

BASIC PROVISIONS AND TAX BASE OF THE NEBRASKA MOTOR VEHICLE FUELS, AIRCRAFT FUELS, DIESEL FUEL, AND COMPRESSED FUEL TAX LAWS

Motor Vehicle Fuels Tax

The Nebraska Motor Vehicle Fuels Tax is an excise tax imposed upon the importing, producing, refining, manufacturing, compounding, or blending of motor vehicle fuels in the State of Nebraska for use, distribution, sale, or delivery in this state. Motor vehicle fuels include all products commonly or commercially known as gasoline, gasohol, ethanol, casing head gasoline, and natural gasoline. Products such as naphtha, methanol, benzene, and benzol, although not defined as motor vehicle fuels, will be reported and tax remitted, if placed directly into a licensed motor vehicle or blended into gasoline at a point in the distribution chain after the refinery.

Reporting and remittance of the motor vehicle fuels tax is accomplished by businesses licensed as either a supplier, distributor, wholesaler, importer, or exporter. Retailer's, while licensed, no longer are required to file returns. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of motor vehicle fuels in the State of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application (Form 20MF) and remitting the applicable fee. The fees are deposited in the Highway Cash Fund.

The tax rate is the total of the excise tax rate of 12.5 cents per gallon plus a variable excise tax rate set to meet appropriations, based upon the statewide average cost of motor vehicle fuels and diesel fuels purchased by the state. Effective July 1, 1998, the rate is subject to change on a calendar semiannual basis. The total motor vehicle fuels tax rates per gallon for 1998 are: first quarter 24.6 cents, second quarter 22.8 cents, and the first semiannual period, 23.5 cents.

The business importing or removing motor vehicle fuels from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability to a customer who is a licensed supplier, distributor, or wholesaler. If the tax liability is passed on to the customer, the customer must remit the tax to the state, and cannot subsequently sell that fuel tax free unless a qualified exemption applies. Qualified exemptions are sales in a state other than Nebraska, sales to the United States government or its agencies, and federal corporations wholly owned by the United States government, metropolitan transit authority, or sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation.

Unblended ethanol is subject to motor vehicle fuels tax when blended with gasoline, placed directly into a licensed motor vehicle, or sold to someone who is not licensed in Nebraska to engage in tax-free fuel transactions.

Persons licensed with a permit to purchase Nebraska Nonhighway Use Motor Vehicle Fuels may apply for a refundable income tax credit of the tax paid on those gallons used for nonhighway

purposes. An application for a permit must be made on a Nebraska Permit Application to Purchase Nonhighway Use Motor Vehicle Fuels, Form 83. The application fee is ten dollars. The credit is claimed by completing a Nebraska Nonhighway Use Motor Vehicle Fuels Credit Computation, Form 4136N, with the Nebraska income tax return.

Aircraft Fuels Tax

The Nebraska Aircraft Fuels Tax is an excise tax imposed when importing, producing, refining, manufacturing, or compounding of aircraft fuels in the State of Nebraska for use, distribution, sale or delivery in this state. Aircraft fuels includes aircraft gasoline, jet fuel, or any other fuel used and consumed exclusively for the purpose of propelling aircraft. Aviation gasoline is taxed at five cents per gallon and aviation jet fuel is taxed at three cents per gallon.

Reporting and remittance of the aircraft fuels tax is accomplished by businesses licensed as a supplier, distributor, wholesaler, importer, exporter, or retailer. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of aircraft fuels in the State of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application (Form 20MF) and remitting the applicable fee. The fees are deposited in the Highway Cash Fund.

Diesel Fuel Tax

The Nebraska Diesel Fuel Tax is an excise tax imposed on sales of undyed diesel, except those exempted as indicated later, and on dyed diesel placed in licensed motor vehicles by governmental agencies. Governmental agencies placing dyed diesel in a licensed motor vehicle must remit diesel fuel consumer's use tax by filing the Nebraska Motor Fuels Consumer's Use Tax Return, Form 74. Diesel fuel includes all combustible liquids suitable for use in diesel-powered motor vehicles. It does not include kerosene. Kerosene is subject to diesel tax if it is blended with undyed diesel for use in a licensed motor vehicle.

Reporting and remittance of the diesel fuel tax is accomplished by businesses licensed as a supplier, distributor, wholesaler, importer, exporter, or retailer. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of diesel fuel in the State of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application (Form 20MF) and remitting the applicable fee. The fees are deposited in the Highway Cash Fund.

The tax rate is the total of the excise tax rate of 12.5 cents per gallon plus a variable excise tax rate set to meet appropriations, based upon the statewide average cost of motor vehicle fuels and diesel fuel purchased by the state. Effective July 1, 1998, the rate is subject to change on a calendar semiannual basis. The total diesel fuel tax rates per gallon for 1998 are: first quarter 24.6 cents, second quarter 22.8 cents, and the first semiannual period, 23.5 cents.

The business importing into Nebraska or removing undyed diesel fuel from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability to a customer who is a licensed supplier, distributor, or wholesaler. If the tax is passed on to the customer, the customer must remit

the tax to the state, and cannot subsequently sell that fuel tax free unless a qualified exemption applies. Qualified exemptions are exports with sales or use in a state other than Nebraska, sales to the United States government, its agencies, and federal corporations wholly owned by the United States government, metropolitan transit authority, sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation, and sales of fifty gallons or less for use in a temperature control unit (reefers) or power-take-off unit.

Diesel fuel tax paid on the purchase of undyed diesel is subject to refund if there is a nonhighway use or use in a motor vehicle not subject to licensing. Refunds are applied for by completing the Nebraska Motor Fuels Tax Refund Claim (Form 84), or the Nebraska Diesel Fuel Tax Refund Claim for Agricultural Production Use Only (Form 84AG).

Compressed Fuel Tax

The Nebraska Compressed Fuel Tax is an excise tax imposed on retail sales of compressed fuel being placed in a licensed motor vehicle or to an end user who intends to use the fuel by placing it in a licensed motor vehicle. Compressed fuel includes compressed natural gas, liquefied petroleum gas, liquefied natural gas, and any other compressed fuel used to power a motor vehicle. Persons required to be licensed as a compressed fuel retailer are those who are engaged in the business of selling or otherwise providing compressed fuel to consumers of the fuel for use in a motor vehicle. A retailer who has equipment capable of dispensing compressed fuel into a motor vehicle must also be licensed as a compressed fuel retailer. Application for the required license is completed by submitting a Nebraska Motor Fuels License Application (Form 20MF).

The Nebraska Compressed Fuel Tax Rate is the same as the fuel tax rate on motor vehicle fuels or diesel fuel. Purchases of compressed fuel to be placed in licensed motor vehicles by the Federal government or on a Nebraska Indian reservation by a native American that resides on the reservation, are exempt from the compressed fuel tax.

Interstate Motor Carrier's Fuel Tax (IMC)

Effective July 1, 1996, LB 1218 transferred responsibility for the IFTA program to the Department of Motor Vehicles, Division of Motor Carrier Services.

Effective January 1, 1997, the IMC jurisdictions joined the International Fuel Tax Agreement (IFTA), resulting in the termination of the IMC program.

MOTOR VEHICLE FUELS, AIRCRAFT FUELS, DIESEL FUEL, AND COMPRESSED FUEL TAX

Statutory Reference and Description	Estimated Tax Expenditure Cost NA = Not Available
EXEMPTIONS	
Section 14-1810 Motor vehicle, compressed, and diesel fuels sold to and used in the operations of a metropolitan transit authority are exempt from tax.	\$290,500
Sections 66-4,103 and 66-4,116 Exempts foreign or interstate commerce from motor vehicle fuels tax.	NA (State taxation prohibited)
Section 66-668 Sold one time only to another licensed diesel fuel distributor or wholesaler for resale purposes.	NA ¹
Section 66-668 Diesel fuel that has been dyed at the terminal rack and sold for nonhighway use is not taxed.	NA
Section 66-672 Federal law prohibits the state from taxing the U.S. government or its agencies on their diesel fuel purchases.	\$302,744 (State taxation prohibited)
66-673 Undyed diesel fuel used in the operation of temperature control units or power take-off units may be purchased tax free, if the fuel is purchased in quantities of 50 gallons or less and placed directly into the supply tank of an engine not connected to the main supply tank of a licensed motor vehicle. The consumer of the fuel must submit an approved exemption certificate to the retailer and must also pay applicable sales tax.	NA

DEDUCTIONS

Section 66-486 A motor vehicle fuel distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 and two and one-half percent upon all amounts above \$5,000, which is remitted each month.	\$5,291,066
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Sections 66-486 and 3-148

An aircraft fuel distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 and two and one-half percent upon all amounts above \$5,000, which is remitted each month. \$54,625

Section 66-678

A diesel fuel distributor, wholesaler, or importer can deduct a commission of two percent of the first \$5,000 and one-half of one percent upon all amounts above \$5,000, which is remitted monthly. \$387,864

Section 66-6,113

A compressed fuel retailer can deduct a commission of two percent of the first \$5,000 and one-half of one percent upon all amounts above \$5,000 remitted each tax period. \$7,646

CREDITS AND REFUNDS

Section 66-672

(a) Undyed diesel fuel used for agriculture, quarrying, industrial, or other nonhighway use is refundable. \$64,900,000
(b) Buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof.

Section 66-726

Diesel, compressed and motor vehicle fuels sold on a Nebraska Native American Indian reservation to a Native American Indian residing on a Nebraska Native American Indian reservation. Minimal

Section 66-726

Refund of motor vehicle fuels tax is paid on fuel:

Destroyed Minimal
Consumed by the United States Government
 or its agencies \$533,998
Sold in a state outside Nebraska \$27,260,000
On which there was an overpayment of taxes Minimal

Sections 66-726

Refund of aircraft fuel tax is paid on fuel:

Destroyed None
Consumed by the United States Government
 or its agencies \$875
Sold in a state outside Nebraska \$617,000
On which there was an overpayment of taxes None

Section 66-726

Refund of diesel fuel tax is paid on fuel:

Destroyed Minimal
On which there was an overpayment of tax Minimal

Section 66-726

Sold in a state outside Nebraska. \$10,771,516

Section 3-150

Any person who buys and uses aviation fuels for use in an FAA approved air school is entitled to a credit for the amount of tax paid. \$1,850

Section 66-1344

Each producer of ethanol shall receive a non-refundable credit pursuant to this section of 20 cents per gallon of ethanol produced in Nebraska, which credit shall be in the form of a transferable motor vehicle fuels tax credit certificate. The credit shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration take places. Not less than 2,000,000 gallons and not more than 25,000,000 gallons of ethanol produced annually at an ethanol facility shall be eligible for the credit, and the credit may only be claimed by a producer for the period specified in subsection (2), (3), or (4) of this section. \$20,000,000

After July 1, 1994, no such credit shall be given for ethanol produced at an ethanol facility which was in production on or before January 1, 1992, unless on or before July 1, 1994, the name plate design capacity for the production of ethanol, before denaturing, at the facility has been expanded to equal at least two times the name plate design capacity for production of ethanol, before denaturing, existing at the facility as of January 1, 1992.

Section 66-1346

Through December 31, 2000, each producer of Nebraska-produced ethyl tertiary butyl ether shall receive a non-refundable credit of 50 cents per gallon for each gallon of Nebraska-produced ethyl tertiary butyl ether sold for delivery outside the State of Nebraska, which credit shall be in the form of a transferable income tax credit certificate which may be applied only to the income tax liability of the producer, its parent, or a subsidiary thereof. A credit certificate may not be applied to income tax liability incurred prior to the year the credit certificate was earned. Not more than 2,500,000 gallons of ethyl tertiary butyl ether produced annually at a plant shall be eligible for such credit. The credit shall be given only for ethyl tertiary butyl NA (See income tax section)

ether produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. The credit shall be reduced by the amount of any producer's credit earned pursuant to section 66-1344 by the producer of the E.T.B.E. on ethanol used to produce E.T.B.E. and shall be claimed no later than the due date, including extensions of the tax return filed for the taxable year of the claimant ending not more than 36 months after the taxable year of the claimant in which the certificate is issued. Section 66-1344 became operative for tax years beginning or deemed to begin on or after January 1, 1992.

Section 77-2734.03(2) and Sections 66-4,118, through 66-4,134

A corporate, individual, or fiduciary holder of a permit to buy nonhighway use gasoline who purchases such fuel for agricultural, quarrying, industrial, or other nonhighway use is entitled to a refundable credit against the purchaser's Nebraska income tax liability for the amount of tax paid during the year, less two and one-fourth cents per gallon, from which one and one-fourth cents per gallon is transferred to the Agricultural Alcohol Fuel Tax Fund.

NA
(See income
tax section)

PREFERENTIAL TAX RATES

Section 3-148

Aviation gasoline is subject to a tax of five cents per gallon;
aviation jet fuel is subject to a tax of three cents per gallon.

\$1,013,336

¹This would not necessarily be a true tax expenditure, since the tax is eventually paid.

**MOTOR VEHICLE FUELS, AIRCRAFT FUELS,
DIESEL FUEL, AND COMPRESSED FUEL TAX
RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.