

Fuel Retail Dealers Operating On Reserve Land

Motor Fuel Tax Act

Persons who qualify as Indians under the *Indian Act* (Canada) are exempt from provincial consumption taxes on purchases that take place on reserve land (includes designated reserve land). To deliver this exemption from motor fuel tax, the Province of British Columbia has established procedures that enable retailers located on reserve land to purchase and sell tax-exempt fuel products.

This bulletin outlines the procedures for retailers located on reserve land who wish to purchase and sell tax-exempt fuel products.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Motor Fuel Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

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DEFINITIONS

For the purposes of this bulletin, the following definitions apply.

Native Indian: Person who qualifies as an "Indian" under the *Indian Act* (Canada) and who is in possession of a *Certificate of Indian Status* card issued by the federal government. This does not include Métis peoples or Indians from the United States because such persons do not meet the definition of an Indian under the federal legislation.

Retailer: Person who owns and operates a retail outlet located on an Indian reserve from which fuel products are sold at retail.

REQUIREMENTS OF THE *MOTOR FUEL TAX ACT*

The exemption provided under the *Indian Act* (Canada) does not exempt retailers located on reserve land from the requirement to collect and remit tax on sales to non-Indians, nor from other provisions of the *Motor Fuel Tax Act* (British Columbia). In this respect, fuel retailers located on reserve lands have the same obligations under the provincial legislation as all other fuel retailers in British Columbia.

All retail dealers of fuel products are deemed to act as agents for the Minister of Finance. As such, they are required to collect provincial fuel tax on all taxable sales, and to remit the tax to a collector.

For the purposes of collecting and remitting the tax, the wholesalers charge retailers a price that includes an amount equal to the tax due on the subsequent taxable retail sale of the fuel. Retailers reimburse themselves from the proceeds of their taxable sales.

When purchasing fuel for resale, retailers located on reserve land prepay to the wholesaler an amount equal to the tax due on expected taxable sales to non-Indians. However, to serve their native Indian clientele, they may purchase an authorized percentage of their fuel products from

the wholesaler at a price that does not include an amount equal to the tax. This percentage is agreed to by the retailer and the Consumer Taxation Branch, and is based on the percentage of exempt sales that the retailer normally makes to native Indians. The authorized percentage may be adjusted if a change in the percentage of exempt sales emerges over the long term.

Retailers located on reserve land do not prepay an amount equal to the tax on **all** of their fuel purchases. They are therefore appointed as collectors, and are required to complete monthly tax return forms. The completed tax returns are forwarded directly to the Minister of Finance.

The tax return form reconciles the actual volume of fuel that the retailer sold exempt to native Indians with the volume of fuel that the retailer purchased from the wholesaler without paying an amount equal to the tax.

If the volume of fuel sold exempt is less than the volume of exempt fuel purchased from the wholesaler, the retailer must remit the additional tax due, less the allowable commission.

If the volume of fuel sold exempt is more than the volume of exempt fuel purchased from the wholesaler, the retailer may claim a refund for the amount equal to the tax paid by the retailer to the wholesaler on fuel that was subsequently sold exempt.

Please note that failure to comply with the requirements of the *Motor Fuel Tax Act* could result in cancellation of the appointment as a collector.

APPOINTMENT AS A COLLECTOR

To be appointed as a collector, please write to the Director, Consumer Taxation Branch, Fuel and Tobacco Tax Section, Parliament Buildings, Victoria, British Columbia, V8V 2L9, and provide the following information.

- The name of the owner(s) of the retail outlet.
- The name of the Indian Reserve on which the retail outlet is located.
- The street address of the retail outlet (number, street, road, etc.)
- The name and address of the supplier from which the fuel is to be purchased.
- The estimated percentage of exempt fuel sales made to native Indians.

The Consumer Taxation Branch will provide collectors with written notification of their appointment as a collector, a supply of forms for

documenting exempt sales, and a supply of tax return forms for reporting exempt purchases and sales, remitting any tax due, or claiming a refund due.

OBTAINING TAX-EXEMPT FUEL PRODUCTS FOR RESALE

Retail dealers located on reserve land who are appointed as collectors must advise the Consumer Taxation Branch of the name of their wholesale supplier. The wholesaler will receive a letter of authorization from the Consumer Taxation Branch, stating that the retail dealer may purchase a specified percentage of their fuel products at a price that does not include an amount equal to the tax.

The wholesaler may sell the authorized percentage of exempt fuel to the retailer provided that the fuel is delivered to a reserve location, and title to the fuel does not pass to the retailer until the fuel is on a reserve.

This condition must be clearly written on the sales invoice, and the invoice must be signed by the purchaser in confirmation of this condition.

Wholesalers are required to retain copies of the sales invoices and forward them with their monthly tax returns to substantiate non-collection of an amount equal to the tax on such sales.

If the sale does not meet all of the criteria for exemption as outlined above, then the wholesaler must collect an amount equal to the tax due on subsequent taxable retail sales of fuel. Failure to do so may make the wholesaler liable for payment of the amount equal to the tax not collected.

MAKING TAX-EXEMPT RETAIL SALES

When retailers located on reserve land sell fuel to persons claiming exemption as a native Indian or Indian band, the retailer is required to verify the customer's eligibility for exemption by viewing the customer's *Certificate of Indian Status* card. If the purchase is made by a non-Indian on behalf of a band, then the purchaser must have written authorization from the band to act on its behalf.

For each exempt sale, the retailer is required to record the following information on a *Schedule of Sales of Tax-Exempt Fuels to Registered Indians or Indian Bands* form (FIN 412/2). These schedules are provided by the Consumer Taxation Branch.

- The date of the sale.
- The customer's band name and band number, or registry number. If the purchase

is made on behalf of the band, the band's name and number as it appears on the authorization letter from the band, the purchaser's name, and the name of the band official who signed the letter.

- Quantity and type of fuel product purchased exempt from tax.
- Name and signature of the customer.

The above information must be recorded for each exempt sale. If the customer is unable or unwilling to provide this information, the retailer must collect tax on that sale. Failure to do so could make the retailer liable for the tax due.

MAKING TAXABLE RETAIL SALES

Tax at the appropriate rate must be collected on all sales of fuel products to persons who do not qualify as native Indians or who cannot verify their status as native Indians.

The tax rates on fuel products change periodically. [Bulletin MFT 005](#), *Tax Rates on Motor Fuels*, which lists the fuel tax rates, will be forwarded to retailers shortly before new tax rates come into effect. It is important that the correct rate of tax is applied to each taxable sale.

TAX RETURNS

Retailers located on reserve land who are appointed collectors under the *Motor Fuel Tax Act* are required to complete monthly tax return forms and forward the completed forms and any tax due to the Minister of Finance.

A supply of tax return forms entitled *Tax Return - Petroleum Fuel Sales by Retail Dealer Operating on an Indian Reserve* (FIN 412/1) for reporting exempt purchases and sales, and for remitting tax or claiming a refund, is provided to each retailer at the time of appointment as a collector.

Please note that a tax return form must be completed and forwarded to the Consumer Taxation Branch even if the volume of exempt sales equals the volume of exempt fuel purchased during the month.

COMPLETING THE TAX RETURN FORM

Complete the sections for business name, address, telephone number, band name, name of the reserve on which your retail outlet is located, and the tax reporting month. It is important that this information be provided so that the tax return can

be credited to the correct account.

Complete the remaining areas of the form as follows.

Section A:

1. **Total Quantity of Tax-Exempt Fuel Purchased this Month:** For each of the four types of fuel, enter the total number of litres purchased from the wholesaler at a price that does not include an amount equal to the tax due on retail sale.
2. **Total Quantity of Tax-Exempt Sales this Month:** Refer to the *Schedules of Sales of Tax-Exempt Fuels to Registered Indians or Indian Bands* form (FIN 412/2) completed during the reporting month. For each type of fuel, enter the total number of litres sold without collecting tax. These totals are available from the last schedule used during the reporting month.
3. **Difference Between Tax-Exempt Purchases and Tax-Exempt Sales:** For each type of fuel, subtract the amount of exempt sales (line 2) from the amount of exempt purchases (line 1), and enter the resulting amount on line 3 in the appropriate column.

If the figure on line 3 is greater than zero (i.e., tax-exempt purchases exceed tax-exempt sales), copy the amount to line 4 of Section B. If the figure on line 3 is less than zero (i.e., tax-exempt sales exceed tax-exempt purchases), copy the amount to line 9 of Section C.

Section B:

4. **Quantity of Tax-Exempt Fuel Purchased in Excess of Tax-Exempt Sales:** Enter all numbers from line 3 that are greater than zero in the appropriate column. Add the quantities for all types of fuel, and enter the resulting total in the TOTAL column at the far right.
5. **Tax Rate in Effect During the Period:** Enter the appropriate tax rate for the types of fuel sold.
6. **Total Tax Due:** Multiply line 4 times line 5 and enter the result in the appropriate column. Add the total tax due from all fuel types, and enter the resulting total in the TOTAL column at the far right.
7. **Allowable Commission:** Multiply the TOTAL of line 4 by the commission rate, and enter the resulting amount in the TOTAL column at the far right.

8. **Net Tax Due:** Deduct line 7 from the TOTAL in line 6, and enter the result in the TOTAL column. Copy the resulting amount to line 12.

Section C:

9. **Quantity of Tax-Exempt Fuel Sales in Excess of Tax-Exempt Purchases:** Enter all numbers from line 3 that are less than zero in the appropriate column.
10. **Tax Rate in Effect During the Period:** Enter the appropriate tax rate for the types of fuel sold.
11. **Total Refund Amount Due:** Multiply line 9 times line 10, and enter the result in the appropriate column. Add the total refund amount due for all fuel types, and enter the resulting total in the TOTAL column at the far right. Copy the resulting total to line 13.

Section D:

12. **Total Net Tax Due:** Enter the TOTAL from line 8.
13. **Total Refund Due:** Enter the TOTAL from line 11.
14. **Total Tax/Refund Due:** Deduct line 13 from line 12. Put an "X" in the appropriate box.

PAYMENT/REFUND INSTRUCTION AND CERTIFICATION

At the bottom of page 1 of the form:

- indicate whether you are enclosing a payment or claiming a refund, and the amount;
- complete and sign the Certification section.

FORWARDING YOUR TAX RETURN AND PAYMENT

When your tax return is complete, attach the *Schedules of Sales of Tax-Exempt Fuels to Registered Indians or Indian Bands* form (FIN 412/2) completed during the reporting month.

If a refund is due, the Consumer Taxation Branch will issue a cheque shortly after receiving the completed tax return form.

If any tax is due, payment of the tax must accompany the completed tax return. The cheque must be for the amount on line 14 of the tax return. Forward the completed tax return, schedules, and payment to the Consumer Taxation Branch.

The completed tax return form, the applicable schedules of tax-exempt sales (FIN 412/2), and payment of any tax are due by the 15th day following the reporting month. For example, the October tax return, schedules, and payment of tax must be received in a Consumer Taxation Branch office by the 15th of November. If the forms and tax payments are not received by the due date, penalty and interest charges will be applied. In addition, commission is not allowed on overdue returns.

Please note, if you are submitting other tax returns (e.g., social service tax, tobacco tax), please send a separate cheque for each tax return.

NEED MORE INFO?

This bulletin is provided for convenience and guidance. If you still have questions call us at 604 660-4524 in Vancouver or toll-free at 1 877 388-4440 elsewhere in Canada or refer to the legislation.

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.

References: *Motor Fuel Tax Act* (British Columbia); *Indian Act* (Canada), Section 87