



Department of
Taxation

Pertinent Facts Pertaining to Motor Fuel Exporters

Ohio Department of Taxation

Excise, Motor Fuel and Public Utilities Division

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Application for licensing as a Licensed Exporter:

MF 204	All	Application for License as a Motor Fuel Exporter Type A or B	3/00	PDF Fill-in
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Monthly Forms available for the Licensed Exporter:

EX 2	All	Monthly Exporter's Report of Receipts and Disbursements	4/09	PDF Fill-in
EX 2-1	All	Exporter's Schedule of Receipts	4/09	PDF Fill-in
EX 2-2	All	Exporter's Schedule of Disbursements	4/09	PDF Fill-in

These forms are available on our websites at tax.ohio.gov, go to business, tax forms, motor fuel tax and click on the appropriate form.

Ohio Revised Code sections that apply to Motor Fuel Exporters.

5735.01 Motor fuel tax definitions.

(R) "Export" means motor fuel delivered outside this state. Motor fuel delivered outside this state by or for the seller constitutes an export by the seller. Motor fuel delivered outside this state by or for the purchaser constitutes an export by the purchaser.

(Y) "Licensed exporter" means any person possessing an unrevoked exporter's license issued by the tax commissioner under section 5735.026 of the Revised Code.

5735.026 Application for exporter type A or exporter type B license.

(A) The tax commissioner, for purposes of administering this chapter, shall issue two classes of export licenses: "exporter type A" licenses and "exporter type B" licenses. To qualify for an exporter type A license, a person must demonstrate to the tax commissioner's satisfaction that the person is licensed to collect and remit motor fuel taxes in the specified state of destination. To qualify for an exporter type B license, a person must demonstrate to the tax commissioner's satisfaction that the person is statutorily prohibited from obtaining a license to collect and remit motor fuel taxes in the specified state of destination, and that the person is licensed to sell or distribute tax-paid motor fuel in the specified state of destination.

(B) To obtain an exporter's license of either class, a person shall file, under oath, an application with the commissioner in such form as the commissioner prescribes. The application shall set forth the following information:

(1) The name under which the exporter will transact business within the state;

(2) The location, including street number address, of the exporter's principal office or place of business;

(3) The name and address of the owner, or the names and addresses of the partners if such exporter is a partnership, or the names and addresses of the principal officers if the exporter is a corporation or an association;

(4) A certified copy of the certificate or license issued by the Secretary of State showing that the corporation is authorized to transact business in this state if the exporter is a corporation organized under the laws of another state, territory, or country;

(5) For an exporter type A license, a copy of the applicant's license or certificate to collect and remit motor fuel taxes or sell or distribute motor fuel in the specified destination state or states for which the license or certificate is to be issued;

(6) Any other information the commissioner may require.

(C)(1) After a hearing as provided in division (C)(2) of this section, the tax commissioner may refuse to issue a license to transact business as an exporter of motor fuel in the following circumstances:

(a) The applicant has previously had a license issued under this chapter canceled for cause by the tax commissioner;

(b) The tax commissioner believes that an application is not filed in good faith;

(c) The applicant has previously violated any provision of this chapter;

(d) The application is filed as a subterfuge by the applicant for the real person in interest who has previously had a license issued under this chapter canceled for cause by the tax commissioner or who has violated any provision of this chapter.

(2) The tax commissioner shall conduct a hearing before refusing to issue a license to transact business as an exporter in any of the circumstances described in division (C)(1) of this section. The applicant shall be given five days' notice, in writing, of the hearing. The applicant may appear in person or be represented by counsel, and may present testimony at the hearing.

(D) When an application in proper form has been accepted for filing, the commissioner shall issue to such exporter a license to transact business as an exporter of motor fuel in this state, subject to cancellation of such license as provided by law.

(E) No person shall make a false or fraudulent statement on the application required by this section.

5735.042 Revocation of license of exporter.

(A) The tax commissioner may revoke an exporter's license in the following circumstances:

(1) An exporter licensed under section 5735.026 of the Revised Code purchases, for export, motor fuel in this state exclusive of the motor fuel tax, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any state other than the originally designated state;

(2) The exporter is no longer the holder of a valid license to purchase motor fuel tax free in the specified destination state or states for which the license is issued.

(B) The commissioner shall notify the exporter in writing of such revocation by certified mail sent to the last known address of the exporter appearing in the files of the commissioner.

5735.064 Exporter's report.

(A) On or before the last day of each month, each exporter of motor fuel, licensed under section 5735.026 of the Revised Code, shall file with the tax commissioner a report for the preceding calendar month on forms prescribed by or in a form acceptable to the tax commissioner. The report shall include the following:

(1) An itemized statement of the number of gallons of all motor fuel received during the preceding calendar month for export by the licensed exporter;

(2) An itemized statement of the number of gallons of all motor fuel exported from the state;

(3) Any other information the commissioner deems necessary.

(B) No person required by this section to file a report shall file a false or fraudulent report or supporting schedule.

(C) Any person who obtains untaxed motor fuel for export from this state, but later diverts or causes to be diverted motor fuel to a destination in this state, is deemed a motor fuel dealer as regards any unpaid motor fuel taxes levied thereon. Taxes levied against such person may be collected by assessment as provided in section 5735.12 or 5735.121 of the Revised Code.

5735.19 Records open to inspection by tax commissioner - investigations - forms.

(A) The tax commissioner may examine, during the usual business hours of the day, the records, books, invoices, storage tanks, and any other equipment of any motor fuel dealer, retail dealer, exporter, terminal operator, purchaser, or common carrier pertaining to motor fuel received, sold, shipped, or delivered, to determine whether the taxes imposed by this chapter have been paid and to verify the truth and accuracy of any statement, report, or return.

(B) The tax commissioner may, in the enforcement of the motor fuel laws of this state, hold hearings, take the testimony of any person, issue subpoenas and compel the attendance of witnesses, and conduct such investigations as the commissioner deems necessary. Such information or evidence is not privileged when used by the state or any officer thereof in any proceeding for the collection of the tax, or any prosecution for violation of the motor fuel laws.

(C) The commissioner may prescribe all forms upon which reports shall be made to the commissioner, forms for claims for refund presented to the commissioner, or forms of records to be used by motor fuel dealers.

(D)(1) As used in this division, "designated inspection site" means any state highway inspection station, weigh station, mobile station, or other similar location designated by the tax commissioner to be used as a fuel inspection site.

(2) An employee of the department of taxation that is so authorized by the tax commissioner may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of fuel, fuel dyes, or fuel markers, and books and records, if any, that are maintained at

the place of inspection and are kept to determine tax liability under this chapter. Inspections may be performed at any place at which motor fuel is or may be produced or stored, or at any designated inspection site.

(3) An employee of the department of taxation who is a duly authorized enforcement agent may detain any motor vehicle, train, barge, ship, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment shall be on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the fuel.

(4) Any employee described in division (D)(2) or (3) of this section who has been properly trained may take and remove samples of fuel in quantities as are reasonably necessary to determine the composition of the fuel.

(5) No person shall refuse to allow an inspection under division (D) of this section. Any person who refuses to allow an inspection shall be subject to revocation or cancellation of any license or permit issued under Chapter 5728. or 5735. of the Revised Code.