

**TITLE 48. REVENUE AND TAXATION  
CHAPTER 9. MOTOR FUEL AND ROAD TAXES  
ARTICLE 1. MOTOR FUEL TAX**

**O.C.G.A. § 48-9-3 (2011)**

**§ 48-9-3. Levy of excise tax; rate; taxation of motor fuels not commonly sold or measured by gallon; rate; prohibition of tax on motor fuel by political subdivisions; exception; exempted sales by licensed distributors; exemption of motor fuel used for nonhighway purposes; exemption of motor fuel for public mass transit buses**

(a)(1) An excise tax is imposed at the rate of 7 1/2 cent(s) per gallon on distributors who sell or use motor fuel within this state. It is the intention of the General Assembly that the legal incidence of the tax be imposed upon the distributor.

(2) In the event any motor fuels which are not commonly sold or measured by the gallon are used in any motor vehicles on the public highways of this state, the commissioner may assess, levy, and collect a tax upon such fuels, under such regulations as the commissioner may promulgate, in accordance with and measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. Any determination by the commissioner of the power potential equivalent of such motor fuels shall be prima-facie correct. Upon each such quantity of such fuels used upon the public highways of this state, a tax at the same rate per gallon imposed on motor fuel under paragraph (1) of this subsection shall be assessed and collected.

(3) No county, municipality, or other political subdivision of this state shall levy any fee, license, or other excise tax on a gallonage basis upon the sale, purchase, storage, receipt, distribution, use, consumption, or other disposition of motor fuel. Nothing contained in this article shall be construed to prevent a county, municipality, or other political subdivision of this state from levying license fees or taxes upon any business selling motor fuel.

(4) For purposes of this subsection, and notwithstanding the provisions of paragraph (2) of this subsection and any provision contained in the National Bureau of Standards Handbook or any other national standard that may be adopted by law or regulation, the gallon equivalent of compressed natural gas shall be not less than 110,000 British thermal units. As used in this paragraph, the term "compressed natural gas" means a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form, that has been compressed for use as a motor fuel.

(b) No tax is imposed by this article upon or with respect to the following sales by duly licensed distributors:

(1) Bulk sales to a duly licensed distributor;

(2) Sales of motor fuel for export from this state when exempted by any provisions of the Constitutions of the United States or this state;

- (3) Sales of motor fuel to a licensed distributor for export from this state;
- (4) Sales of motor fuel to the United States for the exclusive use of the United States when the motor fuel is purchased and paid for by the United States;
- (5) Sales of aviation gasoline to a duly licensed aviation gasoline dealer, except for 1 cent(s) per gallon of the tax imposed by paragraph (1) of subsection (a) of this Code section and all of the tax imposed by Code Section 48-9-14;
- (6) Bulk sales of compressed petroleum gas or special fuel to a duly licensed consumer distributor;
- (7)(A) Sales of compressed petroleum gas or special fuel to a consumer who has no highway use of the fuel at the time of the sale and does not resell the fuel. Consumers of compressed petroleum gas or special fuel who have both highway and nonhighway use of the fuel and resellers of such fuel must be licensed as distributors in order for sales of the fuel to be tax exempt. Each type of motor fuel is to be considered separately under this exemption.
- (B)(i) In instances where a sale of compressed petroleum gas has been made to an ultimate consumer who has both highway and nonhighway use of that type of motor fuel and no tax has been paid by the distributor on the sale, the consumer shall become licensed as a consumer distributor of that type of motor fuel. After the consumer is licensed as a consumer distributor and if it is demonstrated to the satisfaction of the commissioner that the motor fuel purchased prior to the licensee's becoming licensed as a consumer distributor was used for nonhighway purposes, such sales shall be exempt from the tax imposed by this article; provided, however, that, if at the time of demonstration the ultimate consumer does not have both highway and nonhighway use of such fuel but it can be demonstrated by the distributor to the satisfaction of the commissioner that the motor fuel was used for nonhighway purposes, the sales shall be exempt from the tax imposed by this article; and
- (ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in paragraph (8) of Code Section 48-9-2, is not exempt from the motor fuel and road taxes imposed by this article unless: (1) the purchaser is at the time of sale a valid licensed distributor of that type of motor fuel, or (2) an exemption certificate has been obtained from the purchaser on forms furnished by the Department of Revenue showing that the purchaser has no highway use of such fuels and is not a reseller of such fuels. Each exemption certificate shall be valid for a period of not more than three years and shall be kept by the distributor as one of the records specified in Code Section 48-9-8. It shall be the responsibility of the purchaser to notify the distributor when the purchaser is no longer qualified for the nonhighway exemption. All applicable taxes must be charged the purchaser until the purchaser is granted a valid distributor's license for that type of motor fuel.
- (II) Any such purchaser granted an exemption under subdivision (I) of this division who falsely claims the exemption or fails to rescind the purchaser's exemption certificate to the distributor in writing when he or she is no longer eligible for the exemption shall be deemed a distributor for purposes of taxation and is subject to all provisions of this article relating to distributors. This division in no way shall restrict the option of the purchaser to become licensed as a distributor. If the distributor sells special fuel to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in paragraph (8) of Code Section 48-9-2, and the purchaser is not a valid licensed distributor and has not executed a valid signed exemption certificate, the taxes imposed by this article are due from the distributor and not the purchaser on all sales of that type of fuel to that purchaser;

(8) Sales of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate consumer to be used for heating purposes only. The delivery of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate consumer to be used for heating purposes only shall be made directly into the storage receptacle of the heating unit of the consumer by the licensed distributor. To qualify for this exemption, sales must be delivered into storage receptacles that are not equipped with any secondary withdrawal outlets for the motor fuel;

(9) Sales of dyed fuel oils to a consumer for other than highway use as defined in paragraph (8) of Code Section 48-9-2; or

(10) (A) During the period of July 1, 2010, through June 30, 2012, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for public mass transit vehicles which are owned by public transportation systems which receive or are eligible to receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger fares are routinely charged and which vehicles are used exclusively for revenue generating purposes which motor fuel sales occur at bulk purchase facilities approved by the department.

(B) During the period of July 1, 2010, through June 30, 2012, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a public campus transportation system, provided that such system has a policy which provides for free transfer of passengers from the public transportation system operated by the jurisdiction in which the campus is located; makes the general public aware of such free transfer policy; and receives no state or federal funding to assist in the operation of such public campus transportation system and which motor fuel sales occur at bulk purchase facilities approved by the department.

(C) For purposes of this paragraph, the term "vehicle" or "vehicles" means buses, vans, minibuses, or other vehicles which have the capacity to transport seven or more passengers.

(c) Fuel oils, compressed petroleum gas, or special fuel used by a duly licensed distributor for nonhighway purposes is exempt from the tax imposed by this article.

(d) No export from this state shall be recognized as being exempt from tax under paragraphs (2) and (3) of subsection (b) of this Code section unless the exporter informs the seller and the terminal operator of the intention to export and causes to be set out the minimum information specified in subsection (e) of Code Section 48-9-17 on the bill of lading or equivalent documentation under which the motor fuel is transported. In the event that the motor fuel is delivered to any point other than that which is set out on the bill of lading or equivalent documentation, the legal incidence of the tax shall continue to be imposed exclusively upon the exporter who caused the export documentation to be issued and no exemption shall be recognized until suitable proof of exportation has been provided to the commissioner.

**HISTORY:** Code 1933, § 92-1403, enacted by Ga. L. 1978, p. 186, § 1; Code 1933, § 91A-5003, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 102; Ga. L. 1979, p. 1274, §§ 1, 3; Ga. L. 1980, p. 10, § 30; Ga. L. 1985, p. 1644, § 1; Ga. L. 1986, p. 10, § 48; Ga. L. 1993, p. 811, § 2; Ga. L. 1993, p. 1502, § 4; Ga. L. 1994, p. 569, § 1; Ga. L. 1995, p. 10, § 48; Ga. L. 1995, p. 359, § 2; Ga. L. 2004, p. 425, § 2; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 505, § 1/HB 384; Ga. L. 2006, p. 523, § 1/HB 1244; Ga. L. 2008, p. 889, § 2/HB 1035; Ga. L. 2010, p. 813, § 2/HB 1393.