

AVIATION FUEL TAX

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

This act modifies the Revenue and Taxation Code by authorizing a partial tax refund or credit for a federally certificated air carrier who purchases aviation fuel at the Salt Lake International Airport. This act reallocates certain aviation fuel tax proceeds. This act takes effect on July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-13-402, as last amended by Chapter 179, Laws of Utah 1999

ENACTS:

59-13-404, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-13-402** is amended to read:

59-13-402. Revenue from taxes deposited with treasurer -- Credit to Aeronautics Restricted Account -- Purposes for which funds may be used -- Allocation of funds -- Reports -- Returns required.

(1) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the aviation fuel tax.

(c) Refunds to which taxpayers are entitled under this part shall be paid from the Transportation Fund.

(2) The state treasurer shall place an amount equal to the total amount received from the sale or use of aviation fuel in the Transportation Fund's Restricted Revenue Account for aeronautical operations of the Department of Transportation for:

(a) the construction, improvement, operation, and maintenance of publicly used airports

in this state and the payment of principal and interest on indebtedness incurred for those purposes;

(b) the promotion of aeronautics in this state; and

(c) the payment of the costs and expenses of the Department of Transportation in administering this part or other law conferring upon it the duty of regulating and supervising aeronautics in this state.

(3) The tax imposed on each gallon of aviation fuel under Section 59-13-401 shall be allocated to the airport where the aviation fuel was sold and to aeronautical operations of the Department of Transportation as follows:

	Total Tax <u>Allocated</u>	Allocation to Airport	Allocation to Aeronautical Operations
(a) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Federally Certificated Air Carrier <u>Other than at the Salt Lake International Airport</u>	\$.04	\$.03	\$.01
(b) <u>Tax, less a refund or credit claimed under Section 59-13-404, on Each Gallon of Aviation Fuel Purchased for Use by a Certificated Air Carrier at the Salt Lake International Airport</u>	<u>\$.025</u>	<u>\$.015</u>	<u>\$.01</u>
(c) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Person Other than a Federally Certificated Air Carrier at the Salt Lake International Airport			
beginning July 1, 1999	\$.06	\$.02	\$.04
beginning July 1, 2000	\$.08	\$.01	\$.07
beginning July 1, 2001	\$.09	\$.00	\$.09

(d) Tax on Each Gallon of Aviation Fuel

Purchased for Use by a Person Other

than a Federally Certificated Air Carrier

Other than at the Salt Lake International Airport

beginning July 1, 1999	\$.06	\$.03	\$.03
beginning July 1, 2000	\$.08	\$.03	\$.05
beginning July 1, 2001	\$.09	\$.03	\$.06

~~[(a)]~~ (e) The allocation to the publicly used airport may be used at the discretion of the airport's governing authority for the purposes specified in Subsection (2)(a).

~~[(b)]~~ (f) Upon appropriation by the Legislature, the allocation to aeronautical operations of the Department of Transportation shall be used as provided in Subsection (2).

(4) (a) The commission shall require reports and returns from distributors, retail dealers, and users in order to enable the commission and the Department of Transportation to allocate the revenue to be credited to the Transportation Fund's Restricted Revenue Account for the aeronautical operations of that department and the separate accounts of individual airports.

(b) (i) Except as provided by Subsection (4)(b)(ii), any unexpended amount remaining in the account of any publicly used airport on the first day of January, April, July, and October shall be paid to the authority operating the airport.

(ii) Aviation fuel tax allocated to any airport owned and operated by a city of the first class shall be paid to the city treasurer on the first day of each month.

(c) The state treasurer shall place aviation fuel tax collected on fuel sold at places other than publicly used airports in the Transportation Fund's Restricted Revenue Account for the aeronautical operations of the Department of Transportation.

Section 2. Section **59-13-404** is enacted to read:

59-13-404. Refunds of aviation fuel tax -- Filing claims -- Commission approval -- Rulemaking -- Appeals -- Penalties.

(1) A federally certificated air carrier is entitled to a \$.015 refund or credit of the aviation fuel tax paid on gallons of aviation fuel purchased at the Salt Lake International Airport, subject to

the conditions and limitations provided under this section.

(2) (a) A federally certificated air carrier shall file a claim for a refund or credit with the commission within 90 days of the end of the tax year for which a claim is made.

(b) A federally certificated air carrier filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.

(3) (a) The claim shall include an application containing:

(i) the name of the federally certificated air carrier claimant;

(ii) the number of gallons actually purchased;

(iii) the place of purchase; and

(iv) any other information required by the commission to support the claim.

(b) This original claim and all information contained in it, constitutes a permanent file with the commission in the name of the federally certificated air carrier claimant.

(4) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the federally certificated air carrier claimant. The total amount of claims for refunds shall be paid from the Transportation Fund.

(5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may promulgate rules to enforce this part, and may refuse to accept unsubstantiated evidence for the claim.

(b) If the commission is not satisfied with the evidence submitted in connection with the claim, it may reject the claim or require additional evidence.

(6) A federally certificated air carrier aggrieved by the decision of the commission with respect to a refund or credit may file a request for agency action, requesting a hearing before the commission.

(7) A federally certificated air carrier who makes any false claim, report, or statement, with intent to defraud or secure a refund or credit to which the claimant is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the federally certificated air carrier may not receive any refund or credit as a claimant for a period of five years.

Section 3. **Effective date.**

This act takes effect on July 1, 2001.