



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

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## GASOLINE EXCISE TAX

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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 motor fuels, specifically gasoline products. 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 Excise Tax Law is found in Chapter 451 of MRSA (“Maine Revised Statutes Annotated”) Title 36. Both Title 36 and all MRS rules may be seen by clicking on “laws and rules” at the top of the MRS website.

An excise tax is levied and imposed on internal combustion engine fuel used or sold within the State. The tax is a levy on the ultimate consumer, but the distributor is primarily responsible for collecting and remitting the tax.

All Gasoline Distributors, Importers, and Exporters doing business in this State must apply for a certificate with the State Tax Assessor. A copy of the Certificate must be displayed in each place of business. Monthly reports must be filed by all Licensed Gasoline Distributors, Gasoline Importers, and Gasoline Exporters.

### 1. DEFINITIONS

**A. Internal combustion engine fuel.** References to gasoline or fuel throughout this Bulletin include internal combustion engine fuel. “Internal combustion engine fuel” includes all products commonly or commercially known, used, sold, or offered for sale as gasoline or fuel for use in an internal combustion engine, including piston engine aircraft engines. Internal combustion engine fuel includes casinghead, absorption and natural gasoline.

**B. Person.** References to “person” in this Bulletin mean an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, the State or Federal Government or any political subdivision or agency of either government.

## 2. ACCOUNT CLASSIFICATION

**A. Licensed Gasoline Distributors.** A “distributor” is any person that:

- imports gasoline into this State;
- produces, refines, manufactures or compounds gasoline in the State; or
- purchases gasoline in the State,

when the fuel is intended to be primarily sold to others in bulk.

A distributor must obtain a registration certificate from the State Tax Assessor as a “Licensed Gasoline Distributor.”

**B. Registered Gasoline Distributor.** A distributor that only makes sales of tax-paid internal combustion engine fuel to retail dealers or directly into the fuel tanks of motor vehicles may qualify to register with the State Tax Assessor as a *Registered* Gasoline Distributor. As with the *Licensed* Gasoline Distributor status, fuel purchased is primarily intended to be sold to others in bulk. Unlike Licensed Gasoline Distributors, the excise tax must be paid on all purchases of internal combustion engine fuel at the time of purchase from a Maine Licensed Gasoline Distributor. A copy of the registration certificate must be displayed in each place of business of that distributor.

**C. Gasoline Importer.** A person that imports internal combustion engine fuel, but does not primarily resell it to others in bulk is not considered a *distributor*, but is instead classified as an *importer*, based on its primary business activity.

**D. Gasoline Exporter.** A person that exports internal combustion engine fuel, but does not primarily resell to others in bulk is not considered a *distributor*, but is instead classified as an *exporter*, based on its primary business activity.

**E. Retail dealer.** A *retail dealer* is a person that sells gasoline at retail and delivers the fuel directly into the tank of a motor vehicle, watercraft, or piston engine aircraft. A retail dealer, unlike a Registered Gasoline Distributor, does not primarily sell to others in bulk.

## 3. LICENSING

A distributor, importer, or exporter may not operate within the State without a certificate issued by the State Tax Assessor. A gasoline distributor that makes sales of gasoline only to retail dealers, or directly into the fuel tanks of motor vehicles, may register with the State Tax Assessor as a Registered Distributor and is exempted from the monthly reporting requirements. The appropriate certificate is issued once a properly completed application for tax registration is filed with Maine Revenue Services.

Applications for Registration may be obtained by contacting Maine Revenue Services or visiting our web site. A copy of the certificate must be displayed in each place of business. Certificates must be surrendered to the Assessor if the business operations cease.

A certificate may be revoked for reasonable cause by the Assessor after notice has been given to the certificate holder. Reasons for cancellation include 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 gasoline distributor.

## **4. IMPOSITION OF TAX**

### **A. Legal incidence of tax**

An excise tax is imposed on each gallon of gasoline sold or used in the State. The tax is a levy on the ultimate consumer; however the distributor that first receives the fuel in the State is primarily responsible for paying 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.”

Maine law provides specific exemptions from the excise tax for gasoline sold:

- and delivered to a licensed exporter wholly for export;
- in bulk to any agency or political subdivision of the State of Maine;
- to another Maine licensed gasoline distributor;
- to a person who will use the fuel for an international flight; or
- in bulk to the United States Government.

Exemptions are discussed in detail in Section 5.

### **B. Tax rates**

The excise tax is based on each gallon of fuel sold or used in the State.

The tax rate for fuel used to propel a jet or turbojet engine aircraft is 3.4 cents per gallon.

Any fuel containing at least 10% gasoline is taxed at the gasoline excise tax rate.

The tax rate for all other gasoline was set at 22 cents per gallon in 2001. Starting in 2003, the tax was subject to an annual adjustment based on the consumer price index, with the tax rate change taking effect July 1st of each year. However, indexing of motor fuels was repealed effective January 1, 2012.

**Current excise tax rates are available on the Fuel Tax section of the Maine Revenue Services web page or by contacting Maine Revenue Services.**

## **5. EXEMPTIONS**

The following exemptions are provided by statute:

### **A. Political subdivisions**

For purposes of this exemption, references to “political subdivision” include the State of Maine, an agency of the State of Maine, or a political subdivision of the State. This exemption is not available to other states or provinces or to their agencies or subdivisions.

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

The tax associated with retail sales to Maine political subdivisions is refundable to the political subdivision. Exempt entities making retail purchases of gasoline must apply for a refund of the tax using a Political Subdivision Refund application available from Maine Revenue Services. A Maine political subdivision may assign its right to a refund to a third party. The affidavit necessary to assign a refund is available on the MRS website.

### **B. Sales to the Federal Government**

Gasoline sold in bulk to the United States Government is exempt from excise tax. The gasoline distributor must maintain copies of delivery slips and invoices that clearly identify the purchaser as the U.S. Government. Sales made without proper documentation are considered taxable. Sales to the U.S. Government must be listed on Schedule 8 of the monthly tax return.

Federal government agencies that make retail purchases of gasoline must file for a refund of the tax using a Political Subdivision Refund application available from Maine Revenue Services.

If a licensed gasoline 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 U.S. Government. The certificate is not required if the sale is charged on the distributor's credit or courtesy card.

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

### **C. Sales for resale**

Sales of gasoline to other Licensed Gasoline 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 Gasoline Distributors must be listed on Schedule 6 of the monthly tax return.

While the tax law allows Licensed Gasoline Distributors to make tax exempt sales to each other, a Licensed Gasoline Distributor is not required to make the sale excise tax exempt. Maine Revenue Services provides a list of licensed Gasoline Distributors on its web site [www.maine.gov/revenue/fueltax](http://www.maine.gov/revenue/fueltax).

A retail dealer may not purchase fuel exempt from excise tax. Fuel 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.

Importers and Registered Gasoline Distributors may not make tax-exempt purchases from a Maine Licensed Gasoline Distributor. Purchases made within the State or from Maine Licensed Gasoline Distributors must be tax paid.

### **D. Exports**

Gasoline exported to another State 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 fuel 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**

The exemption for jet fuel used in international flights is only available for sales directly into an aircraft. Jet fuel may not be purchased in bulk tax exempt and held in storage using this exemption. An international flight is one that originates or ends outside the United States. Sales of jet fuel used in international flights must be listed on Schedule 10 of the monthly tax return.

### **6. REQUIRED RETURNS**

Maine Revenue Services generates and mails returns in advance of the due date. Blank forms, schedules, and instructions are available from the Maine Revenue Services web site or by contacting Maine Revenue Services directly. **Failure to receive a tax return does not excuse a taxpayer from the requirement to file returns as prescribed by law.** Payment for any tax due must be made with the filed return. Penalties apply for failure to file returns timely or to include the required payment.

All amounts must be reported in gross gallons, which means actual measured 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.

Maine Revenue Services requires electronic funds transfer payments for many taxpayers. Information is available by clicking on electronic services from the Maine Revenue Services web page; see also Maine Revenue Services Rule 102.

#### **A. Monthly returns and required schedules**

All licensed gasoline distributors, importers, exporters, and wholesalers must file a monthly return listing inventories, receipts and disbursements from the prior month. (This requirement does not apply to a Registered Distributor that makes sales of gasoline only to retail dealers, or directly into the fuel tanks of motor vehicles.) The return is due on or before the 21st day of each month. Tax returns are required to be filed even if a certificate holder has zero inventory or activity in a particular reporting period.

Returns are considered incomplete if the applicable schedules are not attached or properly filled out. Detailed instructions are available on the Fuel Tax portion of the Maine Revenue Services web site or by contacting Maine Revenue Services directly.

Withdrawals of fuel 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.

When gasoline is delivered by a distributor to a consumer or to a retail outlet, the fuel is considered to have been sold, even if the retail outlet 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.

## **B. Shrinkage - Distributor**

An allowance may be made by the State Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by a **Licensed Gasoline Distributor** on the transportation of fuel. The allowance can be no more than ½ of 1% of the amount of fuel received by a distributor, plus ½ of 1% on all transfers in vessels, tank cars or full tank truck loads by the distributor in the regular course of business from one of the distributor's places of business to another of the distributor's places of business within this State. The total allowance must be supported by documentation satisfactory to the Assessor and may not exceed 1% of the annual receipts by the distributor. The shrinkage allowance is calculated on an annual (calendar year) basis. Gasoline Distributors should not include gains or losses in reported sales figures on monthly gasoline distributor returns.

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

Licensed distributors, importers, and exporters must file an annual shrinkage return listing inventories, total receipts, and total sales. Annual shrinkage returns are due by January 31st for the prior calendar year.

## **C. Shrinkage – Retail Dealer**

An allowance may be made by the State Tax Assessor 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 fuel was purchased tax paid. Returns are filed for a six-month period. Claims for January-June are due no later than September 30. Claims for July-December must be filed no later than March 31. Claims filed late or without proper vendor certification will be denied.

A distributor may qualify as a retail dealer for the portion of fuel it has properly taxed and placed into its own retail tank(s).

## **7. SALES TAX ISSUES**

Gasoline sold exempt from excise tax is subject to Maine sales and use tax. Exemptions from sales and use tax are contained within the Sales Tax portion of Title 36. Sales and Use Tax Instructional Bulletin #13 provides guidance on taxable and exempt fuel transactions. The Bulletin is available from the Maine Revenue Services Sales, Fuel & Special Tax Division web page or by contacting Maine Revenue Services.

## **8. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common issues regarding the Excise Tax Law faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations should 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  
PO BOX 1060  
AUGUSTA, ME 04332-1060  
TEL: (207) 624-9609  
FAX: (207) 287-6628  
NEXTALK: (888) 577-6690**

Visit our website at [www.maine.gov/revenue/fueltax](http://www.maine.gov/revenue/fueltax)  
E-mail us at [fuel.tax@maine.gov](mailto:fuel.tax@maine.gov)

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