



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN Excise Tax Bulletin #2

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## GASOLINE EXCISE TAX

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This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains information of interest regarding issues commonly faced by your business. Taxpayers are solely responsible for reviewing and complying with relevant Maine statutory laws. Additional questions about these and other issues you may have should be directed to Maine Revenue Services Sales, Fuel, and Special Tax Division. Portions of the Gasoline Tax Act referred to in this bulletin can be found in Attachment #1.

An excise tax is levied and imposed on internal combustion engine fuel used or sold within the State. The tax rate (see Section 4) may be adjusted each July 1 for inflation. The tax is a levy on the ultimate consumer, but the distributor is primarily responsible for collecting and remitting the tax.

All Gasoline Distributors, Importers, and Exporters doing business in this State must apply for a certificate with the State Tax Assessor. A copy of the Certificate must be displayed in each place of business. Monthly reports must be filed by all Licensed Gasoline Distributors, Gasoline Importers, and Gasoline Exporters.

### 1. DEFINITIONS

**A. Internal combustion engine fuel.** References to gasoline or fuel throughout this Bulletin include internal combustion engine fuel. “Internal combustion engine fuel” includes all products commonly or commercially known, used, sold, or offered for sale as gasoline or fuel for use in an internal combustion engine, including piston engine aircraft engines. Internal combustion engine fuel includes casinghead, absorption and natural gasoline.

**B. Person.** References to “person” in this Bulletin mean an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, the State or Federal Government or any political subdivision or agency of either government.

### 2. ACCOUNT CLASSIFICATION

**A. Licensed Gasoline Distributors.** A “distributor” is any person that:

- imports gasoline into this State;
- produces, refines, manufactures or compounds gasoline in the State; or
- purchases gasoline in the State,

when the fuel is intended to be primarily sold to others in bulk.

A distributor must obtain a registration certificate from the State Tax Assessor as a “Licensed Gasoline Distributor.”

**B. Registered Gasoline Distributor.** A distributor that only makes sales of tax-paid internal combustion engine fuel to retail dealers or directly into the fuel tanks of motor vehicles may qualify to register with the State Tax Assessor as a *Registered* Gasoline Distributor. As with the *Licensed* Gasoline Distributor status, fuel purchased is primarily intended to be sold to others in bulk. Unlike Licensed Gasoline Distributors, the excise tax must be paid on all purchases of internal combustion engine fuel at the time of purchase from a Maine Licensed Gasoline Distributor. A copy of the registration certificate must be displayed in each place of business of that distributor.

**C. Gasoline Importer.** A person that imports internal combustion engine fuel, but does not primarily resell it to others in bulk is not considered a *distributor*, but is instead classified as an *importer*, based on its primary business activity.

**D. Gasoline Exporter.** A person that exports internal combustion engine fuel, but does not primarily resell to others in bulk is not considered a *distributor*, but is instead classified as an *exporter*, based on its primary business activity.

**E. Retail dealer.** A *retail dealer* is a person that sells gasoline at retail and delivers the fuel directly into the tank of a motor vehicle, watercraft, or piston engine aircraft. A retail dealer, unlike a Registered Gasoline Distributor, does not primarily sell to others in bulk.

### 3. LICENSING

A distributor, importer, or exporter may not operate within the State without a certificate issued by the State Tax Assessor. A gasoline distributor that makes sales of gasoline only to retail dealers, or directly into the fuel tanks of motor vehicles, may register with the State Tax Assessor as a Registered Distributor and is exempted from the monthly reporting requirements. The appropriate certificate is issued once a properly completed application for tax registration is filed with Maine Revenue Services.

Applications for Registration may be obtained by contacting Maine Revenue Services or visiting our web site. A copy of the certificate must be displayed in each place of business. Certificates must be surrendered to the Assessor if the business operations cease.

A certificate may be revoked for reasonable cause by the Assessor after notice has been given to the certificate holder. Reasons for cancellation include filing a false return; failing, refusing, or neglecting to file a required return; or failure to pay the full amount of tax due on a return.

### 4. IMPOSITION OF TAX

#### A. Legal incidence of tax

An excise tax is imposed on each gallon of gasoline sold or used in the State. The tax is a levy on the ultimate consumer; however the distributor that first receives the fuel in the State is primarily responsible for paying the tax. If a distributor includes the tax on a bill to a customer, it must be shown as a separate line item and identified as “Maine gasoline tax.”

Maine law provides specific exemptions from the excise tax for gasoline sold:

- and delivered to a licensed exporter wholly for export;
- in bulk to any agency or political subdivision of the State of Maine;
- to another Maine licensed gasoline distributor;
- to a person who will use the fuel for an international flight; or
- in bulk to the United States Government.

Exemptions are discussed in detail in Section 5.

**B. Tax rates and indexing**

The excise tax is based on each gallon of fuel sold or used in the State.

The tax rate for fuel used to propel a jet or turbojet engine aircraft is 3.4 cents per gallon.

The tax rate for all other gasoline was set at 22 cents per gallon in 2001. Beginning in 2003, the excise tax imposed on gasoline became subject to an annual adjustment based on the consumer price index. The excise tax rate change is effective July 1st of each year.

Effective July 1, 2008 to June 30, 2009, the tax rate on gasoline that is blended with another fuel is based on the relative BTU value of the fuel compared to that of gasoline. When another fuel is blended with gasoline, the tax rate is prorated for the proportional amounts of gasoline and the other fuel contained in the blended product. As an example, if a gallon of fuel contains 90% gasoline and 10% ethanol, the tax per gallon would be determined by adding 90% of the gasoline excise tax rate to 10% of the ethanol excise tax rate. In July 2008, the calculation would have been as follows:

Gasoline excise tax rate times 90% =	$.284 \times .90 =$	.2556
Plus: Ethanol excise tax rate time 10% =	$\underline{.187 \times .10 =}$	<u>.0187</u>
Final excise tax rate per gallon =		.2743

Effective July 1, 2009, any fuel containing at least 10% gasoline is taxed at the gasoline excise tax rate.

**Current excise tax rates are available on the Fuel Tax section of the Maine Revenue Services web page or by contacting Maine Revenue Services.**

**5. EXEMPTIONS**

The following exemptions are provided by statute:

**A. Political subdivisions**

For purposes of this exemption, references to “political subdivision” include the State of Maine, an agency of the State of Maine, or a political subdivision of the State. This exemption is not available to other states or provinces or to their agencies or subdivisions.

Gasoline sold in bulk to a Maine political subdivision is exempt from excise tax. For bulk sales, the gasoline distributor must maintain copies of delivery slips and invoices that clearly identify the purchaser as the State of Maine, an agency of the State, or a political

subdivision of the State. Sales made without proper documentation are considered taxable. Sales to political subdivisions must be listed on Schedule 9 of the monthly tax return.

The tax associated with retail sales to Maine political subdivisions is refundable to the political subdivision. Exempt entities making retail purchases of gasoline must apply for a refund of the tax using a Political Subdivision Refund application available from Maine Revenue Services. A Maine political subdivision may assign its right to a refund to a third party. The affidavit necessary to assign a refund is available on the MRS website.

### **B. Sales to the Federal Government**

Gasoline sold in bulk to the United States Government is exempt from excise tax. The gasoline distributor must maintain copies of delivery slips and invoices that clearly identify the purchaser as the U.S. Government. Sales made without proper documentation are considered taxable. Sales to the U.S. Government must be listed on Schedule 8 of the monthly tax return.

Federal government agencies that make retail purchases of gasoline must file for a refund of the tax using a Political Subdivision Refund application available from Maine Revenue Services.

If a licensed gasoline distributor wishes to make a refund to a retail dealer for excise tax collected on retail sales of gasoline, a copy of Federal Tax Exemption Certificate Form 1094 is required to support the sale by the retail dealer to the U.S. Government. The certificate is not required if the sale is charged on the distributor's credit or courtesy card.

### **C. Sales for resale**

Sales of gasoline to other Licensed Gasoline Distributors for resale are exempt from excise tax. A copy of the purchaser's Gasoline Distributor Certificate with the appropriate signed affidavit must be kept in the seller's file to document this exemption. Exempt sales of gasoline to other Licensed Gasoline Distributors must be listed on Schedule 6 of the monthly tax return.

While the tax law allows Licensed Gasoline Distributors to make tax exempt sales to each other, a Licensed Gasoline Distributor is not required to make the sale excise tax exempt. Maine Revenue Services provides a list of licensed Gasoline Distributors on its web site [www.maine.gov/revenue/fueltax](http://www.maine.gov/revenue/fueltax).

A retail dealer may not purchase fuel exempt from excise tax. Fuel that is delivered into a retail tank is considered taxable at the time it is placed into the retail tank. For purposes of taxation, any storage tank connected to a pump fitted to fuel motor vehicles is considered to be a retail tank.

Importers and Registered Gasoline Distributors may not make tax-exempt purchases from a Maine Licensed Gasoline Distributor. Purchases made within the State or from Maine Licensed Gasoline Distributors must be tax paid.

### **D. Exports**

Gasoline exported to another State is exempt from excise tax. Delivery slips and invoices that clearly indicate the purchaser, point of origin, and destination are required to document these sales. Exports must be listed on Schedule 7 of the monthly tax return.

Exporters purchasing fuel in Maine that will not be exported from the State must pay the Maine excise tax at the time of purchase.

### **E. Jet Fuel Used in International Flights**

The exemption for jet fuel used in international flights is only available for sales directly into an aircraft. Jet fuel may not be purchased in bulk tax exempt and held in storage using this exemption. An international flight is one that originates or ends outside the United States. Sales of jet fuel used in international flights must be listed on Schedule 10 of the monthly tax return.

## **6. REQUIRED RETURNS**

Maine Revenue Services generates and mails returns in advance of the due date. Blank forms, schedules, and instructions are available from the Maine Revenue Services web site or by contacting Maine Revenue Services directly. **Failure to receive a tax return does not excuse a taxpayer from the requirement to file returns as prescribed by law.** Payment for any tax due must be made with the filed return. Penalties apply for failure to file returns timely or to include the required payment.

All amounts must be reported in gross gallons, which means actual measured gallons received, sold or used, without adjustment for temperature or barometric pressure.

Transactions must be reported in the month they occur, not when they are billed.

Maine Revenue Services requires electronic funds transfer payments for many taxpayers. Effective January 1, 2009 until January 1, 2010, distributors that have a combined liability from all Maine taxes in excess of \$50,000 during any 12-month period are required to make electronic payments. Beginning January 1, 2010, distributors that have a combined liability from all Maine taxes in excess of \$25,000 during any 12-month period are required to make electronic payments.

Information is available by clicking on electronic services from the Maine Revenue Services web page; see also Maine Revenue Services Rule 102.

### **A. Monthly returns and required schedules**

All licensed gasoline distributors, importers, exporters, and wholesalers must file a monthly return listing inventories, receipts and disbursements from the prior month. (This requirement does not apply to a Registered Distributor that makes sales of gasoline only to retail dealers, or directly into the fuel tanks of motor vehicles.) The return is due on or before the 21st day of each month. Tax returns are required to be filed even if a certificate holder has zero inventory or activity in a particular reporting period.

Returns are considered incomplete if the applicable schedules are not attached or properly filled out. Detailed instructions are available on the Fuel Tax portion of the Maine Revenue Services web site or by contacting Maine Revenue Services directly.

Withdrawals of fuel from inventory for a person's own use must be reported as a taxable sale, unless the use is covered by one of the exemptions detailed in Section 5.

When gasoline is delivered by a distributor to a consumer or to a retail outlet, the fuel is considered to have been sold, even if the retail outlet is owned in whole or in part by the distributor. The gallons should be reported on the monthly return as a taxable sale at the time the

gallons are delivered into a retail tank. Any storage tank connected to a pump fitted to fuel motor vehicles is considered to be a retail tank. Gallons in retail inventory should not be included in reported inventories.

### **B. Shrinkage - Distributor**

An allowance may be made by the State Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by a **Licensed Gasoline Distributor** on the transportation of fuel. The allowance can be no more than  $\frac{1}{2}$  of 1% of the amount of fuel received by a distributor, plus  $\frac{1}{2}$  of 1% on all transfers in vessels, tank cars or full tank truck loads by the distributor in the regular course of business from one of the distributor's places of business to another of the distributor's places of business within this State. The total allowance must be supported by documentation satisfactory to the Assessor and may not exceed 1% of the annual receipts by the distributor. The shrinkage allowance is calculated on an annual (calendar year) basis. Gasoline Distributors should not include gains or losses in reported sales figures on monthly gasoline distributor returns.

Further allowances may be requested from the State Tax Assessor by submitting proof of a loss sustained through fire, accident or unavoidable calamity. The event must be reported to the Assessor in a timely fashion to allow the Assessor to verify the excess loss. Failure to report these losses promptly may result in refusal of a credit for excess shrinkage or loss.

Licensed distributors, importers, and exporters must file an annual shrinkage return listing inventories, total receipts, and total sales. Annual shrinkage returns are due by January 21st for the prior calendar year.

### **C. Shrinkage – Retail Dealer**

An allowance may be made by the State Tax Assessor to cover the loss through shrinkage or evaporation by a **retail dealer**. The allowance can be no more than  $\frac{1}{2}$  of 1% of the tax paid on gross purchases that have been delivered into a retail tank for sale to consumers.

The total allowance must be supported by certification from the retail dealer's vendor that the fuel was purchased tax paid. Returns are filed for a six-month period. Claims for January-June are due no later than September 30. Claims for July-December must be filed no later than March 31. Claims filed late or without proper vender certification will be denied.

A distributor may qualify as a retail dealer for the portion of fuel it has properly taxed and placed into its own retail tank(s).

### **D. Floor stock**

An *inventory tax* is imposed on all tax-paid fuel held by a distributor (licensed or registered), importer, exporter, or retail dealer in inventory on the date of the annual indexing. For more information on indexing, see Section 4B. The tax is calculated by multiplying the number of gallons of tax-paid fuel held in inventory at the end of the day on June 30th by the difference between the tax rate already paid and the new tax rate that is effective on July 1st. An annual Floor Stock Return must be filed no later than August 15th. The inventory tax does not apply to internal combustion engine fuel purchased or used for the purpose of propelling jet or turbojet engine aircraft.

## **7. SALES TAX ISSUES**

Gasoline sold exempt from excise tax is subject to Maine sales and use tax. Exemptions from sales and use tax are contained within the Sales Tax portion of Title 36. Sales and Use Tax Instructional Bulletin #13 provides guidance on taxable and exempt fuel transactions. The Bulletin is available from the Maine Revenue Services Sales, Fuel & Special Tax Division web page or by contacting Maine Revenue Services.

## **8. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common issues regarding the Excise Tax Law faced by 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  
24 STATE HOUSE STATION  
AUGUSTA, ME 04333-0024  
TEL: (207) 624-9609  
FAX: (207) 287-6628  
NEXTALK: (888) 577-6690**

Visit our website at [www.maine.gov/revenue/fueltax](http://www.maine.gov/revenue/fueltax)  
E-mail us at [fuel.tax@maine.gov](mailto:fuel.tax@maine.gov)

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**ATTACHMENT 1**  
**Excerpts from Maine Revised Statutes, Title 36, Part 5: MOTOR FUEL TAXES**

**Chapter 451: GASOLINE TAX**

**§2902. Definitions**

**1. Distributor.** “Distributor” means a person that imports internal combustion engine fuel into the State, produces, refines, manufactures or compounds internal combustion engine fuel in the State or purchases internal combustion engine fuel in the State, principally for resale to others in bulk. ”Distributor” includes licensed distributors and registered distributors.

**1-A. Exporter.** “Exporter” means a person that is not a distributor that purchases internal combustion engine fuel in this State and exports that fuel from the State, or causes that fuel to be exported from the State, other than in fuel tanks attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle.

**1-B. Importer.** “Importer” means a person that is not a distributor that imports internal combustion engine fuel or causes internal combustion engine fuel to be imported for sale or use in this State, other than in fuel tanks attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle.

**1-C. Gross gallons.** “Gross gallons” means actual measured gallons of internal combustion engine fuel received, sold or used, without adjustment for temperature or barometric pressure.

**3. Internal combustion engine fuel.** ”Internal combustion engine fuel” means all products that are commonly or commercially known or sold as gasoline and includes any liquid fuel that is prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in spark-ignition internal combustion engines that has greater than 90% of the energy potential of an equivalent volume of gasoline, determined by the number of British Thermal Units in a standard volume.”Internal combustion engine fuel” does not include liquefied gases that would not exist as liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

”Internal combustion engine fuel” includes any motor fuel that is used or sold for use in the propulsion of aircraft.

**3-A. Licensed distributor.** “Licensed distributor” means a distributor that is not a registered distributor.

**3-B. Registered distributor.** “Registered distributor” means a distributor that purchases or imports only internal combustion engine fuel on which the tax imposed by this chapter has been paid to a licensed distributor and that makes sales of internal combustion engine fuel only to retail dealers or directly into the fuel tanks of motor vehicles.

**4-A. Retail dealer.** “Retail dealer” means a person that operates in this State a place of business from which internal combustion engine fuel is sold at retail and delivered directly into the fuel tanks of motor vehicles or watercraft. A distributor or wholesaler is a retail dealer only with respect to internal combustion engine fuel delivered into a retail storage tank operated by that distributor or wholesaler or into a retail storage tank of a consignee or commission agent.

**5. Terminal.** “Terminal” means a storage and distribution facility for internal combustion engine fuel supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

**6. Wholesaler.** “Wholesaler” means a person that owns, operates or otherwise controls a terminal or a person that holds the internal combustion engine fuel inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

### **§2903. Tax levied; rebates**

**1. Excise tax imposed.** Beginning July 1, 2008 and ending June 30, 2009, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 28.4¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft. Beginning July 1, 2009, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 29.5¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel bought or used for the purpose of propelling jet or turbojet engine aircraft. The tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321 except with respect to the tax imposed upon fuel bought or used for the purpose of propelling jet engine aircraft. Any fuel containing at least 10% internal combustion engine fuel is subject to the rate of tax imposed by this section.

**1-C. Inventory tax.** On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all internal combustion engine fuel that is held in inventory by a distributor, importer, wholesaler or retail dealer as of the end of the day prior to that date with respect to which the tax imposed pursuant to subsection 1 has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Distributors, importers, wholesalers and retail dealers that hold tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the distributor, importer, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor. This subsection does not apply to internal combustion engine fuel that is purchased or used for the purpose of propelling jet engine aircraft.

**3. Legal incidence of tax.** Internal combustion engine fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer and other persons levied and assessed pursuant to this chapter are agents of

the State for the collection of the tax. The distributor that first receives the fuel in this State is primarily responsible for paying the tax except when the fuel is sold and delivered to a licensed exporter wholly for exportation from the State or to another licensed distributor in the State, in which case the purchasing distributor is primarily responsible for paying the tax. If a distributor includes the tax on a bill to a customer, it must be shown as a separate line item and identified as “Maine gasoline tax.”

**4. Exemptions.** The tax imposed by this section does not apply to internal combustion engine fuel:

- A. Sold wholly for exportation from this State;
- B. Brought into this State in the ordinary standardized equipment fuel tank attached to and a part of a motor vehicle and used in the operation of that vehicle in this State;
- C. Sold in bulk to any agency of this State or any political subdivision of this State;
- D. Bought or used to propel a jet engine aircraft in international flights. For purposes of this paragraph, fuel is bought or used to propel a jet engine aircraft in an international flight if either the point of origin of the flight leg immediately preceding the delivery of the fuel into the fuel tanks of the jet engine aircraft or the destination point of the flight leg immediately following the delivery of the fuel into the fuel tanks of the jet engine aircraft is outside the United States;
- E. Brought into this State in the fuel tanks of an aircraft; or
- F. On which the collection of the tax imposed by this section is precluded by federal law or regulation.

**5. Delivery by distributor.** When internal combustion engine fuel is delivered by a distributor to a retail outlet it is deemed to have been sold within the meaning of this chapter, even if the retail outlet is owned in whole or in part by the distributor.

**6. Deposit to trust fund.** Beginning July 1, 2009 the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax after the distribution of taxes pursuant to section 2903-D imposed under subsection 1.

#### **§2904. Distributors’ certificates**

Every person that is a distributor, wholesaler, importer or exporter of internal combustion engine fuel in the State shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor. A person may not sell or distribute internal combustion engine fuel until the certificate is furnished by the assessor and displayed as required by this section. One copy of the certificate, certified by the assessor, must be displayed in each place of business of the person. If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or rules adopted under this chapter, the assessor may on reasonable notice to the person suspend the person’s certificate until satisfied to the contrary. A person whose certificate has been suspended may not act as a distributor, wholesaler, importer or exporter until the certificate is restored by the assessor. A suspended certificate must be surrendered to the assessor upon request. Notice is sufficient if

sent by mail and addressed to the person at the address designated in the certificate. The suspension is subject to review as provided in section 151.

### **§2906. Reports; payment of tax; allowance for losses**

**1.** Every licensed distributor, wholesaler, importer and exporter shall file with the State Tax Assessor on or before the 21st day of each month a return stating the number of gross gallons of internal combustion engine fuel received, sold and used in the State by that licensed distributor, wholesaler, importer or exporter during the preceding calendar month. The return must be filed on a form prescribed and furnished by the assessor and must include any other information reasonably required by the assessor.

**2. Payment of tax.** At the time of filing the return required by this section, each licensed distributor and importer shall pay to the assessor the tax imposed by section 2903 on each gallon reported as sold, distributed or used.

**3. Allowance for certain losses.** An allowance of not more than 1/2 of 1% from the amount of internal combustion engine fuel received by a licensed distributor, plus 1/2 of 1% on all transfers in vessels, tank cars or full tank truck loads by a licensed distributor in the regular course of the licensed distributor's business from one of the licensed distributor's places of business to another within the State, may be granted by the assessor to cover losses sustained by the licensed distributor through shrinkage, evaporation or handling. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1% of the receipts by the licensed distributor. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

**4. Refunds to retailers.** A retail dealer is entitled to a refund for tax paid on account of shrinkage or loss by evaporation of internal combustion engine fuel in an amount no greater than 1/2 of 1% of the tax paid on gross purchases of such fuel delivered into retail storage tanks from which it is dispensed into the fuel tank of a motor vehicle or watercraft. The procedure for such a refund is as follows.

A. All applications for refunds must be made under penalties of perjury and must be made semiannually within 90 days after June 30th and December 31st respectively.

B. The application must be made on a form prescribed and furnished by the assessor and must be accompanied by a statement from the distributor, supplier or wholesaler of the gross purchases of internal combustion engine fuel made by the retail dealer during the relevant 6-month period.

C. The assessor shall calculate the amount of the refund due on all properly completed applications and certify that amount and the name of the person entitled to the refund to the Treasurer of State. The Treasurer of State shall make a certified refund from taxes imposed by this chapter.

### **§2907. Application of tax in special cases**

A person that receives internal combustion engine fuel under circumstances that preclude the collection of the tax imposed under this chapter by the distributor, other than internal combustion engine fuel brought into the State in the ordinary standard equipment fuel tank attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle, and that sells or uses that internal combustion engine fuel in this State is subject to the tax imposed by section 2903 and to the requirements of section 2906, subsections 1 and 2 on the same basis as a licensed distributor.

### **§2910-B. Refund to state agencies and political subdivisions.**

Any agency of this State and any political subdivision of this State that buys and uses internal combustion engine fuel and that has paid a tax as provided by this chapter must be reimbursed in the amount of the tax paid upon presenting to the State Tax Assessor a statement accompanied by the original invoices showing the purchases. By contractual agreement, an agency of this State or a political subdivision of this State may assign to another person its right to receive refunds under this section. Applications for refunds must be filed with the assessor within 12 months from the date of purchase.

### **§2913. Failure to file statement; false statement**

A person who refuses or neglects to make any statement, report, payment or return required by this chapter, or who knowingly makes or assists any other person in making a false statement in a return or report to the State Tax Assessor or in connection with an application for refund, or who knowingly collects, attempts to collect or causes to be paid to any person, either directly or indirectly, any refund to which the person is not entitled, is guilty of a Class E crime.

### **§3321. Annual adjustment of tax rates**

**1. Generally.** Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203, are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index as computed in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports to suppliers, distributors and retail dealers.

**2. Method of calculation; inflation index defined.** The inflation index for 2003 is 1.118, representing annual inflation adjustments for the years 1999 to 2002, inclusive. Starting in 2004 and every year thereafter, the inflation index is the Consumer Price Index as defined in section 5402, subsection 1 for the calendar year ending on the December 31st immediately preceding the calculation date, divided by the Consumer Price Index for the prior calendar year. The inflation index may not be less than one.

**3. Exclusion.** This section does not apply to internal combustion engine fuel purchased or used for the purpose of propelling jet or turbojet engine aircraft.

**4. Legislative review.** Starting in 2008 and each even-numbered year thereafter, the Department of Transportation shall submit an emergency bill by the cloture date established for departments and agencies for the first regular session of the Legislature that suspends the adjustment in fuel tax rates in the upcoming biennium resulting from the operation of this section.

**ATTACHMENT 2.**

**FUEL TAX RATES**

<b>Tax Type</b>	<b>Effective 07/01/04</b>	<b>Effective 07/01/05</b>	<b>Effective 07/01/06</b>	<b>Effective 07/01/07</b>	<b>Effective 07/01/08</b>	<b>Effective 07/01/09 ***</b>
Inflation Index	1.023	1.027	1.034	1.032	1.028	1.038
Gasoline	0.252	0.259	0.268	0.276	0.284	0.295
Jet Fuel	0.034	0.034	0.034	0.034	0.034	0.034
E10 ***	n/a	n/a	n/a	n/a	0.274	0.295
E85 ***	n/a	n/a	n/a	n/a	0.202	0.295

**\*\*\*Change in thresholds for blended fuels**

New language has been enacted in the gasoline fuels statutes to impose the full gasoline excise tax rate on internal combustion engine fuel if the blended fuel contains at least 10% gasoline by volume. Fuels like E10 and E85 will now be taxable at the full gasoline tax rate.