

Minnesota Petroleum Marketer



Issue #1836

October 7, 2011

- *#1 Diesel is exempt from the 5% Biodiesel requirement from October 2011 thru March 2012.*

- *The DOT Hours of Service exemption expires Tuesday, October 18th.*

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NEW LAWS

Last session the townships were granted a blanket sales tax exemption.

Effective October 1st **Townships** are exempt from state sales tax on dyed diesel used in off road equipment. The townships are not exempt from the state road tax on gasoline or undyed diesel.

The instructions to the townships on the exemption are:

“To document the exemption as we have not yet been cleared for an exemption certificate, cite the revised statutes (297A.70) when listing an exemption on a purchase order. This is based on the current instruction manual for sales tax on the department’s website which states any claim for exemption must identify the buyer and seller, contact information for each, and the basis for the claim. A purchase order with such data is recognized as a legal exemption document in lieu of a certificate of exemption.”

You can take this form of exemption certificate from the townships in good faith and not be held responsible for the sales tax.

PETROFUND

During the 2011 session the Petrofund was extended to August 1st 2017. Therefore you continue to meet the financial responsibility requirements of state and federal tank laws without buying additional insurance.

SWIPE FEES

Earlier this summer, the Federal Reserve released its final rule regulating swipe fees on debit transactions. The rule caps debit swipe fees at \$.21 per transaction and includes an ad valorem fee of five basis points (.05%).

Visa and Mastercard recently announced new swipe fee rates to comply with the rule. These rates were effective October 1, 2011 when the rule took effect.

DEBIT CARD FEE

As the October 1 deadline for new interchange fees arrives, more details are coming out about banks and card companies plans to deal with the loss of income. Bank of America Corp., the largest U.S. bank by assets, plans to charge customers a \$5 monthly fee for making debit card purchases starting early next year, according to an internal memo sent to bank executives obtained by Dow Jones.

The fee will apply to customers with various checking accounts during any month they use their debit card to make a purchase. The fee will not apply to customers who do not use their debit card to make a purchase or who only use it to make ATM transactions.

Bank of America is trying to cushion revenue losses it expects to incur from new caps on the fees merchants pay when a customer uses a debit card at their stores, said the report. In June, the Federal Reserve Board finalized rules capping such fees at 24 cents per transaction, compared with a current average of 44 cents.

Bank of America has said it expects the caps, which took effect October 1, to erase \$2 billion in revenue annually. The caps, which apply to banks with \$10 billion and more in assets, could wipe out \$6.6 billion in annual revenue for banks, according to the report, citing an August report from Javelin Strategy & Research.

Other banks have introduced or are testing new fees in response to the debit fee caps, which stem from a provision known as the Durbin amendment in last year's Dodd-Frank financial regulation overhaul legislation.

Well Fargo & Co., said it will charge a \$3 fee for debit and ATM cards in several states starting in October if customers use the cards to make a purchase. J.P. Morgan Chase & Co. has been testing a fee in a small market in Wisconsin since February. Regions Financial Corp. and SunTrust Banks Inc. have also added monthly fees for some debit-card customers.

E-SERVICES

The Minnesota Department of Revenue is launching a new online system to offer a variety of services to the state's 400,000 business taxpayers.

The new e-Service system replaces e-File Minnesota. The department will start transitioning businesses to the new system on October 17.

Revenue Commissioner Myron Frans said the department has worked during the past four years to create an electronic filing and paying system that meets the growing needs of taxpayers. The e-Services system will provide business taxpayers a way to file and pay their taxes, as well as update their contact information, register new accounts and send secured messages to the department.

Business taxpayers also will be able to view all their account information in one location, including payment history, returns they have filed and all correspondence sent to them by the department. Businesses can create user IDs and passwords that grant online access to tax practitioners and the accounts with which they partner.

The system is available 24 hours a day, seven days a week.

The transition will finish by mid-January. Groups of taxpayers will be added each Monday until all 400,000 have access to e-Services.

Instructional videos and registration information to attend live demonstrations are available at www.taxes.state.mn.us.

TAX FREE

A misconception is that if gasoline is used for off-highway use or in a nonlicensed piece of equipment, the gasoline may be sold state tax free. This is not the case. For example, gasoline used in a tractor that is not used on a farm is not a tax-free sale.

Gasoline sold to the following do not qualify for state tax-free sales from distributors:

Golf courses	Cemeteries
Construction companies	Landscapers
Marinas	Game refuges
Ag tiling companies	Loggers
Nonprofit organizations	Local units of government
Grain elevators	

While gasoline cannot be sold tax free for use in the above examples, distributors may inform purchasers that they may be eligible for a refund of the tax paid if the gasoline is used off-highway for a business purpose. (See Form PDR-1, Minnesota Motor Fuel Claim for Refund.) The fact that gasoline may be subject to a refund is not a reason to sell the gasoline tax free.

FTC REPORT

The federal Trade Commission recently issued a staff report from its Bureau of Economics division showing that crude oil continue to be the main driver of what Americans pay at the pump for gasoline prices.

The September 1 report examines the reasons for the lag between rising crude prices and retail/wholesale gasoline prices, the impact on supply by factors such as the 2005 hurricanes Rita and Katrina, and the impact on world supply to gasoline prices in America.

“This report is part of our ongoing focus on competition in energy markets,” said FTC Chairman Joe Leibowitz. He added that the report spells out why gas prices seem to “rocket up” but “feather down.”

This rocket up and feather down lag shows that changes in crude oil prices are not instantly reflected in changes in spot, wholesale or retail gasoline prices.

“Rather, prices further down the supply chain adjust with lags,” the report states. “These lags vary from different levels of the supply chain, and also vary geographically. For example, changes in crude oil prices in August 2011 may not be fully reflected in changed retail gasoline prices until sometime in September.”

Recent sharp increases in gasoline prices at the pump have also had a major impact on the consumer. Between early September 2010 and late June 2011, crude oil and gasoline prices rose sharply. During that time, the U.S. weekly average gasoline price increased 89 cents gallon from \$2.68 to \$3.57. The higher prices potentially cost the average U.S. household around \$60 per month.

“Since consumers reduce gasoline consumption by relatively small amounts as gasoline prices increase, that is around \$60 less that consumers can save or spend on other goods each month, or 1.5% of their average monthly expenditures,” the report states.

Additionally, the report examined the effect of the Organization of Oil Exporting Countries, “a cartel that tries to restrict oil output, and which would be a criminal conspiracy if it were not run by companies rather than countries,” Leibowitz said.

According to the report, more than 70% of the world’s proven oil reserves are currently in the OPEC member countries. Because OPEC’s production increased at a slower rate than that of non-OPEC countries between 1974 and 2010, its share of global production has fallen from 54% to 42% despite its significant reserves. FTC said OPEC maintains the price of oil by limiting output and assigning quotas.

The report found that since 2005 crude oil prices have changed due to shifts in both worldwide supply and demand. Overall consumption increased by almost 7% between 2004 and 2010, putting pressure on crude oil prices.

Demand fell during that time in North America, Europe, Korea and Japan but rose in such places as China, where consumption grew by 46%.

FMCA WARNING

The U.S. Federal Motor Carrier Safety Administration (FMCSA) issued a notice this week warning about aggressive vendor marketing tactics relating to drug and alcohol compliance. Specifically, the marketing involves the sale of supervisor training to employers who may be subject to the Federal Motor Carrier Safety Administration's drug and alcohol testing requirements. There are reports that the sales pitch includes statements about the compliance that are not entirely accurate.

Under 49 CFR §382.603 supervisors of CDL drivers are required to take 60 minutes of training on the symptoms of alcohol abuse and another 60 minutes of training on the symptoms of controlled substance use. The purpose is to qualify supervisors for determining when reasonable suspicion testing is needed for a driver or other covered HAZMAT employee. This training is neither new nor changed. Moreover, the training is typically part of driver drug and alcohol testing programs already provided by vendors. The FMCSA does not certify trainers or training companies, nor does it pre-approve the curriculum presented. Employers are responsible for meeting the training requirement of 49 CFR §382.603 including ensuring that any training company/entity that they purchase training from provides training in the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. It is up to the employer to select which training to attend, keeping in mind the aforementioned guidelines.

The Association has these training programs available.

For additional information on this program, please contact Angie Graupner at the Association office at 651/484-7227 or 800/864-3813 or by email at graupner@mpmaonline.com.

FTC WARNING

The federal Trade Commission (FTC) is warning small businesses that an email with the subject line "URGENT: Pending Consumer Compliant" is not from the FTC. The FTC advises anyone that receives the email to delete it. Opening the email or clicking on any of the links or attachments may install a virus on your computer.

More information about the hoax is available at www.ftc.gov

ROBBERIES

According to the figures released on Monday by the FBI, the estimated number of violent crimes in 2010 declined for the fourth consecutive year. Property crimes also decreased, marking this the eighth straight year that the collective estimates for these offenses declined.

The 2010 statistics show that the estimated volumes of violent and property crimes declined 6 percent and 2.7 percent, respectively, when compared with the 2009 estimates. The violent crime rate for the year was 403.6 offenses per 100,000 persons (a 3.3 percent decrease from the 2009 figure).

"The big story is robbery," NACS spokesman Jeff Lenard told NACS daily. "Overall, robbery was down 10 percent. However, our industry did better-convenience store and gas station robbery each are down 14-plus percent." Specifically, gasoline or service station robberies plummeted 14.6 percent in 2010, while convenience store robberies declined 14.3 percent.

Each of the four violent crime offenses decreased when compared with the 2009 estimates. Robbery had the largest decrease at 10 percent, following by forcible rape with a 5 percent decline, murder and non-negligent manslaughter with a 4.2 percent decrease, and aggravated assault with a 4.1 percent decline.

RECESSION

Last week economists said that there is little the Federal Reserve can do to thwart a potential recession, which could happen in the next year, a Wall Street Journal survey reports. There's a one in three chance a recession will happen over the next 12 months, which are the "highest odds" for a new downturn that the economists have given since the start of the recovery.

"It feels like a recessionary environment. What they call it later on I can't tell you," Bart van Ark, chief economist of the Conference Board, who put the odds of recession at 45%, told the newspaper. The Journal adds that since 1988, every time the Conference Board's estimate of the probability of recession topped 40%, a downturn followed shortly thereafter. "The consumer has never really thought that we got out of the recession," van Ark said.

Following an August meeting of the rate-setting Federal Open Market Committee, the Federal Reserve said it would hold rates near zero through mid-2013, notes the Journal, adding that in its own poll, economists expect the Fed "to take more action" this week, "but doubt any likely moves will spur growth."

For the remainder of 2011 and all of 2012, the economists surveyed said they expect gross domestic product to expand less than 2.5% at a seasonally adjusted annual rate, which is down from estimates near 3% just two months ago. "As a result, they expect the economy to add just 125,000 jobs a month over the next year, barely enough to keep up with population growth," the newspaper writes, which is much lower than last month's estimate that the economy would create about 148,000 jobs a month.

CHIP AND PIN (FROM WORLD PAY)

For PMAA members who have traveled to Europe within the last 10 years, they probably noticed purchasing goods and services with credit cards is handled very different for Europeans than for Americans. Specifically, most Europeans insert their cards into a card reading and input a PIN number on a PIN pad - even with credit cards. Chip and PIN (or EMV as it is also sometimes referenced) has helped to significantly reduce fraud in retail environments in Europe - but due to the cost and complexity of its implementation as well as the extensive mag-stripe infrastructure in the US, it has not made any inroads in America. That era is coming to an end, and now is the time to begin preparing for Chip and PIN.

What is Chip and PIN?

Chip and PIN was devised to combat face-to-face retail fraud. With a traditional magnetic stripe, there is no mechanism for a card to be restricted to usage by only one cardholder - or any mechanism to prevent re-encoding of the card with a different card number. Chip and PIN capable cards not only have the magnetic stripe on the card, but also have a secured, encrypted, computer chip. This chip stores not only the cardholder account information, but also a unique PIN number assigned to the card. When the card is inserted into a smart card reader, the cardholder is required to enter in a PIN number to a secure PIN entry device. This PIN number is then transmitted to the chip on the card and validated.

If the PIN number matches the encrypted number on the card, the chip responds with a secure cryptogram as well as the card account information and the transaction is processed. If the PIN validation fails, the card is unable to be used for the purchase transaction. As the cardholders have to authenticate themselves for every transaction (similar to PIN debit), lost cards cannot be used for purchases by individuals who don't know the unique PIN number. Additionally, as the chip on the card is cryptographically secured, there is no way for a fraudster to change the account information encoded in the chip.

Implementation of this technology has greatly reduced the incidence of retail fraud in the United Kingdom, Europe, and Canada, and merchants have benefited from greatly reduced chargebacks as cardholders cannot claim they did not authorize the transaction.

What is Required to Accept Chip and PIN?

There are two (technological) components required to implement this new technology: credit and debit cards issued with the electronic chips embedded in them, and deployment of chip card readers to retail locations. Issuing banks in the United States are beginning to issue Chip and PIN compliant card though, due to the significantly increased cost of card production and limited acceptance points in the United States, they have primarily been issued to clients who travel overseas regularly. Merchants wishing to accept Chip and PIN based transactions must have compliant card readers and POS certifications in place.

Is Chip and PIN available in the US?

It is not generally available, no. However, in August of 2011 Visa announced plans to bring this technology to the US. Specifically, Visa stated that US Merchant Acquires (which includes WorldPay) must be certified with Visa and able to support Chip and PIN transactions by April 1, 2013. Additionally, as an inducement for merchants to deploy this technology, beginning October 1, 2015 for most card-present locations (October 1, 2017 for fuel-selling merchants), Visa will begin a "liability shift" when counterfeit cards are used to make purchases. If a contact chip card is presented to a merchant that has not adopted, at minimum, contact chip terminals, liability for counterfeit fraud may shift to the merchant's acquirer (note that ATMs are excluded from this liability shift).

In addition, Visa has announced relief from some PCI-related compliance tasks beginning in October 2012 for merchants where 75 percent or more of the transactions are originating from dual-interface EMV chip-enabled terminals (in addition to meeting other criteria).

What can be done now to prepare for this migration?

As these announcements have just been made, Visa and the other Associations and Networks are still preparing documentation for WorldPay and terminal manufacturers regarding the specifics of Chip and PIN deployment in the US. Should there be any terminal or customer-facing PIN pad purchases your organization is planning to make in the near future; WorldPay strongly recommends selecting devices which are EMV compatible. In the meantime, however, WorldPay will continue to monitor the promulgation of these regulations for the US marketplace and advise you as the specifics become available.

MPM-Pheasant Hunt

On Tuesday October 13, 2011 the Association pheasant hunt was held at the LeBlanc's Rice Creek Hunting & Recreation club. Fifty members participate in the even. Members enjoyed a fantastic day in the field and a delicious wild game feed.

The Association would like to thank the following sponsors for their support of the event:

BP Products, NA

Cenex / Ag States Agencies

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Flint Hills Resources

NGL Propane

Murphy Oil

NTE (SA Brand St. Paul Park)

Sinclair Oil Corporation

Tesoro Refining & Marketing Company on behalf of

Tesoro & Shell Oil Products

COFFEE PRICES

When gas prices go up, its because oil is trading high on Wall Street. And “these same big financial investors” are boosting the price of coffee, the Baltimore Sun reports.

“Grocery shoppers have seen whopping increases this year in the price of a can of ordinary coffee, whether it’s a generic store brand or better-known ones such as Folgers and Maxwell House. Since spring, coffee has been selling at \$7 to \$8 a can in many parts of the country, or about twice the price of a gallon of gas,” writes the news source, adding that the retail price of coffee in July was up 20.7 percent over the same month last year, according to the Bureau of Labor Statistics.

So what gives? According to coffee industry leaders at last week’s National Coffee Association conference in Washington, financial speculators are at fault, “taking advantage of global supply hiccups to drive up coffee prices by adding volatility to the trading of contracts for future delivery of coffee. Its not as debilitating to family income as high crude oil prices, but the phenomenon is the same,” writes the newspaper.

According to experts, hiccups in production and higher global demand justify higher prices, but perhaps not this high. The newspaper notes that the price of a futures contract for 37,500 pounds of coffee increased by more than 40 percent in 2010, and has risen by more than 57 percent this year through August 19. “Its not a true coffee market anymore, where the laws of supply and demand hold forth,” said Danell Seda, a trader for Walker Coffee Trading in Houston.

The National Coffee Association, meanwhile, has no definitive conclusion about current, volatile coffee prices. “Some people think the hedge funds are more to blame; other think its supply and demand or the weather,” said NCA spokesman Joe DeRupo. “Everyone has their own hypothesis.”

A Commodity Futures Trading Commission official, who anonymously spoke to the newspaper, acknowledged that the agency hasn’t been able to determine how much of the coffee futures trading is being done by speculators. “There is no denying that there are more different players entering the market. There’s debate in public, and perhaps on the commission, on the cause and effect,” the official said.

INDUSTRY'S FUTURE

During "A Tale of Two Retailers," presented by NACS Magazine, Speedway LLC President Tony Kenney and Valero Energy Senior Vice President Gary Arthur provided overviews of each of their companies and spoke with moderator Joe Petrowski, CEO of Cumberland Gulf Group, about the direction of the fueling industry.

With 249 million petroleum vehicles on America's streets, and only about 600,000 alternative fuel vehicles, a question on everybody's mind, Petrowski said, is what will people be fueling their cars in 10 years? With electricity? Compressed natural gas (CNG)?

"At Valero, we look at what the trends are and we obviously talk to a lot of industry experts," Arthur said. "We forecast the future and we track a lot of this activity. For the next 20 years fossil fuels are still going to be the preferred fuel choice. There may be some growth in some of these alternatives, but clearly we see its going to remain a gasoline/diesel transportation business.

"We've looked at CNG. I think CNG will have a role, but I think its more in fixed fleets because of the infrastructure requirements. If you look at CNG at a c-store location, it takes a considerable amount of land. The investments are significant. There's a big upfront cost to (offering) CNG."

Kenney shared a chart that showed a projected 5 percent decrease in the consumption of gasoline during the next decade, but a 5 percent increase in diesel consumption. It's the biggest change in fuel options he sees in the next several years.

"It makes sense," he said. "Diesel is about 20 percent to 25 percent more fuel efficient than gasoline."

The two also spoke about consolidation trends in the industry, saying they have seen a lot of rationalization of assets within the industry, but new store construction is still a reality, too.

"When we build a new store, its three times more productive as our average store," Arthur said. "So, I think there's going to continue to be new store construction. As these stores get built they're more efficient and I think they're going to have an impact on selective markets under different circumstances. I think we will see more decline (in new store construction), but I don't think it'll be near what we've seen during the last 20 or so years."

CLASSIFIEDS

NOTE: Classified ads are accepted on a first come, first serve basis. The cost is \$3.00 a line for non-members. The Association office does not look into nor endorse the products and services offered through the Newsletter ads.

FOR SALE: 2005 International 4300 with Seneca Fuel Master Tank 2700 gallon aluminum tank. Five compartment dual pumping. Good Condition. Call 507-381-9429

FOR SALE: 2006 Freightliner M2-106 with Seneca Tank Fuel Master 2700 gallon aluminum tank. Five compartment dual pumping. Very good condition. Call Dave 507-796-6561

FOR SALE: C Store and auto repair shop on high traffic cross road. Approx. 3.27 acres in lakes area. Some equipment available, priced to sell 169,900. Otter Tail Real Estate Services www.ottertailhomesales.com Call/Email Todd: 218-864-5453, toddu@ptel.com

FOR SALE: Warroad, MN Station for sale. Active location with 500,000 gallons plus per year. \$1,000,000 inside sales. Newly remodeled. All new POS and dispensers. Asking \$395,000 plus inventory. Call Corey 218-790-3377

FOR SALE: Henny Penny heated merchandiser. Full –serve and self -serve Model #HMR 105.0C and MPB105.019. Four years old. Asking \$4,500. Contact Patti 218-326-0515.

FOR SALE: An existing up and running business in historic Stillwater, MN. Sales have over quadrupled in last three years. This unbranded store sits directly in the front of the largest neighborhood in the City of Stillwater. There are three main arteries in Stillwater; this business is on the center one, on County Road 5. Totally remodeled in 2007-2008, with 16x16 slate floors, knotty pine doors, righteous bathroom, new ceilings, lights, outdoor beautiful colored stamped patio, concrete parking lot, new cabinets counters from Caribou Coffee. This store comes with matching newer 3 door freezer, 3 door fridge, 6' open cooler, and an ATM, Ruby system, pat at the pump, pumping at 500,000 gallons per year. Asking \$595,000 includes 3/4 acre lot and room for expansion or you could create rental units, or sell as condo units. Contact—Monti (651) 491-3775 or email at montimoreno@ymail.com.

REMINDER— This newsletter is available in an electronic version to be sent directly to your email. If you would like to receive the newsletter electronically, just email Holly Werner at hwerner@mpmaonline.com and request the electronic version of the MPM Marketer.

SPOTLIGHT PROGRAM- CONVENIENCE STORE EVALUATION

MPMA members can now have an anonymous facility check on a regular basis that covers employee attentiveness, knowledge and appearance; cleanliness of inside areas (i.e., restrooms, food areas, counters, floors); and outside areas (i.e., island maintenance, yard and driveway maintenance, lighting). There will also be an attempt made to purchase some type of tobacco product, and an account of the transaction detailed on the inspection report.

The service is two-dimensional. First, as you know, state law prohibits the sale of tobacco to minors, and federal rules require that anyone who appears under age be checked when asking for tobacco products. You will now know if your employees are checking ID's. Second, you will know that your stores are as well organized and clean as you would like them to be.

We have an outside company that performs the evaluations for us at a cost of \$35.00 per evaluation.

Minnesota State law requires that all tobacco retailers be the subject of at least one unannounced city or county "sting" each year, and that fines will be levied against those retailers who fail. This program will help you prepare for the sting, educate your employees and demonstrate to enforcement authorities that you are proactively trying to reduce sales to minors.

For additional information on this program, please contact Angie Graupner at the Association office at 651/484-7227 or 800/864-3813 or by email at graupner@mpmaonline.com.



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WCEC	www.wcec.com
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Zahl-Petroleum Maintenance Co.	www.zahl-pmc.com