

280-RICR-20-50-1

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 50 – MOTOR FUEL TAX

PART 1 – Motor Fuel Tax

1.1 Purpose

The purpose of this regulation is to implement R.I. Gen. Laws Chapter 31-36, which provides for a tax on motor fuels.

1.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-1-4 and 31-36-22. The rules and regulations have been prepared in accordance with the requirements of R.I. Gen. Laws §§ 42-35-1 et seq. of the Rhode Island Administrative Procedures Act.

1.3 Application

These rules and regulations shall be liberally construed so as to permit the Division of Taxation the authority to effectuate the purpose of R.I. Gen. Laws Chapter 31-36 and other applicable state laws and regulations.

1.4 Severability

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be impaired or affected thereby.

1.5 Definitions

- A. "Administrator" means the tax administrator.
- B. "Distributor" means any person, association of persons, firm, or corporation, wherever resident or located, who shall import or cause to be imported into this state, for use or for sale, fuels, and also any person, association of persons, firm or corporation who shall produce, refine, manufacture, or compound fuels within this state.
- C. "Filling station" means any place, location, or station where fuels are offered for sale at retail.

- D. "Fuels" means gasoline, benzol, naphtha, and other volatile and inflammable liquids (other than lubricating oils, diesel fuel for the propulsion of marine craft, fuels used for the propulsion of airplanes, oils used for heating purposes), manufactured biodiesel fuel as defined in regulation 280-RICR-20-50-2, used or suitable for use for operating or propelling motor vehicles with internal combustion engines. This does not include benzol and naphtha sold or used for a purpose other than for the operation or propulsion of motor vehicles. Any article or product represented as gasoline for use in internal combustion type engines, used in motor vehicles, shall be equal to or better in quality and specification than that known as "United States government motor gasoline."
- E. "Peddlers" means any person, association of persons, firm or corporation, except a distributor as defined in R.I. Gen. Laws § 31-36-1(8), who shall distribute gasoline by tank wagon in this state.
- F. "Public highways" means any state or other highway and any public street, avenue, alley, park, parkway, driveway, or public place in any city or town.
- G. "Purchaser" means any person, association of persons, firm, or corporation, wherever resident or located, who purchases fuels from a distributor, for use or resale, and any person, association of persons, firm or corporation who purchases from a distributor, gasoline or other volatile and inflammable liquids (other than lubricating oils and oils used for heating purposes) for use other than for propelling motor vehicles.
- H. "State highways" means only those public highways or those parts of them that shall be constructed or maintained by the department of transportation.
- I. "United States government motor gasoline" means that gasoline which is or may be prescribed by the federal specification board of the United States government for use as a fuel for motor vehicle, motor boat, and similar engines.

1.6 Registration of Distributors

Every distributor shall, before continuing or commencing to transact the business of a distributor, apply for registration as a distributor at the office of the tax administrator upon a form to be obtained from the administrator. The administrator, if satisfied as to the facts stated in application, shall register the distributor and issue a certificate of the registration without charge, which registration shall entitle the distributor to continue or to commence to engage in the business within this state.

1.7 Reports and Payments

- A. Every distributor shall, on or before the twentieth (20th) day of each month, render a report to the tax administrator, upon forms to be obtained from the tax administrator, of the amount (number of gallons) of fuels purchased, sold, or

used by the distributor within this state and the amount of fuels sold by the distributor without this state from fuels within this state during the preceding calendar month, and, if required by the tax administrator as to purchases, the name or names of the person or persons from whom purchased and the date and amount of each purchase, and as to sales, the name or names of the person or persons to whom sold and the amount of each sale, and shall pay at the same time to the administrator tax at the current rate per gallon on all taxable gallons of fuel sold or used in this state.

- B. Beginning July 1, 2015 and every other year thereafter, the gasoline tax shall be adjusted by the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics determined as of September 30 of the prior calendar year; said adjustment shall be rounded to the nearest one cent (\$.01) increment, provided that the total tax shall not be less than provided for in R.I. Gen. Laws § 31-36-7(a).

1.8 Exporters

- A. A distributor who is licensed in another state but unlicensed in Rhode Island may apply for a permit to purchase fuels for export tax free. Anyone applying for an export permit must file a surety bond with the Division of Taxation. The application and bond form are available from the Division of Taxation.
- B. The amount of the bond is based on twice the average monthly gallonage to be exported, using only those months in which there is activity. Each additional 100,000 monthly gallons or fraction thereof will require an additional \$10,000 bond.

Average for Two Months	Amount of Bond
100,000 Gallons	\$10,000
200,000 Gallons	\$15,000
400,000 Gallons	\$30,000
600,000 Gallons	\$40,000
800,000 Gallons	\$50,000
1,000,000 Gallons	\$70,000

- C. Change in Business Organization: Once issued, an export permit remains in effect until suspended, revoked or otherwise terminated. A permittee must advise the tax administrator of any change in type of business organization or its status as a licensee in the state of import.

- D. Purchases can be made from any supplier. It will be the responsibility of the permittee to identify to the supplier on all papers such as manifests, bills of lading, loading tickets, etc., that each load is for export and to show the ultimate destination outside Rhode Island. All receipts not clearly identified to the supplier as for export will be taxable, the tax payable to the supplier. Split loads are not permitted.
- E. Each exporter must make a report on its own letterhead to the Division of Taxation prior to the 15th day of each month. This report must show all acquisitions of motor fuel in Rhode Island for the prior month. The report must identify the type of fuel, supplier, number of gallons, point of acceptance (in Rhode Island) and the point of delivery (destination). Where tax paid fuel is acquired, the information on the acquisition is to be shown separately in the report.

1.9 Taxability of Special Fuels

The definition of fuel includes all volatile and inflammable liquids (other than lubricating oils, diesel fuel for the propulsion of marine craft, and oils used for heating purposes) used or suitable for use for operating or propelling motor vehicles using internal combustion type engines. The tax applies to all liquid fuels sold for use or used in motor vehicles (except as provided in the definition relating to diesel marine craft) and it is not confined to sales for use or used on the highways of this state. Filling stations, peddlers or other vendors acquiring fuels such as No. 2 fuel, LPG and other gasoline substitutes without having paid the tax to their supplier must include the tax at the time of sale or delivery for use in internal combustion engines and must report the sales and pay the tax to the tax administrator. Any person, firm or corporation acquiring fuel upon which the tax has not been paid and who subsequently sells or uses such fuel for propelling an internal combustion engine immediately becomes liable for the tax and must arrange with the tax administrator to report sales or use and pay the tax due.

1.10 Taxability of Consignments, Loans and Transfer of Fuels

The words "sold or used" in R.I. Gen. Laws § 31-36-7 include all consignments, consignment-sales, loans and any other transfer of fuels by the distributor to any other person, partnership, association or corporation. These transactions must be included on the regular return for the period in which they occur.

1.11 Gallonage Adjustment to 60 Degrees Temperature

In the case of a tanker, barge or tank car delivery or receipt, distributors may adjust the quantity for report purposes to 60 degrees Fahrenheit temperature. Tank truck deliveries are required to be recorded and reported at actual measured gallons and the tax applies to actual measured gallons.

1.12 Marine Diesel

- A. Diesel fuel used for the propulsion of marine craft is not considered a motor fuel under the Rhode Island gasoline tax law. Any Rhode Island licensed distributor or special distributor selling marine diesel must obtain a "Marine Diesel Purchase Certificate" from the purchaser in order to exempt a sale from the Rhode Island motor fuel tax.

- B. Use of Exemption Certificate in making marine diesels purchases a purchaser must furnish a Rhode Island licensed distributor or special distributor with a "Marine Diesel Purchase Certificate" (form attached) for each purchase in order to be exempt from the Rhode Island motor fuel taxes. This certificate must contain the required information and signature. In the event that all purchases will be for marine purposes on an on-going basis, one "Marine Diesel Purchase Certificate" may be issued marked "blanket" in the date of purchase area of the form.
 - 1. The certification may be furnished only in the case where the purchaser intends to sell or use the marine diesel for marine purposes. If a purchaser gives an exemption certificate and thereafter sells or uses all or a portion of the marine diesel purchased for purposes other than "marine" he or she must report and pay on the taxable gallons as a distributor or special distributor.
 - 2. The acceptance of a properly executed certificate relieves the distributor from the burden of proof only if accepted in good faith from a person engaged in an activity which is for sale or use of fuel for marine purposes. If a "Marine Diesel Purchase Certificate" is not furnished by the purchaser, the distributor must collect and report the applicable Rhode Island motor fuel taxes for that sale event though the invoice indicates "marine diesel."
 - 3. In order that the Division of Taxation may verify a distributor's marine diesel sales upon audit, it is necessary that distributors retain executed "Marine Diesel Purchase Certificates." If a distributor lists marine diesel sales for which he or she has no certificates, the Division of Taxation will presume such sales as taxable and make an assessment of the tax against the distributor.

1.13 Purchase of Motor Fuels in Rhode Island by Nonregistered Distributors or Exporters

- A. A nonregistered distributor or exporter purchasing motor fuel in Rhode Island for shipment within or outside this state must pay the Rhode Island motor fuel tax to the Rhode Island distributor. The tax applies whether the seller or purchaser is obligated to deliver to a common carrier or the purchaser picks up with his or her own vehicle.

- B. The nonregistered person or company may file a claim for refund with the tax administrator for Rhode Island tax paid fuel purchases of fuels which have been sold outside this state or to the U.S. Government. The refund must be filed within two hundred forty (240) days from the date of the Rhode Island tax paid fuel purchases.