Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE JULY 6, 2007

Biofuel Sellers - Update

Tax Benefits for Sellers of Biodiesel Fuel, Alcohol Fuel, Wood Biomass Fuel and Biodiesel, Alcohol (E85 Motor Fuel), and Wood Biomass Fuel Blends

Effective July 22, 2007, SHB 1029, Chapter 309, Laws of 2007 replaces the term "alcohol fuel" with "E85 motor fuel" and also extends the expiration dates for the exemptions for biodiesel and E85 motor fuel. This Special Notice provides general information for sellers of biofuel and highlights these changes.

History:
Effective July 1, 2003, 2SHB 1241, Chapter 63, Laws of 2003 and EHB 2146, Chapter 339, Laws of 2003, provided significant tax benefits on retail sales and distribution of biodiesel fuel, alcohol fuel, or wood biomass fuel. Income from the sale of these biofuels would not be subject to business and occupation (B&O) tax. (RCW 82.04.4334 and 82.04.4335)

The laws also provided sales and use tax exemptions for the investment in machinery and equipment, including delivery vehicles, used directly for the retail sale of biodiesel, alcohol, and wood biomass fuel **blends**. (RCW 82.08.955 and 82.12.955)

Changes:

- Effective July 22, 2007, the terms "alcohol fuel" and "alcohol fuel blend" are replaced by "E85 motor fuel." (See the definition below.)

- The expiration dates for RCW 82.04.4334 (B&O tax deduction for sales of biodiesel and E85 motor fuel), RCW 82.08.955 (sales tax exemption for sales of machinery, equipment, vehicles, and services related to biodiesel or E85 motor fuel), and RCW 82.12.955 (use tax exemption of machinery, equipment, vehicles, and services related to biodiesel or E85 motor fuel) are extended to July 1, 2015.

Note: The expiration dates for similar exemptions for **wood biomass fuel** (RCW 82.04.4335, 82.08.960, and 82.12.960) did not change. Those expiration dates remain July 1, 2009.

Effective July 22, 2007, for purposes of the deduction and exemptions described below, the following definitions apply:

Biodiesel Fuel means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and meets the American Society of Testing and Materials specification D 6751. ***Taxpayers must maintain certification from a testing lab that their biodiesel meets the ASTM standard.***

To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users please call 1-800-451-7985.

Wood Biomass Fuel means any pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or from dedicated energy crops, and does not include any wood pieces that contain chemical preservatives.

Biodiesel Fuel Blend and Wood Biomass Fuel Blend mean fuels that contain at least 20% biodiesel fuel or wood biomass fuel by volume.

E85 Motor Fuel means an alternative fuel that is a blend of ethanol and hydrocarbon of which the ethanol portion is nominally seventy-five to eighty-five percent denatured fuel ethanol by volume that complies with the most recent version of American society of testing and materials specification D 5798.

Distribution means any of the activities specified in RCW 82.36.020(2).

B&O Tax Deduction

Sales of pure biodiesel, wood biomass or E85

Income received from the distribution or retail sale of biodiesel fuel, wood biomass fuel, or E85 motor fuel may be deducted from gross income reported for B&O tax.

Sales of biodiesel, wood biomass or E85 that has been blended with gasoline or diesel

Only income attributable to the pure biofuel portion of biodiesel fuel, wood biomass fuel, or E85 motor fuel sold may be deducted. This amount is computed based on the percentage of the product by volume that is the pure biofuel portion of biodiesel, wood biomass, or E85 motor fuel multiplied by the price of the product by volume. For example, if a fuel blend is 50% pure biodiesel and 50% diesel fuel and sells for $1.50 per gallon, the vendor may deduct $0.75 from gross income for each gallon sold.

Please note that these fuels remain subject to the Special Fuels Tax (RCW 82.38) when sold for motor vehicles using the roads and highways of this state. For detailed information about this tax, contact the Department of Licensing, Fuel Tax Division (http://www.dol.wa.gov/).

Retail Sales Tax and Use Tax Exemptions

- The purchase of machinery and equipment and the construction of facilities used directly for the retail sale of biodiesel fuel blend, E85 motor fuel, and wood biomass fuel blend are exempt from retail sales tax and use tax.

- The purchase of fuel delivery vehicles and labor and service charges related to such vehicles are exempt from retail sales tax and use tax provided 75% of the fuel distributed by them is biodiesel fuel blend, E85 motor fuel, and wood biomass fuel blend.

Those taking the exemptions must provide the vendor with a properly completed *Buyer's Retail Sales Tax Certificate* (REV 27 0032e) to document the tax exempt nature of the sale.

Those taking the deduction and the exemptions must also keep records necessary to verify their eligibility.