

DIVISION 174
FUEL TAX REFUNDS [AND PENALTIES]

735-174-0000

General Provisions for Fuels Tax Refunds

(1) "ODOT Fuels Tax Group" or "Department" means the organizational unit within the Oregon Department of Transportation or its designated agent that is primarily charged with the administration of ORS 319.010 through 319.880 on behalf of the State of Oregon.

(2) Motor Vehicle Fuel -- Gasoline. The Oregon law provides that any person who has purchased motor vehicle fuel and who has paid any tax, either directly or indirectly, levied under the provisions of ORS 319.010 through 319.430, shall be entitled to a refund when such motor vehicle fuel is exported from the state (under certain conditions) or is used by the claimant for certain purposes. To obtain the refund, the claim must be filed within the prescribed time limits in ORS 319.290 on forms supplied by the Department. The claim must be accompanied by the original invoices or reasonable facsimiles approved by the Department, showing purchase of the fuel.

(a) For claims filed after July 1, 2015 using an electronic claim form, invoices may be provided electronically.

(A) for bulk fuel purchases, provide the supplier name, date, gallons, and invoice number

(B) for cardlock purchases, you may attach an electronic copy of your cardlock statement

(C) for individual invoices, you may scan the invoices and attach them to the refund claim form or fax them within 7 days of submitting the claim.

(3) Special fuels -- Diesel Oil, Propane, etc. Refunds of any tax paid on use fuel shall be processed as prescribed in OAR 735-174-0020(2)(j) and subject to the conditions provided in ORS 319.831 and 319.835.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.880

Stats. Implemented: ORS 319.280, 319.320, 319.831, 319.835

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0701; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0010

Tax Refunds on the Use of Gasoline and Other Motor Vehicle Fuels

(1) General Use and Certain Export Claims. Each such refund claim must be made on the current Fuels Tax Refund Claim form as prescribed by the Department for refund claims of motor vehicle fuel for general use or motor vehicle fuel exported in the tank of a motor vehicle when motor vehicle fuel tax is paid to the receiving state or jurisdiction as defined in ORS 319.280 and 319.320.

(2) Aircraft Fuel Use. Each such refund claim must be made on the current Fuels Tax Refund Claim as prescribed by the Department for all refund claims of fuel used in aircraft. The taxes established in ORS 319.020(2) are refundable as provided in ORS 319.330.

(3) Licensed Dealer Claims. Instead of filing refund claims, a licensed dealer in motor vehicle fuel may enter the gallons of motor vehicle fuel used in a refundable manner on forms prescribed by the Department, and include it with the monthly tax report. In doing so, all requirements pertaining to refund claims must be met and subject to limitations in ORS 319.375. Claims based on the export of motor vehicle fuel out of Oregon will be allowed only if the person claiming the refund holds a valid motor vehicle fuel dealer's license, or equivalent, issued by the state, territory, or county to which the motor vehicle fuel is exported and where it is unloaded. The Department may require claimants to submit proof of such a license.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.880

Stats. Implemented: ORS 319.280, 319.330

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 33, f. 9-12-67, ef. 9-13-67; MV 48, f. 10-5-72, ef. 10-15-72; MV 53, f. 2-20-74, ef. 3-11-74; MV 4-1980, f. & ef. 3-4-80; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0706; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0020

Records and Invoice Requirements

(1) A tax refund claimant must retain records to substantiate a claim. Failure of the claimant to maintain required records and provide them for examination by the Department constitutes a waiver of all rights to the refund.

(2) The following rules shall govern records maintained to support refund claims and apply to all fuel maintained in storage other than a fuel can with a capacity of five gallons or less:

(a) The fuel storage tank must be equipped with a properly working metering device or have a consistent method for determining the amount of fuel withdrawn from storage for fuel to be considered for refund. For storage tanks equipped with a metering device, meter readings must be taken and documented each time fuel is dispensed [*and at the end of each month.*]

(b) If more than one storage tank is maintained, tanks must be named or labeled and the invoices must be marked, by the supplier, at the time of delivery to identify the storage tank into which the fuel was delivered and indicate the accurate amount of fuel placed in each tank.

(c) Consumption records must be maintained for all bulk storage tanks regardless of the fuel use. All fuel purchases and distributions must be fully accounted for by detailed withdrawal records, to accurately show the manner in which it was used. This includes monthly meter readings and inventory readings.

(A) Consumption records must be [*submitted with every claim for which*] **made available upon request by the Department when** fuel is used from a bulk storage tank, [*which includes both refundable and non-refundable fuel usage (common storage.) The Department will notify the claimant, in writing, if consumption records are not required to be submitted with a claim.*]

[(B) Consumption records must be made available upon request of the Department for fuel used from a bulk storage tank, which includes only refundable or only non-refundable fuel (separate storage.)]

(B) [(C)] The separate storage method is not a sufficient means to determine refundable and non-refundable usage without the support of consumption records.

(d) Any fuel on hand (by actual measurement) should be deducted from a claim and should be reported as an opening inventory on the next claim. Credit for the inventory will be allowed on the next claim if it is [*postmarked*] **filed** within fifteen months from the [*postmark*] **filing date** of the claim that established the inventory.

(e) Fuel Purchased for Other than Bulk Storage. Motor vehicle fuel purchased in small containers for non-highway use only, should be so identified on the purchase invoice as to the type of container or equipment fueled and include the name or signature of the purchaser.

(f) Fuel purchased at a cardlock. When fuel is purchased at a cardlock and a portion of that fuel is refundable the following conditions must be met:

(A) Cards must be assigned to a specific vehicle and the vehicle plate number, **unit number, or description** must be included on the cardlock statement at the time the statement is produced.

(B) Cards must be assigned to a piece of equipment or group of equipment and that must be indicated on the cardlock statement at the time the statement is produced.

(C) Cards must be assigned to a mobile fuel storage tank that is designated to contain gasoline to fill a group of equipment, and this must be indicated on the cardlock statement at the time the statement is produced. A mobile tank that is fueled at a cardlock is considered to be bulk storage.

(g) Proof of Highway Use. When minimal **or no** non-refundable use deduction, as determined by the Department, is made from invoices attached to the claim, the claimant should be prepared to show

additional invoices or other proof of purchase of public road fuel upon request of the Department. [*When no non-refundable use deduction is made, the claimant must include additional invoices or other proof of purchase of public road fuel, upon request of the Department, when filing the claim;*]

- (A) Proof of non-refundable use includes all fuel purchases for all vehicles registered to the claimant.
- (B) Proof of non-refundable use does not eliminate the requirements to keep and provide, upon request of the Department, consumption records for fuel used from a bulk storage tank that includes fuel used only in a refundable manner.
- (h) Persons claiming a tax refund on motor vehicle fuel exported to another state in the fuel supply tank of a motor vehicle are required to provide the following:
 - (A) Evidence of payment of tax to another state and information for each vehicle showing the source of all motor vehicle fuel used, the total number of miles traveled, and the miles traveled in each state; and
 - (B) Evidence satisfactory to the Department of the amount of motor vehicle fuel that was exported.
- (i) A person or agency who operates a licensed motor vehicle on and off public highways may claim a refund of the Oregon tax on the fuel used to operate the vehicle as designated in ORS 319.320(1) and 319.320(4). The refund can be approved only if the claimant has maintained and provided the following records:
 - (A) The total miles operated as established by a working odometer for each licensed motor vehicle, including private passenger cars during the entire claim period; and
 - (B) The total gallons of fuel used in the vehicle to include both refundable and non-refundable use;
 - (C) The source of the fuel used in the vehicle to include purchase invoices supporting all fuel handled through bulk storage, as well as all fuel purchased at service stations, or received from other sources; and
 - (D) Calculation of highway fuel used for each vehicle, determined by calculating the total miles driven divided by the total gallons of fuel used and applying the resulting miles per gallon to total off road miles.
- (j) Claims covering the operation of unlicensed motor vehicles entirely over roads or property subject to refund are required to establish the source and number of gallons of motor vehicle fuel used by consumption records.
- (k) The claimant must be able to establish to the satisfaction of the Department the amount of fuel used in a refundable manner.

(3) Requirements covering invoices submitted in support of fuel tax refund claims:

- (a) Each invoice, or reasonable facsimile approved by the Department, submitted with a claim must be the original **either physical or electronic form, as** issued at the time of purchase or initial billing.
- (b) Each invoice must show the following:
 - (A) Month, day, and year of sale;
 - (B) Name and complete address of seller (city and state);
 - (C) Purchaser's name (Cash, boat number, etc., will not qualify);
 - (D) Kind of fuel and number of gallons purchased;
 - (E) Price per gallon purchased and dollar amount extended.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.880

Stats. Implemented: ORS 319.280

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0716; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0030

Rules and Special Requirements for Fuel Tax Refunds

(1) Signatures Required on Refund Claims:

- (a) Individuals must sign their own claims;
- (b) A partnership claim may be signed by any one of the partners;
- (c) Claims by business firms or corporations must be signed by an authorized agent;
- (d) Accountants and other persons assisting in preparation of claims must also sign in the space provided.
- (e) An agent may sign on an individual's behalf when a valid power of attorney or guardianship is in effect.
- (f) An executor of a person's estate may sign and make a claim for refund of fuels tax when a current letter of transfer to an estate as prescribed by the Department is provided with the refund claim.

(g) A refund claim, when filed electronically, may be signed with an electronic signature. "Electronic signature" shall have the same meaning and requirements as defined in ORS 84.004(8)

(2) Normally the "Buyer and User" is the person entitled to the refund and is the person or firm named on the invoice. Claims should be made out in the same name as that shown on the invoices. If it is desired to have a claim paid in a name differing from that shown on the purchase invoice, a letter of authorization as prescribed by the Department must be attached and signed by the person to whom the invoice was issued.

(3) Power take-off fuel use in motor vehicles as described in ORS 319.280:

- (a) The refund formula in ORS 319.280(2)(b) does not apply to garbage trucks with power take-off that operates only a dump box, hoist, or other type of lift;
- (b) Claims must be accompanied by valid purchase invoices to cover the total gallons of motor vehicle fuel purchased. Claimant must also maintain records to show the total gallons of motor vehicle fuel used in each vehicle and the total miles operated by each vehicle. Service station purchase invoices should identify each vehicle by showing the vehicle license plate number, **unit number, or description**;
- (c) When motor vehicle fuel is drawn from the claimant's bulk storage, a detailed record must be kept of all withdrawals, together with beginning and ending inventories, so that a complete accounting may be made of all fuel handled;
- (d) A summary, showing beginning inventory, receipts, withdrawals, loss or gain, and ending inventory, is to be shown on the claim form in the space provided;
- (e) Claimants who operate petroleum delivery trucks must maintain records to show the total gallons of petroleum products pumped by each vehicle using power take-off equipment, together with supporting delivery meter readings;
- (f) Each such refund claim must be made on the current Fuels Tax Refund Claim form as prescribed by the Department. This will be in addition to schedules or work sheets required for other refundable use or equipment.

(4) Auxiliary Engines. Fuel used in an auxiliary engine mounted on a licensed motor vehicle (ready mix concrete, refrigeration or air conditioning units, etc.), is considered refundable use if motor vehicle fuel for the auxiliary engine is supplied from a fuel tank, other than the fuel tank that supplies the engine propelling the vehicle. Estimates of refundable use do not qualify for refund. When separate fuel tanks are used, a record of the gallons of fuel delivered into each tank must be kept and purchase invoices covering both tanks must accompany the claim. Motor vehicle fuel used in the operation of an auxiliary engine, mounted on a licensed motor vehicle, supplied from the fuel tank that propels the vehicle, is only considered refundable use if a metering device approved by the Department is used. The metering device must separately measure gallons of fuel used only by the auxiliary engine.

(5) Use or disposition of fuel which is not subject to refund:

- (a) Fuel sold, lost, destroyed, stolen, or given away;
- (b) Fuel used with respect to which payment of tax to the State of Oregon has not been verified;
- (c) Fuel used to operate motor vehicles upon public highways with certain exceptions;
- (d) Fuel used to operate licensed motor vehicles where complete mileage and fuel records required by law and administrative rule are not maintained;
- (e) Motor vehicle fuel used in snowmobiles or other unlicensed motor vehicles, unless operated on private land.
- (f) Fuel used while a vehicle is idling.

Stat. Auth.: ORS 184.616, 184.619 & 319.010 - 319.880

Stats. Implemented: ORS 319.280

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 26, f. 12-8-65; MV 42, f. 8-15-69; MV 45, f. 8-12-70, ef. 9-11-70; MV 53, f. 2-20-74, ef. 3-11-74; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0725; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0035

Additional Information to Substantiate a Refund Claim

- (1) The Department will give a claimant written notice of the need to provide any additional records available as further proof of the validity of the refund claim. The Department will also give a claimant written notice in advance of records that will be required to be maintained and provided to the Department that are not specifically mentioned in statute or administrative rule.
- (2) If the claimant cannot, or refuses to, provide the information required by the Department, the right to the refund is waived.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.880

Stats. Implemented: ORS 319.280

Hist.: DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0040

Tax Refunds on Use of Gasoline and Other Motor Vehicle Fuels in Motor Boats

- (1) The refund of tax on fuel used in motor boats is limited to fuel used for commercial purposes.
- (2) Marked invoices and consumption records, if fueled from a bulk tank, are required to support such claims as prescribed in Administrative Rule 735-174-0020. Invoices must be marked by the supplier at the time of sale with the boat license number **or vessel name** if the fuel is placed directly into the fuel tank of the boat.
- (3) The Department considers the use of fuel in motor boats for commercial purposes to include the following:
 - (a) Commercial fishing.
 - (A) A valid commercial fishing license number must be provided and active for the refund period.
 - (B) A valid boat license number must be provided and active for the refund period. It must be registered to the name of the claimant or a **letter of authorization as prescribed by the Department, signed by the person to whom the invoice was issued must be attached** [*copy of a completed rental agreement must be provided.*]
 - (b) Charter boat operations.
 - (A) A valid commercial charter boat license number must be provided and active for the refund period.
 - (B) A valid boat license number must be provided and active for the refund period. It must be registered to the name of the claimant or a **letter of authorization as prescribed by the Department, signed by the**

person to whom the invoice was issued must be attached [*copy of a completed rental agreement must be provided.*]

(c) Log pond operations.

(d) Mail boat operations.

(e) Tourist boat operations.

(f) Any other type of operation that the Department may determine to be commercial use based on the documentary evidence provided by the claimant.

Stat. Auth.: ORS 184.616, 184.619 & 319.280

Stats. Implemented: ORS 319.280

Hist.: MV 20-1985, f. 12-30-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0735; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0045

Tax Refunds for Use of Gasoline and Other Motor Vehicle Fuels in Aircraft

(1) The refund of tax on gasoline used in aircraft is limited to the person who purchased and used the fuel in an aircraft.

(2) If the aircraft is fueled from a bulk tank, marked invoices and consumption records must support refund claims as prescribed in Administrative Rule 735-174-0020.

(3) A valid tail number must be provided and active for the refund period. It must be registered to the name of the claimant or a **letter of authorization as prescribed by the Department, signed by the person to whom the invoice was issued must be attached** [*copy of a completed rental agreement must be provided.*]

(4) The valid pilot's license number of the claimant must be provided with the claim. A copy of the pilot's license must be provided upon request of the Department.

Stat. Auth.: ORS 184.616, 184.619 & 319.010 - 319.880

Stats. Implemented: ORS 319.280

Hist.: DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-174-0050 [Renumbered to 735-170-0045]

735-174-0060 [Renumbered to 735-170-0130]