

# MOTOR VEHICLE FUEL TAX

An excise tax is imposed on all dealers in motor vehicle fuel upon the use, distribution, or sale within the state of Ohio of fuel used in generating power for the operation of motor vehicles. The fuel tax is actually composed of five separate levies: three levies of two cents each; one levy of one cent; and a cents per gallon rate. The cents per gallon rate in effect is 15 cents per gallon and the total of the excise tax rates is 22 cents per gallon.

After amounts are set aside for refunds and high-way bond retirement, 0.75 percent of revenue from the tax is allocated to the Waterways Safety Fund and an amount equal to collections from one cent of the cents per gallon rate is set aside for the Local Transportation Improvement Program Fund. Also, an amount totaling \$100,000 is transferred each month to the Grade Crossing Fund. The remaining fuel tax receipts are distributed in approximately the following proportions: 75 percent to the state, 10.7 percent to municipalities, 9.3 percent to counties and 5 percent to townships. Table 39 on page 76 shows the amount distributed for fiscal year 2001. All of this money is earmarked for highway related purposes in accordance with Article XII, Section 5a of the Ohio Constitution.

There are other provisions in Ohio law concerning the taxation of motor fuel and distribution of tax receipts: a portion of the motor fuel tax collected on fuel sold by the Ohio Turnpike Commission stations is returned to the Commission for turnpike projects; and a use tax is imposed on operators of commercial vehicles with three or more axles for fuel consumed in Ohio at 25 cents per gallon (the 22 cent per gallon excise tax and a 3 cent surtax).

Motor vehicle fuel wholesalers and distributors, rather than retailers remit the tax. In fiscal year 2001, the reported motor fuel tax liability totaled \$1,412.6 million, after refunds.

## TAX BASE (R.C. 5735.06):

Gallons of motor vehicle fuel sold, used, or distributed in Ohio.

## RATES:

Ohio R. C. Section	Tax Rate Per Gallon
5735.30	1.0 cent
5735.05	2.0 cents
5735.25	2.0 cents
5735.29	2.0 cents
5735.05*	<u>15.0</u> cents
<b>Total Rate Per Gallon</b>	<b>22.0 cents</b>
* Cents per gallon rate -- see description under <b>SPECIAL PROVISIONS</b> .	

## DEDUCTIONS, REFUNDS, AND CREDITS:

- Dealers may claim the following deductions from their reported gallonage. (R.C. 5735.05, 5735.06):
  - For motor fuel other than gasoline and clear diesel fuel sold for use other than operating motor vehicles on public highways or on waters within Ohio.
  - Sales of motor fuel made by licensed dealers to other licensed dealers.
  - Export of motor fuel to other states or foreign countries.
  - Sales of motor fuel for exclusive use of the United States government or its agencies.
  - Sales of motor fuel that is in the process of transportation in either interstate or foreign commerce.
  - Sales of motor fuel to be used exclusively for the propulsion of aircraft.
  - Three percent of net taxable gallons of motor fuel to cover evaporation, shrinkage, and other losses. This deduction is only two percent on motor fuel sold to a retailer. The retailer is entitled to one percent.
- Persons who have purchased motor vehicle fuel on which the fuel tax has been paid may receive a refund under the following conditions (R.C. 5735.13, 5735.14, 5735.141, 5735.142, 5735.18):
  - Fuel used in the following ways: to operate or propel stationary gas engines; tractors used for off-highway purposes; unlicensed motor vehicles used exclusively in intraplant operations.

- (b) Motor fuel used by watercraft in the following ways: vessels used entirely for commercial purposes such as trade or fishing; vessels used in Boy Scout training; vessels used or owned by railroad car ferry companies; vessels used or owned by federal, state, and local governments.
- (c) Fuel used for cleaning or dyeing.
- (d) Motor fuel used by local transit systems except for the one-cent bond retirement levy.
- (e) Motor fuel used in aircraft.
- (f) One percent of the motor fuel tax paid on fuel purchased by retailers to cover losses from shrinkage and evaporation.
- (g) Fuel lost or destroyed through theft, fire, explosion, lightning, and other natural disasters.
- (h) Any person, other than a dealer, who sells the fuel or uses the fuel outside Ohio, or who sells the fuel to the U.S. Government or any of its agencies.

**TAXPAYER (R.C. 5735.01):**

Dealers who import from another state or foreign country or acquire motor fuel by any means into a terminal in this state; import motor fuel from another state and foreign country in bulk lot vehicles for subsequent sale and distribution in this state from bulk lot vehicles; refine motor fuel in this state; acquire motor fuel from a motor fuel dealer for subsequent sale and distribution in this state from bulk lot vehicles or possess an unrevoked permissive motor fuel dealer's license.

**SPECIAL PROVISIONS:**

1. **Cents per Gallon Rate (Variable Rate) (R.C. 5735.011):** This rate is intended to increase funds for highway expenditures to make up for higher costs and reduced tax receipts from lower motor vehicle fuel consumption. The cents per gallon rate became effective on July 1, 1981, with annual adjustments occurring on March 1, 1982, and March 1, 1983. At that time, the rate reached a 5 cent cap contained in the original legislation. It

remained at 5 cents until July 1, 1987 when the cap was removed and the rate increased to 7.7 cents per gallon. The rate increased to 7.8 cents per gallon July 1, 1988. The rate was specified at 11 cents per gallon effective July 15, 1989, and 13 cents per gallon effective July 1, 1990. Effective July 1, 1991, the rate was calculated to increase to 14 cents per gallon, and was calculated to be 15 cents per gallon effective July 1, 1993. The use of a formula to calculate the cents per gallon rate was discontinued after the July 1993 increase.

2. **Fuel Use Tax (R.C. 5735.31):** The Ohio motor vehicle fuel use tax is imposed on the amount of motor fuel consumed in Ohio that was purchased outside of Ohio for any vehicle that had been subject to the highway use tax. A refund or credit is allowed for the tax on fuel purchased in Ohio for use in another state provided that state imposes a tax on such fuel and allows a similar credit or refund.

An additional 3 cents per gallon fuel use tax became effective January 1, 1991. This additional tax was enacted to partially replace the revenue lost due to the repeal of the highway use tax effective January 1, 1991, as part of Ohio's entry into the International Registration Plan for commercial vehicles. Persons who were liable for the highway use tax must now pay the 3 cents per gallon fuel use tax on fuel used in Ohio (in addition to the 22 cents per gallon motor vehicle fuel tax).

In fiscal year 2001, \$71.4 million was collected from the fuel use tax and was distributed in the same manner and to the same funds as the highway use tax.

**FILING AND PAYMENT DATES (R.C. 5735.06):**

By the last day of each month for the preceding month's tax liability; filed with the Ohio Treasurer of State.

**DISPOSITION OF REVENUE:**

The motor vehicle fuel tax is composed of five separate levies. Each of these levies is distributed in a different manner. Prior to any distribution, the following transfers of receipts are made:

1. Waterways Safety Fund receives 0.875 percent. (R.C. Section 5735.051)
2. Wildlife Boater Angler Fund receives 0.125 percent. (R.C. Section 5735.051)
3. The amount needed to insure that there are sufficient funds to meet all payments for highway bond retirement.
4. An amount equal to five cents times the number of gallons sold at stations operated by the Ohio Turnpike Commission to the Commission for turnpike projects (paid from the cents per gallon tax). (R.C. Section 5735.23)

The distribution of the five levies is as follows:

1. *2 cents per gallon (R.C. Sections 5735.05, 5735.23):*
  - 2/17 of \$100,000 is transferred monthly to the Grade Crossing Fund with the remainder distributed as follows:

- 30% to municipal corporations in proportion to their motor vehicle registrations;\*
  - 25% to all counties in equal amounts;\*
  - 45% to the state.
2. *2 cents per gallon (R.C. Sections 5735.25, 5735.26, 5735.27):*
    - 67.5% to the state;
    - 7.5% to all counties in equal amounts;\*
    - 17.5% to all townships in equal amounts.\*
    - 7.5% to municipalities in proportion to their motor vehicle registrations;\*
  3. *2 cents per gallon (R.C. Sections 5735.29, 5735.291):*
    - 100% to the state for highway bond retirement funds, as long as required; thereafter, 100% to the state highway operating fund.
  4. *1 cent per gallon (R.C. Section 5735.30):*
    - 100% to the state for highway bond retirement funds, as long as required; thereafter, 100% to the state highway operating fund.
  5. *Cents per gallon tax, 15 cents per gallon (R.C. Sections 5735.05, 5735.23):*
    - Collections from 1 cent of the cents per gallon rate transferred to the Local Transportation Improvement Program Fund and 15/17 of \$100,000 is transferred monthly

**Table 52**  
**Distributions of Motor Fuel Tax, Fiscal Year 2001**

Distribution	Dollar Amount	Percentage
Highway Operating Fund	\$740,846,005	56.7%
Local Transportation Improvement Program Fund	59,047,004	4.5
Highway Bond Retirement	185,402,759	14.2
For distribution to Municipalities	132,182,532	10.1
For distribution to Counties	114,771,961	8.8
For distribution to Townships	61,738,623	4.7
Other*	<u>13,286,113</u>	<u>1.0</u>
<b>TOTAL</b>	<b>\$1,307,274,998</b>	<b>100.0%</b>

(\*) Includes Grade Crossing Fund, Waterway Safety Fund, and amounts distributed to Ohio Turnpike Commission.

to the Grade Crossing Fund, with the balance distributed as follows:

- 75.0% to the state;
- 10.7% to municipalities in proportion to their motor vehicle registrations;^
- 9.3% to all counties in equal amounts;^
- 5.0% to all townships in equal amounts.^

\* Proceeds are deposited by the state in the Gasoline Excise Tax Fund and distributed monthly to the counties, townships, and municipalities.

^ Proceeds are deposited by the state in the State and Local Government Highway Distribution Fund and distributed monthly to counties, townships and municipalities.

### **OHIO REVISED CODE CITATIONS:**

Chapter 5735.

### **RECENT LEGISLATION:**

***House Bill 73; Effective June 29, 2001.***

***R.C. 5735.051*** - Increase from 0.75 percent to 0.875 percent the proportion of motor vehicle fuel tax allocated to the Waterways Safety Fund. Wildlife Boater Angler Fund receives 0.125 percent of motor vehicle fuel tax revenue.

***House Bill 163; Effective July 1, 1999.***

***R.C. 5735.051*** - Increases from 0.5 percent to 0.75 percent the proportion of motor vehicle fuel tax that is allocated to the Waterways Safety Fund.

***House Bill 217; Effective February 1, 1998.***

***R.C. 5728.08*** - Motor fuel use tax is to be paid annually, instead of quarterly, on farm trucks that consume less than 15,000 gallons of fuel annually. On other farm trucks, the tax may be paid quarterly or annually.

***House Bill 210; Effective July 1, 1997.***

***R.C. 5735.145, 5735.146*** - Repeals the Qualified Fuel Credit on ethanol effective July 1, 1997.

### **RECENT SIGNIFICANT COURT DECISIONS:**

***Nagia Saleh v. Zaino, (April 20, 2001), BTA No. 00-644.***

BTA affirmed the denial of a dealer's motor vehicle fuel shrinkage claim that was not filed within the time prescribed by R.C. 5735.141.

**Table 53**  
**Motor Vehicle Fuel Tax Gross Collections Reported on Tax Returns,  
 Refunds and Net Tax After Refunds, Fiscal Years 1997-2001**

Fiscal Year	Gross Collections	Refunds	Net Tax After Refunds
1997	\$1,342,516,749	\$27,803,321	\$1,314,713,428
1998	1,389,413,134	26,184,883	1,363,228,251
1999	1,424,124,333	17,380,990	1,406,743,343
2000	1,442,523,096	14,567,193	1,427,955,903
2001	1,431,047,864	18,469,543	1,412,578,321

**Table 54**  
**Taxable Gallons of Motor Vehicle Fuel, Fiscal Years 1997-2001**

	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
Gasoline	4,861,724,341	4,954,771,731	5,046,826,237	5,081,430,735	5,037,369,959
Special Fuels*	<u>1,284,285,221</u>	<u>1,355,026,467</u>	<u>1,430,921,397</u>	<u>1,472,626,579</u>	<u>1,468,433,330</u>
Total	6,146,009,562	6,309,798,198	6,477,747,634	6,554,057,314	6,505,803,289

\* Fuels other than gasoline used to operate motor vehicles on public highways and waterways.

**Table 55**  
**Amounts of Motor Vehicle Fuel Tax Revenue Distributed to Local Governments,**  
**by County, Calendar Year 2000**

County	A m o u n t   D i s t r i b u t e d   T o :				County	A m o u n t   D i s t r i b u t e d   T o :			
	Total*	County	Townships	Municipalities		Total*	County	Townships	Municipalities
Adams	\$2,305,952	\$1,378,130	\$747,758	\$180,064	Logan	\$2,705,466	\$1,378,130	\$847,460	\$479,876
Allen	3,094,497	1,378,130	598,207	1,118,160	Lorain	6,395,717	1,378,130	897,310	4,120,277
Ashland	2,666,655	1,378,130	747,758	540,767	Lucas	8,707,879	1,378,130	548,356	6,781,392
Ashtabula	3,783,854	1,378,130	1,345,965	1,059,759	Madison	2,494,020	1,378,130	697,908	417,982
Athens	2,433,851	1,378,130	697,908	357,813	Mahoning	4,307,108	1,378,130	697,908	2,231,069
Auglaize	2,648,604	1,378,130	697,908	572,566	Marion	2,973,163	1,378,130	747,758	847,274
Belmont	2,858,259	1,378,130	797,609	682,520	Medina	3,920,658	1,378,130	847,460	1,695,068
Brown	2,483,659	1,378,130	797,609	307,920	Meigs	2,117,425	1,378,130	598,207	141,088
Butler	5,340,053	1,378,130	648,057	3,313,866	Mercer	2,542,753	1,378,130	697,908	466,715
Carroll	2,202,772	1,378,130	697,908	126,734	Miami	3,399,517	1,378,130	598,207	1,423,180
Champaign	2,349,629	1,378,130	598,207	373,292	Monroe	2,366,452	1,378,130	897,310	91,011
Clark	3,159,342	1,378,130	498,506	1,282,706	Montgomery	10,214,887	1,378,130	448,655	8,388,102
Clermont	2,510,974	1,378,130	697,908	434,936	Morgan	2,148,159	1,378,130	697,908	72,121
Clinton	2,578,065	1,378,130	648,057	551,877	Morrow	2,328,401	1,378,130	797,609	152,661
Columbiana	3,277,711	1,378,130	897,310	1,002,271	Muskingum	3,315,712	1,378,130	1,246,264	691,318
Coshocton	2,828,332	1,378,130	1,096,712	353,489	Noble	2,192,091	1,378,130	747,758	66,202
Crawford	2,804,100	1,378,130	797,609	628,361	Ottawa	2,355,215	1,378,130	598,207	378,878
Cuyahoga	23,522,126	1,378,130	99,701	22,044,294	Paulding	2,170,887	1,378,130	598,207	194,550
Darke	2,944,450	1,378,130	997,011	569,308	Perry	2,336,919	1,378,130	697,908	260,881
Defiance	2,422,759	1,378,130	598,207	446,422	Pickaway	2,578,703	1,378,130	747,758	452,814
Delaware	3,015,225	1,378,130	897,310	739,785	Pike	2,218,784	1,378,130	697,908	142,746
Erie	2,882,160	1,378,130	448,655	1,055,375	Portage	3,625,148	1,378,130	897,310	1,349,708
Fairfield	3,199,249	1,378,130	648,057	1,173,061	Preble	2,427,125	1,378,130	598,207	450,787
Fayette	2,187,042	1,378,130	498,506	310,406	Putnam	2,477,480	1,378,130	747,758	351,591
Franklin	21,306,094	1,378,130	847,460	19,080,504	Richland	3,894,563	1,378,130	897,310	1,619,123
Fulton	2,418,609	1,378,130	598,207	442,272	Ross	2,760,523	1,378,130	797,609	584,784
Gallia	2,256,624	1,378,130	747,758	130,735	Sandusky	2,593,030	1,378,130	598,207	616,693
Geauga	2,465,643	1,378,130	797,609	289,903	Scioto	2,682,811	1,378,130	797,609	507,071
Greene	4,071,030	1,378,130	598,207	2,094,693	Seneca	2,889,530	1,378,130	747,758	763,641
Guernsey	2,643,980	1,378,130	947,161	318,688	Shelby	2,707,114	1,378,130	697,908	631,076
Hamilton	11,550,190	1,378,130	598,207	9,573,853	Stark	6,027,948	1,378,130	847,460	3,802,358
Hancock	3,222,038	1,378,130	847,460	996,448	Summit	10,353,493	1,378,130	498,506	8,476,857
Hardin	2,470,263	1,378,130	747,758	344,374	Trumbull	4,640,659	1,378,130	1,196,413	2,066,116
Harrison	2,275,758	1,378,130	747,758	149,869	Tuscarawas	3,640,167	1,378,130	1,096,712	1,165,324
Henry	2,356,556	1,378,130	648,057	330,369	Union	2,441,670	1,378,130	697,908	365,631
Highland	2,529,963	1,378,130	847,460	304,373	Van Wert	2,297,043	1,378,130	598,207	320,706
Hocking	2,096,571	1,378,130	548,356	170,085	Vinton	2,056,484	1,378,130	598,207	80,147
Holmes	2,191,239	1,378,130	697,908	115,200	Warren	3,513,540	1,378,130	548,356	1,587,054
Huron	3,127,321	1,378,130	947,161	802,030	Washington	3,002,263	1,378,130	1,096,712	527,421
Jackson	2,272,175	1,378,130	598,207	295,838	Wayne	3,334,561	1,378,130	797,609	1,158,821
Jefferson	2,884,173	1,378,130	697,908	808,135	Williams	2,422,461	1,378,130	598,207	446,124
Knox	2,894,139	1,378,130	1,096,712	419,296	Wood	3,700,972	1,378,130	947,161	1,375,681
Lake	5,149,864	1,378,130	249,253	3,522,481	Wyandot	<u>2,308,841</u>	<u>1,378,130</u>	<u>648,057</u>	<u>282,653</u>
Lawrence	2,501,350	1,378,130	697,908	425,312					
Licking	4,424,152	1,378,130	1,246,264	1,799,758	Total	\$326,194,397	\$121,275,476	\$65,254,383	\$139,664,537

\* County total may not add due to rounding.