



# Guideline

## Motor Fuel Tax Tribal Agreements

The State of North Dakota has entered into Motor Fuel Tax agreements with several Native American Tribes located within the state. These agreements provide for the single administration of the collection and distribution of motor fuel taxes on behalf of the State and the Tribes for fuel sales within the boundaries of the reservations. The tax rates for motor fuel sales are consistent both on and off the reservation. The distribution of the tax is based on the official United States census of Native Americans who are enrolled Tribal members, Native Americans that are not enrolled, and non-Native Americans residing on the reservations. The assumptions in the agreements are:

- A Native American enrolled on the reservation where fuel is purchased is paying the Tribal Tax
- A Native American that is not enrolled on the reservation where fuel is purchased is paying the State Tax
- A non-Native American is paying the State Tax

Motor fuel tax collected on fuel sales at a retail station on a reservation are distributed between the State and the respective Tribe based on the population census. Bulk sales delivered to a consumer on a participating reservation are subject to the appropriate tax based on a member or non-member status.

The motor fuel taxes subject to Tribal agreements are administered by the North Dakota Office of State Tax Commissioner. All fuel dealers conducting business on the reservation must apply for a Tribal motor fuel license with the State Tax Commissioner; this is in addition to the requirements for a State motor fuel license. A Tribal motor fuel tax license is required when conducting any of the following fuel activity on a reservation with a fuel agreement in effect:

- Retail stations located on a reservation
- *Fuel dealers located either on or off the reservation* supplying retail locations located on the reservation
- *Fuel dealers located either on or off the reservation* supplying bulk sales to consumers on the reservation who are enrolled Tribal members

### Tax Rates:

1. North Dakota motor fuel taxes apply to all consumer sales *unless tribal tax or an exemption is applicable*. The tax rate for both motor vehicle fuel and special fuel used in a licensed vehicle is \$.23 per gallon. Special fuel (dyed) used in equipment for agricultural or industrial purposes is taxed at \$.04 per gallon. Special fuel (dyed) used for heating fuel is tax-free.
2. Tribal tax applies to all retail sales on the reservations. The tax rate for both motor vehicle fuel and special fuel used in a licensed vehicle is \$.23 per gallon. Dyed fuel is not subject to Tribal tax.

**Motor Vehicle Fuel Bulk Sales: (Including but not limited to gasoline, gasohol, and E85.)****1. A bulk sale to a Native American enrolled on the reservation of delivery.**

- a. The North Dakota motor vehicle fuel tax does not apply.
- b. Tribal motor vehicle fuel tax applies when the fuel is used in a licensed vehicle.
- c. An enrolled Native American consumer may obtain a refund of tax paid for fuel used in non-licensed equipment for an agricultural or industrial purpose.

**2. A bulk sale to the Tribal Government for use in tribally owned vehicles, licensed or non-licensed.**

- a. The North Dakota motor vehicle fuel tax does not apply.
- b. The Tribal motor vehicle fuel tax does not apply.

The Tribal Government may obtain a refund of tax charged in error.

**3. A bulk sale on the reservation to a Native American that is not enrolled on the reservation of delivery, or a non-Native American consumer.**

- a. The North Dakota motor vehicle fuel tax applies.
- b. The Tribal motor vehicle fuel tax does not apply.

The consumer may obtain a refund of the state tax used in non-licensed equipment for industrial or agricultural purposes.

**Special Fuels Bulk Sales: (Including but not limited to dyed and undyed diesel and kerosene.)****1. A bulk sale of undyed fuel to a Native American enrolled on the reservation of delivery.**

- a. The North Dakota special fuel tax does not apply.
- b. The Tribal special fuel tax applies when the fuel is used in a licensed vehicle.
- c. An enrolled Native American consumer may obtain a refund of tax paid for fuel used in non-licensed equipment for an agricultural or industrial purpose.

**2. A bulk sale of dyed fuel to a Native American enrolled on the reservation of delivery.**

- a. The North Dakota special fuel tax does not apply.
- b. The Tribal special fuel tax does not apply.

The enrolled Native American consumer may obtain a refund of tax charged in error.

**3. A bulk sale to the Tribal Government for use in tribally owned vehicles, licensed or non-licensed.**

- a. The North Dakota special fuel tax does not apply.
- b. The Tribal special fuel tax does not apply.

The Tribal Government may obtain a refund of tax charged in error.

**4. A bulk sale of undyed fuel to a Native American that is not enrolled on the reservation of delivery, or a non-Native American consumer.**

- a. The North Dakota special fuel tax of \$.23 per gallon applies.
- b. The Tribal special fuel tax does not apply.

**5. A bulk sale of dyed fuel to a Native American that is not enrolled on the reservation of delivery, or a non-Native American consumer.**

- a. The North Dakota special fuel excise tax of \$.04 per gallon applies when used for industrial or agricultural purposes. Special fuel (dyed) used for heating fuel is tax-free.
- b. The Tribal special fuel tax does not apply.