

Chapter 308-78 WAC

AIRCRAFT FUEL TAX

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-78-050	Supporting documents for tax exempt transactions. [Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-050, filed 9/20/99, effective 10/21/99; WSR 85-04-027 (Order PFT 85-001), § 308-78-050, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-050, filed 10/6/82; Order 69-10-2, § 308-78-050, filed 10/29/69; Rule D, filed 9/12/67; Emergency Rule D, filed 7/21/67.] Repealed by WSR 09-07-077, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.040.
308-78-060	Tax exempt losses. [Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-060, filed 9/20/99, effective 10/21/99; WSR 82-20-093 (Order MV 696), § 308-78-060, filed 10/6/82; Order 69-10-2, § 308-78-060, filed 10/29/69; Rule E, filed 9/12/67; Emergency Rule E, filed 7/21/67.] Repealed by WSR 01-08-083, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 82.42.100.

WAC 308-78-010 Definitions. (1) "User" means any person other than a distributor who is certified to acquire aircraft fuel without payment of the aircraft fuel tax at time of acquisition.

(2) "Private, nonstate funded airfield" means an airport not eligible to receive state funding under chapter 47.68 RCW.

(3) "Emergency medical air transport entities" means entities that own or lease, and operate aircraft used solely for air ambulance services.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-010, filed 3/16/09, effective 4/16/09; WSR 04-06-001, § 308-78-010, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-010, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 82.42.-040. WSR 90-13-039 (Order PFT 90-05), § 308-78-010, filed 6/14/90, effective 7/15/90. Statutory Authority: RCW 82.42.030. WSR 86-02-057 (Order TL-RG-23), § 308-78-010, filed 12/31/85. Statutory Authority: RCW 82.42.040. WSR 85-04-027 (Order PFT 85-001), § 308-78-010, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-010, filed 10/6/82; Order 69-10-2, § 308-78-010, filed 10/29/69; Rules (part), filed 9/12/67; Emergency Rules (part), filed 7/21/67.]

WAC 308-78-020 Bond requirements and collection.

(1) **Are bonds required for aircraft fuel distributors?** Yes, every aircraft fuel distributor must be bonded as provided in chapter 82.36 RCW and chapter 82.42 RCW.

(2) **Can the department collect on bonds for unpaid aircraft fuel taxes?** Yes, the department may execute bonds

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on file under the provisions of chapters 82.36 and 82.42 RCW for unpaid aircraft fuel taxes.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-020, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-020, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-020, filed 9/20/99, effective 10/21/99; WSR 82-20-093 (Order MV 696), § 308-78-020, filed 10/6/82; Order 69-10-2, § 308-78-020, filed 10/29/69; Rule A, filed 9/12/67; Emergency Rule A, filed 7/21/67.]

WAC 308-78-030 Required reports. (1) **What reports are required by the department for aircraft fuel tax and when are they due?** Every licensed distributor of aircraft fuel will submit signed tax returns and schedules to the department, on or before the 25th day of each month, or as required by the department. Forms will be furnished or approved by the department.

(2) **What if the payment due date falls on a Saturday, Sunday, or state legal holiday?** Payment is due by the state business day immediately preceding the due date. For example, if the payment due date falls on Saturday, you must transfer the funds by Friday.

(3) **Is a report due if I have no activity for the month?** Yes, a report must be filed with the department for each calendar month.

(4) **Can tax return information be made available to other government agencies?** Yes, the department routinely furnishes copies of schedules to government agencies or foreign jurisdictions.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-030, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-030, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-030, filed 9/20/99, effective 10/21/99; WSR 90-13-039 (Order PFT 90-05), § 308-78-030, filed 6/14/90, effective 7/15/90; WSR 82-20-093 (Order MV 696), § 308-78-030, filed 10/6/82; Order 69-10-2, § 308-78-030, filed 10/29/69; Rule B, filed 9/12/67; Emergency Rule B, filed 7/21/67.]

WAC 308-78-035 Minimum payment or refund. (1) **What is the minimum payment or refund for licensed accounts?** Ten dollars or less will not be owed or refunded.

(2) **What is the minimum refund for unlicensed refund claims?** Claims for less than twenty dollars will not be refunded.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-035, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-035, filed 4/4/01, effective 5/5/01.]

WAC 308-78-040 Tax exempt sales by licensed distributors. **When may a licensed distributor sell aircraft fuel without collecting the aircraft fuel tax?** When delivery is made by the distributor to any of the following:

- (1) A destination outside the state;
- (2) United States or foreign government agencies;

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(3) Directly into the aircraft fuel tanks of equipment operated by air carriers, supplemental air carriers, and foreign flag carriers operating under the Federal Aviation Regulations, and local service commuters;

(4) Another licensed distributor;

(5) To a purchaser who delivers the fuel for export under RCW 82.42.030 or 82.42.070; or

(6) Into the bulk storage tank of a certified user.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-040, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-040, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-040, filed 9/20/99, effective 10/21/99; WSR 90-13-039 (Order PFT 90-05), § 308-78-040, filed 6/14/90, effective 7/15/90; WSR 85-04-027 (Order PFT 85-001), § 308-78-040, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-040, filed 10/6/82; Order 69-10-2, § 308-78-040, filed 10/29/69; Rule C, filed 9/12/67; Emergency Rule C, filed 7/21/67.]

WAC 308-78-045 Tax exempt use and circumstances. (1) What are the conditions under which a refund of aircraft fuel tax can be claimed?

(a) Operation of aircraft by air carriers, supplemental air carriers, and foreign flag carriers, operating under the Federal Aviation Administration Regulations, and local service commuters.

(b) Testing and experimental purposes in the manufacture or remanufacture of aircraft and for flight operations or experimental testing following manufacture, repair prior to delivery to a customer, or experimental testing of another aircraft.

(c) Aircraft crew training in Washington state for certified air carriers.

(d) When applying pesticides, herbicides, or other agricultural chemicals under conditions defined in RCW 82.42.020.

(e) Exportation of fuel from this state for use outside this state under the same conditions as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(f) Use of fuel in nonhighway equipment, other than aircraft, as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(g) Sales to the United States or foreign government agencies by a distributor who has paid the aircraft fuel tax. The distributor will file an exemption certificate provided by the department. This certificate will contain an assignment to the distributor of the purchaser's right to a refund.

(h) Users of aircraft fuel placed into helicopters or the wing tanks of aircraft that are used solely for air ambulance services are eligible for a refund of the aircraft fuel tax. Aircraft fuel consumed during training activities directly related to providing air ambulance services is considered to be exempt from the aircraft fuel tax.

(2) What records must be kept when claiming an exemption of aircraft fuel tax? Each person must keep records of each flight or series of flights for which tax exempt use is claimed. Records will include:

(a) Flight or block time of each flight or series of flights;

(b) Type of aircraft;

(c) Purpose of each flight or series of flights;

(d) Dates; and

(e) Gallons consumed for each flight or series of flights.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-045, filed 3/16/09, effective 4/16/09; WSR 04-06-001, § 308-78-045, filed 2/18/04, effective 3/20/04. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-045, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.-040. WSR 99-19-097, § 308-78-045, filed 9/20/99, effective 10/21/99; WSR 85-04-027 (Order PFT 85-001), § 308-78-045, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-045, filed 10/6/82.]

WAC 308-78-046 Tax exempt losses. (1) What is acceptable proof of loss for a credit or refund of fuel tax paid?

(a) A notarized affidavit by a person having actual knowledge of the circumstances of the loss, explaining the origin and destination of the shipment, the circumstances surrounding the quantity of fuel lost, fuel salvaged, disposition of the salvaged fuel, and procedures used in the determination of the quantity of fuel lost; or

(b) A signed statement by a federal, state, local or provincial official who has authority to investigate fuel loss; and

(c) A bill of lading or other shipping documents; and

(d) A statement by the licensee establishing ownership of the fuel at time of loss.

(2) Are deductions for losses from bulk storage allowed? Yes, aircraft fuel that has been proven lost or destroyed prior to distribution from a licensee's bulk storage facility outside of the bulk transfer terminal system may be considered a tax exempt loss.

(3) How long do I retain my evidence substantiating my loss? Five years from date of claim.

(4) May I claim a deduction from stolen fuel? No.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-046, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-046, filed 4/4/01, effective 5/5/01.]

WAC 308-78-070 Records. (1) What aircraft fuel records must be kept? Every person licensed or required to be licensed must maintain a complete monthly stock summary of the gallons of aircraft fuel reflecting inventories, receipts, sales, use, other distribution, and loss or gain. The stock summary must be supported by:

(a) Physical inventories of bulk storage plants taken at the close of each calendar month.

(b) Meter readings taken at the close of each calendar month for pumps through which fuel is dispensed.

(c) A record of fuel receipts, invoices, bills of lading, transfer documents, yield reports, and other documents relative to the acquisition of fuel.

(d) A record of fuel disbursements, invoices, bills of lading and other documents relative to the disbursement of fuel.

(2) How long must I retain my records? Records will be maintained and kept for a period of not less than five years in their original form. The department may make such examinations of the records, facilities, equipment, and aircraft of distributors, certified users and consumers of aircraft fuel as necessary in carrying out the provisions of this chapter.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-070, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-070, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-070, filed 9/20/99, effective 10/21/99; WSR 90-13-039 (Order PFT 90-05), § 308-78-070, filed 6/14/90, effective 7/15/90; WSR 85-04-027 (Order PFT 85-001), § 308-78-070, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-070, filed 10/6/82; Order 69-10-2, § 308-78-070, filed 10/29/69; Rule F, filed 9/12/67; Emergency Rule F, filed 7/21/67.]

WAC 308-78-075 Invoices issued by licensees. (1)

When is an invoice issued? Every licensee must issue an invoice at the time of sale. If an electronic invoice is issued, a paper copy of the invoice is required to support a refund claim.

(2) What information is required on an invoice?

(a) The name and address of the seller;
 (b) The name, address, and aircraft fuel tax number, if applicable, of the purchaser for all deliveries other than those made directly into the aircraft fuel tanks of unlicensed exempt carriers;

(c) The date of delivery, month, day, and year;

(d) The location of the point of shipment. Alphanumeric codes are not allowed;

(e) The physical address of the fuel delivery or exchange if different than the purchaser address, including the name of the state, Canadian Province, or foreign country. Alphanumeric codes are not allowed;

(f) In the case of a delivery onto a federally recognized Indian reservation or into Indian country, the invoice must identify the state, U.S. possession, or Canadian Province in which the delivery took place;

(g) Name of carrier transporting fuel;

(h) Name of product sold;

(i) The number of U.S. gallons of product sold in net or gross gallons;

(j) The price per gallon and the total amount charged; and

(k) A statement on the invoice indicating if the fuel has been sold without the Washington state fuel tax.

(3) What happens if a purchaser's invoice is lost or destroyed? The seller can issue a duplicate or copy containing all information on the original invoice, if requested by the purchaser. The copies must be plainly marked "copy" or "duplicate."

(4) What happens if an incorrect invoice is issued to the purchaser? The seller must issue a corrected invoice to the purchaser. The invoice must clearly indicate that it is a corrected invoice and reference the original invoice.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-075, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-075, filed 4/4/01, effective 5/5/01.]

WAC 308-78-080 Filing of refund claims for non-licensees. (1) How do I apply for a refund for aircraft fuel? Contact the department for a refund permit application and instructions.

(2) What time period can I file for a refund? You must file within thirteen months of the fuel purchase date. The department will use the postmark date to determine the thirteen-month time frame. We will not accept multiple refund claims for the same month. For example, if you have made a claim for purchases in June you cannot claim additional purchases for June on another claim form.

(3) What do I need to send with my refund claim? You must send in your fuel purchase invoices, schedules, and other documents listed on the refund claim form. If electronic invoices were issued, you must provide paper copies.

(4) How do I account for my inventory? Any fuel on hand, by physical measurement, at the end of the claim period

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should be reported as ending inventory. This figure should be reported as the beginning inventory on your next claim form.

(5) What does a licensed distributor send with their refund claim? Summary schedules must be provided and the department may request invoices.

(6) The following can sign a refund claim form:

(a) Individuals - Permit holder;

(b) Partnership - Any one of the partners;

(c) Business firm or corporation - Owner, corporate officer or other authorized agent.

(7) Can invoices have a different name than what is on the claim form? No.

(8) Can I request that my refund be assigned to another person? Yes, if we receive a letter stating whom you would like the claim assigned to.

(9) How long will it take until I receive my refund? Within thirty business days after we receive a properly completed claim.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-080, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-080, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-080, filed 9/20/99, effective 10/21/99; WSR 85-04-027 (Order PFT 85-001), § 308-78-080, filed 1/31/85; WSR 82-20-093 (Order MV 696), § 308-78-080, filed 10/6/82; Order 69-10-2, § 308-78-080, filed 10/29/69; Rule G, filed 9/12/67; Emergency Rule G, filed 7/21/67.]

WAC 308-78-090 Mitigation of penalties and interest. (1) What fee, penalty or interest may be mitigated or reduced?

The department may mitigate fees, penalties, or interest from:

- Late or missing fuel tax returns;
- Unpaid or underpaid taxes;
- Incomplete records to support reported fuel usage; or
- Assessments.

(2) How will the department make the decision? The department may review records, account history, or other information.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-090, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 82.42.100. WSR 01-08-083, § 308-78-090, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 88.42.040. WSR 99-19-097, § 308-78-090, filed 9/20/99, effective 10/21/99. Statutory Authority: RCW 82.42.040 and 82.42.100. WSR 92-01-015, § 308-78-090, filed 12/6/91, effective 1/6/92.]

WAC 308-78-100 Dishonored checks. (1) What will happen if my check is dishonored? The department will take collection action to recover any amounts owing and require all subsequent payments to be made in guaranteed funds, such as cash, cashier's check, or money order.

(2) Are there any additional fees charged for a dishonored check? Yes, a handling fee will be charged by the department for each dishonored check.

[Statutory Authority: RCW 82.42.040. WSR 09-07-077, § 308-78-100, filed 3/16/09, effective 4/16/09. Statutory Authority: RCW 46.01.110, 82.36.435, 82.38.260, 82.42.040, 46.87.010(2). WSR 00-08-032, § 308-78-100, filed 3/28/00, effective 4/28/00.]