

MOTOR VEHICLE FUEL TAX
Chapter 82.36 RCW

Tax Base Each gallon of motor vehicle fuel which is imported, produced, or delivered from a "terminal rack" in the state. A terminal rack is the platform or bay at which motor vehicle fuel from a refinery or terminal is delivered into trucks, trailers, or rail cars. The term motor vehicle fuel includes gasoline and other inflammable gas or liquids that are used to propel motor vehicles or boats, except that it does not include special fuels such as diesel and propane which are subject to the special fuel tax.

Tax Rate 37.5 cents per gallon.

The federal government also taxes motor vehicle fuel at 18.4 cents per gallon and diesel fuel at 24.4 cents per gallon.

Levied by State

Counties. An additional gas tax is authorized for counties or regional transportation investment districts (RTIDs) for local transportation purposes (RCWs 82.80.010, 82.80.110, and 82.80.120). The maximum rate is 10 percent of the state tax (i.e., currently 3.4 cents per gallon) and the tax must be approved by the voters. The local taxes under RCWs 82.80.010 and 82.80.110 are to be administered by the Department of Revenue, rather than the Department of Licensing. Administration of the local tax for an RTID (RCW 82.80.120) was shifted from the Department of Revenue to the Department of Licensing in 2006. Any local taxes pursuant to these statutes are to be added to the state tax rate. This authority was instituted in 1990 and broadened in 2003, but no county or RTID has yet adopted such a local gas tax.

Border area cities. Per chapter 82.47 RCW, adopted in 1991, cities that are located within ten miles of an international border crossing or transit districts that include such a border crossing may levy an additional local gas tax. The maximum rate is one cent per gallon, and the receipts must be devoted to street improvements. Such a tax would be locally administered. To date, this tax has been imposed by the cities of Blaine, Sumas, and Nooksack and the Point Roberts transit district.

Administration

Department of Licensing (or Department of Revenue for the 3.4 cent local tax levied by counties). Suppliers, importers, blenders, and licensed exporters of motor vehicle fuel must file a monthly report indicating the number of gallons of fuel produced, removed from terminal facilities, imported into the state, or exported from Washington (by licensed exporters) and include payment of the tax. The

report is due by the 25th of the following month. If the amount of tax due equals \$50,000 or more, payment must be made by electronic funds transfer which is due by the 26th day of the following month.

The amounts of state (and federal) gas taxes are passed on to retailers and are included in the pump price paid by consumers. Persons who use motor vehicle fuel off of the public highways may claim a refund of the gas tax. However, retail sales tax is deducted from the amount of the refund.

Recent Collections (\$000)

<u>Fiscal Year</u>	<u>Collections</u>	<u>% Change</u>	<u>% of All State Taxes</u>
2009	\$965,761	1.8%	6.2%
2008	949,099	4.0	5.6
2007	912,688	8.5	5.4
2006	841,009	11.7	5.5
2005	753,068	2.6	5.5
2004	734,091	19.5	5.6
2003	614,473	1.3	5.1
2002	606,497	(0.9)	5.1
2001	611,723	(3.8)	5.2
2000	636,198	8.4	5.4

Exemptions and Refunds

- for motor fuel suppliers acting as distributors, 0.0025 per gallon, for all other licensees 0.0031 of the net gallonage may be deducted for losses in handling;
- fuel sold to foreign diplomatic and consular missions;
- fuel used exclusively for racing, if it is illegal to use the fuel on public highways;
- refund for fuel used in pumping fuel by a power take-off unit;
- refund for fuel used for auxiliary equipment not used for motive power;
- refund for urban transportation systems;
- refund for marine and other nonhighway uses of motor vehicle fuel;*
- refund for nonprofit providers of transportation to persons with special needs;
- refund for fuel used in manufacturing, cleaning, and dyeing;*
- refund for exported fuel;
- refund for fuel lost or destroyed due to fire, flood, leakage, etc.;
- credit for suppliers who fail to receive consideration from purchasers.

*NOTE: Motor vehicle fuel that is used in this state for nonhighway purposes is subject to retail sales and use tax. The appropriate amount of state and local sales/use tax is applied to such fuel and deducted from the amount of motor vehicle fuel tax to be refunded to off-highway users.

Distribution of Receipts

Distribution of the motor vehicle fuel and special fuel taxes is accomplished according to complex formulas. Various transportation programs receive dedicated portions of the tax pursuant to statute. Distribution of revenues is specified in RCW 46.68.090, which is summarized below:

23 CENTS OF THE 37.5 CENT TAX (after payment of refunds and admin. expenses):

44.387%	motor vehicle fund for state highway purposes
3.2609%	Special Category "C" projects requiring bond financing
2.3283%	Puget Sound ferry operations
2.3726%	Puget Sound ferry capital construction account
7.5597%	Urban arterial trust account
5.6739%	Transportation improvement account for projects in urban areas
10.6961%	Distribution to cities and towns
19.2287%	Distribution to counties
1.9565%	County arterial preservation account
2.5363%	Rural arterial trust account

5 CENTS OF THE 37.5 CENT TAX (from 2003 rate increase):

100.0%	Dedicated to bond retirement for the transportation projects authorized in 2003.
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6 CENTS OF THE 37.5 CENT TAX (from 2005 and 2006 rate increases):

8.3333%	Cities and towns, for use per RCW 46.68.110
8.3333%	Counties, for use per RCW 46.68.120
83.3334%	Transportation partnership account, for use per RCW 46.68.290

3.5 CENTS OF THE 37.5 CENT TAX (from 2007 and 2008 rate increases):

100.0%	Transportation partnership account, for use per RCW 46.68.290
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History

Adopted in 1921 at a rate of 1 cent per gallon, this is the third oldest state tax (apart from the property tax), after the insurance premiums and inheritance taxes. Rate changes occurred as follows:

1921 - 1 cents	1967 - 9 cents	1990 - 22 cents
1924 - 2 "	1977 - 11 "	1991 - 23 "
1929 - 3 "	1979 - 12 "	2003 - 28 "
1931 - 4 "	1981 - 13.5 "	2005 - 31 "
1933 - 5 "	1982 - 12 "	2006 - 34 "
1949 - 6.5 "	1883 - 16 "	2007 - 36 "
1961 - 7.5 "	1984 - 18 "	2008 - 37.5 "

Refunds for off-highway use were established in 1933. From 1935 until 1947 a tax on fuel oil of one-quarter cent per gallon was collected. The 18th amendment, requiring dedication of gas tax revenues for roads, was adopted in 1944. From 1978 until 1983, the tax rate fluctuated according to the average price of fuel and highway budget needs. Initially the rate could range between 9 and 12 cents, then from 12 to 16 cents. The variable rate was repealed in 1983. In 1979, the Legislature authorized a local gas tax for the city of Seattle for construction of the West Seattle bridge, but this authority was never utilized and it expired on June 30, 1985. In 1990, enabling legislation for county gas taxes was approved, and in 1991 the border areas tax of 1 cent was authorized.

In 1998 the statute was largely rewritten to shift the burden of reporting gas tax from distributors to the owner of the fuel at the time it was initially delivered from a refinery or terminal facility in the state. This new tax "at the rack" is intended to reduce evasion of motor vehicle fuel tax and reduce compliance costs by greatly reducing the number of taxpayers that are liable for reporting the tax.

In 2003, the local gas tax statute equal to 10 percent of the state tax rate was allowed to be levied by counties that are included in a regional transportation investment district or the RTID itself. The legislation transferred responsibility for administration of such a local gas tax from the Department of Licensing to the Department of Revenue; this was reversed in 2006 for a local gas tax imposed by an RTID (but not a county gas tax).

Discussion/Major Issues

The motor vehicle fuel tax is a major revenue source in Washington, ranking fourth in collections after the retail sales tax, the B&O tax, and the state property tax levy. Administratively, it is inexpensive to collect, since only a small number of taxpayers report and pay the tax.

Compared with other states, Washington's 37.5 cent gas tax rate is currently the highest in the country; followed by West Virginia (32.2 cents); Rhode Island (32 cents); Pennsylvania (31.2 cents); and Wisconsin (30.9 cents). In eight states, motor vehicle fuel is subject to sales tax in addition to the fuel tax.

Pursuant to the 18th amendment to the State Constitution approved by the voters in 1944, motor vehicle fuel tax revenues, along with other vehicle-related fees, may be used only for highway purposes. This is the largest tax source that is "earmarked" for a specific governmental expenditure program. (Arguably, the state property tax levy is similarly devoted to a particular program, K-12 education.) Earmarking does guarantee a certain level of funding to the specified program. However, it tends to remove the favored program from the scrutiny which other programs receive through the executive and legislative budget process. Over time, needs change and earmarking may make it more difficult for policy makers to properly consider and debate the needs of all governmental expenditures.

The motor vehicle fuel tax is levied on volume rather than price. Thus, receipts are influenced by consumption patterns more than changes in the retail selling price. As the average fuel efficiency of vehicles rises, gas tax revenues tend to fall, or at least increase at a lesser rate. Similarly, the tax fails to take advantage of inflationary increases in fuel prices.

Motor vehicle fuel represents one of the largest categories of tangible goods purchased by consumers in Washington which is not subject to retail sales tax. In theory, the sales tax is intended to be a broad-based tax on consumption; its receipts are devoted to the state general fund, to be used for general purposes as decided by the Legislature during the biennial budget process. Excluding motor vehicle fuel from sales tax not only artificially restricts the base of the sales tax but also deprives the general fund of a major source of revenue. There are examples of other products which are subject to excise taxes at both the wholesale and retail level (e.g., cigarettes).

Legislation in 2009 directed DOL to study the possibility of transferring administration of the motor fuel taxes to the Department of Revenue. After consulting with DOR, a final report by DOL was due to the Legislature by November 1, 2009. The report recommended that DOL retain their current administrative responsibilities.