

(2) a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid;

(3) a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose;

(4) a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid:

(A) in an original or subsequent sale; or

(B) from any source in this state; and

(5) a person who acquires diesel fuel by any unlawful means, including by purchase through the unauthorized use of a credit card, a debit card, or other money, regardless of whether tax was previously paid on the diesel fuel or was added to the selling price of the diesel fuel.

(b) If the motor vehicle described by Subsection (a)(2) is owned or leased by a person other than the operator, the tax shall be paid by either the operator or the motor vehicle's owner or lessee.

(c) The tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) A person who sells diesel fuel in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel fuel in addition to the selling price and is liable to this state for the taxes imposed in the manner provided by this chapter.

(e) The tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 21, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 191 (H.B. 3651), Sec. 5, eff. September 1, 2023.

Sec. 162.204. EXEMPTIONS. (a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451,

Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that the bill of lading indicates the destination state and the supplier collects the destination state tax;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading or shipping documents indicate the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section [548.001](#), Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule;

(14) diesel fuel sold to a volunteer fire department in this state for the department's exclusive use;

(15) diesel fuel sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the diesel fuel exclusively to provide emergency medical services, including rescue and ambulance services; or

(16) diesel fuel sold to a nonprofit food bank and delivered into:

(A) the fuel supply tank of a motor vehicle with a gross vehicle weight rating of at least 25,000 pounds that is owned by the nonprofit food bank and used to deliver food; or

(B) a storage facility from which diesel fuel will be delivered solely into the fuel supply tanks of motor vehicles described by Paragraph (A).

(b) The exemption provided by Subsection (a)(4) does not apply to diesel fuel that is transported and delivered outside this state in the motor fuel supply tank of a motor vehicle other than an interstate trucker.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. [1557](#)), Sec. 13(2), eff. January 1, 2018.

(d) Subsection (a)(4) applies only if the destination state recognizes, by agreement with this state or by statute or rule, a supplier in this state as a valid taxpayer for the motor fuel being exported to that state from this state. The comptroller shall publish a list that specifies for each state, other than this state, whether that state does or does not qualify under this subsection.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. [1557](#)), Sec. 13(2), eff. January 1, 2018.

(f) The exemption provided by Subsection (a)(4) does not apply to a sale by a distributor.

(g) In lieu of claiming the exemption and complying with the labeling requirements provided by Subsection (a)(9), a person to whom Section [162.201](#) applies may elect to collect and remit the tax otherwise imposed under this subchapter on the materials described by Subsection (a)(9) as if the materials were taxable diesel fuel. The labeling

requirements provided by Subsection (a)(9) do not apply to a dealer who sells taxable diesel fuel blended with materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection. Materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection are not exempt from tax under Subsection (a)(9) on a subsequent sale, and a license holder or other purchaser is not entitled to a refund or credit under Subsection (a)(9) for a purchase of taxable diesel fuel blended with those materials.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. [3314](#)), Sec. 14, eff. July 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 161 (S.B. [254](#)), Sec. 3, eff. July 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1312 (H.B. [2582](#)), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1050 (H.B. [3086](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. [1905](#)), Sec. 26, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. [1557](#)), Sec. 7, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. [1557](#)), Sec. 13(2), eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. [3954](#)), Sec. 5, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 536 (H.B. [3599](#)), Sec. 5, eff. September 1, 2023.

Sec. 162.205. PERSONS REQUIRED TO BE LICENSED. (a) A person shall obtain the appropriate license or licenses issued by the comptroller before conducting the activities of:

(1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;