

FYI – For Your Information

Colorado Motor and Aviation Fuel Application, Licensing, and Reporting Requirements

WHO MUST BE LICENSED?

Any person who acts as a distributor, supplier, importer, exporter, carrier, or blender of fuel and terminal operators in this state must be licensed as such. Any entity operating without a license is subject to civil penalties in the amount of a \$5,000 fine for the first offense; \$10,000 for the second offense; and \$15,000 for the third or subsequent violation.

Blender - means a person who blends fuel (gasoline/special fuel) outside the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in the tank of any vehicle, or any rail car, trailer, truck, or other equipment suitable for ground transportation is not in the fuel distribution system.

Common Carrier or Carrier - means a person, including railroad operator, who transports fuel from a terminal or transports fuel imported or exported into this state. A Colorado license is required for carriers who do not own the fuel they transport.

Distributor - means broker, or a person who acquires fuel from a supplier, importer, blender, or another distributor for the subsequent sale and distribution by tank cars, tank trucks, or both. Distributor also means any person who refines manufactures, produces, compounds, blends, or imports fuel.

Exporter - means a person who acquires fuel in this state exclusively for delivery to another state in which he or she is licensed.

Importer - means a person who imports fuel in bulk or by transport load into this state from another state by truck, rail, or pipeline.

Person - means every individual, firm, association, joint-stock company, syndicate, limited liability company, partnership, joint venture, corporation, estate, trust, or any group or combination thereof acting as a unit.

Supplier - means a person who owns and stores fuel in a pipeline terminal, terminal, or refinery in or outside of this state for sale or use within or outside the boundaries of this state.

Terminal - means a fuel storage and distribution facility that is supplied by a pipeline, vessel, or refinery, or a tank farm from which fuel may be removed for distribution.

Terminal Operator – Any person that owns, operates, or otherwise controls a terminal.



Colorado Department
of Revenue
Taxpayer Service Division
Location Address:
1375 Sherman St.
Denver, CO 80261-0016

Fuel Tax: (303) 205-8205
Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)

APPLICATION PROCEDURES

To become licensed as a distributor, supplier, importer, exporter, carrier, or blender in Colorado you must submit a completed "Fuel License Application" (DR 7064) with the appropriate fees and bond.

After the application has been reviewed and approved by the department, a fuel license will be issued for the fuel operations of your business. One license will cover all operations (blender, exporter, transporter, etc), and they will be indicated on the license.

A *carrier license* is required for third party transporters of fuel, those who do not own the fuel or transport another entity's fuel. If you only transport your own fuel, you would not be required to have a license, and loads would be reported on your distributor's return.

Exporters and Importers are also required to have a *fuel distributor's license*. Exporters are also required to have a license in the jurisdiction to which they are exporting fuel, unless the other jurisdiction does not require a license due to the point of taxation.

The review, processing, approval, and issue of your license can take four to six weeks. So plan and provide enough time for the processing of your application to assure you have a license in time to conduct your business in Colorado.

License fees are \$10 for each application, and \$5 for each additional location having fuel operations requiring a license.

Bond Requirements

Your application must be accompanied by a bond that is three times your monthly tax liability for all motor and aviation fuels acquired, imported, offered for sale, or used in Colorado.

Bond requirements include a minimum of at least \$25,000 but not more than \$200,000.

Any time after issuance of a license for motor and/or aviation fuel, the department finds you are acquiring

fuel in quantities where the tax liability exceeds the current bond deposit, the Department of Revenue by written notice will demand an additional bond deposit to secure the greater tax liability. The aggregate amount of the deposit shall in no event exceed \$200,000.

Acceptable bonds include cash, personal checks, certified checks, bank money orders, surety bonds or negotiable certificates of deposit issued by a commercial financial institution doing business in Colorado.

Surety bonds must be the original bonds with seals and notarization. The "Gasoline and/or Special Fuel Distributors Bond" (DR 7065) must be used for posting a surety bond.

A negotiable bond must be assigned to the Colorado Department of Revenue (DOR) and not released to the applicant unless a signed release from the DOR is received by the institution.

After your account has been open for five consecutive years without any late filing of reports or late payment of taxes, a bond will not be required. If a subsequent late or non-filing penalty occurs the bond requirement may be reinstated. [§39-27-104(2.5)(a) and (b) C.R.S.].

Requests for the cancellation or change of a surety bond must come from the surety company and be the original document. Prior to cancellation of a bond or a change of the surety company, a replacement bond must be received if required, by the Colorado Department of Revenue. The old bond will remain in effect up to sixty days after written notification is received, to allow for the posting of a replacement bond. Any liability accrued or which may accrue before the expiration of 60 days shall not be discharged from the surety company.

The following information is required with the Application form DR 7064:

- Complete list of company owners.
- Complete financial statement.
- Corporate officers, title, and phone number.

- Colorado business locations and operations.
- Information how fuel is transported.
- Import and export information and licenses.
- Blending operation information including the products blended, purpose for blending, disposition of products, and location of the operation.

If all the requested information on the application is not provided, your application will be returned unprocessed.

License Issue and Requirements

After your application has been reviewed and approved by the department a license(s) will be issued. A license is location specific for your operations. Each license should be posted at the location of the business to which it applies. Remember it can take up to four to six weeks to process your application and issue your license(s).

Licenses are valid until surrendered, suspended, or revoked.

Business/Ownership Changes

Any person acquiring a ten per cent equity holding in a company must notify the Colorado Department of Revenue of the acquisition within 30 days. The notification must be in writing. Any change in ownership or equity amounting to ten per cent within a 12-month period will require written notification to the Department of Revenue within 30 days.

If the ownership is a change other than stocks of a publicly traded company, a new application must be submitted to the department of revenue. New ownership may require a new bond for financial guarantee of taxes. If a change in ownership or operations of a business requires a new federal identification number (FEIN), a new application must be filed with the Colorado Department of Revenue.

When any person ceases to be a distributor, supplier, importer, exporter, carrier, or blender of fuel by reason of discontinuance, sale, or transfer of the person's business at any location, the person must notify the Department of Revenue in

writing at the time the discontinuance, sale, or transfer takes effect. A final report must be filed and the payment of all taxes, penalties, and interest become due with the discontinuance or sale of the business. All licenses must be surrendered to the department with the notification.

Licenses are not transferable to another person who purchases your business or operations. New owners must apply for a new license.

FILING AND REPORTING REQUIREMENTS

Colorado licensed fuel distributors, blenders, exporters, importers, and suppliers must file a monthly fuel tax return for motor fuel and aviation fuel. The reporting of the environmental response surcharge fee is also due at the same time. The forms and tax are due the 25th of the month following the reporting month; July's return would be due the 25th of August. Licensees are required to file one report per person. If you were licensed as an exporter, distributor, and blender you would file one report combining all the information for your operations, (exporting, blending, and distributing). Effective January 1, 2001 the tax returns DR 0057, DR 0120, and DR 0129 will be consolidated into one return for the taxes and fees. The revised form will be the DR 7050. At that time electronic filing will be required for all filers with an average of 20 transactions or more on the receipts and disbursement schedules DR 7055 and DR 7056. Information is available at www.cofits.com or by calling (303) 832-3436 (local) or (877) 352-2586 (toll free).

The tax return includes disbursement and receipt schedules, tax computation section, inventory, and blending information. All the information requested on the forms must be reported or you will be assessed for late and/or non-reporting.

Tax returns are sent to licensed distributors, blenders, suppliers, importers, and exporters about a month before the due date. Failure to receive the return does not relieve you of your responsibility to file a return by the due date. If for some reason you do not receive the return, immediately notify the Taxpayer Service Division at (303) 205-8205.

Schedules are not mailed with the return, you need to request them and make copies.

Licensed reporters must use the Colorado forms. Use of facsimiles or forms other than those provided by the Department of Revenue, must be pre-approved by the Motor Carrier Services Division, Service Section in writing.

Licensed fuel carriers (third-party transporter) must file an informational report with the Colorado Department of Revenue. A third-party transporter does not own the fuel transported, but hauls fuel for other entities. Licensed carriers must report only loads exported from or imported into Colorado. Due dates and mailing of the informational return are the same as for licensed fuel distributors, blenders, importers, and exporters.

Colorado terminal operators shall file a terminal report with the Colorado Department of Revenue monthly. The report will be due the 25th of the month following the reporting month. The report shall be filed by electronic means acceptable into the Colorado Fuel Tracking System (COFTS). The report is not a tax report but will provide the state full accountability of all fuel moving through the terminal. If terminals are reporting to EXSTARS with the IRS and the data is available and downloaded electronically into Colorado's fuel tracking system it will satisfy Colorado reporting requirements. If a terminal is operated by a Colorado licensed distributor and all fuel is reported on their distributor's return, a second duplicate return for the terminal is not required. Terminal reporting will be required January 1, 2001.

The reporting will require the following information:

1. Inventory report including beginning inventory, total receipts, total disbursements, and ending inventory by product type.
2. Schedule of receipts by product code and position holder.
3. Schedule of disbursements by position holder.
4. Schedule of inventories by position holder.

Diversions Reporting

Loads to be delivered to a location outside of Colorado, but diverted to a Colorado location, must be reported to the Department of Revenue within 24 hours of the diversion. This is required of all entities having a Colorado fuel license and third party carriers. This procedure will be finalized and implemented January 1, 2001. All those required to report diversions will be informed when the reporting is required and the implementation date. When a diversion is reported you will receive a diversion tracking number to report delivery information on a diverted load. Information required when reporting a diverted load:

- Carrier name and FEIN
- Purchaser and FEIN
- Terminal Code where acquired and transportation mode.
- Original Destination state and Revised Destination state.
- Document Number (Bill of Laden #) and date shipped.
- Type of fuel and gross, net, and billed gallons

Colorado is a member of the National Fuel Diversion Registry. Licensed carriers will report diversions to the Registry at 1-888-367-1600 (a toll free number).

Recordkeeping Requirements

Colorado law requires that you keep true and complete records of your fuel tax returns, receipts, disbursements, and activities for at least three years after filing of returns.

APPLICATION OF FUEL TAXES AND FEES

Gasoline, MTBE, and gasohol motor fuel taxes are due when acquired from a terminal and removed for distribution. Three tax-deferred transactions are allowed between licensed distributors after it has left the terminal of origin. No more than three tax-deferred transactions are allowed. The tax is calculated on gross gallons acquired. The tax rate is 22 cents per gallon.

Aviation fuel taxes (gasoline and jet) are also due when acquired and removed from the terminal rack. Colorado allows three tax-deferred transactions between licensed distributors. The tax rate for aviation gasoline is 6 cents per gallon and 4 cents per gallon for aviation jet fuel. Aviation fuel disbursements must list the airport in column (4) destination. The Federal Aviation Administration airport code will be used to report the airport.

The *special fuel excise tax* is imposed and shall be collected after it is acquired from a terminal rack of origin and offered for sale, sold, or used in this state for the propulsion of a motor vehicle. The tax rate is 20.5 cents per gallon. The tax is due on gross gallons offered for sale not net sold. January 1, 2001 the point of taxation for special fuel will be upon acquisition of fuel at the terminal rack. At that time all the requirements for gasoline above will apply to special fuel.

The *environmental surcharge fee* is due from all distributors who report the acquisition of fuel in Colorado. The rate fluctuates based on revenue in the Petroleum Storage Tank Fund. See FYI Excise 11 "Environmental Response Surcharge" for detailed information on the rate, and collection and reporting of the fee.

Exempt Sales

Only Colorado licensed fuel reporter (distributor, supplier, blender, or importer) responsible for the collection of the excise tax can sell fuel exempt of the Colorado fuel excise tax to users.

Gasoline can only be sold exempt of the excise tax to *government entities*. The fuel must be requisitioned and used by the government entity and paid for with funds drawn from the government entity. If there is any question as to the entity being a government entity, they can apply for and if approved receive an exemption certificate from the Colorado Department of Revenue. The form is the "Application for Fuel Tax Exemption Certificate for Government or Political Subdivision" (DR 0241) and can be obtained by calling the Department of Revenue at (303) 205-8205.

Special fuel can be sold exempt to government entities, and the same guidelines as

gasoline apply. All other clear diesel sold, offered for sale, or used in motor vehicles is taxable. If a user feels they have an exempt use of the fuel, they need to apply to the Department for a refund account and apply for refunds. See FYI Excise 7, "Tax Refunds for Exempt Use of Fuel."

Dyed diesel fuel can be sold tax exempt for exempt purposes off road such as agricultural purposes, home heating, or commercial manufacturing purposes.

Aviation fuel tax is exempt when sold to commercial and scheduled air carriers that are exempt from the federal aviation fuel taxes. Aviation fuel sold to government entities is exempt from the Colorado aviation excise tax.

Environmental surcharge fee is collected on all fuel sold except on aviation fuel, all fuel exported, and fuel sold to railroads for off road use. The tax is due from the licensed distributor, supplier, or blender liable for the tax.

All other deliveries and sales of fuel must be sold tax collected and be reported as such to the Colorado Department of Revenue. If the entities purchasing fuel tax paid qualify for an exempt use of fuel, they need to apply for an exempt fuel refund. See FYI Excise 7 "Exempt Fuel Refunds", for application procedures and claiming refunds for exempt use of fuel. Information on exempt fuel refunds, contact (303) 205-8205.

Refund Process for Fuel Licensees

Licensed fuel reporters responsible for collecting, reporting, and remitting the tax to the Colorado Department of Revenue may claim a refund for the following reasons:

- Mathematical error on the return
- Mistake of fact or law
- Gasoline lost beyond the control of the distributor, such as by fire, explosion, or accident.

The licensed fuel reporter must retain records supporting the error or loss, and the documentation must be available on request or submitted with a refund claim. Supporting documentation includes the

original delivery and receipt information, the tax return, credit from the Department of Revenue, exempt use claim form DR 7189, and amended returns, receipts and disbursement schedules, and any documentation supporting the loss of fuel.

Destroyed Gasoline credit is allowed for tax paid or accrued on gasoline that is lost or destroyed by fire, lightning, flood, wind-storm, explosion, accident or other cause beyond the control of the distributor or transporter of such gasoline. To obtain credit or refund, the distributor paying the tax on the load must:

- Within seven days of the loss or destruction, notify the Department of Revenue.
- Within 30 days of the loss or destruction, file with the DOR any proof of the loss or destruction that may be required.

Notification must include place, time, and an explanation of the accident or loss, the type fuel, number of gallons, and company name and address. Written proof of loss would be an accident report, insurance claim or report, or other documented information to support the claim for loss.

Exempt Fuel Use Refunds

Fuel used to power equipment off road for commercial purposes may qualify for a refund. Fuel sold to fuel users is no longer exempt, except to government entities. These fuel users must to apply to the Colorado Department of Revenue, set up a refund account, and submit claims for refunds. For more information see FYI Excise 7, "Tax Refunds for Exempt Use of Fuel." If you have these customers you can order the FYI, the application form, and initial claim by calling (303) 205-8205 and requesting the application form (DR 7189), the refund claim form (DR 7118) and FYI Excise 7.

NEW LEGISLATION TO BE IMPLEMENTED

New legislation was implemented with the passage of House Bill 98-1333. Portions of the legislation require program changes, new forms, and processing changes to implement the legislation. As the new programs and processes are

developed for the new legislation, portions will be implemented.

The bill and implementation was a cooperative effort between the Colorado Department of Revenue and company representatives from the transportation and fuel industry and organizations such as the Colorado Wyoming Petroleum Marketers and the Colorado Motor Carriers association. The partnership will continue with the goal to ease the burden of reporting for those who file, report, and pay the appropriate taxes and to identify fraudulent business practices in fuel tax reporting.

Licenses are now required for exporters, importers, blenders, third party transporters, and suppliers. Previously Colorado had only one license for fuel distributors. Any acquisition of 10% ownership is required within 30 days. These changes were implemented July 1, 1999.

Exempt sales are only allowed to government entities for motor fuel tax purposes and was effective April 1, 1999. Exemption certificates and affidavits to purchase special fuel exempt by users were eliminated effective the same date. If a person has an exempt use of special fuel (diesel), red dyed diesel can be purchased exempt if the fuel is used off the road for exempt purposes. The purchase of clear diesel is taxable except to government entities.

Diversions reporting will be required and is targeted for implementation January 2001. Those affected will be informed.

Electronic reporting of fuel excise taxes will be phased in during the period 2000 and required by January 1, 2001. The phase in process will include pilot projects and the actual implementation. It will also address several methods of reporting electronically. If you have questions or need information you can contact the Colorado Fuel Tracking Center at (303) 832-3436.

The tax return for aviation fuel, motor fuel, and the environmental response surcharge returns will be combined to one return (DR 7050). Implementation is the January 2001 tax return due February 25, 2001. The pilot program for electronic

filing began in February 2000. Electronic filing is required for all licensees.

Penalties for operating without a fuel license, non-reporting of diversions, or reporting violations of fuel reporting have been established as a civil penalty. The amounts are \$5000 for the first offense, \$10,000 for the second offense, and \$15,000 for the third or subsequent offense.

FORMS AND FURTHER INFORMATION

If you want to use a computerized printout or facsimile of any form required by the department, you must first obtain written approval by sending a sample of the computerized printout or facsimile to the Fuel Tax Supervisor, Taxpayer Service Division, 1375 Sherman St., Room 200, Denver, CO 80261.

If you have questions regarding gasoline and fuel taxes, you may visit any taxpayer service center, or call (303) 205-8205.

FYIs and commonly used forms are available on the Web at *www.taxcolorado.com*

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.