



PTSA

Petroleum Transportation & Storage Association

REGULATORY ALERT

September 16, 2005

LUST FUND TAX NO LONGER REFUNDABLE AFTER 10/01/05

ISSUE: Beginning 10/01/05 the IRS will no longer refund the federal Leaking Underground Storage Tank Trust (LUST) fund tax imposed on motor fuels and other petroleum products. The change was mandated by Congress under the Safe Accountable, Flexible, Efficient Transportation: Legacy for Users Act of 2005 (the highway bill H.R. 3).

BACKGROUND: The 1/10th of a cent per gallon LUST tax is imposed at the rack on gasoline, diesel fuel, kerosene and other petroleum products. Petroleum marketers making IRS claims were allowed to obtain a credit or refund of the 1/10th of a cent per gallon LUST tax along with the federal motor fuel excise taxes paid on sales to tax exempt users. The IRS allowable claim amount including the LUST tax **was** 18.4 cents per gallon for gasoline and 24.4 cents per gallon for diesel fuel and kerosene. Congress passed legislation this summer that makes the 1/10th of a cent per gallon LUST tax **non-refundable**.

COMPLIANCE: Beginning 10/01/05, petroleum marketer filing IRS claims for credit or refund of federal motor fuel excise taxes may no longer include the 1/10th of a cent per gallon LUST tax in the amount per gallon claimed.

- IRS tax rates for *claims involving sales to tax exempt users (state and local governments, etc) are as follows:
 - 24.3 cents per gallon for clear diesel fuel and clear kerosene, and
 - 18.3 cents per gallon for gasoline.

* Farmers **must** file their own IRS claims beginning October 1.

- Do not add the 1/10 of a cent per gallon LUST tax to IRS claims. The LUST tax is non-refundable and the IRS will reject your claim.

Got Questions? Contact Mark S. Morgan, Esq. at mmorganptsa@cox.net or (202) 364-6767