



# TAX FACTS 99-1

## Hawaii's Fuel Tax

The sale of liquid fuel in Hawaii is subject to several different state taxes. This Tax Facts provides information about the fuel taxes and answers some of the most commonly asked questions about them.

### 1 What is the Hawaii fuel tax?

Hawaii's fuel tax is a tax on distributors for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the State. The tax is also imposed on liquid fuel imported by the distributor, or acquired by the distributor from an unlicensed distributor, and sold or used by the distributor in the State. (§243-4, Hawaii Revised Statutes (HRS)) The environmental response, energy, and food security tax is also a part of Hawaii's fuel tax law. (§243-3.5, HRS)

### 2 What is liquid fuel?

Liquid fuel means all liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power including liquefied petroleum gases (LPG), natural gas, coal, coal tar, vegetable ferments, and all distillates of and condensates from petroleum. Distillates and condensates include, but are not limited to, gasoline, naphtha, benzol, benzine, and alcohols. Liquid fuel includes aviation fuel. (§243-1, HRS)

### 3 How much is the fuel tax?

The fuel tax has three parts, a state fuel tax, a county fuel tax, and the environmental response, energy, and food security tax.

The rates of the state tax are set by legislation. The rate depends on the type of fuel (such as diesel, gasoline, or alternative fuel) and the use of the fuel (on highway or off highway).

The county tax rates vary by county and are set by county ordinance. Like the state tax, the rates for the counties' tax rates are based on the type of fuel and its use. (§243-4, HRS)

Both the State and the counties tax alternative fuels differently from other liquid fuels. The tax rate for an alternative fuel is set as a percentage of the tax rate on diesel oil. Alternative fuels include biodiesel, ethanol, methanol, and LPG.

The environmental response, energy, and food security tax is \$1.05 per barrel (42 U.S. gallons) of petroleum product, and \$0.19 per million British thermal units of fossil fuel, sold by a distributor to any retail dealer or end user other than a refiner. (§243-3.5, HRS)

When the fuel tax rates change, the Department of Taxation (DOTAX) issues an announcement showing the new fuel tax rates.

### 4 Who pays the fuel tax?

The distributor pays the fuel tax. The distributor may pass the tax on to the customer.

### 5 Who is a distributor?

The fuel tax law defines a distributor to be:

- Every person who refines, manufactures, produces, or compounds liquid fuel in the State, and sells or uses the fuel in the State;
- Every person who imports or causes to be imported into the State any liquid fuel or fossil fuel and sells or uses the fuel in the State;
- Every person who acquires liquid fuel or fossil fuel from a person not a licensed distributor and sells or uses the fuel; and
- Every person who acquires liquid fuel or fossil fuel from a licensed distributor as a wholesaler thereof and sells or uses the fuel. (§243-1, HRS)

### 6 Must the distributor register and be licensed?

Yes. Hawaii's fuel tax law requires that distributors be licensed. (§243-2, HRS)

Distributors must complete Form BB-1, State of Hawaii Basic Business Application, and check the box for "Liquid Fuel Distributor." The license is valid until revoked. There is no fee for the license.

### 7 Who is a retail dealer?

A retail dealer is a person who purchases liquid fuel from a licensed distributor and sells the liquid fuel at retail. Only sales of liquid fuel for consumption or use by the purchaser are retail sales. (§243-1, HRS)

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For more information, visit the Department of Taxation's website at [tax.hawaii.gov](http://tax.hawaii.gov)

## 8 Do retail dealers need to register?

A retail dealer can get a liquid fuel retail dealer's permit, but it is not required. To apply for a permit, check the box for "Liquid Fuel Retail Dealer" on Form BB-1 and pay a \$5 annual permit fee. The permit is valid for the calendar year and must be renewed every year. The Department sends out renewal notices to each registered retail dealer before the end of the year. (§243-3, HRS)

## 9 What if a retail dealer does not register and get a permit?

The distributor cannot get the evaporation allowance for fuel sold to a retail dealer who does not have a permit. The evaporation allowance entitles distributors to deduct one gallon for every 99 gallons of fuel sold by a retail dealer in computing the distributor's tax liability. The distributor passes the tax savings on to the retail dealer. (§243-3 (a), HRS)

## 10 Do gasoline stations on military bases have to get a retail dealer's permit?

No. However, if they don't get a permit, the distributor cannot take the evaporation allowance on fuel sold to them. (See question 9.)

## 11 If a distributor operates a gasoline station, is a retail dealer permit required?

No. The distributor would report retail sales of the gasoline station on the fuel tax return. The retail sales would already account for any evaporation.

## 12 Is a car rental company that sells gasoline for its rental cars a retail dealer?

Yes. A car rental company purchases its gasoline from a licensed distributor and sells the gasoline to its customers at retail, so it qualifies as a retail dealer.

## 13 How do the distributors know how much fuel the retail dealers sold?

The retail dealer provides the distributor with Form M-2, Certificate of Retail Sales of Liquid Fuel, reporting the number of gallons of fuel sold for the month. (§243-3(f), HRS) The certificate is invalid if the retail dealer does not have a permit. (§243-3(a), HRS) Distributors must attach a copy of Form M-2 from each retail dealer to their monthly fuel tax returns.

## 14 How do distributors report and pay the fuel tax?

Distributors file returns and pay fuel taxes monthly. (There is no annual fuel tax return.) The fuel tax return and payment are due by the 20th day of each month following the period of the distributor's sales. The fuel tax is reported by filing the following forms:

**Form M-20A**, Monthly Return of Liquid Fuel Tax (State and County) and Environmental Response, Energy and Food Security Tax, and

**Form M-2**, Certificate of Retail Sales of Liquid Fuel. The retail dealer completes page 1 and submits it to the distributor. The distributor completes page 2 to compute the evaporation deduction and reports the deductions in Part IV of Form M-20A. Form M-2 is attached to the Distributor's monthly fuel tax return.

## 15 What is the purpose of all of the information reported on the fuel tax forms?

The information on the fuel tax forms is used to determine the distributor's tax liability and the counties' shares of the taxes collected, and to provide information on fuel consumption.

## 16 How long must records be kept?

Records must be kept for five years. (§243-9, HRS)

## 17 Do distributors pay the general excise tax (GET) on the amount passed on for the fuel tax?

No. Amounts collected for state, county, or federal fuel taxes should be shown as a deduction on the distributor's GET return. (§237-24(8), HRS)

## 18 Can distributors or retail dealers get an evaporation allowance on their GET return?

No. There is no deduction or exemption for an evaporation allowance on the GET return.

## 19 Do retail dealers pay GET on the fuel taxes that are included in the sales price of the gasoline?

No. Amounts collected for state, county, or federal fuel taxes should be shown as a deduction on the retail dealer's GET return. (§237-24(8), HRS)

## 20 What are the exemptions from fuel tax?

Exemptions from the fuel tax include the following:

- Sales to another licensed distributor. (§243-7, HRS)
- Liquid fuel exported or sold to the federal government for official government use. (§243-7, HRS)
- Imports in interstate or foreign commerce while and so long as such fuel is beyond the taxing power of the State (such as in a foreign trade zone or sales of bonded aviation fuel to air carriers arriving from or going to a foreign port). (§243-7, HRS)
- Taxes on liquid fuel (except one cent per gallon on gasoline or diesel oil) are not applicable for fuel used for agricultural equipment that does not operate on public highways of the State. (§243-4(a), HRS)
- Diesel oil used to operate motor vehicles off public highways is taxed at one cent per gallon. (§243-4(b), HRS)

## 21 Are sales made through military exchanges, ship stores, and commissaries subject to the fuel tax?

Yes. Although exchanges, ship stores, and commissaries are considered to be instrumentalities of the federal government, the United States Congress has allowed states to tax the sale of fuel made through these entities when the fuel is used for other than official government use. (4 U.S.C.A. 104)

## 22 Are sales to federal, state, or county governments subject to fuel tax?

Sales of liquid fuel to the federal government for official government use are not subject to the fuel tax. (§243-7, HRS) However, sales to state and county governments are subject to the tax.

## 23 If I have trucks and equipment operating only on the job site, am I allowed a refund of fuel taxes?

Yes. However, the refund is available only for diesel oil or alternative fuels. There is no refund if the vehicles and equipment use other fuels, such as gasoline.

Complete Form M-36, Combined Claim for Refund of Fuel Taxes Under Chapter 243, HRS, to apply for a refund for fuel taxes paid on alternative fuels or in excess of one cent per gallon on diesel oil. Records must be kept to prove that the fuel tax was previously paid and that the fuel was used off public highways. A log can be used to determine what is used on or off public highways.

Complete Form M-38, Exemption Certificate, for purchases of diesel oil or of alternative fuels made directly from distributors. Distributors would then adjust their fuel taxes accordingly.

File Form M-22, Quarterly Tax Return for Additional Fuel Taxes Due, to pay tax for fuel that was initially purchased for use off public highways, but was later used on public highways.

## 24 As a farmer, am I allowed a refund of the tax paid on fuel used in my tractor and other agricultural equipment?

Yes. Complete Form M-36 to get a refund of excess fuel taxes paid (see question 20). You must have records to prove your taxed fuel purchases and your off-highway use of the fuel.

If you purchase diesel oil or alternative fuel directly from a distributor for off-highway use, you may provide the distributor with Form M-38. The distributor should not include the excess fuel taxes in the cost to you. If you subsequently use some of the fuel on the public highways, you must file Form M-22 with DOTAX to pay the fuel tax on this fuel.

## 25 Why is fuel used on public highways taxed differently from fuel used off public highways?

Vehicles using public highways wear down streets, roads and highways. The taxes collected for fuel used on public highways are deposited into the state and county highway funds. The funds are used to pay for the operation, maintenance and repair of the state and county streets, roads, and highways. (§§243-6, 248-8, 248-9, HRS)

## **26** What liquid fuel tax rate applies to a distributor who sells aviation fuel to the airlines?

Distributors selling gasoline or other aviation fuel for use in airplanes are taxed at the rate of one cent per gallon, unless the fuel is bonded. Bonded fuel is imported under federal customs bond (customs duties are not paid on the fuel) and it can only be sold to aircrafts arriving from or going to a foreign location.

## **27** If I pay the fuel tax, must I pay the environmental response, energy, and food security tax?

Yes. The environmental response, energy, and food security tax is in addition to any other taxes imposed on the sale of fuel. It is imposed on each barrel or fraction of a barrel of petroleum product (except aviation fuel), and on each million British thermal units of fossil fuel, sold by a distributor.

## **28** Am I subject to the environmental response, energy, and food security tax if I am not a distributor?

No. The petroleum products must be sold by a distributor for the tax to be imposed.

### **Where to Get Forms and Information**

Website: [tax.hawaii.gov](http://tax.hawaii.gov)

Telephone: 808-587-4242

Toll-Free: 1-800-222-3229

Telephone for the hearing impaired: 808-587-1418

Toll-Free for the hearing impaired: 1-800-887-8974

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