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motor vehicle fuel and alternative fuel tax

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Motor Vehicle Fuel and Alternate Fuel Tax

The state's fuel tax is an excise tax levied on a per gallon basis on motor vehicle fuel (gasoline, including gasoline blended with ethanol, and diesel) and alternate fuels (such as compressed natural gas and liquid propane gas). Fuel tax receipts are deposited in the state's transportation fund, a separate, nonlapsible trust fund used to finance transportation-related programs. Table 1 shows 2019-20 transportation fund revenues (vehicle registration and title fees and other revenues are shown prior to deductions made for revenue bond debt service).

Table 1: 2019-20 Transportation Fund Revenues

Source	Collections	% of Total
Fuel Tax	\$1,018,543,100	48.1%
Registration and Title Fees	839,157,100	39.6
Transfers from Other Funds	110,865,400	5.2
Airline and Rail Taxes and Fees	50,831,600	2.4
Driver License Fees	39,043,100	1.8
Miscellaneous Dept. Revenues	32,307,400	1.5
Other Motor Vehicle Revenues	<u>26,287,400</u>	<u>1.2</u>
Total	\$2,117,035,100	100.0%

In 2019-20, collections from the tax on gasoline represented 75.3% of total fuel tax collections and the tax on diesel fuel represented 24.2% of collections, with 0.5% being collected from users of alternate fuels. Both the motor vehicle fuel tax and the alternate fuel tax are designed to be paid by those individuals who consume the fuel on the state's roads.

Modifications in the structure or yield of the fuel tax have significant implications for the state's transportation programs. In response to declining fuel consumption, the Legislature substantially increased the fuel tax rate during the early 1980s. In addition, in the 1983-85 budget, the Legislature adopted an indexing formula for the fuel tax that

provided automatic, annual adjustments in the tax rate. Under 2005 Act 85, annual indexing of the fuel tax rate was repealed, effective after the April 1, 2006, adjustment. This paper reviews the development of the fuel tax and explains the general concepts and the specific calculation related to the now-repealed indexing formula.

In addition to the excise tax on motor vehicle and alternate fuels, a petroleum inspection fee of 2¢ per gallon is imposed on petroleum products brought into the state. (The fee was reduced from 3¢ per gallon by 2005 Act 25.) This fee is described in the Legislative Fiscal Bureau's informational paper entitled "Petroleum Environmental Cleanup Fund Award (PECFA) Program."

Beginning in 2020-21, 1¢ per gallon of the petroleum inspection fee is deposited to the transportation fund. Each one cent of the petroleum inspection fee typically generates revenues between \$37 million and \$39 million annually.

Development of the Fuel Tax

The state's fuel tax was created in 1925 at a rate of 2¢ per gallon. Since the segregated highway fund was not created until 1945, the revenues generated from the fuel tax were initially deposited in the state's general fund. However, these receipts were appropriated for the purpose of developing and maintaining highways. In fact, the stated intent of establishing the new tax was to transfer the source of funding for highway programs from the general taxpayer to the highway user.

Fuel tax rate increases occurred at irregular intervals during the period from 1925 until 1980. However, from 1980 through 2006 the fuel tax

was modified on a regular basis, with a 23.9¢ total increase in the rate since 1979. Table 2 provides a history of the state motor fuel tax rate.

Table 2: History of the Fuel Tax Rate

Year	Tax Rate Per Gallon	Type of Rate Change
1925	2.0¢	Statutory
1931	4.0	Statutory
1955	6.0	Statutory
1966	7.0	Statutory
1980	9.0	Statutory
1981	13.0	Statutory
1983	15.0	Statutory
1984	16.0	Statutory
1985	16.5	Index Adjustment
1986	17.5	Index Adjustment
1987 (April 1)	18.0	Index Adjustment
1987 (August 1)	20.0	Statutory
1988	20.9	Index Adjustment
1989	20.8	Index Adjustment
1990	21.5	Index Adjustment
1991	22.2	Index Adjustment
1993	23.2	Index Adjustment
1994	23.1	Index Adjustment
1995	23.4	Index Adjustment
1996	23.7	Index Adjustment
1997 (April 1)	23.8	Index Adjustment
1997 (November 1)	24.8	Statutory
1998	25.4	Index Adjustment
1999	25.8	Index Adjustment
2000	26.4	Index Adjustment
2001	27.3	Index Adjustment
2002	28.1	Index Adjustment
2003	28.5	Index Adjustment
2004	29.1	Index Adjustment
2005	29.9	Index Adjustment
2006 to present	30.9	Index Adjustment

The stability of the fuel tax rate during the period from 1966 through 1979 did not mean that transportation fund revenues did not grow. Annual growth in motor fuel consumption of 7% from 1966 through the early 1970s increased revenues by a corresponding amount. However, international events in the mid-1970s affected the supply

and price of fuel and consumption and revenues were flat from 1972-73 through 1974-75. During the late 1970s, consumption and revenues again increased, but at the lower average growth rate of 4%.

Changes to the fuel tax rate in the early 1980s occurred during a period of significant inflation in the costs of construction and labor. In addition, fuel consumption declined by 14% from 1979 through 1982, due to improvements in fuel efficiency, modifications in driving habits, and a sluggish economy. The combination of these factors resulted in a major reduction in the purchasing power of the transportation fund's revenue base. The Legislature responded to this situation by adopting a series of statutory increases in the fuel tax rate.

Subsequently, the 1983-85 budget changed the process used to determine the fuel tax rate. Prior to this time, fuel tax increases required passage of a law amending the existing tax rate. The 1983-85 budget act created an indexing formula for fuel taxes, which annually adjusted the fuel tax rate.

From April, 1985, through April, 2006, the state motor vehicle fuel tax was automatically indexed each year except 1992 (the 1992 adjustment was delayed by 1991 Act 119 until 1993, at which time both the 1992 and 1993 adjustments were made). As indicated in Table 2, the state's motor vehicle fuel tax rate was automatically indexed 21 times, which resulted in a total increase to the rate of 11.9¢ per gallon. During the same period, the following two statutory fuel tax rate changes were also made: (1) 1987 Act 27 increased the fuel tax rate of 18.0¢ per gallon to 20.0¢ per gallon, effective August 1, 1987; and (2) 1997 Act 27 increased the fuel tax rate of 23.8¢ per gallon to 24.8¢ per gallon, effective November 1, 1997.

Under 2005 Act 85, the final indexing adjustment was made on April 1, 2006, and no further indexing adjustments will be made.

The revenue produced by the motor fuel tax is affected by both the fuel tax rate and the number of taxable gallons of motor vehicle fuel. Table 3 shows the consumption of taxable gallons of motor fuel over the most recent 10-year period. Consumption reached a record level in fiscal year 2019, before declining in 2020 due to fewer miles driven during the initial months of the COVID-19 pandemic.

Table 3: Taxable Gallons of Motor Vehicle Fuel

Fiscal Year	Gallons	Change from Previous Year
2011	3,212,100,000	
2012	3,197,100,000	-0.5%
2013	3,144,400,000	-1.6
2014	3,221,700,000	2.5
2015	3,281,900,000	1.9
2016	3,358,000,000	2.3
2017	3,379,800,000	0.6
2018	3,411,100,000	0.9
2019	3,444,100,000	1.0
2020	3,299,500,000	-4.2

Alternate Fuel Tax Rate

The tax rate for each type of alternate fuel is based on the ratio of the fuel content of the alternate fuel to the fuel content of gasoline, expressed in BTUs, multiplied by the existing motor fuel tax rate. The tax rates on alternate fuels are 22.6¢ per gallon for liquefied propane gas, 24.7¢ per gallon for compressed natural gas, and 19.7¢ per gallon for liquefied natural gas.

History of Fuel Tax Rate Indexing Formula

From 1985 to 2006, with a few exceptions, the state motor vehicle fuel tax rate was automatically indexed. The goal of indexing the fuel tax rate

using an inflation factor was to preserve the purchasing power of the fuel tax revenue. Under a fixed fuel tax rate, if fuel consumption remained constant, the purchasing power of the fuel tax revenue declined due to inflation. By adjusting the tax rate to reflect inflation, changes in revenue were more likely to approximate changes in highway program costs.

Prior to 1997 Act 27, the fuel tax rate was annually adjusted to reflect fuel consumption changes and inflation, with new tax rates going into effect April 1 of each year. Act 27 eliminated the fuel consumption component of the indexing formula. Therefore, beginning on April 1, 1998, the fuel tax was adjusted to only reflect changes in inflation.

From 1998 to 2006, the formula used to calculate the index included the following steps:

1. An inflation factor was calculated by dividing the inflation index for the previous year by the inflation index for the year preceding that year. For the April 1, 2006, calculation, the 2005 inflation index was divided by the 2004 index.

2. The new fuel tax rate was calculated by multiplying the existing fuel tax rate by the inflation adjustment factor and rounding the result to the nearest tenth of a cent.

Table 4 shows how the index was used for the April 1, 2006, fuel tax rate determination (the final indexing adjustment).

Table 4: Final Indexed Fuel Tax Calculation -- 2006

Existing Tax Rate		Inflation Adjustment Factor		New Tax Rate
29.9¢	x	$\frac{\text{Inflation Index for CY 2005}}{\text{Inflation Index for CY 2004}}$	=	New Tax Rate
29.9¢	x	$\frac{195.29}{188.88}$		
29.9¢	x	1.0339	=	30.9¢

Indexing for Inflation

The inflation factor adjusted the fuel tax rate to reflect any changes in the Consumer Price Index for all urban consumers (CPI-U) that occurred between the two preceding years. The CPI-U is a measure of the average change in prices over time in a fixed "market basket" of goods and services purchased by all urban consumers.

An example can be used to illustrate how this factor affected the fuel tax rate. If the CPI-U for Year 1 was 180 and the CPI-U for Year 2 was 189, the inflation factor to be used in calculating the fuel tax rate in effect on April 1 of Year 3 was 1.05 (189 divided by 180), or 5%. Consequently, the inflation factor produced a 5% fuel tax rate increase beginning on April 1 (existing rate per gallon x 1.05).

As this example illustrates, CPI-U increases had an upward impact on the fuel tax rate. The purpose of the inflation factor was to annually adjust the motor fuel tax rate for inflation so that, in general terms, the revenue raised was capable of funding approximately the same total level of accomplishment each year even if inflation had changed the cost of those tasks.

Fuel Tax Collection Process

The motor vehicle fuel and alternate fuel taxes are collected by the Department of Revenue (DOR) before being deposited in the transportation fund. The tax on motor vehicle fuel is imposed when the fuel leaves terminal storage and is collected monthly from licensed suppliers (typically the terminal operator who sells the fuel to a wholesale distributor). Licensed suppliers must pay taxes on motor vehicle fuel no later than the 15th day of the month for motor vehicle fuel sold during the previous month.

DOR is appropriated revenues from the transportation fund for the costs, including data processing costs, incurred in administering the motor vehicle fuel tax. In 2020-21, DOR was appropriated \$1,701,900 to administer the tax.

Prior to 2019 Act 9, motor vehicle fuel suppliers were allowed to deduct an administrative allowance of 1.35% when remitting the fuel tax on gasoline to DOR. The allowance does not pertain to diesel fuel or the petroleum inspection fee. Of the 1.35% allowance, 1.25% was required to be passed on to the wholesale distributor by the supplier when the distributor pays the gasoline tax to the supplier. Effective January 1, 2020, Act 9 reduced the fuel supplier's administrative allowance to 0.675% when remitting the fuel tax on gasoline to DOR, of which 0.625% must be passed on to a wholesale distributor when the distributor pays the gasoline tax to the supplier.

There are about 109 licensed, unrestricted suppliers that remit nearly all of the tax revenues to the state. Another 194 restricted suppliers, or suppliers that deliver across state lines, also remit a small portion of the state tax revenues. Suppliers are not required to provide information on the destination of the fuel. As a result, it cannot be accurately estimated where the fuel is being purchased by motor vehicle operators.

The tax on alternate fuel is imposed when the fuel is first pumped into a motor vehicle and is collected monthly from retailers or directly from users if the user has a bulk fuel storage facility. The tax may be paid quarterly if the tax owed is less than \$500 per quarter. There are 111 alternate fuel retailers and users who are required to pay the alternate fuel tax.

International Fuel Tax Agreement (IFTA)

IFTA provides a standardized motor fuel tax reporting system and collection procedure for interstate motor carriers. The federal Intermodal Surface Transportation Efficiency Act of 1991

required most states to join the agreement by September 30, 1996. Currently, all states (except Alaska and Hawaii) are members of IFTA. Wisconsin has been a member since 1989.

Under IFTA, a carrier operating in two or more member states must apply for an annual fuel tax license from one of the states. That state becomes the carrier's base state and the license from that state permits the carrier to operate in all IFTA states. IFTA guidelines require the base state to be chosen according to where carriers' vehicles are registered and where carriers have operations that permit them to make records available for audit.

To pay motor fuel taxes, carriers send a quarterly return to the base state. The return reports all miles traveled, fuel purchased, and fuel tax already paid "at the pump" to each member state. Also, the return shows fuel taxes owed to each member state and any refunds owed the carrier. Each state's taxes are calculated on the basis of the number of miles traveled in the state and the carrier's fuel efficiency. The carrier pays any net amount due when the report is filed. If the carrier owes taxes to other states, the base state makes those payments for the carrier. If other states owe the carrier refunds, the base state refunds any overpayments and then collects the refunds from the other states. The carrier must keep records to support the information on its return. Each base state audits the carriers registered there, on behalf of all IFTA states.

Exemption, Refund, and Floor Tax Provisions

Motor vehicle fuel purchases used for certain purposes are exempt from the state's motor vehicle fuel tax. Depending on the type of fuel, purchasers of fuel used for an exempt purpose can either obtain an exemption certificate, which allows fuel purchases to be made net of the tax, or file for a refund of any motor vehicle fuel tax paid. Exemption certificates are valid for three years, unless

cancelled by DOR or the person claiming the exemption.

Fuel Tax Exemptions

Under current law, there are the following exemptions from the fuel tax:

1. Motor vehicle fuel exported from this state by a licensed exporter;
2. Motor vehicle or alternate fuel sold to the federal government;
3. Motor vehicle or alternate fuel sold for use in urban mass transportation;
4. Gasoline used for nonhighway purposes and delivered in a quantity of at least 100 gallons if the user (generally, a farmer) has obtained an exemption certificate in advance;
5. Gasoline sold to a general aviation fuel dealer for use in an aircraft, provided it is delivered directly into the dealer's storage tank in a quantity of at least 100 gallons;
6. Diesel fuel sold for use as heating oil;
7. Diesel fuel sold for use in trains;
8. Diesel fuel sold for nonhighway use;
9. Diesel fuel exported by an unlicensed person who has paid the tax on it to the destination state, as evidenced by a bill of lading; and
10. The first 1,000 gallons of renewable fuel (fuel produced from renewable biomass) produced or converted from another purpose by an individual who does not sell any such fuel, for use in the individual's own vehicle.

Dyed Diesel Fuel Tax Exemptions

Dyed diesel fuel is exempt from federal and

state motor vehicle fuel taxes and must be used for a tax exempt purpose. Vehicles that are licensed for highway use (that is, have a license plate) cannot use dyed diesel fuel. Dyed diesel fuel is never taxed at the terminal level. Therefore, it is not part of the tax exempt fuel refund process. The 1993-95 biennial budget act created provisions that allow licensed suppliers to dye diesel fuel. This change was made in response to a federal law that requires all high-sulfur diesel fuel to be dyed and to be prohibited from use in motor vehicles on highways. In addition, diesel fuel dyeing makes it easier to identify whether the tax has been paid on fuel that is being used for a taxable purpose.

Individuals using nondyed diesel fuel for off-highway use cannot purchase fuel tax-free. Instead, these individuals must pay the tax and then file a refund claim if the nondyed diesel fuel was used for off-highway purposes.

Fuel Tax Refunds

Current law allows individuals or businesses to file a claim for a refund of any fuel tax paid for exempt uses. In addition, taxicab operators are eligible for refunds of fuel tax paid on fuel used in their taxicabs and retailers of gasoline are eligible for a refund of one-half of one percent of fuel tax paid to cover shrinkage and evaporation losses of motor fuel. Claims for refunds are to be filed with DOR.

Refunds of fuel tax payments in 2019-20 totaled \$17.7 million, or 1.7% of fuel tax collections. These refunds were provided to farmers, mass transit operators, taxicab operators, and other non-highway and exempt users of motor vehicle and alternate fuel.

Prior to 2019 Act 9, motor vehicle fuel retailers were allowed to claim a refund equal to 0.5% of fuel tax paid on gasoline to cover evaporation losses on tax-paid gasoline received into the retailer's storage. Act 9 repealed the retailers refund effective for fuel purchases beginning on January 1, 2020.

Snowmobile, Motorboat, and Recreational Vehicle Fuel Tax Transfers

Since the basic principle underlying the imposition of the fuel tax is to collect a fee from users of transportation facilities, the tax is not imposed on those who use motor vehicle or alternate fuel for other purposes or on gasoline that is lost to shrinkage or evaporation. However, the fuel tax is imposed on fuel used in snowmobiles, motorboats, all-terrain vehicles (ATVs), and utility terrain vehicles (UTVs) since fuel tax revenues are used to support related recreation programs in the Department of Natural Resources. Revenues are based on an estimate of annual fuel tax payments from these recreational uses. Fuel tax revenues transferred from the transportation fund to DNR's conservation fund for 2020-21 are estimated to be \$20,269,100, of which \$4,909,200 were from snowmobiles, \$12,951,300 from motorboats, \$1,874,200 from ATVs, and \$534,400 from UTVs.

Floor Tax

Whenever the fuel tax rate is changed, a floor tax is imposed on any person possessing motor vehicle fuel on which the previous fuel tax has been paid, if the fuel is being held for sale or resale. This tax is equal to the number of gallons multiplied by the difference between the old and new tax rates. The floor tax must be paid by the fifteenth day of the month in which a tax rate change occurred. This tax is designed to prevent the filling of retailers' supply tanks prior to a fuel tax increase to avoid payment of the higher tax. If the fuel tax rate is decreased, the floor tax provision is used to provide a refund to any person holding fuel for sale or resale purposes.

Federal Fuel Taxes

In addition to the state fuel taxes, there is a

federal tax of 18.4¢ per gallon imposed on gasoline and 24.4¢ per gallon on diesel fuel. While a portion of these revenues, 0.1¢ per gallon, is used to fund the federal leaking underground storage tank program, most of the revenues associated with the federal fuel tax rates are credited to the federal highway trust fund for highway and mass

transit projects.

The attributed federal Internal Revenue Service collects the fuel tax proceeds. Both the federal gasoline and diesel fuel taxes are imposed when the fuel leaves terminal storage and are collected semi-monthly from the terminal operators.