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Sales to First Nations and the Fuel Tax Exemption Program

Motor Fuel Tax Act and Carbon Tax Act

Latest Revision: *This bulletin has been rewritten and replaces the previous version dated September 2014. For a summary of the key changes, see Latest Revision at the end of this document.*

This bulletin explains the motor fuel and carbon tax exemption program and how it applies to First Nations individuals and bands who purchase fuel on First Nations land.

For general information for all fuel sellers, such as the different registration requirements and fuel seller classifications, see [Bulletin MFT-CT 001, Fuel Sellers](#).

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Overview

First Nations individuals and bands are generally exempt from motor fuel and carbon tax when they purchase fuel on First Nations land. In recognition of this exemption, BC established an exempt fuel retailer program. This program allows retailers on First Nations land to purchase fuel exempt of security that will be resold tax-exempt to First Nations individuals and bands. The details of the program are below.

Definitions

In this bulletin:

- **Band** has the same meaning as in section 2 of the *Indian Act* (Canada).
- **Exempt fuel retailer (EFR)** is a fuel seller who operates on First Nations land and holds a valid *Exempt Fuel Retailer Permit* (EFR permit).
- **First Nations individual** is an individual who is an Indian under the *Indian Act* (Canada) and whose property is exempt from taxation under section 87 of the *Indian Act* (Canada) or a provision of a final agreement equivalent to that section.
- **First Nations land** means reserve land or former reserve land now part of treaty lands.

Note: First Nations land does **not** include Nisga'a (see Nisga'a Lands and Nisga'a Citizens below) or Tsawwassen lands (see Tsawwassen Lands and Tsawwassen Members below).

- **Treaty First Nations** individuals are members of First Nations that have a treaty in effect with Canada and BC that sets out a unique taxation structure.

Applying for an EFR Permit

The Exempt Fuel Retailer Program allows retailers to purchase fuel exempt of security that will be resold tax-exempt to First Nations individuals and bands.

As an exempt fuel retailer (EFR), you are authorized to purchase a specified percentage of certain types of fuel exempt of security. Your specified percentage is based on the tax-exempt sales that you normally make to First Nations individuals and bands. The specified percentage may vary by the type of fuel and may be adjusted if your percentage of tax-exempt sales changes.

You may apply for an EFR permit if you meet all of the following:

1. You sell one or more of the following types of fuel:
 - Clear or coloured gasoline

- Clear or coloured diesel fuel
 - Propane
2. You sell from a permanent location on First Nations land (a retail gas station or an unmanned location, e.g. cardlock or keylock)
 3. You sell at least 10% of a type(s) of fuel listed above exempt of tax to First Nations individuals and bands

How to Apply

You must complete an *Application for Registration as an Exempt Sale Retail Dealer (ESRD) and/or Exempt Fuel Retailer (EFR)* (**FIN 262**) for each physical location you plan to operate as an EFR on First Nations land. Details regarding required information are provided on the application form.

Issuing Permits

If you are approved as an EFR, we will send you two copies of a draft agreement outlining the duties and conditions of your permit. You must sign and return both copies of the agreement to us. We will return one copy of the agreement to you for your records along with:

- An *Exempt Fuel Retailer Permit* with your name, address and permit number, and the type(s) of fuel and specified percentage of each type of fuel that you can purchase exempt of security
- Information you need to report and remit tax

Note: EFR permits are not transferrable from one person to another and apply only to a specific location.

If you are not approved as an EFR, we will send you a letter explaining why your application was refused and how to appeal the decision if you disagree. If your application is refused, you are not authorized to purchase any fuel exempt of security. However, you may continue to sell fuel to tax-exempt customers and apply for a refund of security paid. For more information, see Refunds below.

Suspension and Cancellation of EFR Permits

If your permit is suspended or cancelled for not meeting the conditions of your EFR permit, you cannot purchase any fuel exempt of security. If your permit is suspended, you must continue to file your monthly returns. If your permit is cancelled, you must file a final return and pay motor fuel and carbon tax on the volume of fuel you purchased exempt of security that is remaining in your inventory.

Note: To monitor the status of EFR permits, we have a [listing of exempt fuel retailers](#) for fuel sellers on our website.

Display of Permits

You must display your EFR permit at each location where you sell fuel. The permit indicates the specific type(s) of fuel and the percentage of each fuel type that you are authorized to purchase exempt of security.

Purchasing Fuel Exempt of Security

To purchase the specified percentage of each fuel type listed on your EFR permit exempt of security, at the time of purchase you must provide your fuel supplier with your EFR number, fuel type(s) and specified percentage, or a copy of your permit.

Tax-Exempt Sales

Fuel purchased by First Nations individuals and bands is exempt from motor fuel and carbon tax if title to the fuel passes on First Nations land. This includes fuel purchased on First Nations land and purchases where the fuel is delivered to First Nations land, provided that title to the fuel passes on First Nations land.

For title to pass on First Nations land, the fuel must be delivered by the seller or by a common carrier under contract with the seller, and the seller must retain ownership of the fuel until it is delivered to the eligible purchaser on First Nations land.

To qualify for the exemption, the fuel purchased must be for the personal use of the First Nations individual or for the use of the band. Personal use means for the beneficial use of the purchaser and includes purchases for use in the purchaser's sole proprietorship. Personal use does not include:

- Purchases for business use in a corporation, cooperative, tribal council or band-empowered entity
- Purchases of fuel on behalf of a non-eligible person (a person who would not be entitled to the exemption if making the purchase directly), even if the non-eligible person will reimburse the First Nations individual
- Purchases where a non-eligible person is paying for fuel requested by a First Nations individual
- Purchases of fuel for resale to another person, even if that other person is eligible for the exemption

If you have reason to believe that fuel is not being purchased for the personal use of a First Nations individual, you must not sell tax-exempt fuel.

To provide an exemption to a First Nations customer, you must verify your customer is eligible to purchase tax-exempt fuel and document the sale using the following procedures.

First Nations Individuals

Indigenous and Northern Affairs Canada (INAC) issues *Certificate of Indian Status* cards to each individual registered as an Indian under the *Indian Act* (Canada), provided they apply for the card.

Recently, INAC introduced a new secure *Certificate of Indian Status* (SCIS) card. Including the SCIS card, there are four valid types of *Certificate of Indian Status* cards in circulation. In time, the older cards will be replaced with the SCIS card.

Generally, only individuals who hold such a card are eligible to purchase tax-exempt fuel as First Nations individuals (see below regarding expired cards).

However, Treaty First Nations individuals (e.g. Nisga'a citizens) are not eligible for exempt fuel after the applicable date outlined in their treaty. The new SCIS card issued to Treaty First Nations individuals states, "Cardholder is not eligible for sales/transaction tax exemption after DATE".

The other three remaining *Certificate of Indian Status* cards in circulation do not indicate when the cardholder is no longer eligible for the sales tax exemptions (see below for more information on Treaty First Nations individuals that do not qualify for an exemption).

Each *Certificate of Indian Status* card bears the cardholder's photograph, name, signature, and either a band name and number or a registration number. The first three digits of the registration number is the band number.

When presented with a *Certificate of Indian Status* card by a customer requesting to purchase tax-exempt fuel as a First Nations individual, you must determine the individual qualifies for exemption and follow the documentation procedures listed below.

1. Check that the photograph on the status card is that of your customer.
2. Record the individual's name, *Certificate of Indian Status* registration number, and volume and type of fuel purchased on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).
3. Obtain your customer's signature on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).
4. Check that this signature matches the signature on the card.

Expired Certificate of Indian Status Card

If an individual presents you with an expired *Certificate of Indian Status Card*, you may accept the card if they also provide you with additional government-issued photo identification that matches the individual with the expired *Certificate of Indian Status Card* (e.g. passport, driver's licence, BC Identification Card (BCID)).

Treaty First Nations Individuals that do not Qualify for Exemption

Nisga'a Nation citizens and Tsawwassen Nation members have *Certificate of Indian Status* cards, but are not eligible for the exemptions on fuel. If you are presented with a *Certificate of Indian Status* card that identifies the individual as a member of one of the following First Nations, you must not provide a First Nations exemption to that individual. For more information, see Treaty First Nations below.

Number	First Nation	Village
577	Tsawwassen First Nation	
671	Nisga'a First Nation	Village of Gingolx
677	Nisga'a First Nation	Village of New Aiyansh
678	Nisga'a First Nation	Village of Laxgalt'sap
679	Nisga'a First Nation	Village of Gitwinksihlkw

Temporary Confirmation of Registration Document

If an individual has recently applied for and has not yet received their *Certificate of Indian Status Card*, you may accept their *Temporary Confirmation of Registration Document* (TCRD) issued by INAC as proof the individual qualifies to purchase tax-exempt fuel as a First Nations individual. If an individual provides you with a TCRD, they must also show a piece of government-issued photo identification, such as a passport, driver's licence or BCID.

When presented with a TCRD, you must determine the individual qualifies for exemption and follow the documentation procedures listed below.

1. Check that the photo identification matches your customer.
2. Check that the information on the photo identification matches the information on the TCRD.
3. Check that the TCRD has not expired.
4. Record the individual's name, *Certificate of Indian Status* registration number, and volume and type of fuel purchased on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).
5. Obtain your customer's signature on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).
6. Check that this signature matches the signature on the photo identification.

For more information on the Temporary Confirmation of Registration Document, see [INAC's website](#).

Bands – Direct Sales

Purchases of fuel made in the name of a band (e.g. the purchase order or invoice is specifically made in the name of the band) on First Nations land are exempt from motor fuel and carbon tax. You must record the band's name, 3-digit number and volume of fuel and fuel type(s) on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)), and obtain the signature of the band's representative who takes possession of the fuel.

Band – Sales to Authorized Individuals

If an individual purchases fuel **on behalf of** a band (i.e. the purchase order is not specifically made in the name of the band), the individual must have written authorization from the band to act for the band. The authorization must show the band name and number, be signed by an appropriate band official and state the fuel is for band use.

When presented with an individual's written authorization to act for the band, you must verify the individual's identification and follow the documentation procedures listed below.

1. Verify the individual's identification matches the name of the individual authorized by the band.
2. Obtain the signature of the individual purchasing on behalf of the band on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).
3. Record the band's name and 3-digit number and volume of fuel and fuel type(s) on the *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).

Documenting Exempt Sales

Fuel Seller Permanently Located on First Nations Land

If you are a fuel seller permanently located on First Nations land (e.g. a retail gas station), you must keep a record of each tax-exempt sale, (at the time the tax-exempt sale is actually made) on a *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)). Tax-exempt customers must be physically present and sign the schedule at the time the actual sale is made. You cannot accept a proxy signature by individuals purchasing tax-exempt fuel on behalf of another person.

Exempt Sales from Cardlock Locations on First Nations Land

If you are a fuel seller permanently located on First Nations land with a cardlock, you must record exempt sales from your cardlock location on a *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)) and obtain the customer's signature to verify

the sales. Sales must be recorded for the month in which the sale occurs (i.e. not the billing or payment date).

Fuel Seller Not Permanently Located on First Nations Land

If you are a fuel seller not permanently located on First Nations land, you must keep evidence that the fuel was delivered by you into a receptacle (e.g. fuel tank) located on First Nations land (e.g. bills of lading or similar documentation). You must record the name of the First Nations land and the physical address where the exempt fuel was delivered and obtain at least one signature per month verifying the total volume of fuel received during that month. The customer's signature must include their *Certificate of Indian Status* registration number on your *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)).

Partnerships

If your customer is a general partnership or limited liability partnership (LLP), you must retain documentation showing the First Nations partner's proportional interest in the partnership. (For more information, see Partnerships below.)

Sales Without the Required Documentation

If you cannot collect and record the above information, you must collect the tax from your customer. If your customer claims they are purchasing fuel on behalf of a friend or family member who is a First Nations individual, but your customer does not possess a *Certificate of Indian Status* card in their own name, you must charge the tax.

If you must collect the tax, as in any of the situations above, and your customer claims they are eligible for exemption, you may advise them to apply to us for a refund. To apply for a refund of motor fuel tax paid, the purchaser must submit an *Application for Refund of Motor Fuel Tax - Purchaser of Fuel* ([FIN 147](#)). To apply for a refund of carbon tax paid, they must submit an *Application for Refund of Carbon Tax - Purchaser of Fuel* ([FIN 108](#)).

Records

In addition to documenting exempt sales, you must keep records of your fuel purchases and maintain accurate inventory records. Your records must be available for inspection by provincial fuel inspectors and must be kept, at all times, at the location from which the tax-exempt sales of fuel are made.

Partnerships

General Partnerships and Limited Liability Partnerships (LLP)

General partnerships and LLPs with a First Nations partner(s) are entitled to an exemption from motor fuel tax and carbon tax on their fuel purchases on First Nations land. The exemption is proportional to that First Nations partner's interest in the partnership. Unless a written partnership agreement provides otherwise, each partner is considered to own a proportionate share of the partnership assets equal to that partner's interest in the partnership.

For example, a non-First Nations individual forms a general partnership with a First Nations individual. The First Nations individual has a 50% interest in the partnership. In this case, the partnership is entitled to a 50% exemption on its fuel purchases on First Nations land provided all the criteria for exemption are met.

Limited Partnerships

Limited partnerships in which **all** of the partners are First Nations individuals or bands are entitled to a full exemption from motor fuel tax and carbon tax provided all the criteria for the exemption are met.

Limited partnerships in which **one or more** of the general or limited partners are First Nations individuals or bands may or may not qualify for exemption from motor fuel tax and carbon tax, depending on the terms of the partnership agreement.

Unless a limited partnership agreement provides otherwise in writing, any transaction involving the limited partnership is considered to be a transaction with the general partner. For example, if the partnership agreement does not identify the ownership of assets and the general partner is a First Nations individual or band, then the entire purchase of fuel on First Nations land is fully exempt from motor fuel tax and carbon tax provided all the criteria for exemption are met.

If the limited partnership agreement does not state who owns the partnership assets where the limited partner is a First Nations individual or band and the general partner is not, then the purchase of fuel on First Nations land is not exempt from motor fuel tax and carbon tax. With all partnerships, the specific terms of a partnership agreement can affect how motor fuel tax and carbon tax applies to the purchases made by the partnership. The law relating to partnerships is complicated. If you are unsure how motor fuel tax or carbon tax applies, please contact us and we will provide you with an answer that applies to your particular situation.

Note: Motor fuel and carbon tax exempt purchases by partnerships involving First Nations must meet all the criteria for the exemption for First Nations individuals or bands.

For an overview on partnerships, see [Bulletin PST 319, Partnerships](#)

Taxable Sales

You must collect the motor fuel and carbon tax at the appropriate rate on all types of fuel sold to customers who do not qualify to purchase fuel tax exempt or who do not provide the required documentation to obtain the exemption.

Corporations or cooperatives with First Nations shareholders, tribal councils and band-empowered entities are not eligible to purchase fuel tax exempt.

Treaty First Nations

Treaty First Nations Governments

Currently, the following First Nations governments have a treaty in effect with Canada and BC that sets out a unique taxation structure.

Effective Date of Treaty	First Nations Government or Government Entity
May 11, 2000	Nisga'a Lisims Government Nisga'a Village Governments Other Government Entities of the Nisga'a Nation See Nisga'a Nation Taxation Agreement and Amendment Agreement
April 3, 2009	Tsawwassen First Nation Government and Government Entities See Tsawwassen First Nation Tax Treatment Agreement and Amendment Agreement

Effective Date of Treaty	First Nations Government or Government Entity
April 1, 2011	Maa-nulth First Nations and Government Entities which include the following distinct Treaty Governments: <ul style="list-style-type: none"> ▪ Huu-ay-aht First Nations ▪ Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations ▪ Toquaht Nation ▪ Uchucklesaht Tribe ▪ Yuułu?if?ath (legally Ucluelet First Nation) See Maa-nulth First Nations Tax Treatment Agreement and Amendment Agreement
April 5, 2016	Tla’amin (Sliammon) First Nation and Government Entities See Tla’amin Tax Treatment Agreement

Treaty First Nations governments and their members do not qualify for motor fuel and carbon tax exemptions on First Nations land, unless a specific agreement is in place (see Treaty First Nations Lands and Individuals with Motor Fuel and Carbon Tax Exemptions below).

Nisga’a Lands and Nisga’a Members

Under the Nisga’a Final Agreement:

- Nisga’a lands do not qualify as First Nations land for the purposes of motor fuel or carbon tax exemptions for other First Nations individuals and bands
- Citizens of the Nisga’a Nation do not qualify for motor fuel or carbon tax exemptions as First Nations individuals (including sales on Nisga’a lands or on other First Nations lands)

For more information, see the [Nisga’a Final Agreement and Background Information website](#).

Tsawwassen Lands and Tsawwassen Members

Under the Tsawwassen First Nation Final Agreement:

- Tsawwassen lands do not qualify as First Nations land for the purposes of motor fuel or carbon tax exemptions for other First Nations individuals and bands
- Members of the Tsawwassen Nation do not qualify for motor fuel or carbon tax exemptions as First Nations individuals (including sales on Tsawwassen lands or on other First Nations lands)

For more information, see the [Tsawwassen First Nation Final Agreement website](#).

Treaty First Nations Lands and Individuals with Motor Fuel and Carbon Tax Exemptions

Under respective Final Agreements between the Government of Canada, BC and the following First Nations governments, the motor fuel and carbon tax exemptions for First Nations individuals (including the members of Treaty First Nations) on the following First Nations lands continues to be in effect as follows.

Treaty First Nation	Motor Fuel and Carbon Tax Exemption Expiry Date
Maa-nulth First Nations <ul style="list-style-type: none">▪ Huu-ay-aht First Nations▪ Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations▪ Toquaht Nation▪ Uchucklesaht Tribe▪ Yuułu?ıł?ath (legally Ucluelet First Nation)	May 1, 2019
Tla'amin First Nation (Sliammon)	May 1, 2024

For more treaty information see:

- [Maa-nulth First Nations](#)
- [Tla'amin Nation](#)

Reporting Requirements

Reporting and Remitting Tax

You must report your inventory, purchases and sales, for the types of fuel for which you have been appointed an EFR, on a *Tax Return – Exempt Fuel Retailer* ([FIN 412](#)) and remit any tax that is due on those sales to us by the 15th day of the month following the month you sold the fuel. For example, if you sell fuel anytime during the month of November, you must file the return and remit any tax due by December 15.

If you have no sales, you are still required to submit your tax return. If you identify an error in a tax return from a previous reporting period, **you must submit** an amended return for that reporting period.

You must also submit your *Schedule of Sales of Tax-Exempt Fuels to First Nations* ([FIN 412/2](#)) at the same time you file your completed return. Contact us if you have a

cardlock location and are unable to submit your schedule at the same time as your return.

You may file returns and schedules by mail or by courier. If you send in your return and payment by mail, it is considered on time if the envelope is postmarked by Canada Post on or before the due date. A business postage meter mark is not sufficient. If you hand deliver your tax return or send it by courier, it must be received by us by the close of business (4:30 pm) on the due date to be considered on time. If your return and payment are not received on time, penalty and interest may be applied. If the due date falls on a weekend or statutory holiday in BC, your return and payment are due by 4:30 pm on the first business day after the due date.

You may remit taxes due online using [eTaxBC](#). Payments are considered on time if they are posted to [eTaxBC](#) by 11:59 pm (Pacific Time) on the due date.

Reconciling Exempt Sales with Purchases

Complete the *Tax Return – Exempt Fuel Retailer (FIN 412)* to reconcile your exempt purchases and sales. If the actual percentage of fuel you sold exempt of tax is **greater** than the percentage of fuel you purchased exempt of security, you are eligible for a refund of security on the difference in sales volumes. If the actual percentage of fuel you sold exempt of tax is **less** than the percentage of fuel you purchased exempt of security, you must remit the additional tax you collected to us.

Note: If you plan to purchase fuel where security is paid from outside of one of the transit regions and transport and resell it in one of the transit regions, you must contact us.

For more information, see the [Instructions for Completing the Tax Return - Exempt Fuel Retailer \(FIN 412\)](#).

Reporting Tax on Sales Invoices

You must report the amount of motor fuel and carbon security or tax charged on your sales invoices if you sell fuel:

- From a bulk storage facility, cardlock or terminal rack
- For resale to another fuel seller
- To a registered consumer, registered air service or registered marine service
- To an end purchaser who is purchasing more than 45 litres of coloured fuel
- To a customer who requests an invoice

The invoice must show:

- the date of the sale,

- your name and address,
- the location of the sale if different than above and, if applicable, where the fuel was delivered,
- the name and address of the person you sold the fuel to,
- the quantity of each type of fuel sold,
- the rates for motor fuel tax and carbon tax for each type of fuel sold, as separate lines or columns on the invoice, and
- if the fuel is coloured indicate as “marked” or “dyed”, and the price of the coloured fuel per unit of sale. For more information, see [Bulletin MFT-CT 003](#), *Coloured Fuels*.

Refunds

Deputy Collectors and Retail Dealers

Deputy collectors (fuel suppliers) must pay security when they purchase fuel for sale to an EFR or other retail dealer. If you are a deputy collector and you sell fuel exempt of security to an EFR, you may apply for a refund of the security you paid.

Retail dealers must pay security on fuel not purchased under an EFR permit. If you are a non-EFR retail dealer and you sell fuel to a tax-exempt customer, you may apply for a refund of security you paid.

The refund amount is based on the difference between the amount of security you paid on the fuel and the amount of security or tax you collected. For information on how to claim a refund, see [Bulletin MFT-CT 007](#), *Refunds for Deputy Collectors and Retail Dealers*.

Purchasers – First Nations Individuals or Bands

If you are a First Nations individual or band and a fuel seller charges motor fuel tax or carbon tax on your purchase of fuel on First Nations land, you may apply for a refund.

To apply for a motor fuel tax refund, complete the *Application for Refund of Motor Fuel Tax - Purchaser of Fuel* ([FIN 147](#)).

To apply for a carbon tax refund, complete the *Application for Refund of Carbon Tax - Purchaser of Fuel* ([FIN 108](#)).

Purchasers – Treaty First Nations Governments

Treaty First Nations governments may apply for a refund of motor fuel tax paid under certain circumstances.

To apply for a refund, the Treaty First Nation must send us a letter requesting a refund along with supporting documents. For the Nisga’a Nation, complete the *Application for*

Refund of Motor Fuel Tax Pursuant to the Motor Fuel Tax Act and Nisga'a Nation Taxation Agreement (FIN 413 NNMFT). For more information, see the agreements listed in the above table.

Need more info?

Online: gov.bc.ca/salestaxes

Toll free in Canada: 1 877 388-4440

Email: CTBTaxQuestions@gov.bc.ca

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.

Latest Revision

October 2017

- Added information on:
 - what “personal use” does not include
 - how to accept expired *Certificate of Indian Status Cards* as documentation
 - what you need to do if your EFR permit is cancelled
 - Added information to reflect that:
 - members of the Tsawwassen First Nation do not qualify for motor fuel or carbon tax exemptions as First Nations individuals
 - Tsawwassen lands do not qualify as First Nations land for the purposes of motor fuel tax or carbon tax exemptions for other First Nations individuals and bands
-