
SECTION 0

Motor Vehicle, Aircraft, Diesel, and Compressed Fuel Taxes

BASIC PROVISIONS AND TAX BASE

Motor Vehicle Fuels Tax

Motor vehicle fuels are subject to 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, benzine, 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 producer, supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, are not required to file returns. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required for 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.

The tax 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. The rate is subject to change on a calendar semiannual basis. The total motor vehicle fuels tax per gallon for the first half of 2007 was 27.1 cents. For the second half of 2007, it was 27.0 cents. For the first half of 2008, it was 23.0 cents. For the second half of 2008, it is 26.0 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, sales to a metropolitan transit authority, natural gasoline purchased by ethanol producers for use as a denaturant, or sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation.¹

While natural gasoline purchased for use as a denaturant in the production of ethanol is exempted from the motor vehicle fuels tax, it is subject to an excise tax of two and a half cents per gallon. This tax is reported and remitted by licensed ethanol producers. One-half of the tax

collected is credited to the Agricultural Alcohol Fuel Tax Fund, with the other half of the tax being credited to the Ethanol Production Incentive Cash Fund.

Persons may claim a refund of the motor vehicle fuels tax paid on those gallons used in unlicensed equipment. The refund is claimed by completing a Nebraska Non-Ag Use Motor Fuels Tax Refund Claim, Form 84, or a Nebraska Ag Use Motor Fuels Tax Refund Claim, Form 84AG. Claims may be submitted whenever the tax claimed on gasoline exceeds \$25 within a calendar year.

Aircraft Fuels Tax

Aircraft fuels are subject to an excise tax imposed upon the importing, producing, refining, manufacturing, or compounding of aircraft fuels in the State of Nebraska for use, distribution, sale or delivery in this state. Aircraft fuel 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 or exporter. Retailers, while licensed, are not required to file reports. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required for 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.

The aircraft fuel tax is administered in the same manner as the tax on motor vehicle fuels with regard to the point of taxation.

Diesel Fuels Tax

Diesel fuels are subject to an excise tax imposed on undyed diesel fuel received, imported, produced, refined, manufactured, blended, or compounded within the State of Nebraska, and on dyed diesel fuel placed in licensed motor vehicles by governmental agencies. Governmental agencies placing dyed diesel fuel 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 fuels include all combustible liquids suitable for use in diesel-powered motor vehicles including bio-diesel blends. It does not include kerosene. Kerosene is subject to tax if it is blended with undyed diesel fuel for use in a licensed motor vehicle.

Reporting and remittance of the tax is accomplished by businesses licensed as a producer, supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, are not required to file reports. Instead, they are subject to field records reviews. Liquid fuel carrier licenses and terminal operator licenses are required for businesses involved in the movement of diesel fuels in the State of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application, Form 20MF.

Diesel fuels are taxed at the same rate as motor vehicle fuels.

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 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 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, sales to a metropolitan transit authority, sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation¹, and sales of fifty gallons or less for use in a temperature control unit (reefer) or power-take-off unit. The consumer of the reefer fuel must submit an approved exemption certificate to the retailer and must also pay applicable sales tax.

Tax paid on the purchase of undyed diesel fuel is subject to refund if used in unlicensed equipment. Refunds are requested by completing the Nebraska Motor Fuels Tax Refund Claim (Form 84), or a Nebraska Ag Use Motor Fuels Tax Refund Claim (Form 84AG). Claims may be submitted whenever the tax claimed on diesel fuels exceeds \$25 within a calendar year.

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, liquified 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.

Compressed fuel is taxed at the same rate as motor vehicle or diesel fuels. Purchases of compressed fuel to be placed in licensed motor vehicles by the Federal government and purchases made on a Nebraska Indian reservation by a Native American that resides on a Nebraska Indian reservation, are exempt from the compressed fuel tax.¹

¹ Pursuant to Neb. Rev. Stat. §66-741, agreements are in effect with the Winnebago Tribe, the Santee Sioux Tribe, and the Omaha Tribe which eliminate this exemption on their reservation. These agreements provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuel tax on all reservation sales. It further provides that the tribes and the State of Nebraska shall share the motor fuel tax revenue in accordance with the negotiated apportionment. These agreements extend to all products subject to the Nebraska motor 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.

\$244,943

Sections 66-4,103 and 66-4,116

Exempts foreign or interstate commerce from motor fuel tax.

NA
(State taxation
prohibited)

Section 66-489

Natural gasoline purchased by producers for use as denaturant.

\$729,097

Section 66-489

Sold one-time only to another licensed motor fuel distributor or wholesaler for resale purposes.

\$46,446,405

Section 66-489

Diesel fuel that has been dyed at the terminal rack and sold for non-highway use is not taxed.

NA

Section 66-489

Federal law prohibits the state from taxing the U.S. government or its agencies on their motor fuel purchases.

\$369,220
(State taxation
prohibited)

Section 66-495

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.

\$294,955

DEDUCTIONS

Section 66-486

A motor vehicle fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 of tax, and two and one-half percent upon all amounts above \$5,000 of tax remitted each month.

\$5,983,498

Sections 66-486, 3-148, and 3-149

An aircraft fuel supplier, distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 of tax, and two and one-half percent upon all amounts above \$5,000 of tax remitted each month. \$54,916

Section 66-486

A diesel fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of two percent of the first \$5,000 of tax, and one-half of one percent upon all amounts above \$5,000 of tax remitted monthly. \$730,168

Section 66-6,113

A compressed fuel retailer can deduct a commission of two percent of the first \$5,000 of tax, and one-half of one percent upon all amounts above \$5,000 of tax remitted each tax period. \$4,920

CREDITS AND REFUNDS

Section 66-489

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 is refundable. Minimal

Sections 66-489 and 66-741

Diesel, compressed, and motor vehicle fuels sold on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation. This exemption does not apply to sales made on the Winnebago, Santee Sioux, and Omaha Reservations (See footnote 1 on page O3). Minimal

Section 66-726

Refund of motor fuel tax is paid on fuel:

- Destroyed..... Minimal
- Sold in a state outside Nebraska \$82,950
- On which there was an overpayment of taxes..... Minimal
- Agricultural, quarrying, industrial or other non-highway use..... \$1,410,462
- Errors in payment (including fuel consumed by the U.S. Government or its agencies) \$323,000

Section 66-726

Refund of aircraft fuel tax is paid on fuel:

- Destroyed..... None
- Sold in a state outside Nebraska None
- On which there was an overpayment of taxes..... None
- Errors in payment (including fuel consumed by the U.S. Government or its agencies) Minimal

Section 3-150

Any person who buys and uses aviation fuels for use in an FAA approved air school is entitled to a refund for the amount of tax paid.

Minimal

Section 66-1344 (2)

Beginning January 1, 2002, any new ethanol facility in production at the minimum rate on or before June 30, 2004, shall receive a non-refundable transferable credit of 18 cents per gallon up to 15,625,000 gallons per year. New facilities are eligible for 96 consecutive months while any existing facility which had not received credits prior to June 1, 1999, is eligible for 48 consecutive months.

\$21,583,667

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.

\$1,624,729

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.