

## CHAPTER 412—H. F. No. 883

*An act relating to gasoline and substitutes therefor, defining terms, providing for an excise tax on aviation gasoline and substitutes therefor received, sold, stored, or withdrawn from storage in this state and for the collection and payment thereof and the disposition of the revenues therefrom, including interest and penalties, providing penalties for violations of this act, and amending Minnesota Statutes 1941, Sections 296.01, as amended by Laws 1943, Chapter 320, Sections 1, 2, and 3, 296.01, Subdivision 7, 296.02, 296.025, 296.05, as amended by Laws 1943, Chapter 320, Section 5, 296.07, 296.09, 296.12, Subdivisions 1 and 2, as amended by Laws 1943, Chapter 320, Section 8, 296.14, as amended by Laws 1943, Chapter 320, Sections 9 and 10, 296.16, Subdivisions 1 and 2, 296.17, as amended by Laws 1943, Chapter 320, Section 12, and 296.18, as amended by Laws 1945, Chapter 152.*

Be it enacted by the Legislature of the State of Minnesota :

Section 1. Minnesota Statutes 1941, Section 296.01, as amended by Laws 1943, Chapter 320, Sections 1, 2, and 3, is amended by adding thereto three additional subdivisions to read as follows :

*Subd. 13. "Aircraft" means any contrivance, now or hereafter invented, used or designed for navigation of or flight in the air.*

*Subd. 14. "Aviation gasoline" means any gasoline which is capable of use for the purpose of producing or generating power for propelling aircraft, which (1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to a consumer, as "aviation gasoline", or (2), whether or not invoiced and billed as provided in clause (1) of this subdivision, is received, sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling aircraft.*

*Subd. 15. "Motor vehicle gasoline excise tax" means the tax imposed on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state.*

Sec. 2. Minnesota Statutes 1941, Section 296.01, Subdivision 7, is amended to read as follows :

*Subd. 7. "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline for*

use in motor vehicles, or in the business of buying and selling aviation gasoline, in this state.

Sec. 3. Minnesota Statutes 1941, Section 296.02, is amended to read as follows:

**296.02. Excise tax on gasoline. Subdivision 1. Rate.** There is hereby imposed an excise tax of four cents per gallon on all gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. This tax shall be payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

**Subd. 2. Aviation gasoline.** *Subject to the provisions of section 296.18, subdivision 4, there is hereby imposed an excise tax of four cents per gallon on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. This tax shall be payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.*

**Subd. 3. Exception.** *The provisions of subdivision 2 of this section do not apply to aviation gasoline purchased and placed in the fuel tanks of an aircraft outside this state, even though such gasoline may be consumed within this state.*

**Subd. 4. Consumed by an aircraft.** *The tax imposed by subdivision 2 of this section is expressly declared not to be a tax upon consumption of aviation gasoline by an aircraft.*

Sec. 4. Minnesota Statutes 1941, Section 296.025, is amended to read as follows:

**296.025. Excise tax on gasoline substitutes.** There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax upon all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of 60 degrees Fahrenheit at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor that is used to generate power for the propulsion of motor vehicles upon the public highways of this state, or for use in machinery operated for the purpose of constructing, reconstructing, or maintaining the public highways of this state, not otherwise taxed as gasoline, and upon any such combustible gases and liquids, and liquid petroleum products or substitutes therefor which are received, sold, stored, or withdrawn from storage in this state, to be used as substitutes for aviation gasoline, and not otherwise taxed as gasoline.

Sec. 5. Minnesota Statutes 1941, Section 296.05, as amended by Laws 1943, Chapter 320, Section 5, is amended by adding a new subdivision to read as follows:

*Subd. 5. Must meet specifications. No aviation gasoline shall be received, sold, stored, or withdrawn from storage in this state unless it shall conform to the specifications set forth in subdivision 1 of this section, and the provisions of subdivisions 3 and 4 of this section shall apply to aviation gasoline.*

Sec. 6. Minnesota Statutes 1941, Section 296.07, is amended to read as follows:

296.07. **Certificate of registration filed.** No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying and selling gasoline or special use fuel for use in motor vehicles, *or aviation gasoline or special use fuel to be used as a substitute for aviation gasoline*, as a dealer in this state after the effective date of this act, unless he shall file a duly acknowledged certificate of registration in a manner approved by the commissioner.

Sec. 7. Minnesota Statutes 1941, Section 296.09, is amended to read as follows:

296.09. **Industrial user permit.** An exclusive industrial user of gasoline for other than in motor vehicles who is not engaged in the business of selling gasoline, *and who does not receive, sell, store, or withdraw from storage in this state aviation gasoline*, may at the discretion of the commissioner secure an industrial user permit upon application in a manner approved by the commissioner. The permit shall expire annually on May 31.

Sec. 8. Minnesota Statutes 1941, Section 296.12, Subdivisions 1 and 2, as amended by Laws 1943, Chapter 320, Section 8, are amended to read as follows:

296.12. **Special use fuels.** Subdivision 1. **Special use fuel.** "Special use fuel" shall mean all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor that is used in motor vehicles, except gasoline, *and all such combustible gases and liquids and liquid petroleum products or substitutes therefor that are used as substitutes for aviation gasoline.*

Subd. 2. **Registration; records kept; tax paid.** Persons using special use fuel in motor vehicles, *or receiving, selling, storing, or withdrawing from storage special use fuel as a*

*substitute for aviation gasoline*, shall register and keep records, and shall report and pay the tax in a manner approved by the commissioner on special use fuel received in this state for use in motor vehicles, *or as a substitute for aviation gasoline*. The reports shall be made by the 23rd day of each month and shall cover special use fuel received during the preceding calendar month. All provisions of this act relating to the calculation, collection and payment of the taxes on gasoline and all provisions of this act relating to distributors' licenses, shall be applicable to persons using special use fuel on the public highways of this state *and to persons receiving, selling, storing, or withdrawing from storage special use fuel as a substitute for aviation gasoline*.

Sec. 9. Minnesota Statutes 1941, Section 296.14, as amended by Laws 1943, Chapter 320, Sections 9 and 10, is amended to read as follows:

**296.14. Reports to commissioner.** Subdivision 1. **Made monthly; payment inspection fees and tax.** On or before the 23rd day of each month, each distributor shall file in the office of the commissioner at St. Paul, Minnesota, a report in a manner approved by the commissioner showing the number of gallons as originally invoiced, of petroleum products received by him during the preceding calendar month, and such other information as the commissioner may require. Each such report shall show *separately* the number of gallons of *aviation gasoline received by him* during such calendar month. The report shall be accompanied by remittance covering inspection fees on petroleum products and gasoline tax on gasoline received by him during the preceding month; provided that in computing such tax a deduction of three per cent of the quantity of gasoline received shall be made for evaporation and loss; provided further that at the time of remittance the distributor shall submit satisfactory evidence that one-third of such three per cent deduction shall have been credited or paid to dealers on quantities sold to them. The report and remittance shall be deemed to have been filed as herein required if postmarked on or before the 23rd day of the month in which payable.

Subd. 2. **Credit or refund of tax paid.** The commissioner shall allow the distributor credit or refund of the tax paid on gasoline:

(1) Exported or sold for export from the state, other than in the supply tank of a motor vehicle *or of an aircraft*;

(2) Sold to the United States government or to any "cost plus a fixed fee" contractor employed by the United States government on any national defense project;

(3) Sold to a holder of an industrial user permit or to another licensed distributor;

(4) Destroyed by accident while in the possession of the distributor;

(5) In such other cases as the commissioner may permit, not inconsistent with the provisions of this act and other laws relating to the gasoline excise tax.

Sec. 10. Minnesota Statutes 1941, Section 296.16, Subdivisions 1 and 2, are amended to read as follows:

296.16. Use. Subdivision 1. Use. All gasoline received in this state and all gasoline produced in or brought into this state, *except aviation gasoline*, shall be deemed to be intended for use in motor vehicles in this state.

Subd. 2. Seller to collect tax. If the person directly or indirectly paying *either of the taxes provided for by section 296.02, as amended by this act*, shall not in fact use the gasoline in motor vehicles in this state *or receive, store, or withdraw it from storage to be used by himself for the purpose of producing or generating power for propelling aircraft*, but shall sell or otherwise dispose of the same, except for use as provided in section 296.14, subdivision 2, *as amended by this act*, he is hereby authorized to collect from the person to whom the gasoline is so sold or disposed of the tax so paid by him, and he is hereby required, upon request, to make, sign, and deliver to such person an invoice of such sale or disposition.

Sec. 11. Minnesota Statutes 1941, Section 296.17, as amended by Laws 1943, Chapter 320, Section 12, is amended by adding a new subdivision thereto to read as follows:

Subd. 5. Duties of distributor or dealer. *The provisions of subdivision 1 of this section do not apply to aviation gasoline. It shall be the duty of every distributor, dealer, and person who receives, sells, stores, or withdraws from storage in this state aviation gasoline manufactured, produced, received, or stored by him, if the same has not been reported or if a tax provided for in section 296.02, as amended by this act, on account thereof, has not been paid to the commissioner, to report to the commissioner the quantity of such gasoline so received, sold, stored, or withdrawn from storage by him, and such person shall become liable for the payment of the tax.*

*All provisions of this act relating to the calculation, collection, and payment of the tax shall be applicable to any such person, dealer, or distributor.*

Sec. 12. Minnesota Statutes 1941, Section 296.18, as amended by Laws 1945, Chapter 152, is amended to read as follows:

**296.18. Reimbursement in certain cases.** Subdivision 1. **For use other than for motors or aircraft.** Any person who shall buy and use gasoline for any purpose other than use in motor vehicles, and who shall have paid the gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, shall be reimbursed and repaid the amount of the tax paid by him upon *filing with the commissioner a verified claim in such form and containing such information as the commissioner shall require and accompanied by the original invoice thereof.* The claim shall set forth the total amount of the gasoline so purchased and used by him other than in motor vehicles, and shall state when and for what purpose it was used. If the commissioner be satisfied that the claimant is entitled to payment, he shall approve the claim and transmit it to the state auditor. No repayment shall be made unless the claim and invoice shall be *filed with the commissioner within six months from the date of the purchase. The claim and invoices shall be deemed to have been filed with the commissioner as herein required if postmarked within the six months period. The word "gasoline" as used in this subdivision does not include aviation gasoline.*

**Subd. 2. Report sales.** (1) *Any person who shall buy aviation gasoline and who shall have paid the aviation gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, and shall use said gasoline in motor vehicles or shall knowingly sell it to any person for use in motor vehicles shall, on or before the 23rd day of the month following that in which such gasoline was so used or sold, report the fact of such use or sale to the commissioner in such form as he may prescribe.*

(2) *Any person who shall buy gasoline other than aviation gasoline and who shall have paid the motor vehicle gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, who shall knowingly sell such gasoline to any person to be used for the purpose of producing or generating power for propelling aircraft, or who shall receive, store, or withdraw*

from storage such gasoline to be used for that purpose, shall, on or before the 23rd day of the month following that in which such gasoline was so sold, stored, or withdrawn from storage, report the fact of such sale, storage, or withdrawal from storage to the commissioner in such form as he may prescribe.

(3) Any person who shall buy aviation gasoline and who shall have paid the aviation gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, who shall not use it in motor vehicles or receive, sell, store, or withdraw it from storage for the purpose of producing or generating power for propelling aircraft, shall be reimbursed and repaid the amount of the tax paid by him upon his making a verified claim in the same manner as is provided in subdivision 1 of this section with reference to claims for refunds of motor vehicle gasoline excise taxes, and the provisions of that subdivision as to the procedure on claims shall apply to claims made under this clause.

Subd. 3. **False report; penalty.** Every person who shall make any false statement in any claim or invoice filed with the commissioner, or knowingly file with the commissioner any claim or invoice containing any false statement or collect or cause to be paid to him or to any other person a refund without being entitled thereto, when acting pursuant to the provisions of subdivision 1 or clause 3 of subdivision 2 of this section, shall forfeit the full amount of the claim and be guilty of a misdemeanor. Every person who is convicted under the provisions of this subdivision shall be prohibited from filing with the commissioner any claim for refund upon gasoline purchased within six months after such conviction.

Subd. 4. **Graduated reductions.** Any licensed distributor or other person who shall have directly or indirectly paid the excise tax on aviation gasoline provided for by section 296.02, subdivision 2, shall, as to all such aviation gasoline, over and above 50,000 gallons, received, stored, or withdrawn from storage by him in this state in any calendar year and not sold or otherwise disposed of to others, or intended for sale or other disposition to others, on which such tax has been so paid, be entitled to the following graduated reductions in such tax for that calendar year, to be obtained by means of the following refunds:

(1) On each gallon of such aviation gasoline above 50,000 and not more than 100,000, one cent per gallon;

(2) On each gallon of such aviation gasoline above 100,000 and not more than 150,000, two cents per gallon;

(3) On each gallon of such aviation gasoline above 150,000 and not more than 200,000, three cents per gallon;

(4) On each gallon of such aviation gasoline above 200,000, three and one-half cents per gallon.

**Subd. 5. Rebate.** Any distributor or other person claiming to be entitled to any refund provided for in subdivision 4 shall receive such refund upon filing with the commissioner a verified claim in such form, containing such information, and accompanied by such invoices or other proof as the commissioner shall require. The claim shall set forth, among other things, the total number of gallons of aviation gasoline upon which the claimant has directly or indirectly paid the excise tax provided for in section 296.02, subdivision 2, during the calendar year, which has been received, stored, or withdrawn from storage by him in this state and not sold or otherwise disposed of to others. If the commissioner be satisfied that the claimant is entitled to the refund, he shall approve the claim and transmit it to the state auditor, and it shall be paid as provided for in section 14, subdivision 2. All claims for refunds under this subdivision shall be made on or before March 1 following the end of the calendar year for which the refund is claimed.

**Subd. 6. False claim; rebate.** If any distributor or other person, with intent to unlawfully secure any refund provided for in subdivision 4 of this section, shall file a false or fraudulent claim, there shall be imposed upon him as a penalty an amount equal to 50 per cent of the amount of the refund unlawfully secured, in addition to that amount. The penalty imposed by this subdivision shall be collected as part of the tax.

**Subd. 7. Felony.** In addition to the penalty prescribed in subdivision 6 of this section, any person who wilfully makes a false claim for any refund provided for in subdivision 4 of this section shall be guilty of a felony. The term "person", as used in this subdivision, includes any officer or employee of a corporation or a member or employee of a partnership who, as such officer, member, or employee, is under a duty to perform the act in respect to which the violation occurs.

Sec. 13. Minnesota Statutes 1941, Section 296.25, is amended to read as follows:

**296.25. Violations; penalties.** Any person who fails to comply with any provisions of sections 296.01 to 296.27, inclusive, or who makes any false statement in any report required by sections 296.12, 296.14, 296.17, subdivision 5, or



296.18, subdivision 2, shall be guilty of a misdemeanor unless other penalties are expressly provided.

**Sec. 14. Revenue provisions.** Subdivision 1. **Do not apply to certain sections.** The provisions of Minnesota Statutes 1941, Sections 296.32 to 296.42, inclusive, do not apply to the excise taxes imposed on aviation gasoline and substitutes therefor.

**Subd. 2. Aviation fuel tax fund.** The revenues derived from the excise taxes on aviation gasoline and on special use fuels received, sold, stored, or withdrawn from storage as substitutes for aviation gasoline, and from interest thereon and penalties for delinquency in payment, paid or collected pursuant to the provisions of sections 296.02 to 296.17, inclusive, shall be paid into the state treasury by the commissioner and credited to a special fund to be known as the *Aviation Fuel Tax Fund*, and distributed as follows:

(1) *There shall be paid from the Aviation Fuel Tax Fund all refunds authorized by Minnesota Statutes 1941, Section 296.18, Subdivision 2 (3), as amended by this act, and Subdivision 4, as they may be approved by the commissioner of taxation;*

(2) *There shall be transferred by the state auditor each year from the Aviation Fuel Tax Fund to the general revenue fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of this act;*

(3) *After meeting the requirements of clauses (1) and (2), there shall be transferred, on December 31 and June 30 of each fiscal year, by the state auditor to the State Airports Fund, all moneys in the Aviation Fuel Tax Fund in excess of such amount as the commissioner of taxation may certify is reasonably required for refunds as provided in clause (1) hereof.*

**Subd. 3. Reports.** On or before the last day of each calendar month the commissioner shall report to the state auditor and the state treasurer the total amount of aviation gasoline excise taxes which have been paid on gasoline which was, after the payment of such taxes, used or sold for use in motor vehicles, as determined by him from the reports made during that month pursuant to the provisions of section 296.18, subdivision 2 (1). The amount so reported shall then be transferred from the Aviation Fuel Tax Fund to the fund in the state treasury in which motor vehicle gasoline taxes are deposited. He shall at the same time likewise report the total

amount of motor vehicle gasoline excise taxes which have been paid on gasoline which was, after the payment of such taxes, received, sold, stored or withdrawn from storage to be used for the purpose of producing or generating power for propelling aircraft, as determined by him from the reports made during that month pursuant to the provisions of section 296.18, subdivision 2 (2). The amount so reported shall then be transferred from the fund in the state treasury in which motor vehicle gasoline excise taxes are deposited to the Aviation Fuel Tax Fund. The state auditor and the state treasurer shall, in the case of each transfer in this subdivision provided for, make appropriate entries in the accounts of the respective funds.

**Sec. 15. Severable.** If any provisions of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

**Sec. 16. Effective date.** This act shall take effect and be in force from and after June 1, 1945.

Approved April 19, 1945.

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#### CHAPTER 413—H. F. No. 958

*An act relating to taxes on and measured by net income and amending Laws 1943, Chapter 656, Section 3, Subdivision 2.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1943, Chapter 656, Section 3, Subdivision 2, is hereby amended to read as follows:

**290.071. Certain income from United States bonds as income.**

Subdivision 2. (1) If at least 80 per cent of the total compensation for personal services covering a period of 36 months or more is received or accrued in one taxable year by an individual or a partnership, the tax attributable to any part thereof which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of such individual ratably over that part of the