

DEPARTMENT OF STATE REVENUE

Commissioner's Directive #50

July 2018

(Replaces Commissioner's Directive #50 dated November 2014)

Effective Date: July 1, 2018

SUBJECT: Sales of Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG)**REFERENCES:** [IC 6-2.5-5-51](#); [IC 6-6-2.5-1](#); [IC 6-6-2.5-16.5](#); [IC 6-6-2.5-22](#); [IC 6-6-2.5-22.5](#); [IC 6-6-2.5-28](#); [IC 6-6-4.1-1](#); [IC 6-6-4.1-4](#); [IC 6-6-4.1-4.5](#).

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 OF CHANGES

Aside from nonsubstantive, technical changes, this directive has been changed to reflect that the sale of special fuel is exempt from Indiana state gross retail tax (sales tax) due to an amendment in House Enrolled Act ("HEA") 1002 (2017). The act also provided for an increase in the special fuel tax rate to twenty-one cents (\$0.21) and the motor carrier surcharge tax on natural gas used as a motor fuel. The act further provided that the motor carrier surcharge tax be collected and remitted on special fuel (that is not an alternative fuel) in the manner specified for special fuel. However, HEA 1290 (2018) further increased the special fuel tax rate to forty-eight cents (\$0.48) for the fiscal year July 1, 2018 through June 30, 2019. HEA 1290 (2018) also provided an exception to the sales tax exemption for special fuel, in that heating oil is subject to sales tax, which affects LNG sales.

I. DEFINITIONS

"Natural gas" means compressed or liquid natural gas.

"Natural gas product" means:

- (1) A liquid natural gas (LNG) or compressed natural gas (CNG) product; or
- (2) A combination of liquefied petroleum gas and a compressed natural gas product; used in an internal combustion engine or a motor to propel any form of vehicle, machine, or mechanical contrivance.

"Alternative fuel" means a liquefied petroleum gas, not including a biodiesel fuel or biodiesel blend, used in an internal combustion engine or a motor to propel any form of vehicle, machine, or mechanical contrivance. The term includes all forms of fuel commonly or commercially known or sold as butane or propane.

"Special fuel" means all combustible gases and liquids that are:

- (1) Suitable for the generation of power in an internal combustion engine or a motor; or
- (2) Used exclusively for heating, industrial, or farm purposes other than for the operation of a motor vehicle.

Special fuel includes biodiesel and blended biodiesel (as defined in [IC 6-6-2.5-1.5](#)), and natural gas products. However, the term does not include an alternative fuel, a gasoline (as defined in [IC 6-6-1.1-103](#)); an ethanol produced, stored, or sold for the manufacture of or compounding or blending with gasoline; kerosene; and jet fuel (if the purchaser of the jet fuel has provided to the seller proof of the purchaser's federal jet fuel registration at or before the time of sale).

"Special fuel gallon" means a gallon of special fuel, a diesel gallon equivalent (in the case of a special fuel that is LNG), or a gasoline gallon equivalent (in the case of a special fuel that is CNG).

Prior to July 1, 2018, "surcharge gallon" meant (as applicable) a gallon of gasoline or special fuel (other than natural gas or an alternative fuel commonly or commercially known or sold as butane or propane), a diesel gallon equivalent of a special fuel that is liquid natural gas, or a gasoline gallon equivalent of a special fuel that is compressed natural gas or an alternative fuel commonly or commercially known or sold as butane or propane.

"Diesel gallon equivalent" means the amount of an alternative fuel or an LNG that produces the same number of

British thermal units of energy as a gallon of diesel fuel.

"Gasoline gallon equivalent" means the amount of an alternative fuel or a CNG that produces the same number of British thermal units of energy as a gallon of gasoline.

"Heating oil" means a special fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes.

II. COMPRESSED NATURAL GAS

A special fuel supplier of CNG is defined as a "utility company" or a "third-party marketer" that provides natural gas to an entity (individual or business) via a dedicated meter that exclusively supplies natural gas to a compressor unit whose sole purpose is to create CNG.

A utility company or third-party marketer that meets the definition of a special fuel supplier for CNG must be registered and licensed as a special fuel supplier with the department, via Form FT-1. A licensing fee of \$500 is required with the FT-1 application, as well as financial records and a bond (in the amount of \$2,000 or the projected two-month tax liability, whichever is greater), as identified in [IC 6-6-2.5](#). The utility company or third-party marketer must be in good standing for the department to issue the special fuel supplier license to the company.

Special fuel suppliers and importers of CNG are required to calculate the gasoline gallon equivalent (GGE) of CNG therms to create a GGE measurement for CNG. The GGE is considered a special fuel gallon, which is then subject to special fuel tax and the oil inspection fee. The GGE was also considered a surcharge gallon, which until July 1, 2018, was then subject to the motor carrier surcharge tax.

The conversion rate is $1.25 \text{ therms of CNG} = 1 \text{ CNG GGE gallons}$. The calculation is $\text{number of therms of CNG} \div 1.25 = \text{number of CNG GGE gallons}$.

After the CNG has been converted to CNG GGE gallons pursuant to the above calculation, the special fuel supplier or importer must then calculate the special fuel excise tax by multiplying the special fuel gallons of CNG GGE by the applicable special fuel tax rate from the table in Section IV. The special fuel supplier or importer must also calculate the oil inspection fee by multiplying the gallons of CNG GGE by \$.01. Prior to July 1, 2018, special fuel suppliers and importers were also required to calculate the motor carrier surcharge tax by multiplying the surcharge gallons of CNG GGE by the applicable motor carrier surcharge tax rate from the table in Section IV.

Example of a transaction prior to July 1, 2017:

Utility A records 1250 therms of CNG delivered to Company B via the dedicated CNG compressor meter.
 $1,250 \text{ therms} \div 1.25 = 1,000 \text{ CNG GGE gallons}$.
 $1,000 \text{ CNG GGE gallons} \times .16 = \160.00 . This is the special fuel tax due.
 $1,000 \text{ CNG GGE gallons} \times .01 = \10.00 . This is the oil inspection fee due.

Example of transaction on or after July 1, 2017, through June 30, 2018:

Utility A records 1250 therms of CNG delivered to Company B via the dedicated CNG compressor meter.
 $1,250 \text{ therms} \div 1.25 = 1,000 \text{ CNG GGE gallons}$.
 $1,000 \text{ CNG GGE gallons} \times .26 = \260.00 . This is the special fuel tax due.
 $1,000 \text{ CNG GGE gallons} \times .01 = \10.00 . This is the oil inspection fee due.
 $1,000 \text{ CNG GGE gallons} \times .21 = \210.00 . This is the motor carrier surcharge tax due.

Example of transaction on or after July 1, 2018:

Utility A records 1250 therms of CNG delivered to Company B via the dedicated CNG compressor meter.
 $1,250 \text{ therms} \div 1.25 = 1,000 \text{ CNG GGE gallons}$.
 $1,000 \text{ CNG GGE gallons} \times .48 = \480.00 . This is the special fuel tax due.
 $1,000 \text{ CNG GGE gallons} \times .01 = \10.00 . This is the oil inspection fee due.

Special fuel exported from Indiana is exempt from the Indiana special fuel tax, oil inspection fee, and the motor carrier surcharge tax (if applicable). For the special fuel to be exempt, the following conditions must be met:

- The special fuel must be sold by a licensed special fuel supplier to a licensed exporter for export from

Indiana to another state or country;

- A licensed exporter must provide a copy of its valid exporter license to the supplier; and
- The bill of lading must list an out-of-state destination for the fuel.

The special fuel supplier must then report all taxable and nontaxable transactions and remit the special fuel tax, oil inspection fee, and motor carrier surcharge tax monthly. The payment is due no later than the 15th day of the following month, and the return is due no later than the 20th day of the following month, via Form SF-900.

An importer who has not previously entered into a pre-collection agreement is required to obtain an import verification number (IVN) from the department for each bill of lading within 24 hours of its import prior to importing special fuel into Indiana in vehicles with a capacity of 5,400 CNG GGE gallons or greater. After the IVN is obtained, remittance of the special fuel tax, oil inspection fee, and motor carrier surcharge tax (if applicable) is required within three business days via Form SF-IVP. An importer is required to file a monthly report due no later than the 20th day of the following month, via Form SF-900, and remit any additional tax due at that time.

Application of Sales Tax to CNG Transactions

The sale of special fuel is exempt from Indiana sales tax. Because CNG is a special fuel, a special fuel supplier or importer is not required to report sales tax on Form ST-103MP for any CNG transactions, regardless of the intended use of the CNG.

Application of Utility Receipts Tax to CNG Transactions

Unless an exemption applies, sales of CNG generally are subject to the utility receipts tax (URT). However, a transaction in which a utility company or third-party marketer provides natural gas to an entity (individual or business) via a dedicated meter that exclusively meters natural gas to a compressor unit whose sole purpose is to create CNG is not subject to the URT.

III. LIQUIFIED NATURAL GAS

Special fuel suppliers and importers of LNG are required to be licensed with the department in the manner prescribed on Form FT-1 for the respective licenses.

Special fuel suppliers and importers of LNG are required to calculate the diesel gallon equivalent (DGE) of LNG gallons to create a DGE measurement. The DGE is considered a special fuel gallon, which is then subject to the special fuel tax and the oil inspection fee. The DGE was also considered a surcharge gallon, which, until July 1, 2018, was then subject to the motor carrier surcharge tax.

The conversion rate is 1.67 gallons of LNG = 1 LNG DGE gallon. The calculation is number of gallons of LNG divided by 1.67 = number of LNG DGE gallons.

After the gallons of LNG have been converted to LNG DGE gallons using the above calculation, special fuel suppliers and importers must then calculate the special fuel excise tax by multiplying the special fuel gallons of LNG DGE by the applicable special fuel tax rate from the table in Section IV. Special fuel suppliers and importers must also calculate the oil inspection fee by multiplying the gallons of LNG DGE by \$.01. Prior to July 1, 2018, special fuel suppliers and importers were also required to calculate the motor carrier surcharge tax by multiplying the surcharge gallons of LNG DGE by the applicable motor carrier surcharge tax rate from the table in Section IV.

Example of a transaction prior to July 1, 2017:

Supplier C delivers 1,000 gallons of LNG to Company D.

1,000 gallons of LNG / 1.67 = 599 LNG DGE.

599 LNG DGE gallons multiplied by .16 = \$95.84. This is the special fuel tax due.

599 LNG DGE gallons multiplied by .01 = \$5.99. This is the oil inspection fee due.

Example of transaction on or after July 1, 2017, through June 30, 2018:

Supplier C delivers 1,000 gallons of LNG to Company D.

1,000 gallons of LNG / 1.67 = 599 LNG DGE.

599 LNG DGE gallons multiplied by .26 = \$155.74. This is the special fuel tax due.

599 LNG DGE gallons multiplied by .01 = \$5.99. This is the oil inspection fee due.

599 LNG DGE gallons multiplied by .21 = \$125.79. This is the motor carrier surcharge tax due.

Example of transaction on or after July 1, 2018:

Supplier C delivers 1,000 gallons of LNG to Company D.

1,000 gallons of LNG / 1.67 = 599 LNG DGE.

599 LNG DGE gallons multiplied by .48 = \$287.52. This is the special fuel tax due.

599 LNG DGE gallons multiplied by .01 = \$5.99. This is the oil inspection fee due.

Special fuel exported from Indiana is exempt from the Indiana special fuel tax, oil inspection fee, and motor carrier surcharge tax (if applicable). For the special fuel to be exempt, the following conditions must be met:

- The special fuel must be sold by a licensed special fuel supplier to a licensed exporter for export from Indiana to another state or country;
- A licensed exporter must provide a copy of its valid exporter license to the supplier; and
- The bill of lading must list an out-of-state destination for the fuel.

The special fuel supplier must then report all taxable and nontaxable transactions and remit the special fuel tax, oil inspection fee, and motor carrier surcharge tax monthly. The payment is due no later than the 15th day of the following month, and the return is due no later than the 20th day of the following month via Form SF-900.

An importer who has not previously entered into a pre-collection agreement is required to obtain an import verification number from the department for each bill of lading within 24 hours of its import prior to importing special fuel into Indiana in vehicles with a capacity of 5,400 gallons or greater. After the IVN is obtained, remittance of the special fuel tax, oil inspection fee, and motor carrier surcharge tax (if applicable) is required within three business days via Form SF-IVP. An importer is required to file a monthly report due no later than the 20th day of the following month, via Form SF-900, and remit any additional tax due at that time.

Application of Sales Tax to LNG Transactions

The sale of special fuel (including LNG) is exempt from Indiana sales tax, unless LNG is used as a heating oil. Therefore, except in cases where LNG is used as a heating oil, suppliers and importers are not required to report sales tax on Form ST-103MP for LNG transactions, regardless of the intended use of the LNG.

Application of Utility Receipts Tax and Utility Services Use Tax to LNG Transactions

Sales of natural gas by a utility company or third-party marketer to a buyer who creates LNG from natural gas (an "LNG producer") are not subject to the URT or utility services use tax (USUT), and the utility company or third-party marketer shall not collect the URT or USUT from an LNG producer. In the event the LNG producer does not have a dedicated meter that exclusively meters natural gas to a compressor used to create LNG, the LNG producer may establish the amount of natural gas converted to LNG through its internal books and records. Any natural gas that is not converted to LNG by the LNG producer is subject to the USUT, which the LNG producer shall pay directly to the department.

Unless an exemption applies, sales of LNG that is not used as a natural gas product generally are subject to the URT. Sales of LNG to be used as a natural gas product are not subject to the URT or USUT.

IV. SPECIAL FUEL TAX RATE AND SURCHARGE TAX RATE TABLES

Tax Period	Special Fuel Tax Rate	Motor Carrier Surcharge Tax Rate
Prior to July 1, 2017	\$0.16	Not Applicable (Collected on Carrier's Quarterly Returns)
On or after July 1, 2017 through June 30, 2018	\$0.26	\$0.21
On or after July 1, 2018 through June 30, 2019	\$0.48	Not Applicable (Repealed)

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