



DEPARTMENT OF REVENUE  
INDIANA GOVERNMENT CENTER NORTH  
100 N. SENATE AVE

**COMMISSIONER'S DIRECTIVE #49**  
**JULY 2013**  
**Effective Date: July 1, 2013**

**SUBJECT:** Aviation Fuel Excise Tax

**REFERENCES:** IC 6-2.5-5-49; IC 6-6-13

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUMMARY**

This directive provides guidance regarding the aviation fuel excise tax enacted as part of HEA 1545-2013. The act imposes an aviation fuel excise tax of ten cents (\$.10) per gallon on the gross retail income received by a retailer on each gallon of aviation fuel purchased in Indiana. The act provides an exemption from both the aviation fuel excise tax and the sales tax for certain transactions.

**DEFINITIONS**

A "retailer" is a person who engages in the business of selling or distributing aviation fuel to the end user in Indiana.

As used in this directive, "aviation fuel" includes gasoline, jet fuel, and a synthetic fuel or fuel derived from any organic matter used as a substitute for gasoline or jet fuel used to power an aircraft.

**AVIATION FUEL EXCISE TAX IMPOSITION**

Pursuant to HEA 1545-2013 and effective July 1, 2013, IC 6-6-13 imposes an aviation fuel excise tax of ten cents (\$.10) per gallon on the gross retail income received by a retailer on each gallon of aviation fuel purchased in Indiana. A retailer shall add the per-gallon amount of excise tax to the selling price of each gallon of aviation fuel sold by the retailer so that the ultimate consumer bears the burden of the tax.

Every retailer of aviation fuel is required to register with the department. The retailer shall complete Form AVF-1 (Registration) before July 15, 2013. Form AVF-1 is available online at <http://www.in.gov/dor/3512.htm>.

**REMITTANCE AND REPORTING OF AVIATION FUEL EXCISE TAX**

A retailer is required to remit to the department the aviation fuel excise taxes imposed on transactions that occurred during a particular calendar month to the department on or before the

fifteenth (15th) day of the following calendar month. The tax shall be remitted by electronic funds transfer (EFT). A retailer who properly remits the aviation fuel excise tax shall be allowed to retain one and six-tenths percent (1.6%) of the taxes collected to cover the costs of collecting, reporting, and timely remitting the aviation fuel excise taxes.

Each retailer is required to report monthly the number of gallons of aviation gasoline and jet fuel sold by the retailer, along with the number of gallons of exempt fuel sold. The monthly report of taxable and exempt sales shall be filed electronically through Form AVF-150 (Aviation Fuel Excise Tax), which allows for monthly reporting of taxable and exempt sales.

All aviation fuel excise tax collected by the department is deposited in the state general fund.

### **PENALTIES FOR VIOLATIONS**

A person who knowingly fails to collect or timely remit the aviation fuel excise tax is liable for the uncollected tax plus a penalty equal to one hundred percent (100%) of the uncollected tax. A person who recklessly, knowingly, or intentionally fails or refuses to remit the tax to the department commits a Level 6 felony. A person who negligently disregards any provision of IC 6-6-13 (aviation fuel excise tax) is subject to a civil penalty of five hundred dollars (\$500) for each separate violation.

### **EXEMPTIONS FROM THE AVIATION FUEL EXCISE TAX**

The sale of aviation fuel is exempt from the excise tax if the aviation fuel is placed in the fuel supply tank of an aircraft owned by:

- The United States or an agency or instrumentality of the United States;
- The state of Indiana;
- The Indiana Air National Guard; or
- A common carrier of passengers or freight.

Another exemption from the aviation fuel excise tax exists for wholesalers. The tax is imposed on each gallon of aviation fuel purchased in Indiana. The newly enacted IC 6-6-13-5 defines "retailer" to mean a person who engages in the business of selling or distributing aviation fuel to end users in Indiana. Accordingly, a person who purchases aviation fuel for resale to another person who, in turn, will sell the aviation fuel to an end user may purchase the fuel exempt from the excise tax.

A purchaser who claims an exemption is required to present an exemption certificate to the retailer instead of paying the tax. The person shall issue a properly completed and signed Form AVF-105 (Aviation Fuel Excise Tax Exemption Certificate), which shall be kept on file at the retailer's location. Form AVF-105 is available online at <http://www.in.gov/dor/3512.htm>.

### **SALES TAX EXEMPTION**

Effective July 1, 2013, pursuant to IC 6-2.5-5-49, a transaction involving aviation fuel is exempt from the state gross retail tax. Because aviation fuel is exempt from sales tax, there is no requirement for retail merchants to prepay sales tax on purchases of aviation fuel.

**MISCELLANEOUS CHARGES RELATED TO AVIATION FUEL**

Pursuant to IC 6-2.5-2-1, sales tax applies to all retail transactions made in Indiana. IC 6-2.5-4-1 provides that a person is a retail merchant making a retail transaction when, in the ordinary course of his regularly conducted trade or business, he acquires tangible personal property for the purpose of resale and transfers that property to another person for consideration.

The amount of a retail transaction that is subject to sales tax is the gross retail income of the transaction, as defined by IC 6-2.5-1-5. Among other things, gross retail income includes the cost of materials used, labor or service cost, delivery charges to the customer, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller. However, if the charges relate solely to the transfer of aviation fuel, then there is no transfer of taxable tangible personal property on which to subject the other charges to sales tax. Accordingly, charges that are solely related to the transfer of aviation fuel are not subject to sales tax.



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