

ONTARIO TAX BULLETIN

Published by the Ministry of Finance, Motor Fuels and Tobacco Tax Branch

Requirements for Railway Operators in Ontario under the Fuel Tax Act

This bulletin is intended to provide clarification for railway operators in Ontario regarding the requirements of fuel use, registration and reporting under the *Fuel Tax Act* (“FTA”).

Background

- The FTA imposes a tax on fuel used by railway equipment operated on rails in connection with a public transportation system, at a rate of 4.5 cents per litre.
- The FTA prohibits the use of coloured fuel to propel such railway equipment. It however, provides that coloured fuel when used to propel railway equipment is subject to tax at the same rate (4.5 cents per litre).
- Inter-jurisdictional railway operators are required to register as an Interjurisdictional Railway Carrier (“Railway IJC”) under the FTA for the purpose of accounting for tax on the basis of use of fuel in Ontario. A registered “Railway IJC” is issued a Registration Certificate FT 808. Registered Railway IJCs must file a return to report monthly fuel consumption and remit tax at a rate of 4.5 cents per litre of fuel used in Ontario.
- All Canadian jurisdictions require interjurisdictional railways to account for tax based on fuel used in their jurisdiction. While most Canadian jurisdictions including Ontario require the use of clear fuel in locomotives, Quebec and Nova Scotia stipulate that locomotives must use coloured fuel.
- The differing provincial requirements have created operational difficulties for railway IJCs. To comply with the respective provincial requirements, their locomotives would need to carry both clear and coloured fuels in order to comply with the differing provincial requirements.
- Despite Ontario’s and some jurisdictions’ requirements to use clear fuel in locomotives, some interjurisdictional railway companies have been using coloured fuel to power their locomotives. In addition, several local railway companies have also been incorrectly using coloured fuel in their locomotives. Other local railway companies acquire tax exempt clear fuel under a fuel acquisition permit for use in their locomotives.
- To ensure uniformity in the application of the policy on the requirements of fuel use, registration and fuel tax reporting, all railway operators who engage in the commercial transportation of goods or passengers in Ontario must adhere to the following guideline.

Administrative Guideline:

- Every person who engages in the commercial transportation of goods or passengers in and outside Ontario and operates for that purpose railway equipment on rails in connection with and as part of a public transportation system continues to be required to be registered as an “Interjurisdictional Carrier (Railway)”.
- A person who engages in the commercial transportation of goods or passengers exclusively in Ontario must also be registered as an “Interjurisdictional Carrier (Railway)” if it wishes to choose either of reporting methods 1 or 2 below to account for fuel tax based on use.

Note: A railway operator who operates exclusively in Ontario and chooses not to be registered as an “Interjurisdictional Carrier (Railway)” to account for tax based on fuel used, must use clear fuel and pay the full rate of tax (14.3 cents per litre) at the time of purchase. The operator may apply for a refund of the tax over-paid in respect of the clear fuel used in a locomotive.

- All registered Railway IJCs are required to deliver a return to the Motor Fuels and Tobacco Tax Branch in form FT 826 Fuel Tax Return (Railway) on or before the 25th day of each month, with respect to the immediately preceding month, together with the required tax payable.
- Failure to file a return or remit the required tax with the return on or before the due date is subject to a penalty equal to 5% of the tax payable.
- A registered Railway IJC in good standing may elect one of the following methods, but not both, for accounting for tax on fuel used:

Method 1. Carriers may use coloured fuel to power their locomotives. Carriers are required to report their fuel consumption and remit the tax payable monthly on form “FT 826 Fuel Tax Return (Railway)”. The coloured fuel used in a locomotive is subject to tax at a rate of 4.5 cents per litre.

Method 2. Carriers may purchase clear fuel tax-exempt under a Fuel Acquisition Permit issued to them by the Ministry for use to power locomotives. Carriers are required to report their fuel consumption and remit the tax payable monthly on form “FT 826 Fuel Tax Return (Railway)”. The clear fuel used in a locomotive is subject to tax at a rate of 4.5 cents per litre.

- Change of election is permitted only at the time of registration renewal. Since all registration certificates issued to Railway IJCs expire on December 31 each year, registrants who wish to make an election change must submit such request in writing no later than November 1 to effect a change commencing January 1 of the following year.
- As a transitional measure, existing registered railway carriers (those who hold Registration Certificate FT 808 for Railways) are required to advise the Ministry of the method elected in writing on or before June 1, 1999. The effective date for any elected method will be July 1, 1999.
- Railway operators who are not currently registered should contact the Motor Fuels and Tobacco Tax Branch for further information.

You may write to:

Ministry of Finance
Motor Fuels and Tobacco Tax Branch
33 King Street West
Oshawa, Ontario
L1H 8H9

FAX: (905) 436-4511

or Call

(905) 433-6416