

## SUPPLIER (SHIPPER)

A Supplier is a person that owns motor fuel or special fuel in the pipeline and terminal distribution system in this state and makes sales or authorizes the removal of this fuel from the terminal at the rack. A Supplier is also the person who owns fuel in the pipeline immediately before it is withdrawn at the terminal rack. Anyone selling fuel from the rack must have a valid South Dakota Supplier's license. At the time of sale, the Supplier applies fuel tax to the fuel and is then responsible for remitting that tax to the state. The Supplier also collects and remits the tank inspection fee.

Any person meeting the definition of a Supplier as listed above and operating from a terminal located outside of South Dakota may voluntarily become licensed as a Supplier. These Suppliers are required to remit tax to South Dakota on any fuel removed from an out-of-state terminal if the bill of lading issued by the Terminal Operator indicates South Dakota as the destination state.

### Selling Ethanol Blends and Methanol Blends

With the 2009 South Dakota Legislative Session, it was decided to tax all Ethyl Alcohol and Methyl Alcohol at the rate of \$.08 per gallon plus the \$.02 per gallon Tank Inspection Fee. This was done because of various levels of ethanol blends now seen in the industry.

**If a Supplier sells an ethanol blend or methanol blend, the invoice must list the alcohol gallons and gasoline gallons separately.**

### Natural Gasoline Sales

Suppliers selling natural gasoline from South Dakota terminals are required to collect and remit \$0.22 per gallon fuel excise tax, as well as the \$.02 per gallon Tank Inspection Fee.

### Exceptions for the Collection of Fuel Taxes

The Supplier is not obligated to collect the South Dakota fuel tax in the following instances:

- Sales made to a licensed Exporter when the sale is made from a South Dakota terminal and the destination listed on the bill of lading indicates a state other than South Dakota;
- Sales of dyed diesel or dyed biodiesel;
- Product authorizations, two party exchanges or book transfers of product with other licensed South Dakota Suppliers within the terminal (In these instances the receiving Supplier or Partner is responsible for collecting and remitting the taxes and TI fees to South Dakota);
- Sales made at the rack to the U.S. Government and the Defense Fuel Supply Center;
- Sales of unblended biodiesel to a licensed Blender or a licensed Supplier for resale over the terminal rack; and
- Sales of unblended biodiesel to a licensed importer when South Dakota is listed as the destination state on the bill of lading (The Importer must also be licensed as a Blender).

Certain penalties may be assessed on any licensed Supplier that authorizes sales of motor fuel or special fuel for export from a South Dakota terminal to a person who does not have a valid South Dakota Exporter's license.

### Diversions Tickets

Instead of preparing diverted load tickets as required by law, some licensees have been informing Suppliers of changes in destination thus forcing the Supplier to amend their tax returns, seek refunds and reimburse the purchaser for taxes and tank inspection fees that might have been collected for the fuel.

South Dakota relies on the information that is printed on the bill of lading to determine taxability of fuel products. The Supplier must bill the customer in accordance with the destination information that is presented on the bill of lading, and their involvement with the transaction is to end there.

If a shipment of motor fuel or special fuel needs to be legitimately diverted from the represented destination state after the bill of lading has been issued by the terminal operator, bulk plant operator or transporter, or where the issuer failed to cause proper information to be printed on the document, the Transporter shall issue a diversion ticket for the shipment, or partial shipment, and the Consignee is to report the diversion, pay any additional taxes due or file for any refunds or credits due on their tax return.

### Prior Period Adjustments

All fuel transactions must be reported, taxes paid to South Dakota or refunds claimed during the period in which they occur, prior period adjustments are not allowed. For example: if a sale of fuel takes place on July 31st the Supplier is not allowed to delay the reporting of that transaction until the August or September reporting period. The transaction must be reported on the July tax return. If a transaction occurs at the end of the month and is not reported on that month's tax return, the Supplier is to amend the tax return, report the additional transaction on it and fill out the Summary for Amending Tax Returns form (see appendix) for that reporting period.

### Ethyl Alcohol and Methyl Alcohol

All Suppliers selling 100% ethyl alcohol (ethanol) and/or 100% methyl alcohol (methanol) are required to collect and remit .08 cents per gallon fuel excise tax, plus .02 cents per gallon tank inspection fee on all sales of these products on forms provided by the Department.

If a Supplier purchases ethyl alcohol directly from an Ethanol Producer and delivers directly to a terminal for resale, the fuel excise tax and Tank Inspection Fee will not be charged.

However, if a Supplier purchases ethyl alcohol from a marketing company, the \$.08 per gallon fuel excise tax plus the \$.02 per gallon Tank Inspection Fee will be charged to the Supplier. Once the Supplier resells the fuel from a terminal, a credit can be taken on Line 6 of the Supplier tax return.

## Record Keeping/Acceptable Records

To ensure that the correct amount of fuel tax is collected on all fuel used on South Dakota roads and highways, the law requires Suppliers to keep detailed records of all fuel transactions and deliveries. Suppliers will need these records to accurately complete tax returns and must present them to Department personnel if they are audited or have their licenses reviewed. Records are to be maintained for a period of at least 30 days at the delivery location or a location approved by the Secretary. All records must be preserved for the current year and the three preceding calendar years.

## Fuel Sales, Purchase and Shipping Records

Licensed Suppliers must keep all sales and purchase invoices in either their original format, through film retrieval or electronic media. They must also maintain shipping records that indicate the destination state for all products sold. The Consignee must also be identified on all bills of lading. The titles "Unlisted" and/or "Unknown" are not acceptable names for the Consignee listed on the bill of lading, since the Supplier should know who is purchasing the fuel. If a shipment is going to multiple locations in a state, the title "Various" may be used on the bill of lading to identify destination cities, but the titles "Unlisted" and/or "Unknown" are not acceptable. Bills of lading will also be retained in their original format, film retrieval or electronic media.

The Supplier and the Terminal Operator are entitled to rely on the truthfulness of the representation made by the Transporter or the Transporter's agent as to the destination state the Terminal Operator prints on the bill of lading. A petroex or similar number may not be relied upon by the Terminal Operator or Supplier as a representation of a destination state.

## Other Records Required of Suppliers

Licensed Suppliers must maintain bills of lading that contain:

- The terminal or bulk plant name and address;
- The date the fuel was withdrawn from the terminal;
- The name and address of the Supplier, shipper, or owner of fuel within a bulk plant if withdrawn from a bulk plant;
- The name of the Transporter or carrier;
- The destination state. A petroex or similar number does not fulfill this requirement;
- The bill of lading number;
- The number of gross gallons of each type of fuel;
- The type of fuel product transported;
- If the fuel contains ethyl alcohol or methyl alcohol, the number of gallons of ethyl alcohol, the number of gallons of methyl alcohol, the number of gallons of gasoline, or the number of gallons of any other motor fuel that are contained therein;
- The name and address of the consignee; and
- Any other information which the Secretary deems necessary for the administration and enforcement of this chapter.

The Secretary of Revenue & Regulation may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records.

### Payment and Reporting Schedule

All fuel tax due from a Supplier must be remitted to the Department of Revenue & Regulation on or before the last day of the month following the month in which the fuel was sold. A monthly tax return must be submitted at the same time. For example, a Supplier would remit all tax collected in September by October 31st. If the last day of the month falls on a Sunday or legal holiday, the tax and report are due on the next business day.

Customers who purchase fuel from a licensed Supplier at the terminal rack may delay payment to the Supplier in an amount equal to the tax and the tank inspection fee. The tax liability must be made to the Supplier by the 28th day of the month following the month in which the transaction took place, except the month of February which will be due on the 27th day of the month in which the tax is due and payable by the Supplier. The Supplier may not require payment before that date. (Example: a customer who purchases fuel in September must pay the fuel tax due to the Supplier by October 28th.)

### Supplier Uniform Schedules of Disbursements

Uniform Schedules of Disbursements are required to be filed by Suppliers with each monthly tax return. The schedule must show each individual transaction that takes place during the month. In lieu of the form that is provided by the Department for filing this schedule, the Supplier may elect to file it electronically in an Excel format or in a file that can be converted to Excel. If you wish to do this, please contact one of the fuel tax agents listed in the front part of this manual to make arrangements.

### Allowances

Suppliers who properly remit tax as discussed earlier are allowed to retain an amount equal to two and one-fourth percent (2.25 percent) of the tax due on each gallon of fuel withdrawn from the rack. The Supplier may keep one-third of this amount (.75 percent) to help offset the administrative expenses involved in reporting and remitting taxes. The remaining two-thirds (1.5 percent) is passed on to the customer who withdrew the fuel from the terminal rack.

If a Supplier is late in submitting the monthly return or remitting the taxes due, the Supplier may not retain any of the 2.25 percent allowance. If customers are late in paying the fuel tax owed to the Supplier, the Supplier may retain the entire 2.25 percent allowance.

### Refunds

If a licensed Supplier sells fuel to a customer who fails to pay the required fuel tax, the Supplier may apply for a refund of those fuel taxes from the state by filing an Affidavit for Bad Debt Loss. The state will then make an assessment and seek to collect the taxes from the Supplier's delinquent customer. A Supplier is eligible for a refund of the taxes not paid

by a particular customer only once every three years. The Supplier is responsible for all taxes due from the customer on any subsequent sales during the three years after the claimed delinquency.

The Department will notify all Suppliers that a customer has been delinquent and is not entitled to delayed payment of fuel tax for the next three years. The Department will also advise Suppliers that no further refunds of delinquent taxes will be made on any sales to this customer during the three-year period.



# Fuel Supplier Tax Return (In-State and Out-of-State)

|                           |                            |
|---------------------------|----------------------------|
| <b>Pipeline Reporting</b> |                            |
| Mail                      | Remittance Center          |
| Return to:                | P.O. Box 5055              |
|                           | Sioux Falls, SD 57117-5055 |

(Pipeline reporting only. This return is not for reporting own truck transports or rail movement.)

Report in Whole **Gross** Gallons Only

Check here if this is an amended return

| SALES *Instructions on Back of Return |                                      | Column A<br>Gasoline | Column B<br>100% Ethyl<br>Alcohol | Column C<br>AVGAS | Column D<br>Dyed Diesel<br>& Kerosene | Column E<br>Undyed Diesel<br>& Kerosene | Column F<br>Jet<br>Fuel | Column G<br>Dyed Bio-Diesel<br>Blend | Column H<br>Undyed Bio-Diesel<br>Blend | Column I<br>100% Methyl<br>Alcohol | Column J<br>Other /Natural<br>Gasoline |
|---------------------------------------|--------------------------------------|----------------------|-----------------------------------|-------------------|---------------------------------------|---|-------------------------|--------------------------------------|--|------------------------------------|--|
| <b>1</b>                              | Withdrawn from SD Pipeline           | <b>1</b>             |                                   |                   |                                       |   |                         |                                      |  |                                    |  |
| <b>2</b>                              | Withdrawn from Out-of-state Pipeline | <b>2</b>             |                                   |                   |                                       |   |                         |                                      |  |                                    |  |
| <b>3</b>                              | Total Sales -- Add Lines 1 and 2     | <b>3</b>             |                                   |                   |                                       |   |                         |                                      |  |                                    |  |

**CREDITS**

|          |   |          |  |  |  |  |  |  |  |  |  |
|----------|---|----------|--|--|--|--|--|--|--|--|--|
| <b>4</b> | Sold to US Government                     | <b>4</b> |  |  |  |  |  |  |  |  |  |
| <b>5</b> | Sold to Licensed Exporter                 | <b>5</b> |  |  |  |  |  |  |  |  |  |
| <b>6</b> | Ethyl Alcohol & Methyl Alcohol            | <b>6</b> |  |  |  |  |  |  |  |  |  |
| <b>7</b> | Undyed K-1 Kerosene                       | <b>7</b> |  |  |  |  |  |  |  |  |  |
| <b>8</b> | Total Credits -- Add lines 4, 5, 6, and 7 | <b>8</b> |  |  |  |  |  |  |  |  |  |

**TAX COMPUTATION**

|           |  |           |          |          |          |          |          |          |          |          |          |          |
|-----------|--|-----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| <b>9</b>  | Subtotal Taxable Gallons -- Subtract Line 8 from Line 3    | <b>9</b>  |          |          |          |          |          |          |          |          |          |          |
| <b>10</b> | Allowance (If filing on time) -- Multiply Line 9 by 0.0225 | <b>10</b> |          |          |          |          |          |          |          |          |          |          |
| <b>11</b> | Total Taxable Gallons -- Subtract Line 10 from Line 9      | <b>11</b> |          |          |          |          |          |          |          |          |          |          |
| <b>12</b> | Tax Rates  | <b>12</b> | X \$0.22 | X \$0.08 | X \$0.06 | X \$0.00 | X \$0.22 | X \$0.04 | X \$0.00 | X \$0.22 | X \$0.08 | X \$0.22 |
| <b>13</b> | Taxes Due -Multiply Line 11 by Line 12                     | <b>13</b> | \$       | \$       | \$       | \$       | \$       | \$       | \$       | \$       | \$       |          |
| <b>14</b> | Total All Taxes Due -- Add Columns A Through J on Line 13  | <b>14</b> |          |          |          |          |          |          |          |          |          | \$       |

**TANK INSPECTION FEE**

|           |  |           |    |
|-----------|--|-----------|----|
| <b>15</b> | Total Gallons -- Add Columns A through J on Line 9                               | <b>15</b> |    |
| <b>16</b> | Total Gallons Sold to Governmental Entities -- Add Columns A through J on Line 4 | <b>16</b> |    |
| <b>17</b> | Total Gallons of Undyed K-1 Kerosene -- Column E on Line 7                       | <b>17</b> |    |
| <b>18</b> | Subtotal Tank Inspection Fee Gallons -- Add Line 15, 16, and 17                  | <b>18</b> |    |
| <b>19</b> | Tank Inspection Fee -- Multiply Line 18 by \$0.02                                | <b>19</b> | \$ |

**TAXES AND FEES DUE**

|           |  |           |    |
|-----------|--|-----------|----|
| <b>20</b> | Total Taxes and Fees Due -- Add Line 14 and 19   | <b>20</b> | \$ |
| <b>21</b> | Interest and Penalty (If filing after due date)  | <b>21</b> | \$ |
| <b>22</b> | Balance Due or Credit From Prior Reporting Period (See Computer Notice)                              | <b>22</b> | \$ |
| <b>23</b> | Grand Total -- Add Lines 20 and 21, and add or subtract line 22 (Depending on balance due or credit) | <b>23</b> | \$ |

I declare and affirm under penalty of perjury that this report has been examined by me, and to the best of my knowledge and belief is in all things true and correct.

|   |           |       |      |
|---|-----------|-------|------|
| Check if final return and license is to be cancelled <input type="checkbox"/> | Signature | Title | Date |
|---|-----------|-------|------|

## Supplier Return Instructions

1. Report total gallons withdrawn from pipeline(s) located within South Dakota – Attach Uniform Schedule of Disbursements Type 5.
2. Out of state Suppliers report total gallons of fuel withdrawn from pipeline(s) outside South Dakota with a South Dakota destination on the bill of lading – Attach Uniform Schedule of Disbursements Type 5.
3. Total sales – Add Lines 1 and 2.
4. Report total gallons withdrawn and sold to a U.S. governmental entity directly from the pipeline(s) – Attach Uniform Schedule of Disbursements Type 8.
5. Report total gallons withdrawn from pipeline(s) located in South Dakota and sold to licensed Exporters for an out of state destination – Attach Uniform Schedule of Disbursements Type 6a.
6. Report total gallons of 100% ethyl alcohol and 100% methyl alcohol previously taxed – Attach Uniform Schedule of Disbursements Type 5.
7. Report total gallons of K-1 kerosene sold for non-taxable purposes – Attach Uniform Schedule of Disbursements Type 10.
8. Total credits – Add Lines 4, 5, 6 and 7.
9. Subtotal taxable gallons – Subtract Line 8 from Line 3.
10. Supplier Allowance – Multiply Line 9 by 2.25% if filing on time.
11. Total taxable gallons – Subtract Line 10 from Line 9.
12. Tax rates.
13. Taxes due – Multiply Line 11 by Line 12.
14. Total taxes due – Add Columns A through J on Line 13.
15. Total gallons – Add Columns A through J on Line 9.
16. Total gallons sold to U.S. governmental entities – Add Columns A through J on Line 4.
17. Total gallons of Undyed K-1 kerosene – Column E Line 7.
18. Subtotal Tank Inspection Fee gallons – Add Lines 15, 16 and 17.
19. Tank Inspection Fee – Multiply Line 18 by \$.02.
20. Total Taxes and Fees due – Add Lines 14 and 19.
21. Interest and Penalty. Interest is calculated at 1.25% per month. First month is \$5 or 1.25%, whichever is greater. Penalty is calculated at 10% or \$10, whichever is greater, for filing a return late even if no tax is due.
22. Balance Due or Credit from prior reporting periods (See computer notice).
23. Total Taxes and Fees for this reporting period – Add Lines 20, 21 and add or subtract Line 22 (depending on balance due or credit).