

## Sales to Status Indians and Indian Bands, and the Exempt Fuel Retailer Program

*Motor Fuel Tax Act and Carbon Tax Act*

**Are you a fuel seller and need to know when you can sell fuel exempt of tax to status Indians and Indian bands?**

**Do you sell fuel from a physical location, such as a retail gas station, on reserve land to status Indians and Indian bands, and want to know if you qualify for the Exempt Fuel Retailer Program?**

This bulletin provides specific tax information to help fuel sellers understand how the motor fuel tax and carbon tax apply on sales to status Indians and Indian bands. This bulletin also explains when fuel sellers may qualify for, and how to register as, an exempt fuel retailer under the Exempt Fuel Retailer Program.

For general information for all fuel sellers, such as the different registration requirements and fuel seller classifications, please see [Bulletin MFT-CT 001, Fuel Sellers](#).

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## Definitions

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An **eligible purchaser** is:

- a person who qualifies as an Indian under the *Indian Act* (Canada), **or**
- a person who makes a purchase on behalf of a band that qualifies as a band under the *Indian Act* (Canada).

The following **do not** meet the definition of an eligible purchaser:

- Métis peoples, Inuit or Indians from the United States, as they do not meet the definition of an Indian under the *Indian Act* (Canada),
- corporations or cooperatives with Indian shareholders, tribal councils and band-empowered entities, as they do not qualify as Indians under the *Indian Act* (Canada),
- effective June 1, 2008, Nisga'a citizens, Nisga'a bands and any other purchaser, including eligible purchasers, buying fuel on Nisga'a lands. Nisga'a citizens are Nisga'a individuals included in the Nisga'a Final Agreement. Under the Nisga'a Final Agreement, Nisga'a lands are not considered reserve lands, and
- effective April 3, 2009, Tsawwassen First nation band. Under the Tsawwassen First Nation Agreement, Tsawwassen First Nation band ceased to be an Indian band as defined under the *Indian Act* (Canada) and Tsawwassen lands are not considered reserve lands.

**Exempt fuel retailer (EFR)** is a fuel seller who operates on reserve land and has received authorization from the ministry to purchase gasoline and/or diesel fuel exempt of security under the Exempt Fuel Retailer Program.

**Reserve land** is land that qualifies as a reserve or designated land under the *Indian Act* (Canada).

**Please note:** Although Tsawwassen First Nation band pays motor fuel tax and carbon tax, individual Tsawwassen members who have a valid *Certificate of Indian Status Card* are still exempt from motor fuel tax and carbon tax for purchases made on reserve until April 30, 2017. Tsawwassen lands that were formerly reserve lands are treated as reserve lands for this purpose for the same period.

Under certain circumstances, Nisga'a Nation and Tsawwassen First Nation government bodies may apply for a refund of motor fuel tax paid. The refund does not apply to carbon tax. For more information, please see [Bulletin GEN 013](#), *Provincial Taxes on Nisga'a Lands* and [Notice 2009-003](#), *Sales to Tsawwassen First Nation Customers*.

## **Sales to Eligible Purchasers**

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Eligible purchasers are exempt from motor fuel and/or carbon tax when the sale takes place on reserve land. A sale is considered to take place on reserve land when:

- the fuel seller and eligible purchaser are physically located on reserve land, e.g. a retail gas station, **or**
- the fuel seller is located off reserve land, but a condition of the sale is that the eligible purchaser takes possession of the fuel, by way of delivery, on reserve land.

### **Exempt Sale Procedures**

When you sell fuel to an eligible purchaser on reserve land, you must verify that the purchaser is eligible to purchase fuel exempt of tax. To verify the purchasers' eligibility, the purchaser must possess and physically present you with their *Certificate of Indian Status* card.

If the purchaser is purchasing the fuel on behalf of a band, you must verify that the purchaser is eligible to purchase the fuel exempt of tax on behalf of the band. To verify the purchasers' eligibility, the purchaser must provide you with written authorization from the band.

For each exempt sale, you must record all of the following information.

- The date of the sale.
- The purchaser's name, band name and number, or registry number as shown on the *Certificate of Indian Status* card. If the purchase is made on behalf of a band, the purchaser's name, the band's name and number as it appears on the authorization letter from the band, and the name of the band official who signed the letter.
- The quantity and type of fuel sold exempt of tax.
- The location of the reserve land where the exempt fuel was sold. If the fuel seller is not located on reserve land, a statement that as a condition of the sale the fuel is to be delivered by the fuel seller into a receptacle located on reserve land.
- The purchaser's signature confirming the above information.

If you are a fuel seller who operates at a physical location on reserve land, e.g. a retail gas station, you must record the above information on the *Schedule of Sales of Tax-Exempt Fuels to Indians or Indian Bands* form ([FIN 412/2](#)). If you operate off reserve land, but deliver gasoline or diesel fuel to the home of an eligible purchaser on reserve land, you must record the above information on each purchaser's sales invoice.

If you cannot collect and record the above information, you must collect the motor fuel and/or carbon tax from the purchaser. If the purchaser claims they are purchasing fuel

on behalf of a friend or family member who is an eligible purchaser, but the purchaser does not possess a *Certificate of Indian Status* card in their own name, you must collect the motor fuel and/or carbon tax.

If you are required to collect the tax, as in the situations above, and your customer claims they are eligible for exemption, they may apply to the ministry for a refund. To apply for a refund of motor fuel tax paid, they submit an *Application for Refund of Motor Fuel Tax - Purchaser of Fuel* form ([FIN 147](#)). To apply for a refund of carbon tax paid, they submit an *Application for Refund of Carbon Tax - Purchaser of Fuel* form ([FIN 108](#)).

**Please note:** If you are a fuel seller who operates at a physical location on reserve land, you may qualify to purchase a portion of your fuel exempt of security under the Exempt Fuel Retail Program (see the section below, Exempt Fuel Retailer Program).

## **Refunds of Security Paid**

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Deputy collectors and retail dealers are required to pay a security equal to the amount of tax that would have been collected if the fuel was sold to an end purchaser.

If you are a deputy collector and you sell fuel exempt of security to an EFR, or you are a retail dealer and you sell fuel exempt of tax to an eligible purchaser, you may apply for a refund of the security you paid. The refund amount is based on the difference between the amount of security you paid on the fuel and the amount of security or tax you collected. For information on how to claim a refund, please see [Bulletin MFT-CT 001](#), *Fuel Sellers*.

## **Exempt Fuel Retailer Program**

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The EFR Program was introduced to allow retailers to purchase fuel exempt of security that is resold tax-exempt to eligible purchasers.

As an EFR, you are authorized to purchase a specified percentage of certain types of fuel exempt of security. Your specified percentage is based on the tax-exempt sales that you normally make to eligible purchasers. The specified percentage may vary by the type of fuel and may be adjusted if a change in your percentage of tax-exempt sales emerges over a longer term.

### **How to Apply**

You may apply to the ministry to register as an EFR, if you:

- sell gasoline and/or diesel fuel from a physical location on reserve land (a retail gas station or an unmanned location, e.g. cardlock or keylock), and

- sell at least 10% of your gasoline and/or diesel fuel exempt of tax to eligible purchasers.

To apply for registration as an EFR, you need to complete an *Application for Registration as an Exempt Sale Retail Dealer (ESRD) and/or Exempt Fuel Retailer (EFR)* form (**FIN 262**) for each physical location that you operate on reserve land.

If you are conditionally approved as an EFR, the ministry will send you two copies of a draft agreement outlining the duties and conditions of your registration. If you agree with the duties and conditions, you must sign and return both copies of the agreement to the ministry. The ministry will return one copy of the agreement to you for your records along with:

- an *Exempt Fuel Retailer Permit* with your name, address and permit number, as well as the type(s) of fuel and specified percentage of each type of fuel that you can purchase exempt of security, and
- tax return forms and information you need to report and remit tax.

If you are not approved as an EFR, the ministry will send you a letter explaining why your application was refused and how to appeal the decision if you disagree. If your application is refused, you are not authorized to purchase any gasoline and/or diesel exempt of security in British Columbia.

### **Fuel Sellers Website for EFR Permits**

The ministry has created a website to allow fuel sellers to monitor the status of EFR permits. You can view this webpage at [www.sbr.gov.bc.ca/applications/mft\\_coloured\\_fuel/Authorized.asp?acctype=Exempt%20Fuel%20Retailer&status=&city=](http://www.sbr.gov.bc.ca/applications/mft_coloured_fuel/Authorized.asp?acctype=Exempt%20Fuel%20Retailer&status=&city=)

For information on how fuel sellers use this website, please see **Bulletin MFT-CT 001, Fuel Sellers**.

### **Suspension and Cancellation of EFR Permits**

If your permit is suspended or cancelled for not meeting the conditions of your EFR permit agreement, you will not be eligible to purchase any fuel exempt of security. However, if your permit is suspended or cancelled, you must continue to file your monthly returns until all of your fuel that was purchased exempt of security has been sold.

## Display of Permits

You are required to display your EFR permit at each location where you sell fuel. The permit indicates the specific type(s) of fuel and the percentage of each fuel type the location is authorized to purchase exempt of security.

## Purchasing Fuel for Resale

To purchase the specified percentage of each fuel type listed on your EFR permit exempt of security at the time of purchase, you must provide your fuel supplier with your EFR number, fuel type(s) and specified percentage, or a copy of the permit.

## Exempt Sales

Like other fuel sellers, you are required to verify that your customer is eligible to purchase fuel exempt of tax (see the section above, Exempt Sale Procedures).

## Taxable Sales

You are required to collect the motor fuel and/or carbon tax at the appropriate rate on all types of fuel sold to purchasers who do not qualify to purchase fuel exempt of tax.

## Reporting and Remitting Tax

You are required to report your sales and remit any tax that is due to the ministry by the 15<sup>th</sup> day of the month following the month that you sold the fuel on a *Tax Return – Exempt Fuel Retailer* form ([FIN 412](#)). For example, if you sell fuel anytime during the month of June 2010, you are required to submit the return and remit any tax due by July 15, 2010. With your return, you must also include your original *Schedule of Sales of Tax-Exempt Fuels to Indians or Indian Bands* form ([FIN 412/2](#)).

If you send in your return and payment by mail, it is considered on time if the envelope is postmarked by Canada Post on, or before, the due date. A business postage meter mark is not sufficient. If you hand deliver your tax return or send it by courier, it must be received by the ministry by the close of business (4:30 pm) on the due date to be considered on time. If your return and payment are not received on time, penalty and interest may be applied.

If the due date falls on a weekend or statutory holiday in British Columbia, your return and payment are due by 4:30 pm on the first business day after the due date.

If the actual percentage of fuel that you sold exempt of tax is **greater** than the percentage of fuel that you purchased exempt of security, you are eligible for a refund of security on the difference in sales volumes. If the actual percentage of fuel that you sold exempt of tax is **less** than the percentage of fuel that you purchased exempt of

security, you are required to remit the additional tax you collected to the ministry. You can either claim your refund or remit any additional tax collected on your tax return form.

For example, you purchase 10,000 litres of clear gasoline exempt of security. You sell 9,000 litres to eligible purchasers exempt of tax and 1,000 litres to taxable customers during the month of June 2010. The table below shows how to calculate the amount of tax you are required to remit to the ministry.

	<b>Security-Exempt Purchases in Litres</b>	<b>Tax-Exempt Sales in Litres</b>	<b>Taxable Sales</b>
Volume of Fuel	10,000.00	9,000.00	1,000.00 litres
Tax Rates			
Motor Fuel Tax	n/a	n/a	14.50
Carbon Tax	n/a	n/a	+ <u>3.33</u>
			= 17.83 cents per litre
Tax to remit	Exempt	Exempt	1,000.00 litres
			<u>x 17.83</u> cents per litres
			= \$178.30

**Please note:** The tax rates used above are examples only. The motor fuel tax rates vary depending on where you sell fuel in British Columbia, e.g. inside the South Coast British Columbia transportation service region or the Victoria regional transit service area. For more information, please see [Bulletin MFT-CT 005](#), *Tax Rates on Fuels*.

## Tax Rates

The tax rates on fuel products change periodically. For the current motor fuel and carbon tax rates that apply to the various types of motor fuels used in internal combustion engines, and information on the carbon tax rates that apply to other fuels and combustibles, please see [Bulletin MFT-CT 005](#), *Tax Rates on Fuels*. The tax rates are also printed on the *Tax Return – Exempt Fuel Retailer* form ([FIN 412](#)) and are mailed monthly to each EFR retailer.

**Please note:** The carbon tax rates are scheduled to change on July 1, 2011 and 2012.

## Reporting Tax on Sales Invoices

You are required to report the amount of motor fuel and/or carbon security or tax charged on your sales invoices, if you sell fuel:

- from a bulk storage facility, cardlock or terminal rack,

- for resale to another fuel seller,
- to a registered consumer, registered air service or registered marine service, or
- to a customer who requests an invoice.

You must provide an invoice to your customer showing:

- the date of the sale,
- your name and address,
- the location of the sale if different than above, and, if applicable, where the fuel was delivered,
- the name and address of the person you sold the fuel to,
- the quantity of each type of fuel sold, and
- the rates for motor fuel tax and/or carbon tax for each type of fuel sold, as separate lines or columns on the invoice.

There are additional invoice requirements if you sell coloured fuel. For more information, please see [Bulletin MFT-CT 003, Coloured Fuel](#).

### **Annual Fuel Inventory**

You are required to report and remit any additional security due to the ministry on fuel inventory that you own, or are deemed to own, on which you have paid, or will be paying, security to your supplier (i.e. acting as a deputy collector or retail dealer) if there is a tax rate change.

If 100% of the fuel you own was purchased exempt of security using your EFR permit, you are not required to submit an inventory return. For more information, please see [Bulletin MFT-CT 001, Fuel Sellers](#) or contact the ministry.

### **Need more info?**

Motor Fuel and Carbon Tax website: [www.sbr.gov.bc.ca/business/Consumer\\_Taxes/MotorFuelTax\\_CarbonTax/mft\\_ct.htm](http://www.sbr.gov.bc.ca/business/Consumer_Taxes/MotorFuelTax_CarbonTax/mft_ct.htm)

Toll free in Canada: 1 877 388-4440

E-mail: [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. The *Motor Fuel Tax Act*, *Carbon Tax Act* and the Regulations are on our website at [www.sbr.gov.bc.ca/business/Consumer\\_Taxes/MotorFuelTax\\_CarbonTax/mft\\_ct.htm](http://www.sbr.gov.bc.ca/business/Consumer_Taxes/MotorFuelTax_CarbonTax/mft_ct.htm)