

Pub 66, Fuel Tax General Information

Introduction

This publication gives basic information about the following fuel tax and fee types:

Motor fuel

Special fuel

Aviation fuel

Environmental assurance fee

For information about Special Fuel User (SFU) or International Fuel Tax Agreement (IFTA) taxes, see tax.utah.gov/fuel/ifta-sfu.

Contact the Internal Revenue Service (IRS) for federal fuel excise tax information.

This publication includes Utah tax law and Tax Commission rules, but is not all inclusive and subject to change. This publication is current as of the revision date. Subsequent law or rule changes take precedence over this publication.

Licenses

All fuel sold in Utah for operating motorized vehicles (including aircraft and watercraft) is taxable before retail. You must get a license if you distribute motor or aviation fuel or supply special fuel. Licenses are valid until you change your ownership type, change your FEIN, sell or terminate your business, or if the Tax Commission terminates your license for reasonable cause.

Submit form TC-69, *Utah State Business and Tax Registration*, to apply for these licenses and accounts.

Environmental Assurance Fee

You don't need a license to report and remit the Environmental Assurance Fee. However, you must set up an account with the Tax Commission to track the fees and payments.

Tax Accounts

All fuel suppliers must have a sales and use tax account to report use tax for residential and commercial uses of special fuels.

Suppliers of dyed diesel fuel and hydrogen for motor vehicles must have a sales and use tax account.

Suppliers of natural gas for motor vehicles must have a sales and use tax account and a municipal energy sales and use tax account.

Suppliers and consumers of natural gas must have a municipal energy sales and use tax account.

Account Changes

Use form TC-69C, *Notice of Change for a Tax Account*, to close your account or change your:

Address

Contact information

Business name

Officer information

Use form TC-106, *Selection of Reporting Basis*, to change your gross or net gallon reporting. You can only change this election at the beginning of each year.

Definitions

Aviation fuel

Any fuel sold at airports and used exclusively for aircraft operation.

Carrier

Every individual, firm, partnership, group, or corporation importing or transporting fuel into Utah (including common and private carriers).

Clean Fuels

The following special fuels: propane, compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, or any motor or special fuel that meets the clean fuel vehicle standards in the Federal Clean Air Act Amendments of 1990, Title II (see 59-13-102(2)).

Clear (Undyed) Diesel Fuel

All diesel fuel that is not dyed (see "Dyed Diesel Fuel").

Diesel Fuel

Any liquid sold for or used in diesel engines. This includes any combustible liquid used to operate a motor vehicle licensed to operate on public roadways (except motor fuel or aviation fuel).

Diesel Gallon Equivalent (DGE)

The amount of fuel equal to the energy content of one gallon of diesel fuel. Used to determine the taxable gallons of LNG. For Utah tax purposes, DGE is 6.06 pounds of LNG.

Distributor

Any person in Utah who:

Imports motor fuel for use, distribution, or sale (retail or wholesale)

Produces, refines, manufactures, or compounds motor fuel in Utah to use, distribute, or sell in Utah

Buys motor fuel for resale in wholesale quantities to motor fuel retail dealers and accounts for their own motor fuel tax liability

Sells aviation fuel to federally certificated air carriers and others

Dyed Diesel Fuel

Diesel fuel dyed according to:

26 U.S.C. Sec. 4082

United States Environmental Protection Agency Internal Revenue Service regulations

Dyed diesel fuel is for nontaxable off-highway use. It is not intended for use in cars, trucks or other vehicles driven on the road.

Environmental Assurance Fee

This fee is assessed on the first sale or use of a petroleum product in Utah. Entities with ~~underground~~ storage tanks must have funds for environmental cleanup in case of a leak or release per Federal Environmental Protection Agency and Utah State requirements. The Petroleum Storage Tank Trust Fund covers eligible cleanup costs, with a deductible, for participating entities that have had a leak or release.

Exchange Agreement

An agreement where one supplier delivers taxable special fuel to another supplier (or his/her customer) before the fuel reaches the first supplier's terminal loading rack.

Federally Certificated Air Carrier

Any person in Utah with a Federal Aviation Administration (FAA) certificate authorizing all-cargo or scheduled operations. See 14 C.F.R. Sec. 119.

Fuels

Any gas, liquid, solid, mixture, or other energy source used to power an engine or motor. This includes:

Aviation fuel

Motor fuel

Special fuel

Gasoline Gallon Equivalent (GGE)

The amount of fuel equal to the energy content of one gallon of gasoline. Used to determine the taxable gallons of gaseous special fuels. For Utah tax purposes, GGE is 2.198 pounds of hydrogen and 5.66 pounds of CNG.

Gross Gallon

The United States volumetric gallon with a liquid capacity of 231 cubic inches.

Motor Fuel

Gasoline or gasohol. It does not include aviation fuel.

Motor Fuels Received

Motor fuels:

Loaded into tank rail cars or placed into tanks at the refinery for export or distribution

Placed into tanks at the refinery for sale, use, or delivery, not for export or distribution

Imported by tank rail car, truck, pipeline, or any other means when and where the motor fuel owner completes the delivery.

Net Gallon

The gross metered gallon with temperature correction in volume to 60 degrees Fahrenheit.

Petroleum Products

Crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit at a pressure of 14.7 pounds per square inch absolute.

This includes:

- blended products • gasoline
- diesels • fuel oils
- jet fuel • kerosene
- solvents • oil

It doesn't include grease, asphalt, propane or other blending products.

Qualified Vehicles

See motorcarrier.utah.gov.

Rack

A deck, platform, or open bay with metered pipes and hoses to transfer diesel fuel from a refinery or terminal to a motor vehicle, rail car, or vessel.

Removal

Transferring diesel fuel from a production, manufacturing, terminal, or refinery facility, including use of diesel fuel. Removal does not include:

- loss by evaporation or destruction
- transfers between refineries, racks, or terminals

Special Fuel

Any fuel that is:

- used in a motor vehicle on Utah's public highways
- diesel fuel even though not used in a motor vehicle
- not taxed as aviation or motor fuel
- not measured in gallons (such as hydrogen and natural gas)
- a product not under the motor fuel definition but used to operate a motor vehicle

Supplier

1. Anyone involved in the distribution of untaxed diesel fuel, including:

- Importers
- Refiners
- Producers
- Manufacturers
- Wholesalers of fuel for motor vehicles and aircraft

2. Owners and lessors of equipment to compress or dispense non-diesel fuels that power vehicles on public roads and waterways but that are not taxed as aviation or motor fuel.

3. Distributors of aviation and motor fuel (see "Distributor").

Terminal

A facility for storing diesel fuel supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel is removed for distribution at a rack.

Two-Party Exchange

A transaction of special fuel transferred between licensed suppliers under an exchange agreement.

Tax Rates

See Utah's current and recent fuel tax rates online at tax.utah.gov/fuel.

Exemptions

Utah law provides some exemptions from fuel tax. See Utah Code §§59-13-201 and 301. However, the sale of fuel exempt from fuel tax is subject to Utah sales and use tax (unless a sales and use tax exemption also applies). See Utah Code §59-12-104.

If you or your business is exempt and used taxed fuel, you may claim a credit on your fuel or income tax return. If you do not file a fuel or income tax return, you may claim the refund on form TC-116, *Utah Application for Fuel Tax Refund*.

There are three types of exemptions, based on:

1. Entity
2. Use
3. Product

Entity-Based Exemption

Entity-based exemptions are determined by who buys the fuel (such as government agencies and certain Native American tribes).

Foreign Diplomats

The U.S. State Department, Office of Foreign Missions (OFM) and the American Institute in Taiwan (AIT) may authorize oil companies to issue tax-exempt gasoline credit cards to certain foreign diplomats. Foreign diplomats may buy gasoline fuel-tax exempt as long as they use the OFM authorized credit card issued in their name. Gasoline the diplomat buys with cash is not tax exempt and the diplomat may not use a sales tax exemption card to buy gasoline tax-free. The oil company that issued the credit card (distributor) should report these tax-exempt credit card purchases as a deduction on line 14 of its Utah fuel tax return.

For information about the OFM authorized gasoline credit card, see the OFM web site, state.gov/ofm/tax/gas/index.htm, or contact the OFM San Francisco regional office at 415-744-2910.

Government

See Administrative Rule R865-13G-10.

United States and Utah government agencies may claim a refund of tax paid on motor or special fuel to a licensed distributor or retail dealer.

Government agencies **without** a Fleet Services Gascard may request a refund annually or quarterly on form TC-116, *Utah Application for Fuel Tax Refund*. Government agencies **with** a Fleet Services Gascard should contact Fleet Services about refunds.

Navajo Nation

See Administrative Rule R865-13G-15.

Distributors and suppliers who must pay fuel taxes to the Navajo Nation may file for a refund monthly on form TC-116, *Utah Application for Fuel Tax Refund*. This amount can't exceed what was paid to the state.

Ute Tribe

See Utah Code §§59-13-201.5 and 301.5

The Ute Indian Tribe of the Uintah and Ouray Reservation may get a refund for motor or special fuel tax paid if the tribe or tribal member pays the tax to a licensed distributor at a retail station owned by the tribe on Ute Trust land.

The Commission and Ute Tribe must have an agreement with an allocation formula or procedure to determine the amount of motor and special fuel sold. The Ute tribe may request a refund monthly on TC-116, *Utah Application for Fuel Tax Refund*.

Use-Based Exemption

Use-based exemptions are determined by the buyer's use of the fuel.

Agricultural

See Utah Code §59-13-202 and R865-13G-8.

Agricultural producers filing federal Schedule F and corporations reporting farm activity on their federal returns are exempt from tax on fuel to operate stationary or self-propelled farm machinery. The exemption does not include:

- Operation of motor vehicles on Utah public roadways
- Nontaxed purchases of dyed diesel fuel
- Gardening
- Hobby farming

Golf courses

Other similar activities

Agricultural producers should claim a credit on their income tax return.

Business Use of Clean Fuels

See Utah Code §59-13-301(3).

Businesses using clean fuels in machinery or equipment not required to be registered for highway use are exempt from Utah fuel tax.

You must give the supplier an exemption certificate from the Utah Division of Air Quality.

Environmental Assurance Fee, Non-participation

See Administrative Rule R865-7H.

Nonparticipating owners or operators of tanks ~~(including above-ground storage tanks)~~ may be exempt from the fee for the tanks not covered if:

1. None of the owner's or operator's tanks are covered by the Utah Petroleum Storage Tank Trust Fund; and
2. The owner or operator buys the petroleum product directly from the refinery (including those delivered by common carrier) or buys a direct import of a petroleum product where the fee was not previously imposed.

Petroleum products exported directly from a refinery or brought to Utah packaged in barrels, drums and cans are also exempt.

Other fuel tax exemptions such as government sales, off-road use of dyed diesel fuels, etc., do not apply to the fee.

You must give refiners and importers a completed form TC-721E, *Environmental Assurance Fee Exemption Certificate*.

Retailers or consumers who are nonparticipating owners or operators of tanks ~~(including above-ground storage tanks)~~ who do not meet the requirement for exemption may request a refund of or credit to offset the fee paid for the tanks not covered no more often than monthly on their TC-109 form or if not licensed for fuel tax a TC-116 form. All tanks whether above ground or underground must be registered and received a facility number from the Department of Environmental Quality Control.

Fuel purchased in bulk quantity that is repackaged into barrels, drums or cans may request a refund of the environmental assurance fee, if prior to repackaging the fuel was not stored in a participating tank. The refund may not be requested more often than monthly on the TC-116 form.

Environmental Assurance Fee Rebate

For gallons first sold or used in Utah after Dec. 31, 2014, owners of participating tanks may be eligible for a rebate of some of the environmental assurance fee paid on fuel stored in their tanks. Claim the rebate on form TC-116; file electronically at **tap.utah.gov**. The rebate amount is based on a tank's risk profile, as assigned by the Department of Environmental Quality.

Gallons for which the fee has not been paid or which qualify for a refund of the fee for non-participation, export or repackaging are not eligible for the rebate.

Exporting Motor Fuel

See Administrative Rule R865-13G-3.

Utah-licensed distributors are exempt from motor fuel tax on sales and deliveries made:

1. Outside Utah to another Utah-licensed distributor by a common or contract carrier or in a Utah-licensed distributor's vehicle.
2. In or outside Utah to a distributor or importer licensed in another state for use or sale in that state.
3. In Utah in a drum or similar container for use in another state.

You must keep proof of motor fuel exported from Utah in your records. Your records must also show the exportation date, consignee or buyer, and destination.

Unlicensed exporters must claim the credit through a licensed distributor as follows:

1. The exporter gives the licensed distributor a completed form TC-112, *Proof of Exportation*, showing the date, the purchaser or consignee, and the destination of the motor fuel.
2. The licensed distributor must claim the credit on the motor fuel return for the period in which the form TC-112 was received, within 180 days of the export date.

Exporting Special Fuels

Undyed diesel fuel may be sold exempt if sold directly out-of-state or to a purchaser delivering the fuel directly out-of-state and supply a TC-112 to refiner. Exporters of tax-paid special fuel who are not licensed suppliers may file for a refund of the special fuel tax paid on form TC-116, *Utah Application for Fuel Tax Refund*, within 180 days from the export date.

Special Fuels Used Off-Road

See tax.utah.gov/fuel/ifta-sfu.

Loss of Product

See Utah Code §§59-13-202.5 & 59-13-322

Retailers, wholesalers, licensed distributors, or licensed suppliers who lose motor, aviation, or diesel fuel in a single incident, may claim a tax refund or credit if:

any part of the product loss is NOT eligible for payment from insurance or from any third party, and
you keep all required records and request a refund on form TC-116 within 90 days of the incident, and
the loss or destruction was due to:

- fire,
- flood,
- storm,
- accident,
- crime, or
- discharge in bankruptcy.

The total gallon loss must be at least 8,000 gallons for motor and aviation fuel and 7,000 gallons for diesel, or 4,500 gallons discharged in a bankruptcy proceeding.

Product-Based Exemption

Product-based exemptions are determined by the fuel type.

Dyed Diesel

See Utah Code §59-13-301(2).

Dyed diesel fuel is not taxed since it is sold for off-highway use. However, fuel tax will be assessed and penalties may be imposed if you cannot show the fuel was used for exempt purposes.

Note: You must pay sales tax on dyed diesel fuel unless you use a valid Exemption Certificate (TC-721).

Propane and Electricity

See Utah Code §59-13-301(3)(b).

Propane and electricity are exempt.

Utah Solid Hydrocarbons

See Administrative Rule R865-13G-9.

Motor fuel or components sold and used in Utah distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons are exempt.

However, if any exempt product is blended into gasoline or gasohol, only the hydrocarbon fuel part of the final product is exempt.

Example:

If 10 percent of the fuel was created from Utah solid hydrocarbons, only 10 percent of the fuel tax is exempt.

Credits, Refunds and Rebates

If you have purchased tax-paid fuel but qualify for either an entity-based or use-based exemption you may claim a credit or a refund for the taxes paid using one of the following methods:

Licensed fuel suppliers and distributors normally claim a credit on their monthly fuel tax return. For situations where there is not a credit on the return use form TC-116, *Utah Application for Fuel Tax Refund*.

Agricultural producers should claim the credit on their income tax returns unless they are exempt from Utah income taxes in which case they may claim a refund with form TC-116, *Utah Application for Fuel Tax Refund*.

Taxpayers using special fuels for purposes that are exempt from fuel taxes should file form TC-942 for a refund of the fuel tax and to pay the use tax due.

Gallons of environmental assurance fee paid petroleum products stored in a participating tank and eligible for a rebate of the fee should file form TC-116, *Utah Application for Fuel Tax Refund*, electronically at tap.utah.gov.

All others may request a refund using form TC-116, *Utah Application for Fuel Tax Refund*.

Product-based exemptions and products purchased without Utah fuel taxes paid do not qualify for a tax credit or refund.

Fuel tax return overpayments (including amended returns) may be eligible for a refund. You may claim a refund or credit of overpayment within:

Three years of the purchase date*

Three years from the original return due date*

Two years from the payment date*

*Whichever is later.

Credits and overpayments are applied in the following order:

1. Fuel taxes due for the same period.
2. Fuel taxes owed for any other period(s).
3. Any other tax liabilities owed by the person or business.

Any remaining credit is eligible for a refund.

Collecting Tax

Distributors receiving motor, special, and aviation fuels must report and pay fuel taxes.

Motor Fuel and Aviation Fuel

Motor fuel and aviation fuel distributors compute the tax on the total taxable amount of Utah fuel:

produced

purchased

received

im-ported

refined

Distributors shipping into Utah compute the tax on the total taxable amount received for sale or use in Utah.

All motor and aviation fuel distributed to Utah branches is taxable at distribution (as if actually sold).

Distributors may sell to other licensed distributors tax exempt if they get an assumption of liability statement from the buying distributor(s) showing they:

are licensed as a Utah motor fuel distributor, and

will assume the fuel tax responsibility

Distributors buying outside of and bringing fuel into Utah in original packaging for consumer use are taxed when the fuel is imported.

Special Fuel

Tax is imposed on:

clear (undyed) diesel removed from any refinery or terminal

clear (undyed) diesel brought to Utah for consumption, use, sale or warehousing

clear (undyed) diesel sold to any unregistered supplier (unless the tax was already collected)

clear (undyed) diesel blended with any untaxed product

dyed diesel when used in vehicles on public roads or waterways (plus penalties)

hydrogen, natural gas and any other fuel (except propane and fuels taxed as aviation motor fuel) used in vehicles on public roads and waterways

any untaxed special fuel (except propane and electricity)

Special fuels are only taxed once.

The tax is collected by the owner or lessor of the fuel compressor or dispensing equipment.

Reporting

You must file your fuel returns each month. Returns are due the last day of the month after the period ends. If the due date falls on a Saturday, Sunday or legal holiday, the return is due the next business day. (Returns due on a Friday must be submitted by midnight.)

You are encouraged to file all fuel tax returns, reports and payments online using Tax Express, Taxpayer Access Point (TAP), our online account management system. TAP:

Is fast

Is accurate

Calculates for you

Is available 24/7

You will need the following information to set up online access to your accounts:

Federal Employer Identification Number (FEIN) or Social Security Number (SSN),

Utah 14-digit account number

Your PIN

Reporting Method

All Utah licensed distributors must calculate their tax liability on a gross or net gallon basis. You make your election when applying for your fuel tax license on form TC-69, *Utah State Business and Tax Registration*. If you do not choose at that time, you will report and pay on a gross gallon basis.

You may apply to change your reporting method on January 1 of each year using form TC-106, *Selection of Reporting Basis for Motor Fuel and Special Fuel Gallons*.

You must:

Include both gross and net gallon amounts on all invoices, bills of lading, and motor fuel tax returns

Conform to the ASTM-API-IP Petroleum Measurement Tables.

See R865-13G-11, Consistent Basis for Motor Fuel Reporting Pursuant to Utah Code §59-13-204.

Evaporation & Handling Allowance

Distributors are allowed a 2 percent deduction from the gross or net amount of motor and aviation fuel to allow for evaporation, loss in handling, and expenses of collection. You must report the gross amount of taxable motor fuel produced, sold, received, or refined in Utah from which you are deducting.

Producers and refiners are required by law to pay half of the deduction (1 percent) to the registered retail dealers on quantities sold during the reporting period. Failure to comply with the requirement will result in the loss of this deduction.

Amended Returns

To correct an error on a previously filed return, resubmit that period's return with correct figures, not net amounts. The amended return will completely replace the original return. Choose "Yes" in the amended return field and give the amount of the previous payment.

If you owe additional tax due, pay that tax plus interest. Interest is calculated from the original return due date.

You may be subject to penalties if you don't pay in full. See Publication 58 for Utah interest rates and penalty information.

Paying

You can pay your fuel taxes using:

Taxpayer Access Point (TAP)

ACH Credit

XML

Check or money order

Taxpayer Access Point (TAP)

You must register with the Tax Commission before paying with TAP. See tax.utah.gov for details.

ACH Credit

You initiate this payment through your bank or credit union (they may charge you a transaction fee). See *Electronic Funds Transfer - EFT* at tax.utah.gov/billing/payments.

XML

Some software programs will allow you to pay when you file your return. Check with your software vendor for this option.

Check or Money Order

You can mail your check or money order or bring them to any Tax Commission office. Be sure to include a completed TC-109PC payment coupon. Write your fuel account number and filing period on your check or money order.

Penalties and Interest

If you don't file and pay by the return due date, you may get a failure to file penalty, a late payment penalty, or both. Penalties are up to 10 percent of the unpaid tax, based on the date you file your return.

Interest is assessed from the original due date until the tax liability is paid in full.

See Publication 58, *Utah Interest and Penalties*, at tax.utah.gov/forms.

Forms

The following forms are available at tax.utah.gov/forms/ or by calling the Tax Commission automated forms order hotline at 801-297-6700 or toll free 1-800-662-4335 ext. 6700.

- TC-69 – Utah State Business and Tax Registration
File on paper to get a Utah fuel tax license
- TC-69C – Notice of Change for a Tax Account
- TC-106 – Selection of Reporting Basis for Motor Fuel, Aviation Fuel, and Special Fuel Gallons
- TC-109 – Utah Fuel Tax Return (electronic only)
- TC-109 Instructions – Instructions for TC-109 Return
- TC-109 Matrix – Fuel Return Product and Schedule Matrix
- TC-109PC – Utah Fuel Tax Payment Coupon
- TC-111 – Petroleum Products Carrier Report - Schedule of Deliveries 2A
- TC-112 – Proof of Exportation For Motor Fuel, Undyed Diesel or Other Petroleum Products
- TC-116 – Utah Application for Fuel Tax Refund
- TC-116 Instructions – Refund Application Instructions (for paper TC-116)
- TC-116 Template – Fuel Tax Refund Application - File Upload Template (XLS format)
- TC-116 Template Instructions – Refund Application Instructions (for TC-116 XLS template)
- TC-721AV – Aviation Fuel Tax Reduction Certificate
- TC-721E – Environmental Assurance Fee Exemption Certificate
- TC-721F – Exemption Certificate for Other Special Fuels
- TC-763F – Fuel Tax Surety Bond

Publications give general guidance only. See tax.utah.gov/fuel or call the Tax Commission at 801-297-2200 (1-800-622-4335 outside the Salt Lake area) for more information.