

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1221
SENATE BILL 669

AN ACT TO PROVIDE FOR A REFUND OF TAXES PAID ON MOTOR FUELS USED IN
OPERATION OF CITY TRANSIT SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Article 36 of Chapter 105 of the General Statutes of North Carolina is hereby amended by adding a new Section 105-446.3 thereto to read as follows:

"§ 105-446.3. Refund of taxes paid on motor fuels used in operation of motor buses transporting fare-paying passengers in a city transit system. — (a) Any person, association, firm or corporation, who shall purchase any motor fuels, as defined in this Article, for the purpose of use, and the same is actually used, in the operation of motor buses transporting fare-paying passengers in connection with a city transit system as hereinafter defined in subsection (b) of this section shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of tax levied by this Article upon the filing of an application sworn to by the applicant or his agent with the Commissioner of Revenue showing the number of gallons of motor fuel so purchased and used. All claims for refunds of taxes under the provisions of this section shall be filed with the Commissioner of Revenue on forms to be prescribed by him, on or before the last day of January, April, July and October of each year, and shall cover only the motor fuels so used during the quarterly period immediately preceding the month in which such application is filed. Refunds made pursuant to claims filed after the dates above specified shall be subject to the following late filing penalties: claims filed within 30 days after said dates, 25%; claims filed after 30 days but within six months after said dates, 50%; but refunds claimed after six months following said dates shall be barred.

(b) For the purposes of this section the term 'city transit system' means a system of mass public transportation authorized to operate within any municipality or within contiguous municipalities and within a zone adjacent to and commercially a part of such municipality or contiguous municipalities as defined by the North Carolina Utilities Commission under the provisions of G.S. 62-260. Any person, association, firm or corporation, who, in addition to the operation of a city transit system as herein defined, holds a certificate from the North Carolina Utilities Commission for operations outside of the municipal limits and adjacent commercial zones or who conducts exempt operations outside of the municipal limits or adjacent commercial zones shall be entitled to the refund provided by this section only on taxes levied upon motor fuels actually used in the operation of the city transit system. Provided, however, that a city transit system as defined herein shall not include taxicab or limousine operations.

(c) The Commissioner of Revenue shall have authority to issue rules and regulations as to how claims shall be filed and the information that shall be submitted with said claims and the records required to support said claims.

(d) If, upon the filing of such application, the Commissioner of Revenue shall be satisfied that the same is made in good faith and that the motor fuels upon which said tax refund is requested have been or are to be used exclusively for purposes as set forth in said application and for the operation of a city transit system, he shall issue to such applicant a warrant upon the State Treasurer for the tax refund.

(e) If the Commissioner of Revenue shall be satisfied that the applicant for any refund authorized by this section has collected or sought to collect any refund of tax or taxes on fuels not used in the operation of a city transit system, he shall issue to such applicant notice to show cause why such application should not be disallowed, which notice shall state a time and place of hearing upon said notice. If upon such hearing the Commissioner shall find as a fact that such applicant has collected or sought to collect any refund on fuels which have not been used in the operation of a city transit system, he shall disallow the application in its entirety and the applicant shall be required to repay all tax or taxes which have been refunded to him on said application.

(f) Any applicant for a refund may seek administrative review or appeal from the decision of the Commissioner of Revenue under the provisions of G.S. 105-241.2, G.S. 105-241.3 and G.S. 105-241.4.

(g) The Commissioner of Revenue is hereby authorized and directed, if at any time in his opinion there is reason to doubt the accuracy of the facts set forth in any application for tax refund to refer the matter to any agent of the Department of Revenue, and such person so designated shall make a careful investigation of all the facts and circumstances relating to said application in the use of the motor fuels therein referred to, and shall have a right to have access to the books and records of any retailer or distributor of motor fuel products for the purpose of obtaining the necessary information concerning such matters, and shall make due report thereof to the Commissioner of Revenue.

(h) If any court of last resort shall hold that the provisions for refund herein set out shall render the levying and collecting of the tax hereinbefore provided invalid, it is the intention of the General Assembly that such provisions for refund shall be annulled and the tax shall be levied without any provisions for such refund and that this Article shall be so construed.

Any person making a false application or affidavit for the purpose of securing a refund to which he is not entitled under the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) or imprisoned not exceeding two years, in the discretion of the court."

Sec. 2. G.S. 105-449.24 is hereby amended by rewriting the same to read as follows:

"§ **105-449.24. Exemptions, rebates, and refunds.** — The provisions of G.S. 105-439, G.S. 105-446.1, G.S. 105-446.3 and G.S. 105-449 relating to exemptions from, and rebates and refunds of tax levied on gasoline shall also apply to the taxes levied by this Article on special fuels."

Sec. 3. This act shall become effective on July 1, 1971, and the first quarterly period for which refunds may be applied for hereunder shall be the months of July, August and September of 1971.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.