



Motor Fuels Tax Newsletter

News and developments

A publication of the Motor Fuels Tax Section

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Tax Commissioner

2009 Legislation

Township Highway Aid Fund: SB2012 removes the requirement that \$.01 per gallon be withheld from refunds and transferred to the Township Highway Aid Fund. Beginning July 1, 2009, two and seven-tenths percent of the State Highway Aid Fund is transferred to the Township Highway Aid Fund monthly.

Counties, cities, and townships will be required to submit a report on transportation funding and expenditures annually to the State Tax Commissioner.

Refrigeration Unit Refunds: SB2224 provides for the refund of the difference between the diesel fuel on-road and off-road rates for fuel used in the refrigeration unit on a truck or trailer with a separate fuel supply tank. Refund applications must be accompanied by the required invoice documentation indicating refrigeration fuel on a separate invoice or as a separate line item on a combined invoice. This change became effective beginning July 1, 2009. Refund applications and instructions will be available on our web site at www.nd.gov/tax.

Railroad Diesel Fuel Sales: SB2338 provides for \$1.6 million in special fuel tax collected on sales of dyed diesel fuel for railroad locomotive use to be used for railroad crossing safety purposes. Continue to use Schedule 5Y (Gallons sold to railroads - North Dakota \$.04 per gallon taxable) on the Special Fuels Disbursement Schedule to report diesel fuel sales to railroads.

City Diesel Fuel Use: SB2375 allows cities with a computerized system for tracking fuel use by vehicle to use off-road fuel for on-road purposes. The city must file a monthly motor fuel report and pay the difference between the off-road tax rate and the on-road tax rate.

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Heating Fuel

Effective July 1, 2009, heating fuel is exempt from the special fuel excise tax. The rate for dyed diesel, kerosene, and propane used for heating fuel is reduced to zero. The exemption applies to fuel used for the heating of homes, commercial buildings, or other enclosures. Heating fuel gallons must continue to be reported using Schedule 10A on the disbursement schedule of the monthly report.



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The heating fuel exemption does not apply to farm or industrial use such as grain drying, asphalt plants, oil well fracking, steam cleaners, or other commercial applications. It also does not apply when the storage tank is available for other uses in addition to heating; there is no proration of tax available. Revised tax forms and updated instructions will be available on our web site at www.nd.gov/tax. 

“Exporters, suppliers, distributors and importers may not do business in the State of North Dakota unless they hold a valid motor fuel license.”

Mixing of Fuel and Spills

Contact the Tax Department - Motor Fuels Section immediately if an accidental mixing of fuel or a spill has occurred and follow up with a written explanation of the mixing or spill and of the disposition of those fuels. The Tax Department will provide reporting instructions.

No allowances or inventory transfers or adjustments may be made for hose flushing or intentionally mixing clear fuel and dyed fuel. The clear fuel used for hose flushing, or intentionally mixed with dyed fuel, remains subject to the \$.23 per gallon tax. 

Consumer Sales Across State Lines - Bulk Delivery Sales vs. Transport Loads

Motor fuel that is imported to or exported from North Dakota is reported by showing each transaction in detail on the received and disbursed schedules using the appropriate Schedule Types 3 and 7. The reporting requirement does allow the exception of summarizing consumer sales on the disbursed schedule using appropriate Schedule Types 5Q, 5X, 7, or 10A when the fuel is taken from a licensed dealer's bulk facilities. Transport loads from a terminal that are delivered directly to the consumer must be detailed. 

Reconciliation

Inventory reconciliations for the period of July 1, 2008 to June 30, 2009 will be conducted in August 2009. The inventory reconciliation is calculated using the motor fuel reports that you have filed for these periods. You will receive a notice from the Tax Department if a reconciliation of your reports indicates excess losses. If you receive a notice of excess losses that you feel is in error, we encourage you to review your reports and file amended reports as soon as possible if you discover reporting errors. 

Tax Free Sales

Fuel sold in North Dakota must include the appropriate motor fuel tax unless the purchaser has an active license in the appropriate tax type or the sale is to a government agency for government use. Exporters, suppliers, distributors and importers may not do business in the State of North Dakota unless they hold a valid motor fuel license. Lists of licensed companies are e-mailed four times a year. If you would like to be placed on the mailing list of licensed companies, please contact the Motor Fuels Section at fueltax@nd.gov or 701.328.3126. Tax free sales to unlicensed companies will result in an assessment of taxes to the supplier responsible for collecting the tax. 

Sales of Propane in Portable Containers

Propane gas, also referred to as LP gas or liquefied petroleum gas, is subject to North Dakota's 2 percent special fuels tax for general use; other rates apply for heating fuel or for use in licensed

motor vehicles. Fuels subject to special fuels tax are exempt from sales tax. Propane storage tanks are subject to North Dakota and applicable local sales taxes when sold to a final user/consumer of the tank. The following describes how tax applies to sales of propane gas, propane tanks or a combination of these products.

- Fuel retailers that sell only containers of propane and sell no more than 1,000 gallons during a calendar quarter are not required to obtain a retail fuel license from the Tax Commissioner or collect special fuels tax. Instead, the retailer will pay the 2 percent special fuels tax to its distributor or supplier on the purchase price of the fuel.
- Unlicensed retailers that sell only containers of propane and have paid the special fuels tax to their distributor should collect tax as follows:
 - o Tank exchange: Customer exchanges an empty propane tank for a filled propane tank and the retailer charges the same price to every customer. No tax (sales or special fuels) should be charged to the customer. The charge is for the propane only and the applicable special fuels tax has been paid by the retailer to its distributor.
 - o Tank exchange with substandard tank: Customer exchanges a tank that is not in good working condition or that does not meet current safety standards. The retailer charges the same price to each customer, but the price is greater than the straight tank exchange above. Part of this charge is for the tank and part of the charge is for propane. If the retailer separately identifies two charges, the charge for the tank is subject to sales tax and the charge for the propane is exempt from all tax. If the retailer's charge is one lump-sum amount, the entire charge is subject to sales tax.
 - o Purchase with no exchange: Customer purchases a full tank of propane with no exchange. The retailer charges the same price to each customer but the price is greater than the tank exchange with substandard tank. Part of this charge is for the tank and part of the charge is for propane. If the retailer identifies two separate charges, the charge for the tank is subject to sales tax and the charge for the propane is exempt from all tax. If the retailer's charge is one lump-sum amount, the entire charge is subject to sales tax.
- Retailers with a fuel license must collect two percent special fuel tax on all sales of propane when filling a customer's tank.
- Retailers with a fuel license that also sell propane tanks must collect state and local sales taxes on all charges for tanks.
- Charges for purging a new propane tank are not subject to sales tax if separately stated from the selling price of propane or propane tanks. 

Reminders

Electronic Payments: An electronic payment process using ACH debit transactions is currently in development. This process involves the withdrawal of funds from your account based on the amount of tax due reported on your monthly fuel tax report. The reports can be submitted at any time up to the due date, however, the request for withdrawal of funds will only occur on or after the due date of the monthly report. A notification regarding the implementation date and the registration process for the electronic payments will follow in the near future.

Blended Fuel Sales: Licensed dealers selling blended fuel must report the sale as a blended product, not as a sale of separate products. Line 3 of the fuel tax reports provides for the transfer of individual product volumes, which were reported on the receipts schedule, to a blended product category subsequently reported as a sale on the disbursement schedule.

"E-filed reports can be submitted at any time prior to the due date".

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Electronic Filing: All licensed dealers are required to file monthly reports electronically. Electronic reports must be submitted using EDI (electronic data interchange) or an Excel template provided by the Tax Department. You must complete the e-file registration and testing process prior to the required due date. If you need assistance with electronic filing registration or testing, or would like individual training on the electronic filing process, please contact our office. *Contact us if you do not have electronic filing capabilities to apply for, or renew, your electronic filing waiver.* You may email the Motor Fuels Section at fueltax@nd.gov or call 701.328.3126.

E-filed reports can be submitted at any time prior to the due date. To avoid late filing penalties and interest we suggest that you submit them as soon as they are completed. You may still wait until the due date to submit your tax payment. Check with your local post office to insure the timely postmarking of your payments. 

Contact Information:

- Phone: (701) 328-3126
- E-mail: fueltax@nd.gov
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