

Title 36: TAXATION
Part 5: MOTOR FUEL TAXES
Chapter 459: SPECIAL FUEL TAX ACT

§3203. Tax levied; consignment sales; credited to Highway Fund; allowance for losses

1. Generally.

[2009, c. 496, §18 (RP) .]

1-A. Special biodiesel rate.

[2005, c. 677, Pt. A, §1 (NEW); MRSA T. 36, §3203, sub-§1-A (RP) .]

1-B. Generally; rates. Except as provided in section 3204-A, beginning July 1, 2008 and ending June 30, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 29.6¢ per gallon. Beginning July 1, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 30.7¢ per gallon. Tax rates for each gallon of low-energy fuel are based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as based on gasoline gallon equivalents or the comparable measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel that equals the BTU energy content of one gallon of gasoline. In the case of distillates, the tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321. For purposes of this subsection, "base rate" means the rate in effect for gasoline or diesel on July 1st of each year as indexed under section 3321. A biodiesel blend containing less than 90% biodiesel fuel is subject to the rate of tax imposed on diesel.

A. This paragraph establishes the applicable BTU values and tax rates based on gasoline gallon equivalents.

Fuel type based on gasoline	BTU content per gallon or gasoline gallon equivalent	Tax rate formula (BTU value fuel/BTU value gasoline) x base rate gasoline
Gasoline	115,000	100% x base rate
Propane	84,500	73% x base rate
Compressed Natural Gas (CNG)	115,000	100% x base rate
Methanol	56,800	49% x base rate
Ethanol	76,000	66% x base rate
Hydrogen	115,000	100% x base rate
Hydrogen Compressed Natural Gas	115,000	100% x base rate

[2007, c. 650, §2 (NEW).]

B. This paragraph establishes the applicable BTU values and tax rates based on distillate gallon equivalents.

Fuel type based on diesel	BTU content per gallon or gallon equivalent	Tax rate formula (BTU value fuel/BTU value diesel) x base rate diesel
Diesel	128,400	100% x base rate

Liquefied Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

[2011, c. 240, §25 (AMD).]

C. The conversion factors established in this paragraph must be used in converting to gasoline gallon equivalents.

(1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and there are 123.66 standard cubic feet per gasoline gallon equivalent.

(2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are 425.93 standard cubic feet per gasoline gallon equivalent.

(3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent. [2007, c. 650, §2 (NEW).]

[2011, c. 240, §25 (AMD) .]

2. Legal incidence of tax. Special fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer, and other persons levied and assessed pursuant to this chapter are agents of the State for the collection of the tax. The supplier and retailer are primarily responsible for paying the tax. When a supplier sells and delivers to a licensed exporter wholly for exportation from the State or to another supplier in the State, the purchasing supplier is primarily responsible for paying the tax. If a supplier or retailer includes the tax on a bill to a customer, it must be shown as a separate line item and identified as "Maine special fuel tax."

[2007, c. 693, §23 (AMD) .]

3. Delivery by supplier or retailer. When distillates are delivered by a supplier to a consumer or to a retail outlet, those distillates are deemed to have been sold within the meaning of this chapter, even if the retail outlet is owned in whole or in part by the supplier.

[2007, c. 438, §75 (AMD) .]

4. Highway Fund. All taxes and fines collected under this chapter must be credited to the Highway Fund, except that beginning July 1, 2009 the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax imposed under subsection 1-B.

[2009, c. 496, §19 (AMD) .]

5. Allowance for certain losses of undyed distillates. An allowance of not more than 1/4 of 1% from the amount of undyed distillates received by a licensed supplier, plus 1/4 of 1% on all transfers in vessels, tank cars or full tank truck loads by the licensed supplier in the regular course of business from one of the licensed supplier's places of business to another of the licensed supplier's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the licensed supplier. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1/2 of 1% of the receipts by the licensed supplier. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

[2009, c. 434, §50 (AMD) .]

6. Allowance for certain losses of propane. An allowance of not more than 1% from the amount of propane received by the retailer may be allowed by the assessor to cover the loss through

shrinkage, evaporation or handling sustained by the retailer. The total allowance for these losses must be supported by documentation satisfactory to the assessor. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

[2007, c. 438, §76 (AMD) .]

SECTION HISTORY

1983, c. 94, §§D6,9 (NEW). 1983, c. 817, §7 (RPR). 1983, c. 828, §8 (AMD). 1987, c. 402, §A185 (RPR). 1987, c. 793, §A12 (AMD). 1991, c. 529, §D5 (AMD). 1991, c. 529, §E (AFF). 1991, c. 592, §D5 (AMD). 1995, c. 271, §5 (RPR). 1997, c. 262, §1 (AMD). 1997, c. 738, §10 (RPR). 1999, c. 414, §27 (AMD). 1999, c. 473, §B3 (AMD). 1999, c. 473, §B5 (AFF). 1999, c. 733, §§4-6 (AMD). 1999, c. 733, §17 (AFF). 2001, c. 396, §28 (AMD). 2001, c. 688, §5 (AMD). 2005, c. 677, §A1 (AMD). 2007, c. 438, §§75, 76 (AMD). 2007, c. 470, Pt. E, §2 (AMD). 2007, c. 538, Pt. L, §2 (AMD). 2007, c. 627, §81 (AMD). 2007, c. 650, §§1, 2 (AMD). 2007, c. 693, §23 (AMD). 2009, c. 413, Pt. W, §2 (AMD). 2009, c. 413, Pt. W, §6 (AFF). 2009, c. 434, §50 (AMD). 2009, c. 496, §§18, 19 (AMD). 2011, c. 240, §25 (AMD). MRSA T.36, §3203, sub-§1-A (AMD).