

GASOLINE TAX:
STATUTORY CONSTRUCTION:

Motor fuel tax claims for refund which had not been filed with the Collector of Revenue within 120 days next preceding October 13, 1963, had legally expired and were not revived when Section 142.230, RSMo Cum. Supp. 1963 was amended extending the period of filing such claims from 120 days to one year.

March 16, 1964

Opinion No. 77



Honorable Paul E. Williams
State Representative
Bowling Green, Missouri

Dear Mr. Williams:

This is in answer to your letter dated January 20, 1964, in which you ask the following question:

"A constituent has asked me a question relative to gasoline tickets for refund that were more than 120 days old before October 13, 1963, but are still within the one year period contemplated by the new statute. Can he collect the refund for non-highway use on these tickets? Please advise."

The Missouri motor vehicle fuel tax law, Chapter 142, RSMo 1959, as amended, imposes a license tax upon each gallon of motor fuel used for propelling motor vehicles upon the public highways of Missouri. Section 142.230, RSMo Cum. Supp. 1963, provides that if any person shall buy and use motor fuel for a purpose other than the operation of a motor vehicle upon our highways and shall have paid the license tax, then this person is entitled to a refund of the tax paid. It is not necessary, for the purposes of this opinion, to quote the refund statute, Section 142.230, supra, other than to state that this section grants the right to such a refund only under certain specified conditions.

Honorable Paul E. Williams

Prior to 1963, one of the conditions precedent to this refund was that applications for refunds were required to be filed with the Collector of Revenue within 120 days from the date of purchase of the motor fuel. As you well know, the 72nd General Assembly amended this time period by enlarging it from 120 days to one year, Senate Bill No. 24, Laws 1963.

As stated in your letter, the amendment of Section 142.230 became effective on October 13, 1963. The question now being asked by you is whether this amendment has a retrospective application so as to revive any refund claims which had expired prior to 120 days preceding October 13, 1963. The answer to this question is "no".

Statutes will not generally be given a retrospective construction unless that intent is manifest on the face of the statute. State ex rel. Breshears v. Missouri State Unemployment Retirement System, Mo. Sup., 362 SW2d 571 (1962). As stated in State ex rel. Clay Equipment Corp. v. Jensen, Mo. Sup., 363 SW2d 666 (1963) at l.c. 670:

"Further, as a general rule, statutes are construed to operate prospectively unless the legislative intent that they be given retrospective or retroactive operation clearly appears from the express language of the acts, or by necessary or unavoidable implication. [citing cases]"

CONCLUSION

Motor fuel tax claims for refund which had not been filed with the Collector of Revenue within 120 days next preceding October 13, 1963, had legally expired and were not revived when Section 142.230, RSMo Cum. Supp. 1963 was amended extending the period of filing such claims from 120 days to one year.

Honorable Paul E. Williams

The foregoing opinion, which I hereby approve, was prepared by my assistant, Eugene G. Bushmann.

Very truly yours,


THOMAS F. EAGLETON
Attorney General