



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 57

MOTOR VEHICLE OIL PREMIUMS

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 dealers of motor vehicle oil 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 premiums due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of the Maine Revised Statutes Title 36. The Waste Motor Oil Disposal Site Remediation Program Law is found in Chapter 110, Subchapter 1-F of the Maine Revised Statutes Title 10. Both Title 10 and Title 36 can be seen online at <http://www.mainelegislature.org/legis/statutes/>.

1. GENERALLY

In addition to any other tax or charge imposed under state or federal law, a premium is imposed on motor vehicle oil sold or distributed in the State of Maine. The motor vehicle oil premium is related to the Waste Motor Oil Disposal Site Remediation Program, which was established by the Maine Legislature in 2007. The Program authorizes the Finance Authority of Maine (“FAME”) to issue revenue obligation bonds to fund cleanup costs at waste oil disposal sites throughout Maine. The bond payments are made with premium revenues.

2. RELEVANT STATUTORY DEFINITIONS

A. Motor Vehicle

A “motor vehicle” for the purposes of the premium is defined as a self-propelled vehicle that is not operated exclusively on tracks and includes a motorcycle. The term motor vehicle does not include a snowmobile or all-terrain vehicle.

B. Motor Vehicle Oil Dealer

A motor vehicle oil dealer is any person, firm or corporation engaged in the business of producing, packaging or otherwise preparing motor vehicle oil for market, or selling or distributing motor vehicle oil.

C. Motor vehicle oil

A motor vehicle oil is defined as any lubricating oil or other lubricant that is reclaimable and classified for use in an internal combustion engine or the transmission, gear box, hydraulic system, compressor or differential for a motor vehicle, including but not limited to natural, synthetic and rerefined motor oils, whether or not in retail containers.

D. Diesel engine crankcase oil

Diesel engine crankcase oil means motor vehicle oil that is classified for use in a diesel engine crankcase by meeting the performance requirements of the American Petroleum Institute beginning with CA standards and all succeeding specifications under those standards, including all original equipment manufacturer-specific engine oils.

E. Gasoline engine crankcase oil

Gasoline engine crankcase oil means motor vehicle oil that is classified for use in a gasoline engine crankcase by meeting the performance requirements of the American Petroleum Institute, beginning with SA standards through the most current standards, including original equipment manufacturer-specific engine oils, and International Lubricant Standardization and Approval Committee GF-1 standards through current standards, including all original equipment manufacturer-specific engine oils.

3. IMPOSITION OF THE PREMIUM

A. Generally

The premium is imposed on the motor vehicle oil dealer that makes the first sale or distribution of motor vehicle oil in the State. It is immaterial that the end user may not actually use the product in a motor vehicle.

The first sale or distribution occurs when the product is first distributed or sold in Maine. Motor vehicle oil shipped to Maine by an out-of-state vendor is presumed to be a Maine sale when the shipping terms are F.O.B. destination. The premium is imposed on the out-of-state shipper.

Product that is imported into Maine (F.O.B. shipping point) by a motor vehicle oil dealer and subsequently sold or distributed outside Maine is not subject to the premium, as no sale or distribution has occurred within Maine.

A motor vehicle oil dealer may pass the cost of the premium on to the customer in the sales price of the product.

B. Premium rates

1. Diesel

A premium is imposed on diesel engine crankcase oil sold or distributed in the State at the rate of 35¢ per gallon, regardless of the size of the container.

2. Gasoline

a. A premium is imposed on gasoline engine crankcase oil sold or distributed in the State at the rate of 35¢ per gallon, when sold or distributed in a container with a volume of 5 gallons or less.

b. A premium is imposed on gasoline engine crankcase oil sold or distributed in the State at the rate of \$1.10 per gallon, when sold or distributed in a container with a volume of more than 5 gallons.

3. Other

A premium is imposed on all other motor vehicle oil sold or distributed in the State at the rate of 35¢ per gallon, but only when sold or distributed in a container with a volume of 16 gallons or less.

C. Sales tax issues

The premium is not subject to the Maine sales tax. Motor vehicle oil dealers choosing to pass the cost of the premium on to their customer may want to show the value of the premium as a separate line item on invoices to clarify why sales tax was not computed on the entire invoice price.

D. Exemptions

The Maine sales tax law contains exemption from the sales tax to various organizations (hospitals, schools, etc.) for products and certain services they consume. The sales tax is imposed on the end consumer.

Unlike sales tax, the premium is imposed on the motor vehicle oil dealer, not the consumer. Sales tax exempt entities may mistakenly believe they are also exempt from the premium. The premium may be passed on to the consumer in the invoice price of the motor vehicle oil, including those customers who are exempt from the Maine sales tax.

4. REPORTS AND PAYMENTS

The premium is reported monthly on the Maine Revenue Service Sales and Use Tax return. Premiums should be reported in the period that the oil in question is first sold or distributed in Maine.

Maine Revenue Service requires electronic filing of sales tax returns. Returns can be filed electronically through the internet or over a touch-tone telephone. To file electronically over the internet, go to <http://maine.gov/revenue/> and click on “Electronic Services”. Pre-registration is required to file electronically through a touch-tone telephone. Contact Maine Revenue Service for more details on the TeleFile system.

5. REIMBURSEMENTS FOR EXPORTS

Premiums are reported and paid by the motor vehicle oil dealer that first sells or distributes the product in Maine.

A motor vehicle oil dealer that has sold or distributed motor vehicle oil outside the state on which the premium was imposed may submit a claim for reimbursement of premiums paid on motor vehicle oil exported from Maine. The reimbursement request is filed annually no later than March 31 and may only include premiums paid to a supplier during the prior calendar year. If March 31 falls on a Saturday, Sunday, or legal holiday, the application for reimbursement is due on the next business day. Late claims will be denied.

The amount available for reimbursement in any particular year may be limited. Reimbursement claims are paid only when excess revenues exist in the Waste Motor Oil Revenue Fund administered by FAME and all other priority payments have been made. See 10 MRSA §1020, sub-3-A for the formula for determining the amount of excess revenue and the priorities of payments to be made from those funds.

The amount of excess revenues available for disbursement is determined annually. If the value of reimbursement claims filed exceeds the value of funds available, reimbursement payments will be prorated to each dealer. Reimbursement claims not paid in the current year are carried forward to the next year until all unpaid claims have been reimbursed.

The following is an example of how reimbursement payments are calculated when there are insufficient funds in the Waste Oil Revenue Fund to cover all claims made during a given year.

Assumptions for Year 1:

\$50,000 of eligible claims have been filed

Taxpayer A claims \$4,000
Taxpayer B claims \$6,000
Taxpayer C claims \$40,000

\$10,000 is available in Year 1 for reimbursements

Claims will be paid using the following formula:

Total amount available for reimbursement
X (Value of individual claim/Value of total claims)

Year 1 disbursements made are:

Taxpayer A will receive	$(\$10,000) \times (\$4,000/\$50,000) =$	\$ 800
Taxpayer B will receive	$(\$10,000) \times (\$6,000/\$50,000) =$	\$ 1,200
Taxpayer C will receive	$(\$10,000) \times (\$40,000/\$50,000) =$	<u>\$ 8,000</u>
Total available for reimbursement		\$10,000

Amounts carried forward to Year 2:

Taxpayer A carries forward (\$4,000-\$800) =	\$ 3,200
Taxpayer B carries forward (\$6,000-\$1,200) =	\$ 4,800
Taxpayer C carries forward (\$40,000-\$8,000) =	<u>\$32,000</u>
	\$40,000

All unpaid claims from Year 1 will be paid in Year 2 before any new claims for Year 2 are paid.

6. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the motor vehicle oil premium and 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
P.O. BOX 1060
AUGUSTA, ME 04332-1060
TEL: (207) 624-9693
V/TTY: 7-1-1**

Or visit our website at www.maine.gov/revenue

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission, to access to, or operation of its programs, services or activities.
--

Issued: September 1, 2012

(Published under Appropriation 010-18F-0002-07)