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Section IV  
Emergency Rules

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.:          RULE TITLE:

12BER22-12      Florida Motor Fuel Tax Relief.

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Section 47 of Chapter 2022-97, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement The Florida Motor Fuel Tax Relief Act of 2022. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the 25.3 cents reduction of the Florida fuel tax rate.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 47 of Chapter 2022-97, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of these provisions.

**SUMMARY:** This emergency rule implements the Florida Motor Fuel Tax Relief Act of 2022 and provides guidance to terminal suppliers, wholesalers, importers, and retail dealers of gasoline, as well as local government users of diesel fuel and motor fuel quarterly refund filers, with regards to the reduction of the Florida fuel tax rate. From October 1, 2022, through October 31, 2022, the Florida fuel tax rate is reduced from 33.425 cents to 8.125 cents, which does not include the additional local option tax.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Brinton Hevey, Technical Assistance and Dispute Resolution, telephone (850)717-7754, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

**12BER22-12 Florida Motor Fuel Tax Relief.**

(1) The Florida Motor Fuel Tax Relief Act of 2022 reduces the tax rate on motor fuel by 25.3 cents per gallon from Saturday, October 1, 2022, through Monday, October 31, 2022. The reduced tax rate applies to all gasoline products, any product blended with gasoline, or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle. The reduced tax rate must be passed on to the ultimate customer on each

gallon of gasoline sold at retail from October 1, 2022, through October 31, 2022. The Florida fuel taxes imposed on diesel or aviation fuel are not impacted.

(2) Definitions. For the purpose of this emergency rule, the following terms have the following meanings:

(a) "Tax relief period" means the period October 1, 2022, through October 31, 2022.

(b) "Florida fuel tax" means the total tax rate of 33.425 cents per gallon imposed by Section 206.41(1)(a)-(c) and (e)-(h), F.S.

(c) "Local option tax above the minimum" means the ninth cent imposed under Section 206.41(1)(d), F.S., and the remaining local option tax imposed under Section 206.41(1)(e), F.S., which varies by county.

1. The local option tax above the minimum is due when motor fuel is sold outside the bulk transfer system to anyone other than a licensed terminal supplier or wholesaler.

2. The additional local option tax rates (local option tax above the minimum) may be found in Exhibit B of the Florida Motor Fuel Tax Relief Act of 2022 October 1, 2022 to October 31, 2022 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates on the Department's website at [floridarevenue.com/taxes/rates](http://floridarevenue.com/taxes/rates).

(d) "Reduced tax rate" means the reduction of the Florida fuel tax to 8.125 cents per gallon during the tax relief period. The Florida fuel tax is reduced by 25.3 cents per gallon, which is comprised of the County Fuel Tax (1 cent), the Municipal Fuel Tax (1 cent), the State Comprehensive Enhanced Transportation System Tax (8.3 cents), and the Fuel Sales Tax (15 cents) imposed by Section 206.41(1)(b), (c), (f), and (g), F.S.

(3) General Requirements.

(a) During the tax relief period, licensed terminal suppliers, wholesalers, and importers of gasoline are required to collect and remit fuel tax to the Department or their supplier at the reduced tax rate of 8.125 cents per gallon on the sale of gasoline. This rate does not include the additional local option tax above the minimum tax due on sales of gasoline purchased by anyone other than a licensed terminal supplier or wholesaler in Florida.

(b) Terminal suppliers, wholesalers, importers, resellers, or retail dealers of gasoline are prohibited from retaining any part of the tax reduction or to interfere with providing the full benefit of the tax reduction to the retail purchaser of gasoline.

(c) Although licensed terminal suppliers, wholesalers, and importers are limited to selling gasoline at the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum, retail dealers must continue to sell gasoline at the reduced tax rate (without regard to the tax relief period) until the gallons purchased at the reduced tax rate are completely sold.

(4) Terminal Suppliers.

(a) General.

1. During the tax relief period, terminal suppliers are required to charge and collect tax on gasoline sold to Florida customers at the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum.

2. During the tax relief period, terminal suppliers must continue to collect and remit the applicable local option tax above the minimum and ninth cent tax imposed under Section 206.41(1)(d) and (e), F.S.

3. Only sales of gasoline through the loading racks of terminals are eligible for the reduction of Florida fuel tax. Sales above the loading rack prior to the tax relief period, and sales above the loading rack during the tax relief period but delivered through the loading rack after the tax relief period, are subject to tax at the rate of 33.425 cents per gallon, plus the applicable local option tax above the minimum.

(b) Invoices. Terminal suppliers are required to separately state and identify Florida fuel tax and local option fuel tax on all invoices for gasoline sold to Florida customers. When a terminal supplier is unable to adjust the rates listed on invoices during the tax relief period because of programming changes, the terminal supplier may issue a credit memo to the purchaser.

(c) Terminal Supplier Fuel Tax Return Adjustments.

1. For the month of October 2022, licensed terminal suppliers must complete and file Form DR-309631, Terminal Supplier Fuel Tax Return (R. 09/18, incorporated by reference in Rule 12B-5.150, F.A.C.), using Form DR-309631N, Instructions for Filing Terminal Supplier Fuel Tax Return (R. 01/22, incorporated by reference in Rule 12B-5.150, F.A.C.). All inventories, purchases, and sales are to be reported as a normally filed return.

2. The Department will adjust all applicable lines and schedules of the returns to reduce the Florida fuel tax rate by 25.3 cents per gallon to calculate the tax due on taxable gallons of gasoline sold during the month. All ultimate vendor credits and liabilities reflected on the Terminal Supplier Fuel Tax Returns will be reduced by 25.3 cents per gallon.

(5) Wholesalers/Importers.

(a) General.

1. During the tax relief period, wholesalers and importers who purchase gasoline from licensed terminal suppliers will be charged Florida fuel tax by the licensed terminal suppliers at the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum.

2. During the tax relief period, wholesalers and importers must collect and remit the applicable local option tax above the minimum and ninth cent tax imposed under Section 206.41(1)(d) and (e), F.S.

3. Only gasoline purchased by wholesalers during the tax relief period is eligible for sale at the reduced tax rate of 8.125 cents per gallon.

4. Imported Gasoline. All gallons of gasoline imported and sold during the tax relief period are subject to the reduced tax rate. Gallons purchased during the tax relief period, but imported after the tax relief period, are subject to tax at the rate of 33.425 cents per gallon.

(b) Invoices.

1. Wholesaler/Importers are required to separately state and identify Florida fuel tax and local option fuel tax on all invoices for gasoline sold to Florida customers. When a terminal supplier is unable to adjust the rates listed on invoices during the tax relief period because of programming changes, the wholesaler/importer may issue a credit memo to the purchaser.

2. On invoices issued by wholesalers/importers for gasoline sold to Florida customers during the tax relief period, Florida fuel tax must be stated at the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum.

(c) Wholesaler/Importer Tax Return Adjustments.

1. For the month of October 2022, licensed wholesalers and importers must complete and file Form DR-309632, Wholesaler/Importer Fuel Tax Return (R. 01/14, incorporated by reference in Rule 12B-5.150, F.A.C.), using Form DR-309632N, Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. 01/22, incorporated by reference in Rule 12B-5.150, F.A.C.), at the same rate as returns filed prior to October 1, 2022.

2. Upon receipt of Wholesaler/Importer Fuel Tax Returns filed for the month of October 2022, the Department will adjust all applicable lines and schedules of the returns to reduce the Florida fuel tax rate used to calculate the tax due on taxable gallons of gasoline sold during the month of October 2022 to the reduced tax rate. All ultimate vendor credits and liabilities reflected on the Wholesaler/Importer Fuel Tax Returns will be reduced by 25.3 cents per gallon.

3. A Wholesaler/Importer Fuel Tax Return filed for the month of October 2022 is due on November 1, 2022, and is considered late if submitted to the Department after November 20, 2022.

(d) Inventory Adjustments for Wholesalers.

1. Wholesalers with gasoline inventory on October 1, 2022, upon which the Florida fuel tax was paid at the rate of 33.425 cents per gallon, must collect and remit the tax at the reduced tax rate of 8.125 cents per gallon on all sales or deliveries to retail stations. Wholesalers are prohibited from collecting tax at the rate of 33.425 cents per gallon during the tax relief period.

2. If a wholesaler's ending gasoline inventory on October 31, 2022, is greater than the wholesaler's beginning inventory

on October 1, 2022, the Department will bill the wholesaler 25.3 cents per gallon on the difference. If the wholesaler's ending gasoline inventory on October 31, 2022, is less than the wholesaler's gasoline beginning inventory on October 1, 2022, the Department will issue a refund to the wholesaler.

a. Example 1: On October 1, 2022, a wholesaler has a beginning gasoline inventory of 3,000 gallons, on which Florida fuel tax was paid at the rate of 33.425 cents per gallon. During the month of October 2022, the wholesaler purchases 25,000 gallons at the reduced tax rate and has an ending inventory of 5,000 gallons on October 31, 2022. The Department will bill the wholesaler 25.3 cents per gallon on the 2,000 gallons.

b. Example 2: On October 1, 2022, a wholesaler has a beginning gasoline inventory of 3,000 gallons on which Florida fuel tax was paid at the rate of 33.425 cents per gallon. During the month of October 2022, the wholesaler purchases 25,000 gallons at the reduced tax rate and has an ending inventory of 1,000 gallons on October 31, 2022. The Department will refund the wholesaler 25.3 cents per gallon on the 2,000 gallons.

(6) Retail Dealers.

(a) Gasoline Inventory of Retail Dealers.

1. During the tax relief period, retail dealers who purchase gasoline from licensed terminal suppliers, wholesalers, or importers are required to pay the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum.

2. A retail dealer should manage its inventory to avoid selling more gallons of gasoline during the tax relief period than it purchased at the reduced tax rate.

3. Retail dealers having gasoline inventory on November 1, 2022, upon which the Florida fuel tax was paid at the reduced tax rate of 8.125 cents per gallon, plus the applicable local option tax above the minimum, must continue to sell the gasoline purchased at the reduced tax rate, plus the applicable local option tax above the minimum, beginning November 1, 2022, until such gasoline has been completely sold.

(b) Examples. For these examples, the local option tax above the minimum must be included on each purchase or sale of gasoline.

1. Example 1: On October 1, 2022, a retail dealer has a beginning gasoline inventory of 3,000 gallons, on which the Florida fuel tax was paid at the rate of 33.425 cents per gallon. During the month of October 2022, the retail dealer purchases 25,000 gallons at the reduced tax rate of 8.125 cents per gallon and has an ending an inventory of 5,000 gallons of gasoline on October 31, 2022. The retail dealer must charge the reduced tax rate of 8.125 cents per gallon on the first 2,000 gallons sold beginning November 1, 2022.

2. Example 2: On October 1, 2022, a retail dealer has a beginning gasoline inventory of 3,000 gallons, on which the

Florida fuel tax was paid at the rate of 33.425 cents per gallon. During the month of October 2022, the retail dealer purchases 25,000 gallons at the reduced tax rate of 8.125 cents per gallon and has an ending inventory of 1,000 gallons on October 31, 2022. Therefore, the retail dealer has sold 2,000 gallons more than it purchased during the tax relief period. To avoid selling the 2,000 gallons at a loss, the retail dealer should have managed its inventory so that its sales of gasoline at the reduced tax rate are not greater than its purchases of gasoline at the reduced tax rate.

(7) Refunds.

(a) General.

1. Refunds authorized pursuant to Section 206.41, F.S., on gasoline purchased during the tax relief period will be reduced by 25.3 cents per gallon.

2. When a person is entitled to a refund under Section 206.41(4), F.S., the seller must make out a sales invoice which contains the name and address of the purchaser, the number of gallons purchased, the date on which the gasoline was purchased, the price paid for the gasoline, the name and place of business of the seller of the gasoline, and the license plate number or other identification number of the motor vehicle or boat of the purchaser. Failure to provide such receipt will disqualify an eligible purchaser from obtaining a refund.

3. When a fuel dealer provides an invoice or sales receipt on gasoline sold to an entity authorized for a refund under Section 206.41(4), F.S., the invoice must separately list the reduced tax rate of 8.125 cents per gallon, plus applicable local option taxes, that were passed down to the ultimate consumer during the tax relief period. Any person who is engaged in the business of selling fuel at retail at posted retail prices is not required to separately list the fuel taxes but must provide the price per gallon on the invoice or sales receipt.

(b) Quarterly Refund Applications.

1. Agricultural, Aquacultural, Commercial Fishing or Commercial Aviation Quarterly Refunds.

a. Applicants filing Form DR-138, Application for Fuel Tax Refund Agricultural, Aquacultural, Commercial Fishing or Commercial Aviation Purposes (R. 01/20, incorporated by reference in Rule 12B-5.150, F.A.C.) must also submit Form DR-138A, Florida Motor Fuel Tax Relief Act of 2022 Agricultural, Aquacultural, Commercial Fishing or Commercial Aviation Purposes Supplemental Quarterly Refund Application Worksheet for the Quarter Ending December 2022 (N. 08/22, hereby incorporated by reference, provided by the Department), when filing the fourth calendar quarter refund application.

b. The Department will reduce the refund rate on Page 1, Part I, Line 7 of Form DR-138 by 16 cents per gallon of gasoline for agricultural, aquacultural, or commercial fishing purposes and 15 cents per gallon of gasoline for commercial aviation

purposes purchased during the month of October 2022. Gallons of gasoline eligible are the gallons reflected on the schedule of purchases, filed with the fourth calendar quarter 2022 refund application, as gallons purchased in October 2022.

c. Gallons of gasoline purchased during the months of November 2022 and December 2022 are eligible for a refund at the rate in effect prior to October 1, 2022.

2. Mass Transit Systems Quarterly Refunds.

a. Applicants filing Form DR-160, Application for Fuel Tax Refund – Mass Transit System Users (R. 01/20, incorporated by reference in Rule 12B-5.150, F.A.C.) must also submit Form DR-160A, Florida Motor Fuel Tax Relief Act of 2022 Mass Transit System Users Supplemental Quarterly Refund Application Worksheet for the Quarter Ending December 2022 (N. 08/22, hereby incorporated by reference, provided by the Department), when filing the fourth calendar quarter refund application.

b. The Department will reduce the refund rate on Page 1, Part I, Line 7 of Form DR-160 by 15 cents per gallon on gasoline purchased during the month of October 2022. Gallons of gasoline eligible are the gallons entered on the schedule of purchases, filed with the fourth calendar quarter 2022 refund application, as gallons purchased in October 2022.

c. Gallons of gasoline purchased during the months of November 2022 and December 2022 are eligible for a refund at the rate in effect prior to October 1, 2022.

3. Municipalities, Counties and School Districts Quarterly Refunds.

a. Applicants filing Form DR-189, Application for Fuel Tax Refund – Municipalities, Counties and School Districts (R. 01/20, incorporated by reference in Rule 12B-5.150, F.A.C.) must also submit Form DR-189A, Florida Motor Fuel Tax Relief Act of 2022 Municipalities, Counties and School Districts Supplemental Quarterly Refund Application Worksheet for the Quarter Ending December 2022 (N. 08/22, hereby incorporated by reference, provided by the Department), when filing the fourth calendar quarter refund application.

b. The Department will reduce the refund rate on Page 1, Line 7 of Form DR-189 by 16 cents per gallon, on gallons of gasoline purchased during the month of October 2022. Gallons of gasoline eligible are the gallons entered on the schedule of purchases, filed for the fourth calendar quarter 2022, as gallons purchased in October 2022.

c. Gallons of gasoline purchased during the months of November 2022 and December 2022 are eligible for a refund at the rate in effect prior to October 1, 2022.

4. Non-Public Schools.

a. Applicants filing Form DR-190, Application for Fuel Tax Refund – Non-Public Schools (R.01/20, incorporated by reference in Rule 12B-5.150, F.A.C.) must also submit Form DR-190A, Florida Motor Fuel Tax Relief Act of 2022 Non-

Public Schools Supplemental Quarterly Refund Application Worksheet For the Quarter Ending December 2022 (N. 08/22, hereby incorporated by reference, provided by the Department), when filing the fourth calendar quarter refund application.

b. The Department will reduce the fuel tax rate on Page 1, Line 7 of Form DR-190 by 15 cents per gallon on gasoline purchased during the month of October 2022. Gallons of gasoline eligible are the gallons entered on the schedule of purchases, filed with the fourth calendar quarter 2022 refund application as gallons purchased in October 2022.

c. Gallons of gasoline purchased during the months of November 2022 and December 2022 are eligible for a refund at the rate in effect prior to October 1, 2022.

(c) Local Government Users and Mass Transit Systems Filing Monthly Returns.

1. Local Government Users.

a. For the month of October 2022, persons filing Form DR-309634, Local Government User of Diesel Fuel Tax Return (R. 01/14, incorporated by reference in Rule 12B-5.150, F.A.C.), using Form DR- 309634N, Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. 01/15, incorporated by reference in Rule 12B-5.150, F.A.C.), must complete and file the return in the same manner as returns filed prior to October 2022.

b. Form DR-309634, filed for the month of October 2022, is due on November 1, 2022, and considered late if submitted to the Department after November 20, 2022.

c. The Department will adjust the amount to be refunded to account for tax-paid gallons purchased at the full rate, carried into October 2022 as beginning inventory, and used on-highway. In addition, the Department will adjust the amount to be refunded to account for fuel purchased at the lower rate in October 2022 and used on-highway. Beginning inventory will be allocated to "Disbursements" first (Page 4, Part I, Lines 3a, 3b, or 3c). Any remaining gallons left in "Disbursements" that exceed beginning inventory will be pulled from gallons purchased during the tax reduction period. Gallons eligible for refund that are pulled from the October 2022 beginning inventory will be multiplied by 16 cents to calculate the amount to be refunded under Page 4, Part I of Form DR-309634. Gallons pulled from fuel purchased in October 2022 will not generate a refund since the tax rates that qualify for the refund were not paid at the time of purchase.

d. Example 1: On October 1, 2022, a local government user has a beginning inventory of 3,000 gallons on which the Florida fuel tax was paid at 33.425 cents per gallon, plus applicable local option tax above the minimum. During the month of October 2022, the local government user purchases 25,000 gallons at the reduced tax rate and has an ending inventory of 5,000 gallons on October 31, 2022. During the month of October 2022, 6,000 gallons were used on-highway. In this

example, the Department will issue a refund for \$480.00 to the local government. This amount is calculated by taking 3,000 gallons from beginning inventory that was used on-highway and multiplying it by the refund rate of 16 cents per gallon. The remaining 3,000 gallons that were used on-highway do not qualify for a refund since these gallons were pulled from purchases where the applicable tax rates were not paid.

2. Mass Transit Systems.

a. For the month of October 2022, persons filing Form DR-309633, Mass Transit System Provider Fuel Tax Return (R. 01/13, incorporated by reference in Rule 12B-5.150, F.A.C.), using Form DR- 309633N, Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. 01/15, incorporated by reference in Rule 12B-5.150, F.A.C.), must complete and file the return in the same manner as returns filed prior to October 2022.

b. Form DR-309633, filed for the month of October 2022, is due on November 1, 2022, and considered late if submitted to the Department after November 20, 2022.

c. The Department will adjust the amount to be refunded to account for tax-paid gallons purchased at the full rate, carried into October 2022 as beginning inventory, and used on-highway. In addition, the Department will adjust the amount to be refunded to account for fuel purchased at the lower rate in October 2022 and used on-highway. Beginning inventory will be allocated to "Disbursements/Use" first (Page 4, Part I, Lines 3a, 3b, or 3c). Any remaining gallons left in "Disbursements/Use" that exceed beginning inventory will be pulled from gallons purchased during the tax reduction period. Gallons eligible for refund that are pulled from the October 2022 beginning inventory will be multiplied by 16 cents to calculate the refund due under Page 4, Part I of Form DR-309633. Gallons pulled from fuel purchased in October 2022 will not generate a refund since the tax rates that qualify for the refund were not paid at the time of purchase.

d. Example: On October 1, 2022, a mass transit system provider has a beginning inventory of 3,000 gallons, on which the Florida fuel tax was paid at the rate of 33.425 cents per gallon, plus the local option tax above the minimum. During the month of October 2022, the mass transit system provider purchases 25,000 gallons at the reduced tax rate and has an ending inventory of 5,000 gallons on October 31, 2022. The mass transit system provider used 6,000 gallons on-highway during the month of October 2022. In this example, the Department will issue a refund of \$450.00 to the mass transit system provider. This amount is calculated by taking 3,000 gallons from beginning inventory that was used on-highway and multiplying it by the refund rate of 15 cents per gallon. The remaining 3,000 gallons that were used on-highway do not qualify for a refund since these gallons were pulled from purchases where the applicable tax rates were not paid.

Rulemaking Authority Section 47, Chapter 2022-97, LOF. Law Implemented Section 47, Chapter 2022-97, LOF., 206.23, 206.41, FS. History-New 08-01-22.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.  
EFFECTIVE DATE: 08/01/2022

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