



DEPARTMENT OF TAXATION

STATE OF HAWAII

June 21, 1971

TAX INFORMATION RELEASE

NO. 34-71

RE: TAXATION OF DIESEL OIL AND LIQUEFIED PETROLEUM GAS

Act 51, enacted by the 1971 Legislature, provides that the fuel tax imposed under Chapter 243, HRS, shall be imposed on and be paid by the distributor on the sales of diesel oil and liquefied petroleum gas made as of July 1, 1971 unless the purchaser furnishes the distributor with a certificate stating that such fuel is for non-highway use.

Every purchaser of diesel oil who uses such fuel in a motor vehicle, whether wholly or partially, in areas other than upon the public highways of the State and every purchaser of liquefied petroleum gas who uses such fuel in an internal combustion engine or a motor vehicle, whether wholly or partially, in areas other than upon the public highways of the State, shall furnish an Exemption Certificate (Form M-38) to the distributor. Exemption Certificate Form M-38 with Instructions may be obtained from all fuel distributors or from all taxation district offices.

A Certificate shall not be required if diesel oil is used other than for purposes of operating a motor vehicle off the public highways; for example, diesel oil used for operating a stationary engine or for heating purposes in an industrial plant. Similarly, a Certificate shall not be required if liquefied petroleum gas is used exclusively for fuel and heating purposes and not used in operating an internal combustion engine; for example, liquefied petroleum gas used for cooking purposes in a home or restaurant or for fuel purposes in an industrial plant, but not including the use for operating an internal combustion engine in such areas.

In the event an Exemption Certificate is not or cannot be furnished to the distributor, the tax shall be imposed and collected upon all sales involving the use of the fuel for operating a motor vehicle as if the fuel is to be used for operating a motor vehicle upon the public highways of the State.

Form M-36 is available at all taxation district offices and may also be used for the purpose of claiming a refund of taxes paid by a purchaser who did not furnish an Exemption Certificate to the distributor at the time of purchase and who actually used such fuel in areas other than upon the public highways of the State.

Every purchaser of diesel oil or liquefied petroleum gas who furnishes an Exemption Certificate to a distributor for the purchase of fuel initially intended for use off the public highways but who subsequently uses such fuel upon the

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public highways shall pay the additional taxes by filing Form M-13 for diesel oil and Form M-22 for liquefied petroleum gas.

Act 51 imposes the burden of collecting the fuel tax on diesel oil and liquefied petroleum gas on the distributor rather than on the purchaser or the user. However, the Exemption Certificate provision of the Act makes it possible for the distributor to forego the collection of the fuel tax if such fuel is certified for use in areas other than upon the public highways of the State. Caution must be exercised by the purchaser of the fuel in the execution and use of the Exemption Certificate as the misuse of such Certificate will lead to its revocation and/or the imposition of penalties provided by law.

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