



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

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NOTICE TO SELLERS
NEW LAWS RELATED TO NON-RETAIL SALES

House Bill 2997, passed by the 2003 Oregon Legislature, and Oregon Administrative Rules 735-176-0015 and 0018, recently approved by the Oregon Transportation Commission, create a new classification of Use Fuel Seller, a Non-Retail Seller. The law and associated rules were the result of a joint effort by the Oregon Department of Transportation and the Commercial Cardlock Industry to update and clarify the tax treatment of sales made by cardlock operations.

Sales at Oregon Non-Retail Facilities (Primarily Cardlock and Keylock facilities)

If fuel is dispensed at a non-retail facility as defined in ORS 480.310 (Fire Marshal Statutes), the non-retail seller is the person that owns the user's accounts and bills the user for fuel purchased at any non-retail facility on the non-retail network.

The non-retail seller as defined above shall collect the Oregon Use Fuel Tax from the non-retail seller's account holders for all Oregon Use Fuel sales at any non-retail site in Oregon that accepts the account holder's card. The non-retail seller may issue an ex-tax card and not collect the tax if the account holder certifies to the non-retail seller that the use of the fuel is exempt from the tax.

Other Requirements of Non-retail sellers

Non-retail sellers who sell fuel at non-retail facilities in Oregon to purchasers whose accounts are not owned by the non-retail seller must provide, upon request of the ODOT Fuels Tax Group, the account (card) numbers of these purchasers and the name and address of the seller(s) who own the account(s).

Non-retail sellers who own accounts of purchasers who purchase fuel at Oregon non-retail facilities must be licensed as sellers with the ODOT Fuels Tax Group whether or not they operate non-retail facilities in Oregon. These sellers are required to comply with all provisions of the Oregon Use Fuel Tax law that apply to non-retail sellers.

No Changes for Retail Sellers

Note that the new statutes and administrative rules referred to above do not apply to retail sales facilities in Oregon, except in situations where dual retail / non-retail operations exist as described below. All ex-tax sales documentation requirements for retail sales and mobile fuel delivery operations (fleet fueling) as described in the notice to sellers dated 12/15/03 are unchanged. This notice is available for viewing at <http://www.odot.state.or.us/fsbpublic/ftg/sellersnotice.htm>.

Form and Content of the Certification

The non-retail seller must retain this written certification signed by the purchaser on forms approved by the Fuels Tax Group of the Oregon Department of Transportation. The certification must contain, at a minimum:

- The name and address of the purchaser;
- The reason that the Use Fuel tax should not be collected by the non-retail seller; and
- A statement from the purchaser that for all Use Fuel purchased at Oregon non-retail facilities on account with the non-retail seller, such fuel will be used only for purposes that are exempt from Use Fuel taxation under ORS 319.510 through 319.880 (Oregon Use Fuel Statutes), or that the purchaser is licensed as a Use Fuel User in Oregon and will remit all applicable taxes to ODOT.

These certifications must be made available to ODOT for fuel tax compliance purposes. The non-retail seller will be liable for any uncollected tax on all fuel purchased by the non-retail seller's account holders for which the non-retail seller does not have a certification. Included with this notice is a sample certification form that can be copied and used by non-retail sellers. If a non-retail seller wishes to use another certification form, they should submit the form to the ODOT Fuels Tax Group and receive written confirmation that the information on the form is sufficient to meet the Department's requirements.

"Dual Operations Facilities"

New administrative rule 735-176-0018 addresses situations where a fueling facility has both retail operations and non-retail operations, either by a physical separation of pumps or by a separation of time of operation. These are defined as "Dual Operations Facilities".

For Dual Operations Facilities where retail and non-retail operations are differentiated by a physical separation of the retail and non-retail pump islands at a distance required by the State Fire Marshal:

- All Use Fuel tax procedures for fuel dispensed from the non-retail facilities unattended by the owner, employees, or other agents of the owner of the non-retail facilities shall be pursuant to OAR 735-176-0015. (Non-retail rules)
- All Use Fuel tax procedures for fuel dispensed from the retail facilities shall be pursuant to OAR 735-176-0010. (Normal retail ex-tax documentation rules)

For Dual Operations Facilities where retail and non-retail operations are differentiated by a time separation of retail and non-retail operations from the same pumps:

- All Use Fuel tax procedures for fuel dispensed from the facilities during time periods where non-retail operations are permitted by the State Fire Marshal shall be pursuant to OAR 735-176-0015. (Non-retail rules)
- All Use Fuel tax procedures for fuel dispensed from the facilities during time periods where retail operations are required by the Oregon State Fire Marshal shall be pursuant to OAR 735-176-0010. (Normal retail ex-tax documentation rules)

Effective Date

The changes related to tax collection by non-retail sellers are effective January 15, 2004. However, non-retail sellers have until July 1, 2004 to obtain the appropriate written certification.

Questions about these changes can be directed to the ODOT Fuels Tax Group at the address / telephone number / e-mail address on the letterhead above.

CERTIFICATION OF OREGON "USE FUEL" TAX EXEMPT STATUS
("Use Fuel" = Diesel, Propane, CNG or other fuel that is not gasoline)

We hereby request to purchase Use Fuel exempt of Oregon Use Fuel tax as permitted by ORS 319.520 for the following reasons: (Check all that are applicable)

1) Vehicle displays a valid ODOT Motor Carrier Transportation Division permit (P.U.C. permit) or pass:

2) Vehicle displays a valid Use Fuel vehicle emblem issued by the ODOT Fuels Tax Group

Please list Permit, Pass or Emblem numbers from 1) or 2) above: (Attach extra sheets if necessary)

3) Vehicle displays a United States Government License Plate or is a vehicle owned by a state agency or local governmental entity and displays a State of Oregon "E-Plate".

4) Vehicle is a farm tractor or other agricultural implement only incidentally operated on the highway as defined in ORS 319.520(7);

5) Vehicle is used exclusively on privately owned property and is not operated on Oregon highways.

STATEMENT OF CERTIFICATION

We hereby certify that all Use Fuel purchased ex tax at non-retail facilities in Oregon on our account with _____ (seller) will only be used for Use Fuel tax-exempt purposes as defined in ORS 319.510 through 319.880.

We further agree that we are responsible for proper reporting and payment of taxes, plus applicable interest at 12% per annum and penalties of up to 35% of unpaid taxes, due the State of Oregon for Use Fuel purchased tax-exempt on this account and used for non-exempt purposes.

We further agree that this tax reporting and payment responsibility extends to purchases of Use Fuel made using any additional or replacement non-retail cards issued under this account.

We therefore indemnify and hold harmless _____ (seller) and it's subsidiaries and assigns from any and all liability relating to the improper use of tax exempt cards.

Purchaser: _____

Company name: _____ Account # _____

Address: _____ City: _____ State _____ Zip: _____

Signed by: _____ Date: _____

Print Name _____ Title _____

Seller: _____