

**7-13-4.4. Additional deduction; certain retail sales on an Indian reservation, pueblo grant or trust land.**

In computing the gasoline tax due, a person other than a registered Indian tribal distributor may deduct from the total amount of gasoline received in New Mexico during the tax period, provided satisfactory proof is provided to the department, gasoline received in New Mexico and sold at retail in New Mexico if:

- A. the sale occurs on an Indian reservation, pueblo grant or trust land;
- B. the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant or trust land;
- C. the Indian nation, tribe or pueblo has certified to the department that it has in effect an excise, privilege or similar tax on gasoline; provided that the gallons of gasoline deducted pursuant to this section shall be the total gallons sold in accordance with the provisions of this section multiplied by a fraction, the numerator of which is the rate of the tribal tax certified to the department by the Indian nation, tribe or pueblo and the denominator of which is the rate of the gasoline tax imposed pursuant to the Gasoline Tax Act, but, if the fraction exceeds one, the fraction shall be deemed to be one for purposes of determining the deduction; and
- D. the person is subject to and in compliance with the tax on gasoline imposed by the Indian nation, tribe or pueblo where the sale occurs.

**History:** 1978 Comp., § 7-13-4.4, enacted by Laws 2000, ch. 50, § 1.

**67-3-8.1. Secretary; authority to enter into intergovernmental agreement; gasoline tax sharing agreement; qualified tribe.**

A. The secretary may enter into an intergovernmental agreement that may be referred to as a "gasoline tax sharing agreement" with a qualified tribe to receive forty percent of the gasoline tax revenue paid on two million five hundred thousand gallons of gasoline each month in exchange for the qualified tribe's agreement that the qualified tribe or a registered Indian tribal distributor owned by the qualified tribe shall not:

- (1) distribute gasoline for resale outside of the boundaries of that registered Indian tribal distributor's Indian reservation, pueblo grant or trust land located in New Mexico; and
- (2) claim all or part of the deduction authorized in Subsection F of Section 7-13-4 NMSA 1978.

B. The term of a gasoline tax sharing agreement entered into pursuant to this section shall be for a period of up to twenty years. The secretary and a qualified tribe with a gasoline tax sharing agreement shall report, at the midpoint of the term of the agreement, to the legislative finance committee and to the revenue stabilization and tax policy committee on the status of the agreement.

C. A gasoline tax sharing agreement entered into pursuant to this section shall be construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between the state and any other tribe.

D. Nothing in this section or in a gasoline tax sharing agreement entered into pursuant to this section shall be construed as creating rights in a third party.

E. Copies of gasoline tax sharing agreements shall be promptly transmitted to the secretary upon signing by the representatives of the governments that are parties to the agreement.

F. As used in this section:

(1) "qualified tribe" means the Pueblo of Nambe or the Pueblo of Santo Domingo, as long as it owns one hundred percent of a registered Indian tribal distributor pursuant to the Gasoline Tax Act [7-13-1 NMSA 1978], that qualifies for a deduction pursuant to Subsection F of Section 7-13-4 NMSA 1978; and

(2) "tribe" means an Indian nation, tribe or pueblo located in New Mexico.

**History:** 1978 Comp., § 67-3-8.1, enacted by Laws 2003, ch. 150, § 3; 2004, ch. 109, § 3; 2010, ch. 15, § 1.

**7-13-4. Deductions; gasoline tax.**

In computing the gasoline tax due, the following amounts of gasoline may be deducted from the total amount of gasoline received in New Mexico during the tax period, provided satisfactory proof thereof is furnished to the department:

A. gasoline received in New Mexico, but exported from this state by a rack operator, distributor or wholesaler other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the gasoline is registered in or licensed by the destination state to pay that state's gasoline or equivalent fuel tax;

(2) proof is submitted that the destination state's gasoline or equivalent fuel tax has been paid or is not due with respect to the gasoline; or

(3) the destination state's gasoline or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section [9-11-12](#) NMSA 1978 with the destination state;

B. gasoline received in New Mexico sold to the United States or an agency or instrumentality thereof for the exclusive use of the United States or an agency or instrumentality thereof. Gasoline sold to the United States includes gasoline delivered into the supply tank of a government-licensed vehicle of the United States;

C. gasoline received in New Mexico sold to an Indian nation, tribe or pueblo or a political subdivision, agency or instrumentality of that Indian nation, tribe or pueblo for the exclusive use of the Indian nation, tribe or pueblo or a political subdivision, agency or instrumentality thereof. Gasoline sold to an Indian nation, tribe or pueblo includes gasoline delivered into the supply tank of a government-licensed vehicle of the Indian nation, tribe or pueblo;

D. gasoline received in New Mexico, dyed in accordance with department regulations and used in a manner other than for propulsion of motor vehicles on the highways of this state or motorboats or activities ancillary to that propulsion;

E. gasoline received in New Mexico and sold at retail by a registered Indian tribal distributor if:

(1) the sale occurs on the Indian reservation, pueblo grant or trust land of the distributor's Indian nation, tribe or pueblo;

(2) the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant or trust land; and

(3) the Indian nation, tribe or pueblo has certified to the department that it has in effect an excise, privilege or similar tax on the gasoline; provided that the volume of gasoline deducted pursuant to this subsection shall be the total gallons sold in accordance with the provisions of this subsection multiplied by a fraction the numerator of which is the rate of the tribal tax certified to the department by the Indian nation, tribe or pueblo and the denominator of which is the rate of the gasoline tax imposed pursuant to the Gasoline Tax Act, but if the fraction exceeds one, it shall be one for purposes of determining the deduction;

F. gasoline received in New Mexico and sold by a registered Indian tribal distributor from a nonmobile storage container located within that distributor's Indian reservation, pueblo grant or trust land for resale outside that distributor's Indian reservation, pueblo grant or trust land; provided the department certifies that the distributor claiming the deduction sold no less than one million gallons of gasoline from a nonmobile storage container located within that distributor's Indian reservation, pueblo grant or trust land for resale outside that distributor's Indian reservation, pueblo grant or trust land during the period of May through August 1998; and provided further that the amount of gasoline deducted by a registered Indian tribal distributor pursuant to this subsection shall not exceed two million five hundred thousand gallons per month, calculated as a monthly average during the calendar year. Volumes deducted pursuant to Subsection E of this section shall not be deducted pursuant to this subsection; and

G. gasoline received in New Mexico on which New Mexico gasoline tax was paid by the out-of-state terminal at which the gasoline was loaded, provided that documentation that the gasoline was to be imported into New Mexico was provided to the terminal operator by the person receiving the fuel.

History: 1978 Comp., § 7-13-4, enacted by Laws 1991, ch. 9, § 32; 1997, ch. 192, § 2; 1998, ch. 44, § 1; 1999, ch. 190, § 3; 2007, ch. 110, § 1.