



Ohio Revised Code Section 5736.01 Definitions.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

As used in this chapter:

(A) "Calendar quarter" and "person" have the same meanings as in section 5751.01 of the Revised Code.

(B) "Distribution system" means a bulk transfer or terminal system for the distribution of motor fuel consisting of refineries, pipelines, marine vessels, and terminals. For the purposes of this section, motor fuel that is in a refinery, pipeline, terminal, or marine vessel or that is en route to a refinery, pipeline, or terminal via any method of transportation is in a "distribution system." Motor fuel is "outside of a distribution system" if the fuel is in a fuel storage facility, including, but not limited to, a bulk plant that is not part of a refinery or terminal, is in the fuel supply tank of an engine or motor vehicle, or is being transported by a marine vessel, tank car, rail car, trailer, truck, or other suitable equipment to a fuel storage facility that is not in a distribution system.

(C) "Dyed diesel fuel," "import," "motor fuel," "public highways," "gasoline," "diesel fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code. "Gallons" means gross gallons as defined in section 5735.01 of the Revised Code.

(D) "First sale of motor fuel within this state" means the initial sale of motor fuel to a point outside a distribution system, wherever the sale occurs, without regard to where title transfers or other conditions of sale, when sold for delivery to a location in this state as that location is shown on the bill of lading or other similar document issued by the terminal, refinery, or supplier. "First sale of motor fuel within this state" excludes the following:

(1) Motor fuel exchanges;

(2) The sale of motor fuel on which the petroleum activity tax imposed by this chapter was paid in a



prior quarterly tax payment period and on which the supplier may claim a bad debt. As used in this division, "bad debt" has the same meaning as in section 5751.01 of the Revised Code.

(E)(1) "Calculated gross receipts" means the sum of the following:

(a) With respect to sales of gasoline, the product obtained by multiplying (i) the total number of gallons of gasoline first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of unleaded regular gasoline for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code;

(b) With respect to sales of propane, the product obtained by multiplying (i) the total number of gallons of propane first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of propane for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code;

(c) With respect to sales of motor fuel that is not gasoline or propane, the product obtained by multiplying (i) the total number of gallons of motor fuel first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of diesel fuel for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code.

(2) A supplier that has acquired blend stocks or additives with respect to which the tax imposed by this chapter has previously been paid may exclude the product of the following amounts from the calculation of the supplier's "calculated gross receipts" under division (E) of this section, provided that the supplier uses the blend stocks or additives for blending with motor fuel:

(a) The number of gallons of the blend stocks or additives;

(b) The average wholesale price of a gallon of such blend stocks or additives for the calendar quarter in which the tax was paid on the blend stocks or additives.



The supplier may rely upon an invoice issued by the seller of the blend stocks or additives as evidence that the tax imposed by this section has been remitted with respect to the blend stocks or additives, provided that the invoice lists the tax as a separate charge, the seller is included on the list maintained by the tax commissioner under section 5736.041 of the Revised Code, and the supplier maintains the invoice in accordance with section 5736.12 of the Revised Code.

(F) "Motor fuel used to propel vehicles on public highways and waterways" includes motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways. "Motor fuel used to propel vehicles on public highways and waterways" does not include dyed diesel fuel.

(G) "Rack" means a mechanism capable of delivering motor fuel from a refinery, terminal, or marine vessel into a railroad tank car, transport truck, tank wagon, fuel supply tank, marine vessel, or other means of transport outside of a distribution system.

(H) "Refinery" means a facility used to produce motor fuel and from which motor fuel may be removed by pipeline, by vessel, or at a rack.

(I) "Supplier" means any of the following:

(1) A person that sells, exchanges, transfers, or otherwise distributes motor fuel from a terminal or refinery rack to a point outside of a distribution system, if the person distributes such motor fuel at a location in this state;

(2) A person that imports or causes the importation of motor fuel for sale, exchange, transfer, or other distribution by the person to a point outside of a distribution system in this state;

(3) A person that knowingly purchases motor fuel from an unlicensed supplier.

(J) "Tax period" means the calendar quarter on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(K) "Taxpayer" means a person subject to the tax imposed by this chapter.



(L) "Waterways" means all streams, lakes, ponds, marshes, water courses, and all other bodies of surface water, natural or artificial, which are situated wholly or partially within this state or within its jurisdiction, except private impounded bodies of water.

(M) "Motor fuel exchange" means an exchange of motor fuel between two or more suppliers, licensed motor fuel dealers, or licensed permissive motor fuel dealers if delivery occurs at a refinery, terminal, pipeline, or marine vessel and if the parties agree that neither party requires monetary compensation from the other party for the exchanged fuel other than compensation for differences in product location, grade, or handling.