

SECTION O

Motor Vehicle, Aircraft, Diesel, and Compressed Fuels 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 Nebraska. 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, are subject to tax, 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 done by businesses licensed as 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 completing a [Nebraska Motor Fuels License Application, Form 20MF](#).

The fuels tax is subject to change on a semi-annual calendar basis. Prior to July 1, 2009, the tax was 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 Nebraska. Effective July 1, 2009, the fixed portion excise tax was reduced to 10.3 cents per gallon, and in addition to the variable excise tax rate set to meet appropriations, a second variable component was added. The second variable component is five percent of the average wholesale price of gasoline for the previous six months. The total motor vehicle fuels tax per gallon for the first half of 2009 was 26.4 cents. For the second half of 2009, it remained at 26.4 cents. For the first half of 2010, it was 26.8 cents. For the second half of 2010, it is 27.1 cents.

The business producing, importing, or removing motor vehicle fuels from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability on to a customer who is a licensed supplier, distributor, exporter, or wholesaler. If the tax liability is passed onto the customer, the customer must remit the tax to Nebraska, 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

¹Pursuant 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 reservations. These agreements provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuels tax on all reservation retail pump sales. It further provides that the tribes and the State of Nebraska shall share the motor fuels tax revenue in accordance with the negotiated apportionment. These agreements extend to all products subject to the Nebraska motor fuels tax.

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 reported and remitted by licensed ethanol producers. A tax of two and one-half cents per gallons was imposed through December 31, 2009, with one half of the tax credited to the Ethanol Production Incentive Cash Fund, and the remaining half deposited into the Agricultural Alcohol Fuel Tax Fund (AAFTF). Effective January 1, 2010, the tax was decreased to one and one-quarter cents per gallon and is credited to the AAFTF.

A refund of the motor vehicle fuels tax paid on gallons used in unlicensed equipment may be 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 motor vehicle fuels exceeds \$25 within a calendar year.

Aircraft Fuels Tax

Aircraft fuels are subject to an excise tax imposed upon aircraft fuels purchased for and used in aircraft within the State of Nebraska. Aircraft fuels include aviation 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 done 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 completing a [Nebraska Motor Fuels License Application, Form 20MF](#).

The aircraft fuels 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 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 biodiesel blends. It does not include kerosene which is subject to tax if it is blended with undyed diesel fuel.

Reporting and remittance of the tax is done 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 completing a [Nebraska Motor Fuels License Application, Form 20MF](#).

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

The business producing, importing, or removing undyed diesel fuel from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability onto a customer who is a licensed supplier, distributor, exporter, or wholesaler. If the tax liability is passed on to the customer, the customer must remit the tax to Nebraska, 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 50 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 the taxed fuel is used in unlicensed equipment. Refunds are requested 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 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 compressed fuel retailers 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

¹Pursuant 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 reservations. These agreements provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuels tax on all reservation retail pump sales. It further provides that the tribes and the State of Nebraska shall share the motor fuels tax revenue in accordance with the negotiated apportionment. These agreements extend to all products subject to the Nebraska motor fuels tax.

Statutory Reference and Description	Estimated Tax Expenditure Cost (NA = Not Available)
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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.	\$260,000
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Sections 66-4,103 and 66-4,116

Exempts foreign or interstate commerce from motor fuels tax.	NA (State taxation prohibited)
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Section 66-489 Natural gasoline purchased by producers for use as denaturant.	\$8,060,000
Section 66-489 Sold one-time only to another licensed motor fuels distributor or wholesaler for resale purposes.	\$52,870,000
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.	\$340,000 (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.	\$280,000

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.	\$5,790,000
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.	\$50,000
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 each month.	\$640,000
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.	\$5,000

CREDITS AND REFUNDS

Section 66-489

Motor fuels sold and used in 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. 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 retail pump sales made on the Winnebago, Santee Sioux, and Omaha Reservations per agreements between the tribes and Nebraska (see footnote 1 of Section O, page 1). Minimal

Section 66-726

Refund of motor fuels tax which was paid on fuel:

Destroyed	Minimal
Sold in a state outside Nebraska	\$120,000
On which there was an overpayment of taxes	Minimal
Agricultural, quarrying, industrial, or other non-highway use	\$1,860,000
Errors in payment (including fuel consumed by the U.S. Government or its agencies)	\$230,000

Section 66-726

Refund of aircraft fuels tax which was paid on fuel:

Destroyed	Minimal
Sold in a state outside Nebraska	Minimal
On which there was an overpayment of taxes	Minimal
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 of 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. \$26,500,000

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. \$1,460,000

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.