



Georgia Sales and Use Tax Informational Bulletin for Prepaid State Tax on Motor Fuel

Effective January 1, 2004, the 3% Second Motor Fuel Excise Tax and 1% State Tax on the sale of motor fuel will be reported and collected as a "Prepaid State Tax" by licensed motor fuel distributors.

House Bill 43, in relevant part, authorizes a Prepaid State Tax on the sale of motor fuels used on the highway. This tax combines the Second Motor Fuel Excise Tax (3%) and State Sales Tax on motor fuel (1%) that the motor fuel distributor collects at the same time the First Motor Fuel Excise Tax (7 1/2 cents per gallon) is collected. The Prepaid State Tax will be collected based on a cent per gallon rate that is set using a weighted average indexed retail sales price for each type of fuel and will be collected by the distributor at the time the fuel is delivered to anyone that does not have a valid distributor license. The weighted indexed retail sales price will be determined and published in the months of November and May by the Commissioner for use in the subsequent two calendar quarters.

Prepaid State Tax will be reported on the Motor Fuel Distributor report (Form MFD-04) and will satisfy the retail dealer's obligation for the 3% Second Motor Fuel Excise and 1% State taxes on motor fuel sales. Local County sales taxes will continue to be collected, reported and remitted by the retail dealer on the retail sales price to their customer. Local County sales taxes will be reported on the Sales and Use Tax Return (Form ST-3).

Retail dealers will be required to report and remit the Prepaid State Tax to account for their floor stock (fuel inventory) as of the close of business or midnight on December 31, 2003. The Department will be sending a one-time Prepaid State Tax Floor Stock report form to all retail dealers. This form and payment will be due by January 20, 2004 for each individual location selling motor fuel.

House Bill 43 also eliminates the estimated tax requirement from retail dealers who primarily sell motor fuel (greater than 50% of all sales). This adjustment will occur on the December 2003 sales and use tax return and the credit amount should be used against the taxes due for December 2003. Please note that if the estimated tax credit exceeds the tax amount due, a claim for refund will have to be filed to recover the unused portion of the estimated tax.

Beginning with the January 2004 Sales and Use Tax Report form, the 3% Second Motor Fuel Excise Tax (Line 5) and the 1% State Tax on Motor Fuel (Line 6) will be removed.

Frequently Asked Questions and Answers

The following are the most frequently asked questions and responses related to the implementation of the Prepaid State Tax.

1. Does a Distributor or a Retailer have to file a Prepaid State Tax return for Floor Stock on consigned fuel?

Response: A distributor or retail dealer is responsible for filing a Prepaid State Tax return for floor stock if the Motor Fuel Excise Tax (7 1/2 cents per gallon) has already been paid on their inventory as of December 31, 2003. The Floor Stock return is designed to report any fuel and remit the Prepaid State tax on which the excise tax has been paid but not the prepaid state tax.

2. If a distributor makes error on the new reporting form, will the department be lenient on forgiving penalties and interest?

Response: The Department will be reasonable during the implementation period of the new method for reporting this tax. If the distributor has made a good effort, the Department will consider waiving penalties. Interest cannot be waived unless it is shown that the error was as a result of an action or inaction by a staff member of the Department.

3. Is heating oil subject to the Prepaid State Tax?

Response: No. Red dyed heating oil is not considered a motor fuel and is only subject to the State (4%) and Local County Sales and Use taxes.

4. Is high sulfur diesel required to be reported as a motor fuel on a Distributor Tax Return (MFD-04)?

Response: Yes. The fuel must be reported as non-taxable fuel oils - dyed, unless it's used on highway right-of-way projects in which it would be reported as a taxable fuel oil -dyed.

5. Is off -road low sulfur diesel (dyed) subject to the Prepaid State Tax?

Response: Off-road diesel (low sulfur) is not subject to the Prepaid State Tax unless delivered to the State, County or municipal government for highway use, including construction or maintenance of highways. Off-road diesel (low sulfur) is subject to the State (4%) and Local County sales and use taxes when used for off road purposes.

6. When is a distributor responsible to file and remit the Prepaid State Tax on floor stock?

Response: See response for Question #1.

7. How does this change affect the sale of dyed and clear kerosene?

Response: Dyed kerosene is not subject to the Prepaid State Tax, however it is subject to the State and Local County taxes. Dyed kerosene is to be reported as non-taxable fuel oils dyed on the Motor Fuel Distributor's report form (MFD-04).

Clear kerosene is not subject to the Prepaid State Tax if sold from a blocked pump (four post and short hose) or is sold in bulk for home heating purposes. However, it is subject to the State and Local County taxes.

8. Is a distributor required to report each individual motor fuel purchase and sales transaction on the receipts and disbursement schedules?

Response: A licensed distributor must account for all motor fuel sales and uses in Georgia on their receipt and disbursement schedule attached to the motor fuel distributor report (MFD-04). Summary receipts and disbursement information may be reported by account location for a reporting period in lieu of individual transactions. This procedure will be revisited when electronic filing becomes available.

9. If a Georgia licensed distributor purchases motor fuel from a "tax at the rack" state supplier (FL, NC, SC & TN), who is responsible to remit the Prepaid State Tax on such purchases?

Response: After January 1, 2004, the licensed "tax at the rack" supplier must charge the 7½ cents per gallon Excise and the Prepaid State taxes to the Georgia Distributor on all motor fuel purchases with destination state Georgia.

10. If a Georgia Licensed distributor purchases motor fuel from a "tax at the rack" state supplier (FL, NC, SC & TN) and commingles that fuel with non-taxed paid fuel, how do they report and remit the Prepaid State Tax on the floor stock as of December 31, 2003?

Response: The distributor is required to report the Prepaid State Tax for the floor stock based upon an apportioned amount of fuel purchased during that month verses the remaining floor stock inventory as of December 31, 2003.

Example: A Distributor purchased 2,000,000 gallons from a Georgia supplier (Non -Tax Paid) and purchased 4,000,000 gallons from a Florida supplier (Tax Paid) in the month of December 2003. The floor stock as of December 31, 2003 is 1,000,000 gals. The distributor should calculate their Prepaid State Tax on the floor stock as follows:

Georgia Supplier	=	2,000,000	$2,000,000 / 6,000,000 = 33\%$
<u>Florida Supplier</u>	=	<u>4,000,000</u>	$4,000,000 / 6,000,000 = 67\%$
Total Gals purchased	=	6,000,000	

The ratio of fuel purchases between the two suppliers is 33% Georgia and 67% Florida. The distributor will have to declare a floor stock and remit Prepaid State Tax on 67% of the 1,000,000 gals in floor stock as of December 31, 2003 or 670,000 gallons since they had already paid the excise tax on that portion of fuel.

11. Should the Prepaid State Tax be itemized on the purchaser's invoice?

Response: Yes. Both the Prepaid State Tax and the 1st Motor Fuel Excise tax are required to be itemized by fuel type and rate on the purchaser's invoice.

12. Is a holder of a Direct Pay Permit authorization eligible to purchase motor fuel for highway use without the payment of Prepaid State and Local County Taxes?

Response: No. Direct Payment authorizations are not valid when purchasing motor fuel for highway use.

Questions regarding the implementation of the Prepaid State Tax or the answers to the above questions, please contact the Motor Fuel Tax Unit at (404) 417-6701 or the Sales and Use Tax Unit (404) 417-6601.