



Legislative Briefs

from the Legislative Reference Bureau



Legislative Brief 06-02

January 2006

REPEAL OF MOTOR FUEL TAX INDEXING

2005 Wisconsin Act 85, passed by the legislature, and signed by Governor Jim Doyle on December 22, 2005, eliminates the automatic annual adjustment of the motor fuel tax and explicitly limits the use of transportation fund revenues to transportation purposes.

HISTORY OF MOTOR FUEL TAXATION IN WISCONSIN

The Motor Vehicle Fuel Tax was created as part of Chapter 11, Laws of 1925. The law created Chapter 78 of the statutes and the tax was two cents per gallon of “gasoline, benzine, naphtha, benzol, and all other volatile and inflammable liquids as may be used for operating or propelling motor vehicles except the product commonly known as kerosene.” The tax increased to four cents in 1931, but did not increase again until 1955, when it increased to six cents.

Changes in the tax remained infrequent until the 1980s, rising from seven cents to nine cents per gallon in 1980 (Chapter 221, Laws of 1979), and then to 13 cents per gallon in 1981 (Chapter 20, Laws of 1981). Up to this point, each increase in the motor fuel tax was determined by legislation, often as part of a budget bill. 1983 Wisconsin Act 27, however, led to a change in how the tax rate was set. That biennial budget act increased the tax rates to 15 and 16 cents, respectively, for August 1983 and July 1984, and also established a procedure for indexing of the rate based on inflation and changes in fuel consumption, with indexing to begin effective April 1, 1985.

Indexing was intended to mitigate the effects of declining fuel consumption and inflationary pressures on transportation costs.

From the beginning of indexing to the present, with a few exceptions, changes in the fuel tax occurred automatically each April 1 without legislative action. Although most of the annual adjustments were increases of a fraction of a cent, the 1989 and 1994 adjustments were decreases, and, by legislation, indexing was postponed for one year, resulting in no adjustment for 1992.

On two occasions the legislature enacted a second increase following the annual April formula adjustment, by an additional two cents (from 18 to 20 cents per gallon) effective August 1, 1987, and by an additional one cent (from 23.8 to 24.8 cents per gallon) effective November 1, 1997. The 1997 legislation, part of 1997 Wisconsin Act 27 (biennial budget act), also modified the formula to remove the consumption factor, thereby changing the formula to account only for inflation.

The current motor vehicle fuel tax rate, effective April 1, 2005, is 29.9 cents per gallon and, pursuant to 2005 Wisconsin Act 85, will be adjusted under the indexing law only once more, on April 1, 2006.

ADVOCATES AND OPPONENTS

The bill to end motor fuel tax indexing was supported by what some observers considered an unusual combination of interests. Some fiscal conservatives supported the bill in part because they objected to increasing taxes without specific legislative approval. Some environmental advocates supported it

Reference Desk: (608) 266-0341

Web Site: www.legis.state.wi.us/lrb

Prepared by Robert Paolino, Senior Legislative Analyst

because they feared that automatic revenue increases were encouraging unnecessary expansion of highways, to the detriment of a more balanced transportation system.

Opponents of the new law expressed concern that freezing the tax rate would make it more difficult for the state to pay for maintenance of existing roadways and other transportation programs. Others point out that transportation fund revenues will likely decrease as more drivers start to purchase more fuel efficient vehicles or economize on miles driven to reduce fuel consumption as fuel prices continue to rise.

FISCAL IMPACT

In the fiscal estimates for the bill, which was introduced as 2005 Senate Bill 331, the Department of Revenue and the Department of Transportation estimated a loss to the Transportation Fund of \$5.1 million for the portion of Fiscal Year 2007 affected by the bill, with reductions of \$26.0 million for FY 2008 and \$41.9 million for FY 2009.

EFFECTIVE DATE

Although the effective date of 2005 Wisconsin Act 85 was January 10, 2006, the act provides that the April 1, 2006, adjustment will occur pursuant to prior law, but that the Department of Revenue will not make any further automatic adjustments after that date. The April 1, 2006, rate has not yet been determined as of the date of this Legislative Brief.

The prohibition on appropriations from the Transportation Fund for non-transportation purposes begins on July 1, 2007.

**WISCONSIN MOTOR VEHICLE FUEL TAX
1925 – 2005**

Date of Change	Gasoline Tax Per Gallon ¹	Change	
		Amount	Percent
April 1, 1925	2.0¢	2.0¢	---
April 1, 1931	4.0	2.0	100.0%
July 1, 1955	6.0	2.0	50.0
July 1, 1966	7.0	1.0	16.7
May 1, 1980	9.0	2.0	28.6
August 1, 1981	13.0	4.0	44.4
August 1, 1983	15.0	2.0	15.4
July 1, 1984	16.0	1.0	6.7
April 1, 1985 ²	16.5	0.5	3.1
April 1, 1986	17.5	1.0	6.1
April 1, 1987	18.0	0.5	2.9
August 1, 1987 ³	20.0	2.0	11.1
April 1, 1988	20.9	0.9	4.5
April 1, 1989	20.8	(0.1)	(0.5)
April 1, 1990	21.5	0.7	3.4
April 1, 1991	22.2	0.7	3.3
April 1, 1993 ⁴	23.2	1.0	4.5
April 1, 1994	23.1	(0.1)	(0.4)
April 1, 1995 ⁵	23.4	0.3	1.3
April 1, 1996 ⁵	23.7	0.3	1.3
April 1, 1997	23.8	0.1	0.4
November 1, 1997 ⁶	24.8	1.0	4.2
April 1, 1998	25.4	0.6	2.4
April 1, 1999	25.8	0.4	1.6
April 1, 2000	26.4	0.6	2.3
April 1, 2001	27.3	0.9	3.4
April 1, 2002	28.1	0.8	2.9
April 1, 2003	28.5	0.4	1.4
April 1, 2004	29.1	0.6	2.1
April 1, 2005	29.9	0.8	2.7

¹Tax rates for some alternate fuels are based on energy density. The rates effective April 1, 2005, are 21.9 cents for LPG (liquified petroleum gas) and 23.9 cents for CNG (compressed natural gas). E85 (85% fuel ethanol) is taxed at the same rate as gasoline.

²Beginning in April 1985, the state motor fuel tax was indexed (1983 Wisconsin Act 27) to take into account fuel consumption and inflation. By law, the tax increase or decrease is automatically calculated annually, based on the inflation rate from the National Highway Maintenance and Operations Cost Index and the percentage change in motor fuel consumption. (The federal gasoline tax has been 18.4 cents per gallon since October 1, 1993.)

³Statutory adjustment (1987 Wisconsin Act 27).

⁴1991 Wisconsin Act 119 postponed further fuel tax indexing until April 1, 1993.

⁵1993 Wisconsin Act 16 set aside the calculation of the consumption factor for 1995 and 1996 and provided fixed consumption factors for each year.

⁶1997 Wisconsin Act 27 increased the motor fuel tax rate and modified the indexing formula to take into account only the change to the cost index.

Sources: Session laws of the Wisconsin Legislature; Wisconsin Department of Revenue, *Motor Vehicle Fuel Tax Information*, April 2005 and previous years, and departmental data.

Source: *2005-2006 Wisconsin Blue Book*.

FOR MORE INFORMATION

View a copy of 2005 Wisconsin Act 85 at www.legis.state.wi.us/2005/data/acts/ and Chapter 78, Wisconsin Statutes, at www.legis.state.wi.us/rsb/Statutes.html

Motor fuel tax information from the Wisconsin Department of Revenue is posted at www.dor.state.wi.us/faqs/ise/mofuel.html and www.dor.state.wi.us/pubs/mf-107.pdf