

# NON-PROFIT TRANSIT AGENCY FUEL TAX EXEMPTION EVALUATION SUMMARY



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THIS EVALUATION WILL BE INCLUDED IN COMPILATION REPORT SEPTEMBER 2019

YEAR ENACTED	1994
REPEAL/EXPIRATION DATE	None
REVENUE IMPACT	None
NUMBER OF TAXPAYERS	None
AVERAGE TAXPAYER BENEFIT	None
IS IT MEETING ITS PURPOSE?	No

## WHAT DOES THIS TAX EXPENDITURE DO?

The Non-Profit Transit Agency Fuel Tax Exemption exempts non-profit transit agencies from paying the special fuels excise tax on liquefied petroleum gas and natural gas used in vehicles for transit purposes.

## WHAT IS THE PURPOSE OF THIS TAX EXPENDITURE?

The purpose of this tax expenditure is not explicitly stated in statute. We inferred that the purpose is to reduce operational costs for non-profit transit agencies in Colorado that provide transportation services with vehicles that use liquefied petroleum gas and natural gas for fuel.

## WHAT DID THE EVALUATION FIND?

We determined that this tax expenditure is not meeting its purpose because non-profit transit agencies have not used the exemption, and there appear to be few vehicles that would qualify for it.

## WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to review the tax benefit provided by the exemption to determine if it is sufficient to accomplish its purpose. In addition, some eligible taxpayers may not be aware of how to claim the exemption due to a lack of information on the Department of Revenue's Gasoline/Special Fuel Tax Refund Permit Application.

# NON-PROFIT TRANSIT AGENCY FUEL TAX EXEMPTION

## EVALUATION RESULTS

### WHAT IS THE TAX EXPENDITURE?

The Non-Profit Transit Agency Fuel Tax Exemption exempts non-profit transit agencies from paying the fuel excise tax on liquefied petroleum gas and natural gas used in vehicles for transit purposes [Section 39-27-102.5(7), C.R.S.]. There have been no significant changes to this tax expenditure since it was created in 1994.

Non-profit transit agencies are non-profit organizations that supplement government-run public transit by providing transportation to those without the physical or financial means to use private, for-profit transportation. Non-profit transit agencies are separate from government entities, such as the Regional Transportation District (RTD), which provides public transit busses, trains, light rail, and Access-a-Ride. In addition, the exemption only applies to purchases of liquefied petroleum and natural gas; other fuels, such as gasoline and diesel do not qualify for the exemption.

According to the Department of Revenue, to claim the Non-Profit Transit Agency Fuel Tax Exemption, taxpayers would include the amount they paid in fuel excise taxes on the purchase of liquefied petroleum gas and natural gas used for transit purposes on the Gasoline/Special Fuel Tax Refund Permit Application (Form DR 7189) that is used for other fuel tax refunds.

### WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not specifically identify the intended beneficiaries of the Non-Profit Transit Agency Fuel Tax Exemption. Based on the statutory

language, we inferred that the primary beneficiaries of this tax expenditure are non-profit transit agencies operating in Colorado with vehicles that use liquefied petroleum gas and natural gas for fuel.

According to the Colorado Association of Transit Agencies (CASTA), there are at least 26 non-profit transit agencies located all across Colorado. In Calendar Year 2017, these agencies traveled over 4.9 million miles, and provided more than 1.3 million passenger trips. As a comparison, during this same time period, RTD covered nearly 61 million miles and provided over 103 million passenger trips. These non-profit transit agencies typically operate demand response services, primarily for senior citizens and persons with disabilities who are outside of the range of government-provided public transportation.

We also inferred that consumers who use non-profit transit services would be indirect beneficiaries of the exemption since it would reduce the operating costs for non-profit transit agencies. The lower operating costs could allow for expanded services or lowered ticket fares for those utilizing these services.

#### WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute does not explicitly state a purpose for the Non-Profit Transit Agency Fuel Tax Exemption. Based on our review of statute, we inferred that the purpose of the exemption is to reduce operating costs for non-profit transit agencies that provide transportation services with vehicles that use liquefied petroleum gas and natural gas as fuel.

#### IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We found that the Non-Profit Transit Agency Fuel Tax Exemption is not meeting its purpose because non-profit transit agencies are not using it and there appear to be very few vehicles that would qualify for it.

Statute does not provide quantifiable performance measures for this expenditure. Therefore, we created and applied the following performance measure to determine the extent to which the exemption is meeting its inferred purpose:

**PERFORMANCE MEASURE:** *To what extent is the Non-Profit Transit Agency Fuel Tax Exemption reducing operating costs for non-profit transit agencies in Colorado that use liquefied petroleum gas and natural gas to fuel their vehicles?*

**RESULT:** The Non-Profit Transit Agency Fuel Tax Exemption is not reducing operating costs for non-profit transit agencies because it is not being used and it does not appear that most of the vehicles used by these agencies operate on the type of fuel that qualifies for the exemption. Although this exemption has been available since 1994, according to the Department of Revenue, there have not been any non-profit transit agencies that have claimed it. Representatives from CASTA and the five non-profit transit agencies responding to our survey reported that they were not aware that this exemption existed. Furthermore, statute lists liquefied petroleum gas and natural gas as the fuel types eligible for the exemption. According to a 2016 study conducted by the American Transportation Association, there are no transit vehicles in the United States that use liquefied petroleum gas. Although the study reports that about 15 percent of transit vehicles are fueled with natural gas or blends, only the portion of these powered solely by natural gas would qualify for the exemption. According to CASTA, the large majority of fuel used in transit operations is gasoline, which does not qualify for the exemption.

#### WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

We did not identify any economic costs or benefits of the Non-Profit Transit Agency Fuel Tax Exemption since it is not being used. However, as shown in EXHIBIT 1.1, we estimate that the potential revenue impact to the State would only be about \$4,013 annually, if all non-profit transit agencies that use natural gas began claiming the exemption.

**EXHIBIT 1.1.  
POTENTIAL ANNUAL REVENUE IMPACT OF  
NON-PROFIT TRANSIT AGENCY FUEL TAX EXEMPTION**

Percentage of transit vehicles that use natural gas <sup>1</sup>	15%
Number of miles traveled by non-profit transit agency vehicles annually	4,944,700
Number of miles traveled by non-profit transit agency vehicles that use natural gas	741,720
Average miles per gallon of natural gas powered vehicles	28
Number of gallons of natural gas fuel consumed	26,490
Average natural gas fuel excise tax rate	\$.1515 <sup>2</sup>
Estimated fuel excise tax paid/ Amount of fuel tax exempted	\$4,013

SOURCE: Office of the State Auditor analysis of Colorado Association of Transit Agencies' 2017 data, the 2016 American Public Transportation Association study data, and the Metropolitan Utilities District report on natural gas powered vehicles.

<sup>1</sup> This percentage also includes vehicles that operate on blended fuel types that are not eligible for the exemption; however, we were unable to break out the percentage attributable to these vehicles.

<sup>2</sup> There are two subtypes of natural gas used to fuel vehicles; currently, the compressed natural gas excise tax rate is \$0.183 per gallon and the liquefied natural gas excise tax rate is \$0.12 per gallon, so the average excise tax rate for natural gas products is \$0.1515 per gallon.

**WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?**

Presently, eliminating the Non-Profit Transit Agency Fuel Tax Exemption would have no impact to beneficiaries because it has not been used. Even if it were to be used by all eligible transit agencies in the state, eliminating the exemption would have a relatively small impact. Specifically, the estimated impact would be around \$150 per taxpayer, per year. This is based on a potential revenue impact of about \$4,013 annually divided by the 26 non-profit transit agencies currently operating in Colorado.

**ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?**

We identified similar tax expenditures in six other states, including Michigan, Pennsylvania, Texas, Vermont, Virginia, and Wyoming. Vermont's tax expenditure specifically applies to non-profit transit agencies, while Wyoming's tax expenditure applies to all transit agencies. The remaining four states offer exemptions for some non-profit organizations, including certain types of non-profit transit

agencies, such as those that provide public school transportation. The exemptions in all of these other states have broader applicability than the Colorado exemption because they apply to all fuel types.

**ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?**

We did not identify any tax expenditures or programs with a similar purpose available in Colorado.

**WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?**

We did not identify any data constraints related to this tax expenditure.

**WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?**

**THE GENERAL ASSEMBLY MAY WANT TO REVIEW THE TAX BENEFIT PROVIDED BY THE NON-PROFIT TRANSIT AGENCY FUEL TAX EXEMPTION TO DETERMINE IF IT IS SUFFICIENT TO ACCOMPLISH ITS PURPOSE.** Specifically, the six other states that we identified with similar tax expenditures have structured their expenditures to provide a more significant benefit for taxpayers because they apply to all types of fuel, not just liquefied petroleum gas and natural gas. This provides a more substantial reduction in operating costs for agencies in these states, making these provisions more attractive to taxpayers. We estimate that if Colorado's Non-Profit Transit Agency Fuel Tax Exemption applied to all types of fuel, it would have a revenue impact to the State of around \$16,800 and non-profit transit agencies would see a reduction in their operating costs by this same amount, or about \$640 per transit agency. We based this estimate on the percentage of non-profit transit vehicles that use particular types of fuel (e.g., gasoline, diesel, natural gas); the amount of miles traveled by non-profit transit vehicles by fuel type; Colorado's excise tax rates on gasoline, diesel, and natural gas; and the average miles per gallon that gasoline, diesel, and natural gas powered vehicles travel, as shown in EXHIBIT 1.2.

EXHIBIT 1.2. POTENTIAL ANNUAL REVENUE IMPACT OF NON-PROFIT TRANSIT AGENCY FUEL TAX EXEMPTION IF ALL FUEL TYPES ARE INCLUDED				
	DIESEL	NATURAL GAS	GASOLINE	TOTAL
Percentage of transit vehicles by fuel type	33%	15% <sup>1</sup>	14%	
Number of miles traveled by all non-profit transit agency vehicles annually	4,944,700	4,944,700	4,944,700	
Number of miles traveled by non-profit transit agency vehicles by fuel type	1,631,766	741,720	692,264	
Average miles per gallon	42	28	32	
Number of gallons of fuel consumed	38,852	26,490	21,633	
Fuel excise tax rate	\$.205	\$.1515 <sup>2</sup>	\$.22	
Estimated fuel excise tax / Amount of fuel tax that would be exempted	\$7,965	\$4,013	\$4,759	\$16,737

SOURCE: Office of the State Auditor analysis of Colorado Association of Transit Agencies' 2017 data, the 2016 American Public Transportation Association study data, and the Metropolitan Utilities District report on natural gas powered vehicles.

<sup>1</sup> This percentage also includes vehicles that operate on blended fuel types that are not eligible for the exemption; however, we were unable to break out the percentage attributable to these vehicles.

<sup>2</sup> There are two subtypes of natural gas used to fuel vehicles; currently, the compressed natural gas excise tax rate is \$0.183 per gallon and the liquefied natural gas excise tax rate is \$0.12 per gallon, so the average excise tax rate for natural gas products is \$0.1515 per gallon.

SOME ELIGIBLE TAXPAYERS MAY NOT BE AWARE OF HOW TO CLAIM THE EXEMPTION DUE TO A LACK OF INFORMATION ON THE DEPARTMENT OF REVENUE'S FORM. Specifically, the Gasoline/Special Fuel Tax Refund Permit Application (Form DR 7189), which is used for several fuel tax refund provisions, is where eligible taxpayers would claim the exemption. However, the form does not list non-profit transit agencies as a possible claimant and the form's instructions do not include information on the Non-profit Transit Agency Fuel Tax Exemption. Thus, taxpayers may be less likely to be aware of the exemption and how to claim it than if this information was provided on the form. As previously discussed, stakeholders we contacted reported that non-profit transit agencies have not been aware of the exemption.