

## Instructions for Fuel Tax License Applicants

**Motor vehicle fuel tax, special fuel tax, liquefied petroleum gas tax, and aviation fuel tax licenses are required.** A refiner, terminal operator, supplier, distributor, importer, exporter, and also a special fuel or liquefied petroleum retailer, must obtain applicable licenses from the Tax Commissioner prior to conducting business in North Dakota. The law does not provide for the licensing of motor vehicle fuel and aviation fuel retailers.

**Registration with the Secretary of State may be required.** For information, visit the Secretary of State web site at [www.nd.gov/sos](http://www.nd.gov/sos).

### Separate Fuel Tax Licenses Required

#### **Motor vehicle fuel tax license:**

A motor vehicle fuel tax license covers gasoline, gasohol (gasoline/alcohol/ethanol blend, including E85), ethanol or alcohol sold for blending with gasoline, natural gasoline, [casinghead (absorption) gasoline, condensate, or drip gasoline when blended with gasoline or sold for blending with gasoline], and racing fuel (high octane gasoline, high octane gasoline blend, or methanol).

#### **Special fuel tax license:**

A special fuel tax license covers undyed (not dyed red) diesel, dyed (red) diesel, heating fuels, kerosene, compressed natural gas, waste oil used as heating fuel, and any other combustible products not otherwise classified as a motor vehicle fuel, liquefied petroleum gas, or aviation fuel. It does not include motor oils or other heavy grade (#5 or #6) fuels.

#### **Liquefied petroleum gas tax license:**

A liquefied petroleum gas tax license covers propane.

#### **Aviation fuel tax license:**

An aviation fuel tax license covers jet fuel, kerosene (if sold for use in aircraft), aviation gasoline, regular gasoline (if sold for use in aircraft), and any other fuel sold for use in aircraft.

An aviation fuel tax license will not be required if the seller makes only **occasional sales** of 1,000 gallons or less in a month. That seller will be considered a “retailer only.”

### Categories for Licenses

#### **Licensing categories defined:**

**“Refiner”** means a person who produces, manufactures, or refines...fuel in this state for resale to a consumer.

**“Terminal operator”** means a person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If a terminal is owned by coventurers, “terminal operator” means the person appointed to exercise the responsibility for, or physical control over, and operation of the terminal.

**“Supplier”** means a refiner who distributes...fuel from a terminal in this state, or any person who acquires...fuel by pipeline from a state, territory, or possession of the United States or from a foreign country, for storage at and distribution from a terminal, or a person who acquires...fuel by truck or railcar for storage at and distribution from a terminal in this state.

NOTE: A “supplier” sells fuel across the rack at a terminal.

**“Distributor”** means a person, other than a retailer, who acquires...fuel from a supplier for subsequent wholesale distribution in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.

NOTE: A “distributor” includes: (1) a marketer; (2) a wholesaler who purchases fuel from another wholesaler or from a distributor; (3) a person who makes bulk delivery sales; and (4) a “retailer only” who is also an “importer.”

**“Importer”** means a refiner, supplier, or distributor who imports...fuel into this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle. **“Import”** means the delivery of...fuel across the boundaries of this state from a place of origin outside this state by a refiner, supplier, or distributor.

NOTE: An “importer” takes legal possession of fuel in another jurisdiction and brings it into North Dakota for resale. “Legal possession” is determined based on a change in ownership.

NOTE: An “importer” must be licensed as an “exporter” in the jurisdiction in which the fuel was acquired for export, unless that jurisdiction does not require a license.

**“Exporter”** means a refiner, supplier, or distributor who exports...fuel out of this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle. **“Export”** means the delivery of...fuel across the boundaries of this state from a place of origin in this state by or for a refiner, supplier, or distributor.

NOTE: An “exporter” relinquishes legal possession of the fuel in another jurisdiction. “Legal possession” is determined based on a change in ownership.

NOTE: An “exporter” must be licensed as an “importer” in the jurisdiction to which the fuel is taken for resale, unless that jurisdiction does not require a license.

**“Retailer”** means a person who acquires...fuel from a supplier or a distributor for resale to a consumer at a retail location. **“Retail location”** means a site at which...fuel is dispensed through a pump from an underground or aboveground storage unit into the supply tank of...[a motor vehicle, aircraft].

**Additional information about categories:**

**“Retail only,”** for licensing purposes, means all sales are made at a retail location. The fact that a business is generically considered to be a “retail” business is not material.

**For aviation fuel**, “retail location” means a site at an airport at which aviation fuel is dispensed from an underground or aboveground storage unit, or from a fuel delivery tank unit, directly into the supply tank of an aircraft.

**For liquefied petroleum gas**, a retailer is a person who fuels licensed motor vehicles with propane at a retail location or similar site. A retailer selling filled propane cylinders to consumers, but not dispensing propane into fuel supply tanks of licensed vehicles, has the following options:

- a. Obtain a license.
- b. Be considered a consumer. With this option the retailer is not licensed and pays the 2% special fuel excise tax to a distributor or supplier.

A person other than a refiner, supplier, distributor, or retailer selling filled propane cylinders to consumers, will always be treated as a “consumer.” The supplier or distributor selling propane to that person must charge and remit the 2% special fuel excise tax.

**For special fuel**, a “retailer only” has the following options:

- a. Apply for a license and post a minimum \$1,000 security. With this option, fuel may be purchased either tax free or tax paid. A monthly report and applicable schedules are required.
- b. Request an inactive license. With this option, the licensee must pay the per gallon tax to a supplier or distributor on all purchases and may not make bulk delivery sales. The Tax Commissioner will suspend the mandatory security requirement as long as the license remains inactive, and monthly reports will not be required.

If the licensee wants to purchase fuel tax free or make bulk deliveries, the license must be made “active,” a security must be provided, and monthly reports will be required.

## **Application – General Information**

### **Section 1 – Business identity:**

Enter your business name. If you have a corporate or legal name different from the entry under business name, enter that name. Provide your Federal Employer Identification Number (FEIN). This number is issued by the Internal Revenue Service and is required for all employers withholding Federal income taxes. It is also the Federal registration number required by all corporations. If you do not have a number, you may obtain an application form by writing to an IRS office or by calling them toll free at 1-800-829-3676. If you are not required to obtain a number and do not intend to apply for a number, the Motor Fuel Tax Section will assign a tax account number for exclusive use as your fuel tax identification number.

Provide your mailing address, the address of your business or corporate headquarters, and the address where your records will be available should your account be selected for an audit. If the address is the same for all three, enter the address only once.

**Section 2 – Type of ownership:**

Check the type of ownership for your business operation.

**Section 3 – Ownership information:**

Provide the required information.

**Foreign corporation, foreign limited liability company, foreign limited partnership, foreign limited liability partnership:** A certificate of authority, or authorization of registration, from the North Dakota Secretary of State is required before a fuel tax license may be issued. Provide the state in which your business is organized, and provide the identification number assigned by the North Dakota Secretary of state (you may attach a copy of the Certificate of Authority if you are not certain of the number).

**Section 4 – Business status:**

Check the applicable box.

If you are purchasing an existing business, enter the name used by that business.

**Section 5 – Previous address:**

If your business headquarters moved during the last three years, enter the previous addresses.

**Section 6 – Previous association:**

Complete this section if you have ever been associated with another person in the fuel sales and distribution business.

**Section 7 – Financial statement:**

Submit a copy of a statement showing the assets and liabilities of the business venture covered by the application.

**Section 8 – Financial institutions:**

Provide information about the banks or other financial institutions used or to be used for your business purposes.

**Section 9 – Type of license:**

Check every type of license for which you are making an application.

**Section 10 – Names and titles of contact persons:**

Provide the name, title, and telephone number of each person the Motor Fuel Tax Section should contact **regarding license applications, fuel tax reports, and other fuel related issues.**

**Section 11 – Authorized signature:**

The General Information form must be signed to be valid. The signature constitutes a declaration that the information is true and correct.

For an individual, partnership, or unincorporated association, the document must be signed by the owner. For a corporation, the document must be signed by an authorized officer. For a limited liability company, the document must be signed by an authorized manager.

## Application – Specific License Type

Complete a separate application form for each applicable license type; i.e., Motor Vehicle Fuel, Special Fuel, Liquefied Petroleum Gas, Aviation Fuel.

### **Section 1 – License fees:**

A \$20.00 license fee, payable to the State Tax Commissioner, must be remitted with each license application.

### **Section 2 – Information about your business:**

**Name:** Provide the name of your business as it should appear on your license.

**Business category:** Check every category that applies to your North Dakota business operation. For example, if you are both a supplier and a distributor, check both. If you are both a distributor and an importer, check both, and so on.

**Importer:** Provide the name of each state and Canadian province from which you intend to import fuel into North Dakota. In order to obtain an importer's license, you must first be licensed as an exporter in the state or province from which you plan to export the fuel, unless that state or province does not require an exporter's license.

**Exporter:** Provide the name of each state and Canadian province to which you intend to export fuel from North Dakota. In order to obtain an exporter's license, you must first be licensed as an importer in the state or province to which you plan to export the fuel, unless that state or province does not require an importer's license.

**Type of fuel:** Check every type of fuel you intend to include in your North Dakota purchase and sales activities.

**Effective date:** Provide the date on which you would like the license to become effective. If you do not enter a date, the license will become effective on the first day of the first full month after the licensing process is completed.

**Number of business sites:** Provide the total number of business sites to be covered by this license. A business may choose to include all business locations under one license or it may choose to license each location separately.

**Estimate sales:** Estimate the number of gallons of fuel you intend to sell in North Dakota per month.

**Acquisition of fuel:** Provide names of suppliers and distributors from whom you are purchasing, or intend to purchase, your fuel. Provide the supplier's or distributor's address, or the address at which you will make the purchase.

**Transport:** Check or write in the information which describes how the fuel will be transported to your place of business or to your North Dakota customer.

**Storage sites:** Provide detailed information on all bulk and retail fuel storage sites in North Dakota.

**Licenses in other states or provinces:** List all states and Canadian provinces in which you have a fuel tax license and in which you have a license application pending. Include applicable license numbers.

**Section 3 – Mandatory securities:**

A security is mandatory and must be provided before a license can be issued. The security may be in the form of a surety bond, a cash bond, or a letter of credit issued by a bank. The security must be in an amount sufficient to cover estimated tax liabilities for a three month period but not less than \$1,000 for motor vehicle fuel, \$1,000 for special fuel, \$500 for liquefied petroleum gas, and \$500 for aviation fuel. A security is not required for a person applying only for an “exporter” license.

Surety bonds require a separate North Dakota Motor Fuel Tax Bond form for each license requested. This form is available at <http://www.nd.gov/tax/fuel/forms/>. The format for a Letter of Credit must be pre-approved by the Office of State Tax Commissioner.

The security requirement may be waived at the discretion of the Tax Commissioner after the license has been in effect for five or more years. Waiver forms are available from the Motor Fuel Tax Section.

**Section 4 – Authorized signature:**

The application must be signed to be valid. The signature constitutes a declaration that the information is true and correct.

For an individual, partnership, or unincorporated association, the document must be signed by the owner. For a corporation, the document must be signed by an authorized officer. For a limited liability company, the document must be signed by an authorized manager.

**Internet forms:**

Forms are available on the Internet. The form can be completed online; however, you must **print** the completed forms, **sign** them, and send them to the Motor Fuel Tax Section. **Do not transmit the forms by e-mail. Do not FAX completed forms.** The web site address is [www.nd.gov/tax/fuel/forms](http://www.nd.gov/tax/fuel/forms).

**For additional information or assistance, contact:**

Motor Fuel Tax Section  
Office of State Tax Commissioner  
600 E. Boulevard Ave., Dept, 127  
Bismarck, ND 58505-0599  
Phone: 701-328-3382