of the State of West Virginia for payment. Such claim for refund shall also be subject to the provisions of section fourteen, article ten of this chapter.

(d) Effective date. -- The provisions of this section as hereby amended shall apply to all gasoline and special fuels purchased or delivered on or after July 1, 1986, and the provisions of this section in effect prior to July 1, shall apply to gasoline and special fuels purchased or delivered prior to July 1, 1986.

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