

Agricultural Applicator Aviation Fuel Tax Refund



OFFICE OF THE STATE AUDITOR

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C O L O R A D O

Aerial application is the process of applying pesticides, fertilizers, and seeds over crop land via aviation services. The Agricultural Applicator Aviation Fuel Tax Refund is a fuel excise tax refund available for aviation gasoline and jet fuel that is used to propel Colorado-licensed aircraft that (1) perform aerial application services and (2) exclusively use a private aviation facility. Based on the Refund's legislative history, it appears that legislators intended to give a refund of the excise taxes that were paid by these operators and were allocated to public airports because these operators do not use public airports.

The Applicator Fuel Refund is meeting its purpose for the businesses that claim it, but not all operators are aware of the Refund.

- Only half of the stakeholders who provided feedback were aware of the Refund.
- The Refund provides a relatively small financial benefit to eligible businesses, and its impact on State revenue is minimal.

Policy Considerations

We did not identify any policy considerations for the Agricultural Applicator Aviation Fuel Tax Refund.

Tax Type:	Fuel excise	Year Enacted:	1988
Expenditure Type:	Refund	Repeal/Expiration date:	None
Statutory Citation:	Section 39-27-103(2.7)(d), C.R.S.	Revenue Impact:	No more than \$27,000
Purpose given in statute or enacting legislation? No			



Agricultural Applicator Aviation Fuel Tax Refund

Background

Aerial application, also known as “crop dusting,” is the process of applying pesticides, fertilizers, and seeds over crop land via aviation services. **The Agricultural Applicator Aviation Fuel Tax Refund (Applicator Fuel Refund) is a fuel excise tax refund available for aviation gasoline and jet fuel that is used to propel Colorado-licensed aircraft that (1) perform aerial application services and (2) exclusively use a private aviation facility rather than a public airport.**

Colorado's legislature enacted the Applicator Fuel Refund along with the aviation fuel excise tax in 1988. The fuel excise tax is imposed on jet fuel at the rate of 4 cents per gallon and on aviation gas at the rate of 6 cents per gallon. In this report, we use the term “aviation fuel” to refer collectively to aviation gasoline and jet fuel. All revenue from aviation fuel taxes is allocated to the Aviation Fund, which Article X, Section 18 of the Colorado Constitution requires be used exclusively for aviation purposes. The majority of the excise tax revenue—all revenue from the jet fuel excise tax and two-thirds of the revenue from the aviation gas excise tax—is allocated to Colorado’s public airports. Based on legislative audio recordings from committee hearings for the enacting legislation, **it appears that legislators intended to give a refund of the excise taxes allocated to public airports and paid by aerial application operators that fly exclusively from private aviation facilities because these operators do not use public airports.**

The amount of the Refund is 50 percent of the fuel excise taxes paid on the fuel used for crop dusting purposes, including travel to and from the site where the services are performed. Eligible taxpayers must obtain a Gasoline/Special Fuels Refund Permit from the Department of Revenue (Department) and submit a claim in order to receive the Refund. There is also a federal excise tax on aviation fuel, the full amount of which may be refunded or credited by the federal government if the fuel is used for farming purposes.

According to the U.S. Department of Agriculture, there were about 11 million acres of cropland in Colorado as of 2017, the most recent year for which data is available. About 28 percent of harvested cropland is treated with aerial application services. Of the 36 other states that impose an excise tax on jet fuel, we identified 12 states that provide an exemption for fuel used in agricultural aerial application.

In order to determine whether the Refund is meeting its purpose, we assessed the extent to which agricultural applicator operators are aware of and claiming the Applicator Fuel Refund and, therefore, avoiding paying for public airports that they do not use.

Evaluation Results

The Applicator Fuel Refund is meeting its purpose for the businesses that claim it, but not all operators are aware of the Refund.

Only half of the stakeholders who provided feedback were aware of the Refund. We reached out to 27 stakeholders from the aerial application industry in Colorado and received responses from eight operators, only four of whom were aware of the Applicator Fuel Refund and reported claiming the Refund. The other four operators reported that they were not aware of the Refund or were unsure whether they had received it.

The Refund provides a relatively small financial benefit to eligible businesses, and its impact on State revenue is minimal. The Department is not able to provide the amount of refunds that businesses claimed because the Refund is claimed using the same form as several other fuel refunds, which are combined in the Department's database and cannot be disaggregated for analysis. We used stakeholders' estimates of their operations' total annual fuel usage and the jet fuel excise tax rate of 4 cents per gallon to estimate that the aerial application operators we spoke with receive a refund between \$150 and \$640 per year. We used the jet fuel excise tax rate because stakeholders reported that most operators now use jet fuel rather than aviation gasoline. We also used this information to estimate that the maximum total revenue impact of the Refund for all operators is about \$27,000 per year based on all 42 operators in the state claiming a \$640 refund each year. However, because we know that some operators are not claiming it, the actual revenue impact is probably less.

Exhibit 1

The Applicator Fuel Refund provides a relatively small financial benefit to eligible businesses, and its impact on State revenue is minimal.

Estimated annual benefit per operator	\$150 - \$640
Estimated maximum total annual revenue impact	\$27,000

Source: Section 39-27-102(1)(a)(IV)(A), C.R.S., and aerial application operators' estimates of their operations' total annual fuel usage.

Policy Consideration

We did not identify any policy considerations for the Applicator Fuel Refund.

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