



*This publication provides general information and is not meant to be a substitute for tax laws or regulations.*

Motor Fuel Excise Tax will be collected at the terminal rack or upon import of motor fuel into West Virginia (also referred to as “Rack Tax” or “Tax at the Rack”).

The Motor Fuel Excise Tax consists of a flat rate component and a variable rate component. The flat rate component is 20.5 cents per gallon. The variable rate is subject to change annually. The variable component is restricted to no more than 5% of the average wholesale price. The variable rate may not be less than 15.2 cents per gallon.

Before conducting any motor fuel business in West Virginia, you must apply for and receive a West Virginia Business Registration Certificate and a West Virginia Motor Fuel Excise Tax License. The civil penalty for operating without a license is \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation. As part of the application process, a bond may be required as follows:

Businesses that are not required by the state to bond when applying *may* be required bond in cases of a failure to comply with reporting and filing requirements.

Organizations with a good filing record for at least 18 months *may* not be required to post a bond. In addition, bond requirements may be adjusted based on an organization’s net worth as follows:

- \$5 million net worth – no bond requirement
- \$2.5 million net worth – waive ½ the bond requirement
- \$1.25 million net worth – waive ¼ the bond requirement

When allowed by Code, bonds will be combined.

| TYPE  | BOND REQUIREMENT        | BOND MINIMUM | BOND MAXIMUM |
|---|-------------------------|--------------|--------------|
| Supplier/Refiner  |                         | \$100,000    | \$2 million  |
| Permissive Supplier   |                         | \$100,000    | \$2 million  |
| Importer (Does <u>Not</u> Purchase from Supplier/Permissive Supplier) |                         | \$100,000    | \$2 million  |
| Importer (Does Purchase from Supplier/Permissive Supplier)            | 3 months' tax liability | \$2,000      | \$300,000    |
| Exporter  | 3 months' tax liability | \$2,000      | \$300,000    |
| Terminal Operator   |                         | \$100,000    | \$2 million  |
| Blender   | 3 months' tax liability | \$2,000      | \$300,000    |
| Motor Fuel Transporter  | No Bond Required        |              |              |
| Distributor   | 3 months' tax liability | \$2,000      | \$300,000    |
| Alternative Fuel Bulk End User  | No Bond Required        |              |              |
| Producer/Manufacturer   | No Bond Required        |              |              |
| Provider of Alternative Fuel  | No Bond Required        |              |              |
| Retailer of Alternative Fuel  | No Bond Required        |              |              |

Licensees are required to file monthly reports and remit payment on or before the last day of the calendar month for any preceding month. An exception applies to Alternative Fuel Bulk End Users, Providers of Alternative Fuel and Retailers of Alternative Fuel which must file annually. Distributor licensees are only required to file when there is taxable activity to report.

**Discounts**

A supplier or permissive supplier who timely files and remits the amount of tax due *may subtract an administrative discount* not to exceed one tenth of one percent of the tax due. The discount may not exceed \$5,000 per month.

When a permissive supplier or supplier sells fuel to a licensed distributor, the permissive supplier or supplier *may deduct from the tax due* a discount equal to three fourths of one percent of the tax due.

**Refunds**

Governmental agencies must first pay the motor fuel tax and then apply for a refund of the tax paid on motor fuel used by the governmental agency.

For off-highway refunds, refer to the Motor Fuel Refund Instructions at [tax.wv.gov](http://tax.wv.gov)

Beginning on January 1, 2018, a refundable exemption exists for all gallons of motor fuel sold for use or consumed in railroad diesel locomotives not to exceed an aggregate amount of \$4,300,000 in any year for all taxpayers claiming the exemption. If the claims exceed \$4,300,000 in any year, the refundable exemption shall be distributed proportionately to the taxpayers submitting claims.

A “**Supplier**” is a person that is: (1) subject to WV’s tax jurisdiction, (2) registered under Section 4101 of the IRC for transactions in motor fuel in the bulk transfer/terminal distribution system, **and** (3) Either a position holder in a terminal or refinery in WV and possibly another state as well, or a person who receives motor fuel in WV pursuant to a two-party exchange.

A “**Permissive Supplier**” is a person who may not be subject to WV’s taxing jurisdiction but is: (1) registered under Section 4101 of the IRC for transactions in motor fuel in the bulk transfer/terminal distribution system, **and** (2) a position holder located *only* in another state or is a person who receives motor fuel in WV pursuant to a two-party exchange.

A “**Distributor**” is a person who acquires motor fuel from a licensed supplier, permissive supplier or from another licensed distributor for subsequent sale or use.

The current year rates, forms, and filing requirements can be found at [tax.wv.gov](http://tax.wv.gov)

Exemptions to the Motor Fuel Excise Tax can be found at W. Va. Code §11-14C-9.

### Dyed Diesel Fuel

The Motor Fuel Excise Tax prohibits the use of dyed diesel fuel in any vehicle that is licensed for use on public highways. “Dyed diesel fuel” means diesel fuel that meets the dyeing and marking requirements of Section 4082, Title 26, United States Code, regardless of how the diesel fuel was dyed. **There are no exceptions.**

Farm use vehicles exempt from registration, as well as mobile (“Class M”) equipment, are prohibited from having dyed diesel in the supply tank. **Fuel used to power off-highway equipment must be stored in a separate tank.**

Criminal Investigation officers may stop, inspect and issue citations to operators of motor vehicles found to be in violation of this code. Any vehicle that is inspected and contains visible presence of dye is subject to a penalty of ten (\$10.00) dollars per gallon of fuel capacity of the fuel tank(s) or one thousand (\$1,000.00) dollars, whichever is greater. Refusal to allow an officer to check the fuel supply tank of a motor vehicle is subject to a civil penalty of five thousand (\$5,000.00) dollars in addition to any other penalty imposed by code. Any person who attempts to evade paying this tax is guilty of a misdemeanor and subject to conviction.

**If the following criteria are met, the qualified motor vehicles must be registered with West Virginia IFTA:**

(1) A WV based interstate motor carrier (the qualified motor vehicles are registered in WV) traveling in WV in addition to at least one other IFTA jurisdiction per year.

(2) The qualified motor vehicles travel on WV highways.

A qualified motor vehicle is defined under R245 of IFTA’s Articles of Agreement and can be found [online here](#).

**For more information, you can:**

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email [taxhelp@wv.gov](mailto:taxhelp@wv.gov)
- Go Online to [tax.wv.gov](http://tax.wv.gov)

### International Fuel Tax Agreement

The International Fuel Tax Agreement (IFTA) is a base-state fuel tax agreement among jurisdictions to simplify the mileage reporting and fuel taxes by interstate traveling motor carriers. **You may not have IFTA registration with West Virginia and another jurisdiction.**

Upon application and approval, the West Virginia Department of Motor Vehicles (WV DMV) will issue credentials, decals, and license, which will allow the IFTA licensee to travel in all IFTA jurisdictions. If the application is correct, the account is in good standing, and appropriate decal fees are paid, then the fuel tax credentials can be issued and renewed annually. There is no fee for the application or the license.

**If the motor vehicle does not leave West Virginia, it is not eligible to register for IFTA. For vehicles that do not leave West Virginia, the motor carrier must contact the WV DMV to obtain WV Motor Carrier Road Tax decals.**

IFTA requires penalties for failure to file, late filing or underpayment of taxes. The minimum penalty is \$50.00 per month, or 10% of the total tax liability, whichever is greater. The \$50.00 penalty will also be assessed on late returns that are filed with a credit balance. Interest will be charged on all late taxes due to each jurisdiction. Annual IFTA interest rates can be located at [iftach.org](http://iftach.org). IFTA charges a full month of interest for each month or part of a month when the report is late.

**Failure to file required fuel tax form(s) will result in license revocation, making travel illegal for the motor carrier in all IFTA member jurisdictions.** All IFTA member jurisdictions and law enforcement agencies **will be notified** of this action.

Any IFTA-related registration, certificate, license, or permit can be revoked or suspended. Anyone who fails or refuses to report or provide payment may be fined, imprisoned or both. Anyone who commits fraud on any application, report or claim for refund may be fined, imprisoned or both.