
DIVISION 174

FUEL TAX REFUNDS [*AND PENALTIES*]

735-174-0000

General Provisions for Fuels Tax Refunds

(1) "ODOT Fuels Tax Group" means the organizational unit within [*Financial Services, Central Services Division of*] the Oregon Department of Transportation **or its agent** that is primarily charged with the administration of ORS 319.010 through ORS 319.880 on behalf of the State of Oregon **and is hereafter referred to as "Department."**

(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 [*ODOT Fuels Tax Group*]**Department**. The claim must be accompanied by the original invoices or reasonable facsimiles approved by the [*ODOT Fuels Tax Group*]**Department**, showing purchase of the fuel.

(3) Special fuels -- Diesel Oil, Propane, etc. [*Use Claim Form 1200. The Oregon Use Fuel Tax Law, ORS 319.510 through 319.880 authorizes r*]**Refunds** of any tax paid **on use fuel shall be processed** [*in the same manner and subject to substantially the same conditions as is provided for gasoline*]**as prescribed in OAR 735-174-0020(j) and subject to the conditions as provided by ORS 319.831 and 319.835.** [*Vehicles subject to, and for which operators report and pay mileage taxes to the Oregon Department of Transportation in accordance with the weight group rates prescribed in ORS 767.815 through 767.825, are exempt from the use fuel tax and, because no tax is paid, a refund of tax is not applicable.*]

Stat. Auth.: ORS 184.616, 184.619 and 319.010 through 319.880

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

This rule is rewritten in its entirety. Current rule text appears following the proposed language for the reader's convenience.

735-174-0010

(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 for as prescribed by the Department for all refund claims of fuel used in

aircraft. These rates of tax as 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.

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

(1) General Use and Export Claims, Form 1200, shall be used for all claims for export or refundable use defined in ORS 319.280 and 319.320. Claims based on the export of 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 country to which the fuel is exported and where it is unloaded. The ODOT Fuels Tax Group may require claimants to submit proof of such a license.

(2) Aircraft Fuel Use. Form 1203 shall be used for all claims for fuel used in aircraft. Most sellers of aircraft fuel are licensed to acquire and to sell such fuel including only the rates of tax applicable to aircraft fuel provided in ORS 319.020(2). These rates of tax are not refundable except 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 on Form 1306, Miscellaneous Deduction Schedule, included with the monthly tax report Form 1302. In doing so, all requirements pertaining to refund claims must be complied with.]

Stat. Auth.: ORS 184.616, 184.619 and 319.010 through 319.880

Stats. Implemented: ORS 319.280 and 319.330

This rule is rewritten in its entirety. Current rule text appears following the proposed language for the reader's convenience.

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 for fuel to be considered for refund. 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 fuel is used from a bulk storage tank, which includes both refundable and non-refundable fuel usage (common storage.)

(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.)

(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 within fifteen months from the postmark 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;

(A) Cards must be assigned to a specific vehicle and the vehicle plate number 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 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 when filing the claim;

(A) Proof of non-refundable use includes all fuel purchases for all vehicles registered to the claimant or address of 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 both or only refundable or only non-refundable fuel.

(i) Persons claiming 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) Establish to the satisfaction of the Department the amount of motor vehicle fuel that was exported.

(j) 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 is 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; and

(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, is 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.

(k) Claims covering the operation of unlicensed motor vehicles entirely over roads or property subject to refund, the source and number of gallons of motor vehicle fuel used as established by consumption records are required.

(l) 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 issued at the time of purchase, or initial billing.

(b) Each invoice must show the following:

(A) Complete date of sale, month, day, and year;

(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.

[(1) The law requires a claimant to keep records sufficient to substantiate the accuracy of a claim. Failure of the claimant to maintain required records or to allow examination of them constitutes a waiver of all rights to the refund.

(2) The following rules shall govern records maintained to support refund claims:

(a) Highway and Non-Highway Use of Fuel from Common Storage. Fuel purchased and delivered into bulk storage for use in vehicles on public roads and for non-highway use, must be fully accounted for by detail withdrawal records to accurately show the manner in which used. This record must be available for inspection upon request by the ODOT Fuels Tax Group. 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 filed within 15 months from the filing date of the claim which established the inventory. All invoices for the total fuel

purchased must be submitted with each claim. (For an exception see subsection (2)(g) of this rule.) Gasoline Consumption Report, Form 1223, is available upon request for recording fuel withdrawn from bulk storage;

(b) Highway and Non-Highway Use of Fuel from Separate Storage. If separate storage tanks are maintained for non-highway use and for public road use the invoices should be so marked, at the time of delivery, to identify the storage into which the fuel was delivered and no further detail record will be required. Inventories must be reported and all invoices submitted. Fuel may not be used from the "non-highway" tank for licensed vehicles. To do so invalidates this method of determining refundable gallonage;

(c) Use of Fuel from Restricted Use Storage. Special storage facilities in the woods, or in farm fields, or for other uses for certain periods, should be identified and explained. If such storage is used entirely for non-highway purposes (not including licensed vehicles) no record will be required, other than purchase invoices showing delivery into such storage. Inventory at end of claim period should be reported;

(d) Fuel Purchased for Other than Bulk Storage. Fuel purchased in small containers for non-highway use only (boats, tractors, etc.) should be so identified on the purchase invoice and no further record will be required;

(e) Resellers. Service Stations, marinas, etc., must prepare a separate and complete invoice for each withdrawal of fuel for their own use upon which a refund is to be claimed, or a detailed withdrawal record must accompany the claim supported by sufficient purchase invoices to cover gallons claimed. Refund cannot be paid to vendors on sales to others;

(f) Proof of Highway Use. When no highway use deduction is made from invoices attached to the claim, claimant should be prepared to show additional invoices or other proof of purchase of public road fuel upon request of the ODOT Fuels Tax Group;

(g) Persons claiming tax refund on fuel exported to another state in the fuel supply tank of a motor vehicle are not required to attach fuel purchase invoices to the claim:

(A) All such claims must be accompanied by evidence of payment of tax to another state and information for each vehicle showing the source of all fuel used, the total number of miles traveled, and the miles traveled in each state;

(B) When all vehicles operated are similar in size, fleet totals may be used instead of individual vehicle information.

(h) A person or agency, other than a farmer, who operates a motor vehicle on and off the public highway may claim a refund of the Oregon tax on the fuel used to operate the vehicle as is designated in ORS 319.320(1). The refund can be approved only if the claimant has maintained the following records:

(A) The total miles operated on and off the public highways;

(B) The total gallons of fuel used in the vehicle; and

(C) The source of the fuel used in the vehicle.

(i) On claims covering the operation of motor vehicles entirely over roads or property subject to refund, no record will be required other than that necessary to show source and number of gallons of fuel used;

(j) A farmer, as defined by ORS 319.320(4), may claim a refund of the tax on the fuel which is used in a licensed motor vehicle, for farm purposes, when operating over roads or property in private ownership, if required records are maintained. All such claims must be supported by the following information:

(A) *The total number of highway miles operated by each licensed motor vehicle, including private passenger cars;*

(B) *Total gallons of fuel used in each vehicle. To include both refund and non-refund use;*

(C) *Purchase invoices supporting all fuel handled through bulk storage, as well as all fuel purchased at service stations, or received from other sources. Highway use for each vehicle may be determined by actual measurement, or may be computed by dividing the average miles per gallon highway operation consumption rate into the number of highway miles operated.*

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

(a) *Each invoice, or reasonable facsimile approved by the ODOT Fuels Tax Group, submitted with a claim must be the original issued at the time of purchase, (cumulative invoices, statements, or receipts are not acceptable);*

(b) *Each invoice must show the following:*

(A) *Complete date of sale, month, day, and year;*

(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 (Gasoline, pressure appliance fuel, etc.); and*

(E) *Price per gallon purchased and dollar amount extended, clearly indicating that Oregon tax was included in the price.*

(c) *The seller shall void any invoice on which an error has been made. If correction of an invoice is necessary, it should be marked "void", and a new invoice must be issued showing the number and date of the voided or replaced invoice. Both invoices must be submitted with the claim, except when the seller is a licensed dealer in motor vehicle fuel. In that case the voided invoice should be placed on file in the dealer's office where the periodical tax audit is to be made;*

(d) *The original invoice shall be returned to the supplier when fuel is returned for credit. When only a portion of the fuel covered by an invoice is returned and claim for refund of tax is to be made on the unreturned portion, the invoice shall be returned to the seller and a new invoice obtained for the unreturned gallons. The new invoice shall show reference to the number and date of the surrendered invoice.]*

Stat. Auth.: ORS 184.616, 184.619 and 319.010 through 319.880

Stats. Implemented: ORS 319.280

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 of 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.

(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, *[attach]* a letter of authorization *[Form 1209]* **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 *[which]* **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 *[(gasoline)]* 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;

(c) When *[gasoline]* **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) Claimant must also maintain records to show the total gallons of gasoline used in each vehicle and the total miles operated by each vehicle;]

[(f)] **(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;

[(g)] **(f)** Each such refund claim *[is to]* **must** be made on *[Fuels Tax Refund Claim, Form 1200,]* **the current Fuels Tax Refund Claim form as prescribed by the Department.** *[and must be accompanied by Work Sheet, Form 1200-A.]* 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 *[which]* **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 *[no tax has been paid to]* **payment of tax to the [S]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 upon both refundable and nonrefundable roads or property 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 and 319.010 through 319.880
Stats. Implemented: ORS 319.280 and 319.831

New Rule

735-174-0035

Additional Information to Substantiate a Refund Claim

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

Stat. Auth.: ORS 184.616, 184.619 and 319.010 through 319.880
Stat. Imp.: ORS 319.280

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 [boats] **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 if the fuel is placed directly into the fuel tank of the boat.

[(2)](3) The [ODOT Fuels Tax Group] **Department** [shall] consider 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 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 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 [*which*]**that** the [*ODOT Fuels Tax Group*]**Department** may determine to be commercial use **based on the documentary evidence provided by the claimant.**

Stat. Auth.: ORS 184.616, 184.619 and [319.280] **319.010 through 319.880**
Stat. Imp.: ORS 319.280

[735-174-0050

Motor Vehicle Fuel Tax Waiver of Late Payment Penalties

[MV 37-1987, f. 12-7-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0745; Renumbered to OAR 735-170-0045 by DMV 18-2003, f. 12-15-03, cert. ef. 1-1-04]

[735-174-0060

Motor Vehicle Fuel Tax Credit of Interest on Tax Overpayments

[MV 37-1987, f. 12-7-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0755; Renumbered to OAR 735-170-0130 by DMV 18-2003, f. 12-15-03, cert. ef. 1-1-04]

New Rule

735-174-0045

Tax Refunds of 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) Marked invoices and consumption records, if fueled from a bulk tank must support such 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 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 and a copy of the pilot's license must be provided to the Department.

Stat. Auth.: ORS 184.616, 184.619 and 319.010 through 319.880
Stat. Imp.: ORS 319.280