

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100026	Motor Vehicle Fuel Tax - Common Questions

State of Wisconsin
Department of Revenue

Motor Vehicle Fuel Tax

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What are the definitions of "motor vehicle fuel", "diesel replacement renewable fuel", "gasoline replacement renewable fuel", "person", "licensee" and "petroleum inspection fee"?
2. What is the tax rate on motor vehicle fuel?
3. Who must obtain a motor vehicle fuel tax license?
4. Who pays the motor vehicle fuel tax?
5. How is the motor vehicle fuel tax paid?
6. When is the motor vehicle fuel tax due?
7. How are the motor vehicle fuel tax reports filed?
8. When are the supplier motor vehicle fuel tax reports due?
9. Are any fuel sales exempt from the motor vehicle fuel tax?
10. Who may receive a refund of motor vehicle fuel tax paid?
11. How do I correct a previously filed motor vehicle fuel tax report?
12. Am I subject to interest or penalties if I file an incorrect motor vehicle fuel tax report?
13. Should I notify the Department of Revenue if the business has a change to its name, address, or ownership or if the business ceases operating in Wisconsin?
14. What records should I keep for Wisconsin tax purposes, and how long should I keep them?
15. What are the registration and reporting requirements for interstate motor carriers?

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1. **What are the definitions of "motor vehicle fuel", "diesel replacement renewable fuel", "gasoline replacement renewable fuel", "person", "licensee" and "petroleum inspection fee"?**

- *Motor vehicle fuel* - Means gasoline and diesel fuel [secs. 78.005(5), (7), and (13), Wis. Stats.]. Gasoline includes gasohol, ethanol, marine gas, and transmix; diesel fuel includes biodiesel, number 1 and number 2 fuel oils, whether dyed or undyed, or high or low sulfur. Kerosene is not a motor vehicle fuel unless it is blended with another product and/or used to power a motor vehicle.
- *Diesel replacement renewable fuel* - Includes biodiesel and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials (ASTM) for that fuel and that the Department of Agriculture, Trade and Consumer Protection (DATCP) designates by rule as a diesel replacement renewable fuel. [sec. 71.07(5j)(a) 2d., Wis. Stats.]
- *Gasoline replacement renewable fuel* - Includes ethanol and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials (ASTM) for that fuel and that the Department of Agriculture, Trade and Consumer Protection (DATCP) designates by rule as a gasoline replacement renewable fuel. [sec. 71.07(5j)(a) 2m., Wis. Stats.]
- *Person* - Includes any individual, sole proprietorship, partnership, limited liability company, corporation, or association. A single-owner entity that is disregarded as a separate entity under ch. 71 is disregarded as a separate entity for purposes of this subchapter. [sec. 78.005(13d), Wis. Stats.]
- *Licensee* - A person who holds a motor vehicle fuel tax license issued by the Wisconsin Department of Revenue.
- *Petroleum inspection fee* - The petroleum inspection fee is due on all petroleum products. This inspection fee is collected to assist in petroleum products cleanup. The fee is 2¢ per gallon on most petroleum products. There is a separate summary that discusses the petroleum inspection law. [sec. 168.12(1), Wis. Stats.]

2. What is the tax rate on motor vehicle fuel?

Effective April 1, 2006, the excise tax on motor vehicle fuel is 30.9¢ per gallon [sec. 78.01(1), Wis. Stats.]. The motor fuel tax rate is not scheduled to increase in 2019.

3. Who must obtain a motor vehicle fuel tax license?

You must obtain a motor vehicle fuel tax license from the Wisconsin Department of Revenue if you want to act as a "supplier" or "restricted supplier" of motor vehicle fuel in Wisconsin [secs. 73.03(50) and 78.09, Wis. Stats.].

"Suppliers" include persons who:

- Import, or acquire immediately upon import, gasoline or diesel fuel by pipeline or marine vessel from a state, territory or possession of the United States or from a foreign country into a terminal.
- Produce, manufacture, or refine gasoline or diesel fuel within Wisconsin.
- Acquire motor vehicle fuel pursuant to an industry terminal exchange agreement or by a two-party exchange under sec. 4105 of the Internal Revenue Code.
- Produce in Wisconsin or import into Wisconsin alcohol, alcohol derivative substances, biodiesel, or fuels derived from vegetable oils or animal fats.

The above suppliers must also be registered with the federal government under 26 USC 4101 for tax-free transactions in gasoline and diesel fuel. [sec. 78.005(14), Wis. Stats.]

Suppliers also include "**restricted suppliers**" who may only:

- Import motor vehicle fuel and/or other petroleum products into Wisconsin from an out-of-state bulk plant.
- Remove motor vehicle fuel from a bulk plant in Wisconsin to a destination outside Wisconsin.

To receive a motor vehicle fuel license you must also hold a Business Tax Registration (BTR) Certificate [[sec. 73.03\(50\)](#), Wis. Stats.]. The BTR certificate and fuel licenses are issued by the Excise Tax Unit in Madison, (608) 266-6701. **There is no fee for the fuel license.** However, there is a one-time \$20 charge for the BTR certificate. The certificate is renewable every two years for \$10. The BTR certificate and motor vehicle fuel license are valid until canceled by the licensee or revoked by the department [[sec. 78.10](#), Wis. Stats.]. You only need one BTR certificate regardless of the number of licenses or permits held with the department.

Security required - The department may require persons who are responsible for paying the motor vehicle fuel tax to have security (e.g., cash, bond) on file. The amount of security cannot exceed three times a licensee's average monthly liability for motor vehicle fuel tax [[sec. 78.11\(1\)](#), Wis. Stats.].

A **terminal operator** who does not own any of the fuel products handled by the pipeline terminal is not required to register with the department. However, such persons are required to electronically file monthly informational reports, Forms MF-010M, with the department itemizing terminal receipts and disbursements [[sec. 78.12\(3\)](#), Wis. Stats.].

A **petroleum carrier** who transports motor vehicle fuel, general aviation fuel, or alternate fuel on any highway in Wisconsin must register with the department as a fuel transporter, except "private carriers" that only haul fuel within Wisconsin. Register with the department as a fuel transporter by filing form [MF-100](#). A carrier is termed "private" if it owns the vehicles transporting the fuel as well as the fuel products being hauled. The carrier's registration number (WDR plus 5 digits) issued by the department must be displayed on each fuel transporter. Monthly reports, Forms [MF-002](#), must also be filed itemizing deliveries of fuel into and outside Wisconsin [[secs. 78.77](#) and [78.78](#), Wis. Stats.].

Revocation of fuel licenses - It is very important that licensees file their monthly reports timely and pay any amount owing. Licensees with poor filing and/or payment history may have their licenses revoked by the department.

4. **Who pays the motor vehicle fuel tax?**

- **Licensed motor vehicle fuel suppliers** pay the tax based on (1) terminal receipts (withdrawals by suppliers from a Wisconsin pipeline terminal when metered out at the terminal rack) or (2) imports of motor vehicle fuel into Wisconsin by means other than pipeline and marine vessel destined for terminal storage [[Secs. 78.01](#) and [78.07](#), Wis. Stats.]. These persons are also required to remit the petroleum inspection fee owing on petroleum products they handle in Wisconsin (see the separate summary for more information about the [inspection fee](#)).
- Unlicensed persons (**blenders**) who use untaxed fuel products in a taxable manner [[sec. 78.12\(3\)](#), Wis. Stats.]. The untaxed products (for example, kerosene, B100 biodiesel, waste oil, heavy oil, naphthas, or solvents) are subject to the Wisconsin motor vehicle fuel tax when placed into the supply tank of a licensed motor vehicle or blended with taxed products (undyed diesel fuel or gasoline). In harsh Wisconsin winters, untaxed kerosene is often

blended with undyed diesel fuel to help diesel engines start easier.

5. **How is the motor vehicle fuel tax paid?**

The motor vehicle fuel tax must be paid no later than the 15th of the month for fuel sold during the previous month by electronic funds transfer (EFT) [sec. 78.12(5), Wis. Stats.]. The fuel tax and petroleum inspection fee should be combined and only one payment made by EFT. [sec. 168.125, Wis. Stats.] Information about EFT can be obtained from the Electronic Funds Transfer page or by calling (608) 264-9918.

Administrative Allowance - Licensed motor vehicle fuel suppliers may deduct an allowance of 0.675% when remitting the fuel tax on gasoline to the department [sec. 78.12(4)(a), Wis. Stats.]. Of the 0.675% allowance, 0.625% must be passed on by a supplier to a wholesale distributor when the distributor pays the gasoline tax to the supplier. A **wholesale distributor** is a person who acquires motor vehicle fuel from a licensed supplier or from another wholesale distributor for subsequent sale at wholesale in Wisconsin. *The allowance does not pertain to diesel fuel or the petroleum inspection fee.*

Tax payment delay from wholesale distributor to licensee - A wholesale distributor has the option to delay paying the motor vehicle fuel tax and petroleum inspection fee to a licensed supplier until the date the fuel tax is due the department by the supplier (the 15th day after the close of the month in which the wholesale distributor receives the fuel). **The delayed tax payments must be made by electronic funds transfer.** Licensed suppliers can terminate the right of a wholesale distributor to make delayed payments when such payments are not timely made. Licensed suppliers must notify the department of wholesale distributors who elect to make delayed fuel tax payments.

Uncollectible motor vehicle fuel taxes from customers - Licensed motor vehicle fuel suppliers as well as wholesale distributors may recover the motor vehicle fuel tax from the department when a purchaser is unable to pay the tax and the account was charged off for income tax purposes or in accordance with generally accepted accounting principles [sec. 78.01(2s), Wis. Stats.]. Licensed suppliers may claim a deduction on their monthly supplier's report, Form MF-002, for the worthless account and wholesale distributors may apply to the department for a refund using Form MF-016. Wholesale distributors should call the department at (608) 266-6701 for the refund claim form.

6. **When is the motor vehicle fuel tax due?**

The tax is due 15 days after the close of the month [sec. 78.12(5)(a), Wis. Stats.]. For example, tax owing for October is due November 15; however, the monthly report is not due until November 30 (see the When are the supplier motor vehicle fuel tax reports due? section below).

7. **How are the motor vehicle fuel tax reports filed?**

All motor fuel tax reports are required to be filed electronically.

Form MF-002, *Wisconsin Combined Monthly Fuel Summary Report*, can be filed either on My Tax Account; or xml schema with the department by suppliers, restricted suppliers, petroleum products shippers, petroleum carrier, and terminal operators.

Forms MF-010M, Schedule 010M - Terminal Operator's Schedule of Meter Readings and MF-017, Wisconsin Blender's Fuel Report, can be filed with the department on My Tax Account.

The Secretary of Revenue may waive the requirement to file electronically when the Secretary determines that the requirement causes an undue hardship, if a person does all of the following:

1. Requests the waiver in writing. Written requests should be addressed to Mandate Waiver Request, Wisconsin Department of Revenue, PO Box 8900, Madison, WI 53708-8900.
2. Clearly indicates why the requirement causes an undue hardship. In determining whether the requirement to file electronically causes an undue hardship, the Secretary of Revenue may consider the following factors:
 - a. Unusual circumstances that may prevent the person from filing electronically.
Example: The person does not have access to a computer that is connected to the Internet.
 - b. Any other factor that the Secretary determines is pertinent.

8. **When are the supplier motor vehicle fuel tax reports due?**

Reports are due on the last day of the month following the month covered by the report [secs. 78.12(2) and (3), Wis. Stats.]. For example, a supplier report for October is due November 30. However, the fuel tax is due November 15 (see the When is the motor vehicle fuel tax due? section above).

Late-filed reports are subject to the following charges:

- Late-filing fee - \$10 [sec. 78.68(2), Wis. Stats.].
- Delinquent interest - 1.5% per month [sec. 78.68(2), Wis. Stats.].
- Late-filing penalty - 5% per month, maximum 25% [sec. 78.68(4), Wis. Stats.].

There are no extensions of time granted if you are unable to file a motor vehicle fuel tax report and pay any amount owing by the due date.

9. **Are any fuel sales exempt from the motor vehicle fuel tax?**

The following fuel sales are exempt from this tax [sec. 78.01, Wis. Stats.]:

- Gasoline and undyed diesel fuel sold to the United States government or its agencies. (Sales to Wisconsin municipalities and school districts are not exempt.)
- **Gasoline** sold for off-road use in mobile machinery and equipment, provided the fuel is delivered into the customer's bulk storage tank in an amount not less than 100 gallons.
Caution: Gasoline cannot be sold tax-exempt if it will be placed into the fuel supply tank of a licensed motor vehicle (except an urban mass transportation vehicle), snowmobile, recreational motorboat, or an all-terrain vehicle (unless the ATV is registered for private use).
- Gasoline and undyed diesel fuel sold to a common carrier for urban mass transportation of passengers.
- Gasoline and undyed diesel fuel exported from Wisconsin.
- Gasoline sold to a general aviation fuel dealer licensed with the department for use in aircraft, provided the gasoline is delivered directly into the dealer's storage tank in an amount not less than 100 gallons.
- Undyed diesel fuel sold as heating oil.

- o Undyed diesel fuel sold for use in trains.
- o Gasoline and undyed diesel fuel sold to enrolled tribal members living on their own tribe's reservation or trust lands.
- o Dyed diesel fuel (may only be used for off-highway purposes).
- o The first 1,000 gallons of renewable fuel produced or converted from another purpose each year by an individual and used by that individual in his or her personal motor vehicle provided the individual does not sell any such renewable fuel during that year. [[sec. 78.01\(2n\)](#), Wis. Stats.].

Fuel suppliers who are licensed with the department may claim a deduction for exempt sales on the monthly fuel supplier's report. However, non-licensed fuel vendors must file a refund claim, Forms MF-012, with the department. Also see the [Vendors of Motor Vehicle Fuel](#) section below.

Exempt motor vehicle fuel sales must be documented - In order to make exempt sales to customers, fuel suppliers and vendors must obtain from customers documentation which shows that the customers are eligible to purchase motor vehicle fuel exclusive of the Wisconsin motor vehicle fuel tax [[sec. 78.01\(2r\)\(a\)](#), Wis. Stats., and Wis. Administrative Code Tax [sec. 4.65](#)]. When the law does not prescribe a specific type of exemption document, you can design your own based on department specifications or use the department's fuel tax exemption certificate, Form [MF-209](#), which can be reproduced.

10. **Who may receive a refund of motor vehicle fuel tax paid?**

- o ***Off-Road Usage of Motor Vehicle Fuel*** [[sec. 78.75](#), Wis. Stats.]

Wisconsin law provides that motor vehicle fuel is not subject to the Wisconsin motor vehicle fuel tax when it is used for off-road purposes in mobile machinery and equipment.

Exceptions: *It is subject to the motor vehicle fuel tax when placed into licensed motor vehicles used for off-road purposes, snowmobiles, recreational motorboats, and all-terrain vehicles (unless the ATV is registered for private use).*

Farmers, construction companies, and logging operations often have off-road usage of motor vehicle fuel in non-licensed mobile machinery and equipment. Waste management, ready-mix, liquid waste (e.g., septic service), and utility companies have licensed vehicles with power take-off (PTO) units that share the same fuel supply tank used to power the vehicle. These companies can receive a refund of the motor vehicle fuel tax paid on fuel placed into the vehicles and used by PTO units. The following percentages have been approved by the department when computing the fuel tax refund attributable to PTO units:

- waste management - 30%
- ready-mix - 35%
- liquid waste companies - 15%
- boom and derrick/digger trucks - 15% if 20,000 gross vehicle weight or less
- 30% if greater than 20,000 GVW

Refund claims must be filed within one year of the date fuel is purchased, and must cover at least 100 gallons. To obtain a refund of the fuel tax paid on motor vehicle fuel used for off-road purposes, file Form [MF-001](#). This form may be filed electronically through My Tax Account or by paper.

- o ***Vendors of Motor Vehicle Fuel* [sec. 78.01(2r)(a), Wis. Stats., and Wis. Administrative Code sec. Tax 4.65]**

Wisconsin law allows a tax deduction or refund to persons who sell **tax-paid gasoline and undyed diesel** fuel for exempt usage (see the [exceptions](#) above). Fuel suppliers licensed with the department may claim a deduction for exempt sales on their monthly fuel supplier's reports. However, non-licensed fuel vendors must register with the department (Form MF-112), and then file refund claims (Forms MF-012) for the motor vehicle fuel tax they pay suppliers on fuel which the vendors subsequently sell tax-exempt. Exempt sales must be documented via a fuel tax exemption certificate (Form MF-209) executed and retained by both vendor and customer. Refund claims must be filed within 4 years from the date fuel is purchased.

- o ***Taxicabs* [sec. 78.75, Wis. Stats.]**

Wisconsin law provides that persons who use motor vehicle fuel in operating a taxicab to transport passengers may receive a refund of the Wisconsin fuel tax paid. Vehicles used as taxicabs must be designated as "Vehicle has or will be used for public transportation (taxi)" on the motor vehicle registration form (MV-1) filed with the Wisconsin Department of Transportation. Refund claims must be filed within one year of the date fuel is purchased, and must cover at least 100 gallons. To obtain a refund, contact the department at (608) 266-6701 for the Form MF-001, Fuel Tax Refund Claim.

11. **How do I correct a previously filed motor vehicle fuel tax report?**

All motor vehicle fuel tax reports and returns, including amended returns, must be filed electronically.

- o For Form [MF-002](#), file an amended report to reflect only the adjustments to the previously filed report. Do not report items that did not change. Pay any additional amount due by EFT.
- o For [MF-010M](#) and [MF-017](#), you must file a complete and correct return, including all previously reported unchanged information. Do not file a return that only reports the changes.

12. **Am I subject to interest or penalties if I file an incorrect motor vehicle fuel tax report?**

The following interest and penalties may apply if an incorrect fuel tax report is filed:

- o Unpaid taxes bear interest at the rate of 12% per year [[sec. 78.68\(1\)](#), Wis. Stats.].
- o Refunded taxes bear interest at the rate of 3% per year [[sec. 78.68\(1\)](#), Wis. Stats.].
- o A 25% negligence penalty may be imposed if the department determines there was negligence in filing a report [[sec. 78.68\(3\)](#), Wis. Stats.].
- o A 50% fraud penalty may be imposed if there was intent to defeat or evade the fuel tax [[sec. 78.68\(5\)](#), Wis. Stats.].
- o The greater of \$1,000 or twice the applicable tax on the dyed fuel for the misuse of dyed diesel fuel - A penalty is imposed on any person who sells dyed diesel fuel to a person who it

knows (or has reason to know) will use the dyed fuel in a taxable manner, or on the person who uses the dyed fuel in a taxable manner.

- A \$1,000 penalty is also imposed on retailers who do not conspicuously label fuel pumps or other delivery facilities that dispense dyed diesel fuel [[sec. 78.155](#), Wis. Stats.].

13. Should I notify the Department of Revenue if the business has a change to its name, address, or ownership or if the business ceases operating in Wisconsin?

You must notify the Department of Revenue in writing:

- When your business has any change to its name, address, or ownership, or when you cease operating in Wisconsin.
- If your name or ownership changes and you receive a different Federal Employer Identification Number (FEIN), you must file a new application with the department and update your security.
- When you cease operations, you must be sure to file a report for the last month of operations even if you were in business only a few days during that period.

14. What records should I keep for Wisconsin tax purposes, and how long should I keep them?

You must keep a complete copy of your motor vehicle fuel tax reports and all records pertaining to your business for at least four (4) years for audit purposes [[secs. 78.66](#) and [78.70\(7\)](#), Wis. Stats.]. The required records include, but are not limited to, your purchases and sales receipts (whether taxable or exempt), inventory, distribution, and consumption of product records. These records must be kept in a place and manner easily accessible for review by department representatives. When records are not maintained, the department presumes that all products purchased or received are subject to tax without benefit of any deductions.

15. What are the registration and reporting requirements for interstate motor carriers?

- **Wisconsin Department of Revenue**

Interstate motor carriers do not have any registration or reporting requirements with the Department of Revenue. They pay the Wisconsin motor vehicle fuel tax when they refuel vehicles at Wisconsin truck stops or service stations. If they have bulk storage in Wisconsin, the supplier charges the motor vehicle fuel tax to the interstate motor carrier. Motor carriers are eligible for a refund of the Wisconsin motor vehicle fuel tax paid on undyed diesel fuel used by refrigeration units with a separate fuel supply tank (see the [Off-Road Usage of Motor Vehicle Fuel](#) section above). Motor carriers can also purchase dyed (untaxed) diesel fuel for use in refrigeration units. The cost of the fuel purchased also includes the Wisconsin petroleum inspection fee. The inspection fee relating to fuel used by refrigeration units is not refundable. Call the Department of Revenue at (608) 266-6701 for further information regarding fuel used by refrigeration units.

- **Wisconsin Department of Transportation**

Interstate motor carriers must file quarterly interstate fuel tax reports with the Department of Transportation, reporting miles driven in Wisconsin, and fuel purchased in Wisconsin. Wisconsin is a member of the International Fuel Tax Agreement (IFTA). Mileage, fuel use, and fuel purchase information for other IFTA jurisdictions is also reported through the Department of Transportation. Information and application forms can be obtained from:

- o WISCONSIN DEPARTMENT OF TRANSPORTATION
Motor Carrier Services
P.O. Box 7979
Madison WI 53707-7979
Phone:(608) 266-9900
Email:irp-ifta@dot.wi.gov

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of March 4, 2020: Sections 71.07, 71.74, 71.77, 73.03, 78.005, 78.01, 78.015, 78.017, 78.07, 78.09, 78.10, 78.11, 78.12, 78.13, 78.155, 78.20, 78.65, 78.66, 78.68, 78.70, 78.75, 78.77, 78.78, 168.12, 168.125 and 341.45, Wis. Stats., sec. Trans 146.02, Wis. Adm. Code, secs. Tax 4.001, 4.55, 4.65 and 4.75, Wis. Adm. Code, and IRC 26 U.S. Codes §4101 and §4105.

Laws enacted and in effect after March 4, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to March 4, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

WISCONSIN DEPARTMENT OF REVENUE

Excise Tax Unit

PO Box 8900

Madison, WI 53708-8900

Phone: (608) 266-6701

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Email additional questions to DORExciseTaxpayerAssistance@wisconsin.gov

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100026

March 4, 2020

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