

**STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
MAINE REVENUE SERVICES  
OFFICE OF TAX POLICY**

**Date:** March 29, 2013

**To:** Joint Committee on Taxation

**Subject:** LD 996 - An Act to Improve the Accuracy of Fuel Tax Reporting

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**Primary Sponsor:** Senator Thibodeau

**Estimated Revenue Impact:** \$400,000 reduction in revenue annually.

**Estimated Administrative Cost Impact:** Changes to returns will require computer programming - \$40,000

**Identified Issues:** The bill would create substantial administrative difficulties.

- Maine statute requires monthly reporting on gross gallons. The Shrinkage Return is an annual reconciliation of the monthly values reported by companies of the amount of fuel available for sale and the fuel sold. The Statute provides an allowance to account for loss due to shrinkage, evaporation, and handling. The unaccounted amounts in excess of the statutory allowance are presumed to be gallons of taxable fuel that were inadvertently not reported. Excess shrinkage occurs for a number of reasons, including incorrect reporting during the year. To change the annual shrinkage to a net gallons basis and continue to require monthly reporting on a gross gallons basis will prevent MRS from being able to effectively reconcile the amounts reported throughout the year with the values reported on the annual return. Monthly reporting and annual shrinkage allowance returns should be calculated on a consistent basis. To the best of our knowledge other states do generally provide consistency in this regard and Massachusetts is the only other New England state that provides for fuel tax reporting on a "net gallon" basis. Enactment of this bill would require distributors and suppliers to report both net and gross gallons on the schedules and returns.
- The bill proposes allowing companies to choose computing annual shrinkage on either a gross or net gallons basis, presumably on a year-to-year basis. This would create inconsistency throughout the industry and make compliance efforts difficult. The selling company could be reporting sales in net gallons while the receiving company could be reporting purchases of the same load of fuel in gross gallons.
- In theory, if net gallons are allowed to be used for shrinkage purposes, there would be no need for a ½ of 1% adjustment (for gasoline) or a ¼ of 1% adjustment (for undyed distillates) to cover losses associated with shrinkage and evaporation since the fuel is already adjusted for temperature variations.
- Testimony at the public hearing on March 22, 2013 suggested this is an equity issue where companies in the Northeast are at a competitive disadvantage due to our colder climate. Many other northern states including New Hampshire, Vermont, Rhode Island, Connecticut, Minnesota, North Dakota, Nebraska, Colorado, Idaho, and Wyoming also use gross gallons reporting. Additional taxes as a result of filing shrinkage returns affects a minimal number of taxpayers.
- Testimony at the public hearing suggested New Hampshire changed their shrinkage reporting from a gross to net gallons basis. The New Hampshire Department of Public Safety has

confirmed to Maine Revenue Service that there has not been a change in their laws or administrative policy to allow shrinkage reporting on a net gallons basis. There has been a recent administrative change to review shrinkage on an annual basis, rather than on a monthly basis. This is Maine's current statutorily provided method.

- If this bill is to be considered, it should be amended to add an application date provision, preferably providing that it applies to annual shrinkage returns filed for calendar year 2014 and thereafter. If the bill is to apply to returns filed for calendar year 2013 and thereafter, there would be additional administrative implications and statutory transition provisions should be enacted to address transition reporting.
- If this bill is to be considered, MRS suggests further amending the Gasoline and Special Fuel Tax statutes by moving the point of taxation to the rack (point of first distribution in Maine). This approach would reduce the number of taxpayers involved in the accounting and taxation of fuel and eliminates the issue of shrinkage and evaporation in fuel storage tanks that may occur after the rack. Under this approach it would also be suggested that the imposition of the excise tax be based on net gallons as well, with no need for a shrinkage return or allowance, including allowances provided to retail dealers.

**Similar Legislative Proposals:** N/A

cc (by e-mail): Office of Fiscal & Program Review  
Office of DAFS Commissioner  
Office of the Attorney General  
Office of Policy & Legal Analysis

State Budget Office  
Office of the Governor  
Revisor's Office  
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