

# SECTION N — Motor Vehicle, Diesel, Aircraft, and Compressed Fuels Taxes

## BASIC PROVISIONS AND TAX BASE

### Motor Fuels Tax – Motor Vehicle Fuels and Diesel Fuels

Motor vehicle fuels and undyed diesel fuels are subject to an excise tax imposed on the motor fuels received, imported, produced, refined, manufactured, compounded, or blended 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, benzene, 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. 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.

Dyed diesel fuel placed in licensed motor vehicles by governmental agencies is also subject to motor fuels tax. Governmental agencies placing dyed diesel fuel in a licensed motor vehicle must remit motor fuels use tax by filing the Nebraska Motor Fuels Use Tax Return, Form 74.

Businesses licensed as producers, suppliers, distributors, wholesalers, importers, or exporters report and remit the motor fuels tax. Retailers, while licensed, are not required to file returns. Instead, they are subject to field record reviews or audits. 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 motor fuels tax is subject to change each January 1 and July 1, and consists of a fixed portion, a variable excise tax rate, and a variable wholesale component. The fixed portion excise tax is 10.3 cents per gallon. The variable excise tax rate is set to meet appropriations. The variable wholesale component is 5% of the average wholesale price of gasoline for the previous six months. The total motor fuels tax per gallon for the first half of 2011 was 26.4 cents. For the second half of 2011, it was 26.3 cents. For the first half of 2012, it was 26.7 cents. For the second half of 2012, it is 26.2 cents.

The business producing, importing, or removing motor 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 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 for motor vehicle fuels are:

- exports with sales or use in a state other than Nebraska;
- sales to the U.S. Government or its agencies, and federal corporations wholly owned by the U.S. 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.<sup>1</sup>

<sup>1</sup>Under the authority of 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 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 fuels tax, it is subject to an excise tax reported and remitted by licensed ethanol producers. The tax of 1.25 cents per gallon is deposited into the Agricultural Alcohol Fuel Tax Fund (AAFTF).

Qualified exemptions for diesel fuels are:

- exports with sales or use in a state other than Nebraska;
- sales to the U.S. Government or its agencies, and federal corporations wholly owned by the U.S. Government;
- sales to a metropolitan transit authority;
- sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation<sup>1</sup>; 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.

A refund of the motor 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 motor fuels tax claimed exceeds \$25 within a calendar year. The minimum must be met within a calendar year for each fuel type claimed.

### **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 remitting 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 and exemptions.

### **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, liquefied 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 and diesel fuels. Purchases of compressed fuel to be placed in licensed motor vehicles by the U.S. 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.<sup>1</sup>

<sup>1</sup>Under the authority of 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 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.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

<b>Section <a href="#">14-1810</a></b> Motor vehicle, compressed, and diesel fuels sold to and used in the operations of a metropolitan transit authority are exempt from tax.	\$220,000
<b>Sections <a href="#">66-4,103</a> and <a href="#">66-4,116</a></b> Exempts foreign or interstate commerce from motor fuels tax.	NA (State taxation prohibited)
<b>Section <a href="#">66-489</a></b> Natural gasoline purchased by producers for use as denaturant.	\$10,320,000
<b>Section <a href="#">66-489</a></b> Sold one-time only to another licensed motor fuels distributor or wholesaler for resale purposes.	\$50,380,000
<b>Section <a href="#">66-489</a></b> Diesel fuel that has been dyed at the terminal rack and sold for non-highway use is not taxed.	NA
<b>Section <a href="#">66-489</a></b> Federal law prohibits the state from taxing the U.S. government or its agencies on their motor fuel purchases.	\$380,000 (State taxation prohibited)
<b>Section <a href="#">66-495</a></b> 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.	\$300,000

## DEDUCTIONS

<b>Section <a href="#">66-486</a></b> A motor vehicle fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of 5% of the first \$5,000 of tax, and 2.5% of all amounts over \$5,000 of tax remitted each month.	\$5,740,000
<b>Sections <a href="#">66-486</a>, <a href="#">3-148</a>, and <a href="#">3-149</a></b> An aircraft fuel supplier, distributor, wholesaler, or importer can deduct a commission of 5% of the first \$5,000 of tax, and 2.5% of all amounts over \$5,000 of tax remitted each month.	\$50,000
<b>Section <a href="#">66-486</a></b> A diesel fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of 2% of the first \$5,000 of tax, and 0.5% of all amounts over \$5,000 of tax remitted each month.	\$680,000

**Section [66-6.113](#)**

A compressed fuel retailer can deduct a commission of 2% of the first \$5,000 of tax, and 0.5% of all amounts over \$5,000 of tax remitted each tax period. \$4,000

**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. \$9,000

**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 N, page 1). Minimal

**Section [66-726](#)**

Refund of motor 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
- Agricultural, quarrying, industrial, or other non-highway use \$2,180,000
- Errors in payment (including fuel consumed by the U.S. government or its agencies) \$280,000

**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) \$8,000

**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, will 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. \$23,610,000

**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. \$1,490,000

**RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.