

# MATTERS OF APPEAL

A McCORD TREASURY UPDATE ON THE BOARD OF FINANCE AND REVENUE

October 24, 2012

Pennsylvania Treasury | [www.patreasury.gov/bfr.html](http://www.patreasury.gov/bfr.html)

## Message from Treasurer McCord



Pennsylvanians depend on our farmers for a healthy supply of nutritious food. We depend on firefighters and emergency service personnel to keep us safe. We count on our local governments to provide reliable services, and we

count on public school districts to provide our children with a quality education. In each of these sectors, transportation costs are a major factor – and cost – which is why the Commonwealth makes liquid fuel tax refunds available to these groups.

This edition of *Matters of Appeal* highlights the Board of Finance and Revenue's work through its liquid fuels section to process these refunds. Each year, this team of four employees processes thousands of applications to put millions of dollars back into the economy. For example, last year, the liquid fuels section processed nearly 7,100 refunds worth \$10.3 million.

As always, I hope you find this second edition of *Matters of Appeal* informative as we seek to shed further light on the work of BF&R. Please do provide us with your comments and suggestions at [bfr@patreasury.gov](mailto:bfr@patreasury.gov).

Yours in service,

A handwritten signature in black ink that reads "Rob McCord". The signature is written in a cursive, slightly stylized font.

Rob McCord, State Treasurer  
Chair of the Board of Finance and Revenue

## Upcoming Hearing Dates

November 6 and 7, 2012  
December 11 and 12, 2012  
January 29 and 30, 2013  
February 26 and 27, 2013  
March 26 and 27, 2013

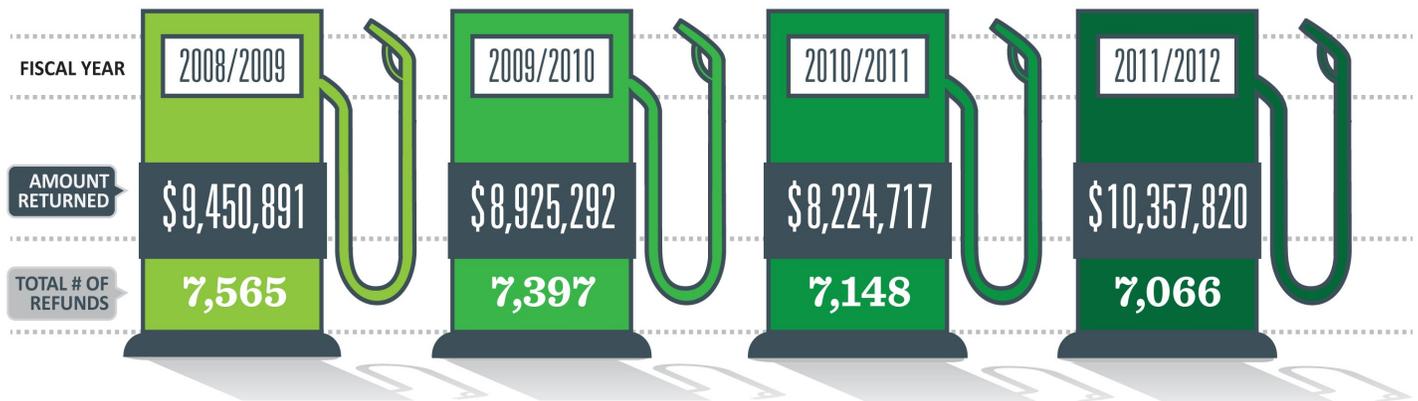


## How BF&R Hearings Work

Hearings are generally scheduled two days each month, on a Tuesday and Wednesday at 9 a.m. BF&R offers videoconferencing from Pittsburgh and Erie. Hearings via videoconference are only scheduled on the Wednesday of the preset hearing dates. Contact BF&R at (717) 787-2974 for more information.

Hearings include oral arguments by the taxpayer or his or her representative. Because the Board has already familiarized itself with the facts and issues of the appeal, oral arguments are limited to five minutes. A decision will not be issued from the bench. In most instances, a decision is mailed by the following Friday via Certified Mail.

## LIQUID FUELS REFUNDS BY YEAR



### BF&R extended 2011 deadline after damaging floods

In the wake of the damaging floods from Hurricane Irene and Tropical Storm Lee in August and September 2011, BF&R allowed farmers and volunteer fire, ambulance, and rescue squads an additional month to submit liquid fuels tax refund applications.

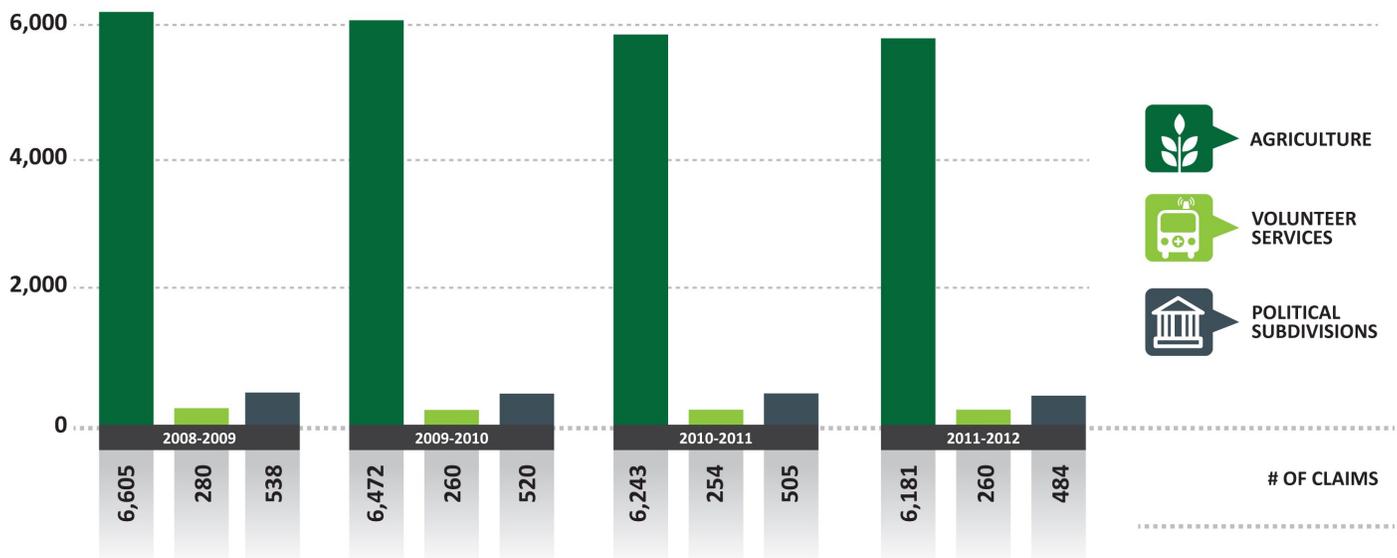
“Emergency responders worked around the clock to serve and protect their communities during the dangerous weather, just as Pennsylvania farmers focused on salvaging their crops,” Treasurer McCord said. “They had enough to worry about without additional concerns over whether they could file their liquid fuel tax refund applications on time. The extension gave those farmers and volunteer squads the additional time they needed to regroup and concentrate on recovery.”



BF&R’s liquid fuels staff (from l to r): Kim Page, Diane Fetters (supervisor), Tony Julian. Not pictured: Eric Schreiner.

The extension applied to farmers and volunteer fire, ambulance, and rescue squads from the 27 Pennsylvania counties that were declared federal disaster areas.

## TOP RECIPIENTS OF LIQUID FUELS REFUNDS



## Precedents for Professionals: Motor Carriers Road Tax and the International Fuel Tax Agreement

The Motor Carriers Road Tax Act (the Act), 75 Pa.C.S. §§ 9601 – 9622, imposes a tax on fuel consumed in Pennsylvania by trucks, tractor trailers and other qualifying motor vehicles. Federal law requires any state that imposes such a tax to conform with the International Fuel Tax Agreement (IFTA). 49 U.S.C. § 31705.

Under IFTA when Pennsylvania has been selected by a carrier as its base jurisdiction (and the carrier has registered with Pennsylvania under Chapter 26 of the Vehicle Code and obtained the required decals for its qualified vehicles) then that carrier files one tax return to Pennsylvania quarterly reporting its mileage traveled and fuel purchased for qualifying vehicles in each jurisdiction. The forms filed allow the carrier to report and to pay to Pennsylvania taxes imposed by each jurisdiction in which the vehicle traveled and also allows the carrier to report and claim credit against those taxes for tax-paid fuel purchases for those vehicles based on the jurisdiction of purchase. In order to claim credits, a motor carrier must strictly adhere to the record-keeping requirements. The Bureau of Motor Fuel Taxes then retains the tax properly due to Pennsylvania and orders distribution of the net amounts of tax due (tax due less credits) to each of the other jurisdictions.

- **Inadequate records.** The Board of Finance and Revenue is frequently presented with petitions for review of cases in which motor carriers do not maintain records specifically required under IFTA. As a result, these taxpayers may be assessed tax based upon a much higher factor (4.0 miles per gallon) than would



otherwise be used, as required by the statute. See [Op. BF&R, Docket No. 1117933 \(2012\)](#). BF&R necessarily reached the same conclusion when a taxpayer who was subject to the Act and IFTA underreported miles travelled and had gaps in the vehicles' odometer readings. See [Op. BF&R, Docket No. 1105045 \(2012\)](#). The imposition of the higher statutory mile per gallon factor and resulting assessment of additional tax in such situations was upheld on appeal in [R & R Express v. Commonwealth of Pennsylvania, 37 A.3d 46 \(Pa. Comwlth. 2012\)](#).

- **Interest.** Taxpayers that do not comply fully with the reporting requirements of the Act and IFTA may, in addition to being subject to the assessment of additional taxes, incur a substantial liability for interest on such additional taxes. See [Op. BF&R, Docket No. 1101961 \(2012\)](#). On an appeal of this issue, the Commonwealth Court, in [Southern Pines Trucking v. Commonwealth of Pennsylvania, 42 A.3d 1222 \(Pa. Comwlth. 2012\)](#), affirmed the decision of BF&R that such interest assessment is applicable.

BF&R encourages taxpayers that are subject to the Act and IFTA to maintain records specifically as set forth in the Act to ensure that they pay only the required tax amount and do not subject themselves to the imposition of assessments of additional taxes and interest. Taxpayers are also encouraged to refer to the [manual that accompanies IFTA decals](#) for more information and detailed guidance on record-keeping requirements.

## Tax Appeals Filing Deadlines

If your tax liability is unpaid, you are generally required to appeal:

- To the Department of Revenue's Board of Appeals (BOA) within 90 days of assessment mailing date.
- If dissatisfied, to BF&R within 90 days of mailing date of BOA Decision and Order.
- If dissatisfied, to Commonwealth Court within 30 days of mailing date of BF&R Order.

or

If your tax liability is paid, you are generally required to appeal:

- To BOA within three years of a tax payment.
- If dissatisfied, to BF&R within 90 days of mailing date of BOA Decision and Order.
- If dissatisfied, to Commonwealth Court within 30 days of mailing date of BF&R Order.

*NOTE: For payments made as a result of an audit, assessment, determination, settlement, or appraisal, taxpayers only have six months from the date of the associated notice to file with BOA. Please contact BF&R with specific questions.*

## Board of Finance & Revenue: Who We Are

Rob McCord, State Treasurer (Chair) | Jack Wagner, Auditor General | Linda Kelly, Attorney General  
 Dan Meuser, Secretary of Revenue | Carol Aichele, Secretary of the Commonwealth  
 James D. Schultz, Governor's General Counsel

### BF&R Staff

*Secretary of the Board*  
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*Docketing*  
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 Timothy P. Loftus (Corporation Tax)  
 Thomas W. Watson (Sales/Misc. Tax)  
 Robert Kolb (Personal Income Tax)

*Liquid Fuels*  
 Diane Fetters, Supervisor

*Taxpayer Advocate*  
 Rachael Bell

### Directions to BF&R

The Board of Finance and Revenue  
 Riverfront Office Center  
 1101 South Front Street, Suite 400  
 Harrisburg, PA 17104-2539

*Please note that some GPS navigational units lead drivers incorrectly to 1101 South Front Street in Steelton, PA.*

The Riverfront Office Center (ROC), also commonly referred to as the PennDOT building, is located on the east shore of the Susquehanna River just south of the Interstate 83 bridge (South Bridge). From I-83, take the Harrisburg – 13th Street Exit (Exit 44-A) and follow the blue and white signs for the PennDOT customer service center. If coming from the north or east, merge onto 13<sup>th</sup> Street. If coming from the west or south, make a left onto 13<sup>th</sup> Street at the traffic light. From 13th Street, make a right onto Sycamore Street at the second traffic light. Go straight through the next traffic light. This will take you to the ROC/ PennDOT building.

Use the entrance located in the middle of the building. You will need to produce picture identification to register with building security. BF&R is located on the 4th floor.



### CONTACT BF&R

#### By mail:

Board of Finance and Revenue  
 Riverfront Office Center  
 1101 South Front Street, Suite 400  
 Harrisburg, PA 17104-2539

#### Hours of operation:

Mon.—Fri., 8:00 a.m. to 4:30 p.m.

#### By phone:

Tax Appeals: (717) 787-2974  
 Liquid Fuels: (717) 787-6534  
 Taxpayer Advocate:  
 (717) 787-2974

#### By fax:

(717) 783-4499

#### By email:

[bfr@patreasury.gov](mailto:bfr@patreasury.gov)

#### Online:

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### Do you purchase fuel for your school or local government?

You may be eligible for a refund – contact the liquid fuels section at (717) 787-6534 for an application. Supervisor Diane Fetters and her team of professionals stand ready to help you receive the refund you are due.

- Applications for political subdivisions and nonpublic, nonprofit schools are due **April 1, 2013** (because March 31 falls on a Sunday).
- Applications for agricultural producers and volunteer fire, ambulance, and rescue squads are due September 30, 2013.