



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN Excise Tax Bulletin #2

GASOLINE EXCISE TAX

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address issues commonly faced by those involved in sales of gasoline.

Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Gasoline Tax Act is found in Title 36, Chapter 451 of the Maine Revised Statutes (“M.R.S.”). Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” on the MRS website: www.maine.gov/revenue.

1. RELEVANT STATUTORY DEFINITIONS

A. DISTRIBUTOR. A “distributor,” as defined in 36 M.R.S. § 2902(1), means a person that imports gasoline into this State, produces, refines, manufactures or compounds gasoline in the State, or purchases gasoline in the State, principally for resale to others in bulk. “Distributor” includes both registered distributors and licensed distributors.

B. EXPORTER. An “exporter,” as defined in 36 M.R.S. § 2902(1-A), means a person that is not a distributor who purchases gasoline in this State, but exports that gasoline from this State.

C. GASOLINE. As used in this bulletin, “gasoline” means “internal combustion engine fuel,” as that term is defined in 36 M.R.S. § 2902(3), and includes all products commonly or commercially known, used, sold, or offered for sale as gasoline or fuel for use in a spark-ignition internal combustion engine, including, but not limited to, casinghead, absorption and natural gasoline.

D. IMPORTER. An “importer,” as defined in 36 M.R.S. § 2902(1-B), means a person that imports gasoline into this State, but who does not primarily resell it to others in bulk.

E. LICENSED DISTRIBUTOR. A “licensed distributor,” as defined in 36 M.R.S. § 2902(3-A), means a distributor that is not a registered distributor. A licensed distributor may

purchase gasoline exempt from the Maine excise tax, but must collect the excise tax directly from its customers at the time of sale.

F. REGISTERED DISTRIBUTOR. A “registered distributor,” as defined in 36 M.R.S. § 2902(3-B), means a distributor that only makes sales to retail dealers or directly into the fuel tanks of motor vehicles of gasoline upon which the excise tax has already been paid. A registered distributor must pay the excise tax on all its purchases of gasoline at the time of purchase.

G. RETAIL DEALER. A “retailer dealer,” as defined in 36 M.R.S. § 2902(4-A), means a person that sells gasoline at retail and delivers the gasoline directly into the tank of a motor vehicle or watercraft.

H. WHOLESALE. A “wholesaler,” as defined in 36 M.R.S. § 2902(6), means a person that owns, operates or otherwise controls a terminal, or a person that holds the gasoline inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for gasoline at the terminal.

2. EXCISE TAX IMPOSED

An excise tax is imposed on each gallon of gasoline used or sold within the State. The tax is a levy on the ultimate consumer; however, the distributor that first receives the gasoline in this state is primarily responsible for collecting and remitting the tax. If a distributor includes the tax on a bill to a customer, it must be shown as a separate line item and identified as “Maine gasoline tax.”

The current excise tax rate on gasoline is 30 cents per gallon. Any fuel containing at least 10% gasoline is taxed at the gasoline excise tax rate. The excise tax rate for gasoline used to propel a jet or turbojet engine is 3.4 cents per gallon.

3. CERTIFICATES

A distributor, exporter, importer, or wholesaler may not operate within the State without a certificate issued by MRS. The appropriate certificate is issued once a properly completed application for tax registration is filed with MRS. Applications for registration may be obtained by contacting MRS or visiting the MRS website.

A copy of the certificate must be displayed in each place of business. Certificates must be surrendered to MRS if the business ceases operations.

A certificate may be revoked for reasonable cause by MRS after notice has been given to the certificate holder. Reasons for cancellation include, but are not limited to: filing a false return; failing, refusing, or neglecting to file a required return; failure to pay the full amount of tax due on a return; or failure to meet the statutory definition of a distributor, exporter, importer, or wholesaler.

4. MONTHLY RETURNS

All licensed distributors, exporters, importers, and wholesalers must file a monthly return listing inventories, receipts, and disbursements from the prior month. The return is due on or before the 21st day of each month. The return must be accompanied by certain schedules, and will be considered incomplete if the applicable schedules are not attached or are not properly filled out.

MRS generates and mails returns in advance of the due date. Blank forms, schedules, and instructions are also available on the MRS website or by contacting MRS directly. ***Failure to receive a tax return does not excuse a taxpayer from the requirement to file returns as prescribed by law.*** Tax computed on the monthly return is due at the same time the return is due. Penalties apply for failure to file returns timely or to include the required payment. Tax returns are required to be filed even if a certificate holder has no inventory or activity during the reporting period.

MRS requires electronic funds transfer payments for many taxpayers. Information is available by clicking “Electronic Services” on the MRS website; see also MRS Rule 102, “Electronic Funds Transfer.”

All amounts must be reported in gallons, which means actual gallons received, sold or used, without adjustment for temperature or barometric pressure. Transactions must be reported in the month they occur, not when they are billed.

When gasoline is delivered by a distributor to a consumer or to a retail location, the gasoline is considered to have been sold, even if the retail location is owned in whole or in part by the distributor. The gallons should be reported on the monthly return as a taxable sale at the time the gallons are delivered into a retail tank. Any storage tank connected to a pump fitted to fuel motor vehicles is considered to be a retail tank. Gallons in retail inventory should not be included in reported inventories.

Withdrawals from inventory for a person’s own use must be reported as a taxable sale, unless the use is covered by one of the exemptions detailed in Section 5.

5. EXEMPTIONS

The following sales are exempt from the gasoline excise tax:

A. SALES TO THE FEDERAL GOVERNMENT. Gasoline sold in bulk to the Federal Government is exempt from excise tax. The distributor must maintain copies of delivery slips and invoices that clearly identify the purchaser as the Federal Government. Sales made without proper documentation are considered taxable. Sales to the Federal Government must be listed on Schedule 8 of the monthly tax return.

Federal Government agencies that make retail purchases of gasoline may file for a refund of the excise tax paid. See Section 7(C) below for additional information.

If a licensed distributor wishes to make a refund to a retail dealer for excise tax collected on retail sales of gasoline, a copy of Federal Tax Exemption Certificate Form 1094 is required to support the sale by the retail dealer to the Federal Government. The certificate is not required if the sale is charged on the distributor's credit or courtesy card issued by the distributor to the Federal Government agency.

Sales to foreign nations, including embassies, missions, and consulates may be subject to Maine excise tax. See www.state.gov/ofm/tax/gas/index.htm for additional information.

B. SALES TO POLITICAL SUBDIVISIONS. For purposes of this exemption, "political subdivision" includes the State of Maine, any agency of the State of Maine, and any political subdivision of the State. In addition to any county, city, town or plantation in the State of Maine, "political subdivision" also includes Maine School Districts; water, power, sewer, parking and other districts in Maine established by legislative act as quasi-municipal corporations; village corporations; and the Maine Turnpike Authority. This exemption is not available to other states or provinces or to their agencies or subdivisions.

When gasoline is sold in bulk to a Maine political subdivision exempt from excise tax, the distributor must maintain copies of delivery slips and invoices that clearly identify the purchaser as the political subdivision. Sales made without proper documentation are considered taxable. Sales to political subdivisions must be listed on Schedule 9 of the monthly tax return.

Political subdivisions that make retail purchases of gasoline must apply for a refund of the excise tax paid. See Section 7(C) below for additional information.

C. SALES FOR RESALE. Sales of gasoline to other licensed distributors for resale are exempt from excise tax. A copy of the purchaser's Gasoline Distributor Certificate with the appropriate signed affidavit must be kept in the seller's file to document this exemption. Exempt sales of gasoline to other licensed distributors must be listed on Schedule 6 of the monthly tax return. MRS provides a list of licensed distributors on its website: www.maine.gov/revenue/fueltax.

Registered distributors may not make tax-exempt purchases from a licensed distributor. Excise tax must be paid on purchases of gasoline by registered distributors.

A retail dealer may not purchase gasoline exempt from excise tax. Gasoline that is delivered into a retail tank is considered taxable at the time it is placed into the retail tank. For purposes of taxation, any storage tank connected to a pump fitted to fuel motor vehicles is considered to be a retail tank.

D. EXPORTS. Gasoline exported outside of Maine is exempt from excise tax. Delivery slips and invoices that clearly indicate the purchaser, point of origin, and destination are required to document these sales. Exports must be listed on Schedule 7 of the monthly tax return.

Exporters purchasing gasoline in Maine that will not be exported from the State must pay the Maine excise tax at the time of purchase.

E. JET FUEL USED IN INTERNATIONAL FLIGHTS. Gasoline used to propel a jet engine aircraft in an international flight is exempt from the excise tax. An international flight is one that originates or ends outside the United States. The exemption for gasoline used in international flights is only available for sales when the gasoline is delivered directly into an aircraft. Gasoline may not be purchased in bulk tax exempt and held in storage under this exemption. Sales of gasoline used in international flights must be listed on Schedule 10 of the monthly tax return.

6. SHRINKAGE

A. LICENSED DISTRIBUTOR. An allowance may be made by MRS to cover the loss through shrinkage, evaporation or handling sustained by a licensed distributor on the transportation of gasoline. The allowance can be no more than 0.5% of the amount of gasoline received by the licensed distributor, plus 0.5% on all transfers in vessels, tank cars or full tank truck loads by the licensed distributor in the regular course of business from one of the licensed distributor's places of business to another of the licensed distributor's places of business within this State. The total allowance must be supported by documentation satisfactory to MRS and may not exceed 1% of the annual receipts by the licensed distributor. The shrinkage allowance is calculated on an annual (calendar year) basis. Licensed distributors should not include shrinkage gains or losses in reported sales figures on monthly gasoline distributor returns.

Further allowances may be requested from MRS by submitting proof of a loss sustained through fire, accident, or unavoidable calamity. The event must be reported to MRS in a timely fashion to allow MRS to verify the excess loss. Failure to report these losses promptly may result in refusal of a credit for excess shrinkage or loss.

Annual shrinkage returns are due by January 31st for the prior calendar year.

B. RETAIL DEALER. An allowance may be made by MRS to cover the loss through shrinkage or evaporation by a retail dealer. The allowance can be no more than ½ of 1% of the tax paid on gross purchases that have been delivered into a retail tank for sale to consumers.

The total allowance must be supported by certification from the retail dealer's vendor that the gasoline was purchased tax paid. Returns are filed for a six-month period. Claims for January through June are due no later than September 30. Claims for July through December must be filed no later than March 31. **Claims filed late or without proper vender certification will be denied.**

For purposes of the allowance, a licensed distributor may qualify as a retail dealer for the portion of gasoline it has properly taxed and placed into its own retail tank.

7. REFUND PROGRAMS

Applications and affidavits for the refund programs are available on the MRS website:

www.maine.gov/revenue/fueltax/refund%20programs/refundprograms.htm.

A. AERONAUTICAL. A person that purchases and uses gasoline for the purpose of propelling piston engine aircraft (“aeronautical gasoline”) and that has paid the excise tax on that gasoline is entitled to reimbursement in the amount of the excise tax paid, less 4 cents per gallon. However, all gasoline that qualifies for refund as aeronautical gasoline is subject to use tax, and the excise tax refund will be reduced by the amount of the use tax due.

Purchasers of aeronautical gasoline may apply to MRS for a refund of the excise tax, using the Aviation Gasoline Refund Application (Form “AVG-1”). Original invoices for all eligible purchases must be included with the application. Applications for refund must be filed within 12 months from the date of purchase.

B. OFF-HIGHWAY COMMERCIAL USE. A refund of excise tax is available for certain purchases of gasoline, where the gasoline is commercially used other than in the operation of a registered motor vehicle on the highways of this State. A person is entitled to reimbursement in the amount of the excise tax paid, less 1 cent per gallon. However, gasoline that qualifies for a refund for off-highway use is subject to use tax, and the excise tax refund will be reduced by the amount of the use tax due.

Please note, certain off-highway uses, such as gasoline used in manufacturing and commercial farming, may also be entitled to exemption from the use tax. For additional information, see MRS Instructional Bulletins Nos. 22 (“Manufacturers”) and 59 (“Farming, Fishing & Wood Harvesting”).

Purchasers of gasoline used off-highway may apply to MRS for a refund of the excise tax, using the Special Fuel and Gasoline Tax Refund Application (Form “OFF-1”). Applications for refund must be filed within 18 months from the date of purchase.

C. FEDERAL GOVERNMENT AND POLITICAL SUBDIVISIONS. Retail sales of gasoline made to the Federal Government and political subdivisions of this State are subject to the excise tax; however, the Federal Government and political subdivisions are able to apply to MRS for a refund of the excise tax, using the Political Subdivision Fuel Tax Refund Application (Form “GTR-PS”).

By contractual agreement, a Federal Government agency or political subdivision of this State may assign its right to a refund of the excise tax paid to a third party. Both parties must complete the Affidavit for Assignment of Refund and include a copy with the refund application, as well as a copy of the contractual agreement between the two parties.

Applications for refund must be filed within 12 months from the date of purchase.

8. SALES/USE TAX ISSUES

Gasoline sold exempt from excise tax is generally subject to sales or use tax. For guidance on the applicability of the sales and use tax to the sales of gasoline, please see MRS Instructional Bulletin No. 13 (“Sale of Fuel and Utilities”), which is available by contacting MRS or on our website at www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm.

9. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common issues regarding the Gasoline Tax Act faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations must be in writing, should contain full information as to the transaction in question and should be directed to:

**MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1060
AUGUSTA, ME 04333-1060
TEL: (207) 624-9693
V/TTY: 7-1-1**

**Or visit our website at www.maine.gov/revenue/fueltax
Email us at fuel.tax@maine.gov**

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