

December, 2016  
replaces notice dated June 2, 2005

## Consistent Fuel Gains

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Fuel gains occur when a retailer's sales of fuel exceed their purchases. We recognize that changes in temperature can result in inventory losses or gains; however, given Nebraska's temperature fluctuations, these variations normally offset each other resulting in very small gains or losses. In some situations fuel gains result for an extended period of time accompanied by little or no offsetting losses. Consistent fuel gains must be reported as discussed below.

Motor fuels tax licensees report and remit Nebraska motor fuels tax on the Nebraska Monthly Fuels Tax Return, Form 73. The Form 73 calculates tax liability based upon the difference between purchases and tax-free sales, but does not allow the reporting of fuel gains. Retailers pay the Nebraska fuel tax to their vendors based upon their purchases. State law, however, is quite specific in stating that the fuel tax must be collected and remitted on each gallon of fuel sold. Neb. Rev. Stat. § 66-486 (3), states in part:

"..... the per-gallon amount of the tax shall be added to the selling price of every gallon of such motor fuels sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax. The tax shall be a direct tax on the retail or ultimate consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on the producer, supplier, distributor, wholesaler, or importer as specified in Chapter 66, article 4, shall be as agents of the state for the precollection of the tax."

Excess tax collected by either motor fuels tax licensees or retailers must be reported on the Nebraska Motor Fuels Use Tax Return, Form 74. To determine if this situation affects you, compare your Sales per Change in Inventory to your Sales per Sales Records for at least a year. Separate calculations must be made for gasoline products and for undyed diesel products.

### **Determination of Sales per Change in Inventory**

Beginning Inventory + Purchases - Ending Inventory

### **Determination of Sales per Sales Records**

Total of fuel sales per periodic entries in sales records

### **Gains Resulting from Inventory/Sales Variance**

If the "Sales per Sales Records" exceed the "Sales per Change in Inventory," for each or a majority of the months tested or in total for a year, contact your Account Representative. While this may not mean you automatically have a tax liability, it is important we have the opportunity to review your operations to ensure that you are not unknowingly incurring liabilities.

If your "Sales per Sales Records" and "Sales per Change in Inventory" basically offset each other for these test periods, you do not need to contact us.

If you have any questions regarding this matter, do not hesitate to contact your Account Representative.