



Source of the Illinois Motor Fuel Tax Fund



Distribution of the Illinois Motor Fuel Tax Fund



Permissible Uses of the Motor Fuel Tax for Counties



# Insight

## Illinois Motor Fuel Tax

**As Illinois lawmakers contemplate an infrastructure spending plan, transportation fee increases are under serious consideration. The Illinois Department of Transportation (IDOT) estimates that the state needs \$13 billion to \$15 billion to maintain the states roads and bridges. An often cited revenue source for infrastructure improvements is the Motor Fuel Tax (MFT), commonly referred to as the gas tax. Illinois' motor fuel tax is imposed on the retail sale of motor fuel. The motor fuel tax has not increased in Illinois since 1990.**

Like many states, Illinois and a number of Illinois localities impose motor fuel taxes. Although these taxes are each generally similar, they function slightly differently and are administered by different agencies. It is important not only for retailers of motor fuel, but any business that uses motor fuel in the operation of its business to understand the different layers of motor fuel taxes in Illinois.

Illinois' motor fuel tax is imposed on the retail sale of motor fuel.<sup>[1]</sup> Indeed, the tax

is explicitly imposed on the consumers of motor fuel.<sup>[2]</sup> However, the tax must be prepaid by a motor fuel retailer, meaning that rather than provide a resale certificate to its supplier, the retailer must pay tax to its supplier.<sup>[3]</sup> Sales from distributors to other distributors that are not registered with the State as distributors but who are otherwise registered in the state to make retail sales are also subject to the tax.<sup>[4]</sup> Sales at the gas station pump can never be treated as sales for resale.<sup>[5]</sup>

The motor fuel tax must also be prepaid. On the first of January and July each year, the Department of Revenue ("Department") uses the average selling price per gallon of motor fuel sold in Illinois during the previous six months and subject that to a 6.25% tax rate to determine the amount of tax that should be imposed on each gallon. Different rates are applied to sales of biodiesel and gasoline/gasohol.

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## Motor Fuel Tax Fund Source

The Illinois Motor Tax (MFT) Fund is derived from a tax on the privilege of operating motor vehicles upon public highways and of operating recreational watercraft upon the waters of this State based on the consumption of motor fuel.

### Motor fuel taxes that are deposited in the Illinois MFT are:

- For gasoline, gasoline products, LNG, CNG, propane, and gasohol, the rate is \$0.19 per gallon.
- The special fuel (diesel and biodiesel) rate is an additional 2.5 cents per gallon for a total of \$0.215 per gallon.

The Department of Transportation allocates these monies according to the provisions outlined in the Motor Fuel Tax fund distribution statute, 35 ILCS 505/8 and initiates the process for distribution of motor fuel tax to the counties, townships and municipalities. On a monthly basis, a warrant is issued to each county treasurer in the amount of the county's share of Motor Fuel Tax Fund collected for the preceding month. Monthly distributions are posted on the department's website.

[1] 35 ILCS 105/3-10; 35 ILCS 120/2-10; 86 Ill. Admin. Code 130.2060;

[2] 86 Ill. Admin. Code 130.2060(b).

[3] 86 Ill. Admin. Code 130.551.

[4] Id.

[5] Illinois Dept. of Rev. Bulletin No. FY 2008-09 (4/1/2008).

[6] 65ILCS 5/8-11-15.

[7] Municipal Code of Chicago ("M.C.C.") Secs. 3-52-020; 3-52-040.

[8] M.C.C. 3-52-110.

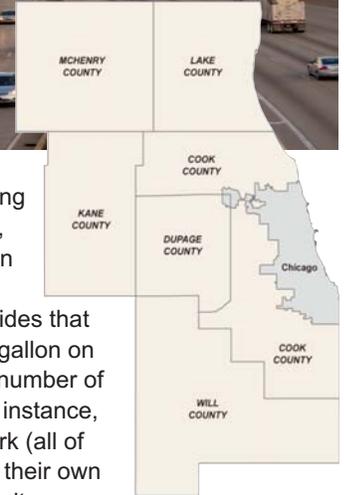
[9] M.C.C. 3-52-100.

[10] Cook County Code Sec. 74-472(c).

[11] Cook County Code Sec. 74-474; 74-475.

[12] Cook County Code Sec. 74-473.

## Local Imposition of Motor Fuel Taxes



A number of localities impose motor fuel taxes, including Chicago, Cook County, DuPage County, Kane County, and McHenry County. Municipalities with populations in excess of 100,000 are entitled to impose motor fuel taxes by referendum. Although the Illinois statute provides that such municipalities may impose a tax of one cent per gallon on motor fuel sold at retail within such municipalities,<sup>[6]</sup> a number of localities have adopted taxes substantially higher. For instance, the Cities of Bloomington, Belvidere, and Highland Park (all of which have populations below 100,000), each impose their own motor fuel tax which must be remitted directly to each city.

**Chicago:** Technically, the City of Chicago imposes the Vehicle Fuel Tax, not a motor fuel tax. The tax is imposed on the privilege of purchasing or using in the City vehicle fuel purchased at retail. The tax is imposed at a rate of five cents per gallon of fuel. As with Illinois, although the tax is imposed upon the purchaser or user of the fuel, the tax must be collected by each fuel distributor who sells such fuel to a retail fuel dealer doing business in the city.<sup>[7]</sup> Fuel distributors doing business in the city are required to register with the City Department of Finance and must file returns with the city on a monthly basis.

Chicago does provide a number of exemptions from the Vehicle Fuel Tax, including (1) sales by a distributor to another distributor holding a valid registration certificate, (2) sales by a distributor to a distributor or retailer of vehicle fuel whose place of business is outside the city, (3) sale or use for purposes other than for propulsion or operation of a vehicle, and (4) sales to or use by any air common carrier, among others.<sup>[8]</sup> The burden of demonstrating that a sale is not subject to the tax is on the distributor, dealer, or purchaser claiming the exemption.<sup>[9]</sup>

**Cook County:** Cook County imposes a Gasoline and Diesel Fuel Tax. The Cook County tax is imposed on the retail sale in Cook County of gasoline, diesel fuel, biodiesel fuel, and g diesel fuel at the rate of six cents per gallon. Cook County's ordinance creates three classes of "taxable transactions." The ordinance provides that the tax shall be collected by each distributor or supplier who sells a taxable fuel to (1) a retail dealer doing business in the County, (2) a consumer who purchases taxable fuel from a gas distributor for delivery in the County, or (3) another gas distributor doing business in the County that is not holding a valid registration certificate.<sup>[10]</sup> Gas distributors must register with Cook County and file returns directly with the Cook County Department of Revenue.<sup>[11]</sup>

Cook County's exemptions are slightly different from Chicago's, exempting only sales to (1) another gas distributor holding a valid Cook County Department of Revenue gas tax certificate of registration, (2) another gas distributor, or a retail dealer where the selling distributor, or its agent, delivers the gasoline, diesel fuel, biodiesel fuel or g diesel fuel to a location outside of the County, or (3) the United States of America, the State, or their instrumentalities.<sup>[12]</sup>



## Distribution of the Motor Fuel Tax Fund

The money deposited each month in the state Motor Fuel Tax Fund shall be distributed as follows:

- a. 2 1/2 cents per gallon tax on diesel fuel is transferred to the State Construction Account Fund.
- b. \$420,000 per month is transferred to the State Boating Act Fund. This money is used by the Department of Natural Resources for the purposes specified in Article X of the Boat Registration and Safety Act, 625 ILCS 45/10-1.
- c. \$3,500,000 per month is transferred to the Grade Crossing Protection Fund. This money is used by the Department upon order of the Illinois Commerce Commission to pay part of the expense of providing grade crossing protection at points where local public highways cross railroads.
  - Each fiscal year not less than \$12,000,000 shall be used for construction or reconstruction of rail/highway grade separation structures;
  - Each fiscal year \$3,000,000 shall be transferred to the Transportation Regulatory Fund and shall be accounted for as part of the rail carrier portion of such funds and shall be used to pay the cost of administration of the Illinois Commerce Commission's railroad safety program, with the remainder to be used by the Department of Transportation upon order of the Illinois Commerce Commission, to pay that part of the cost apportioned by such Commission to the State to cover the interest of the public in the use of highways, roads or streets in the county highway system, township and road district system or municipal street system.
- d. A sufficient amount of money is reserved each month to pay:
  - The Department of Revenue for the costs of the MFT law administration;
  - The Department of Transportation for administration and supervision of the use of MFT funds;
  - Refunds allowed by law;
  - \$30,000,000/year into the Vehicle Inspection Fund (\$15,000,000 on July 1 and October 1, or as soon thereafter as may be practical);
  - Amounts ordered paid by the Court of Claims; and
  - International Fuel Tax Agreement (IFTA) payments to other states.

The remaining monies shall be allocated each month as follows:

- a. 45.6% shall be deposited as follows:
  - 37% to the State Construction Account Fund;
  - 63% to the Road Fund, including \$1,250,000/month to fund the Township Bridge Program.
- b. 54.4% shall be distributed by the Department of Transportation as follows:
  - 49.10% to the municipalities – apportioned in proportion as follows:
    - 16.74% to the counties having a population 1,000,000 or more (Cook County);
    - 18.27% to counties having a population less than 1,000,000 – apportioned in proportion to motor vehicle license fees collected;
    - 15.89% to the road districts/townships – apportioned to each in proportion to a total mileage of roads in the State.

Source: Illinois Department of Transportation

## MFT Funds from Collection to Distribution



Tax Funds



DOR Summary Sheets



IDOT Computed Allotments



Comptroller Warrants



Local Agencies Deposit



Balance Plus Interest

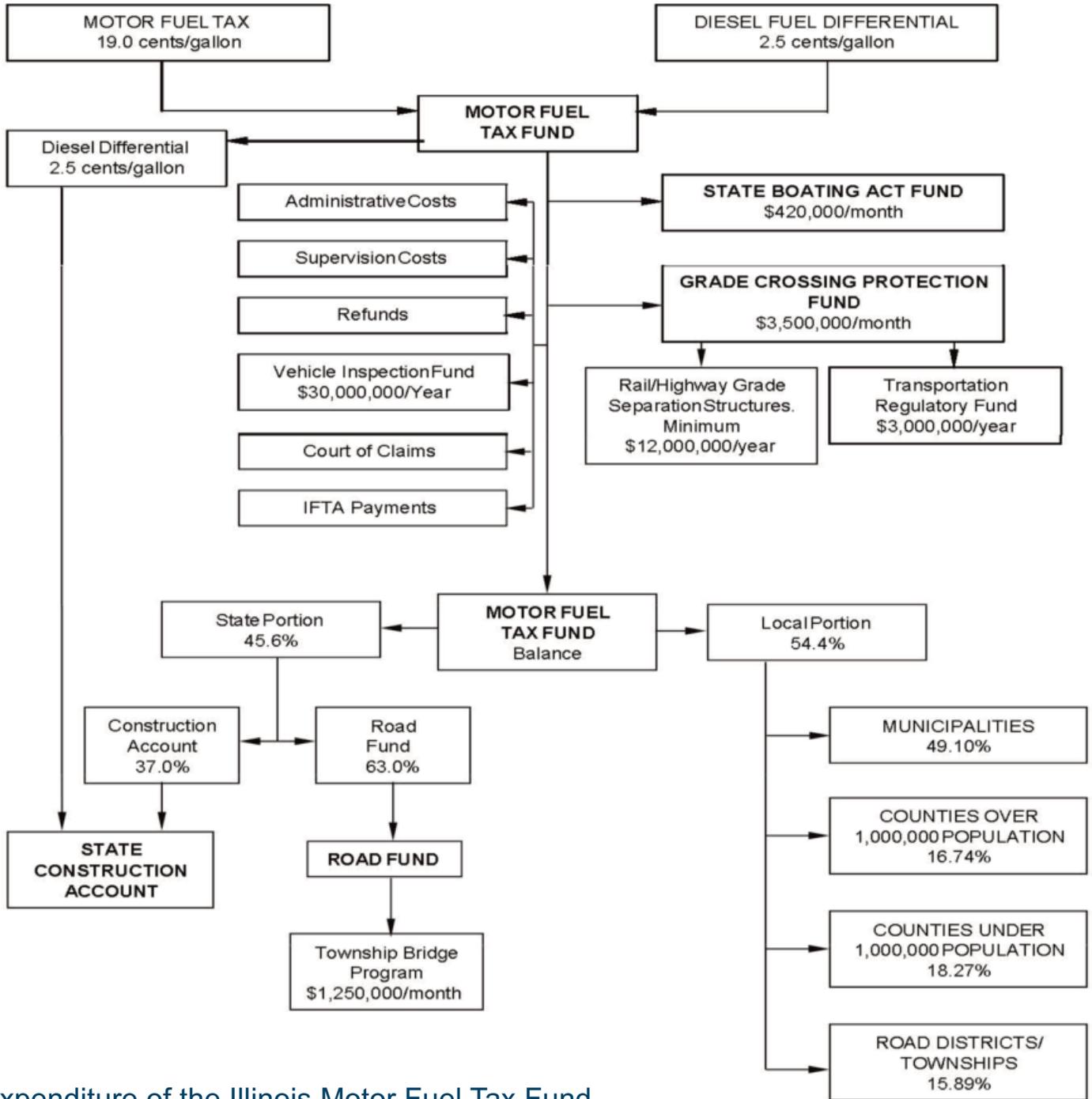


Obligate



Construction and Maintenance

# DISTRIBUTION OF THE ILLINOIS MOTOR FUEL TAX FUND



## Expenditure of the Illinois Motor Fuel Tax Fund

The expenditure of MFT funds requires the approval and supervision of the Department of Transportation. The county board must adopt a resolution appropriating the MFT funds. The resolution shall state how the funds will be used. The resolution shall be submitted to the appropriate IDOT district office for approval. Engineering agreements require the Department of Transportation's approval. The Department of Transportation's approval of plans, specifications, and estimates of any construction project must be obtained prior to advertising for bids, as well as prior to awarding any contract. When MFT funds are used for maintenance, the Department of Transportation's approval of the maintenance estimate must be obtained prior to advertising the project for bids. All work requiring bids must be advertised in the Department of Transportation's weekly Contractors Bulletin.

## PERMISSIBLE USES OF THE ILLINOIS MOTOR FUEL TAX FUND FOR COUNTIES

All uses of Motor Fuel Tax are subject to the provisions and limitations reflected in the Bureau of Local Roads and Streets (BLRS) Manual and the Illinois State statutes.

### Construction and Maintenance of:

• County Highways, State Highways, and County Unit Roads	605 ILCS 5/5-701.1, 701.2, 701.3, 701.7 and 701.17
• County Garages	605 ILCS 5/5-701.9
• Office Space (Counties over 1,000,000 population)	605 ILCS 5/5-701.12
• Bicycle Signs/Markings, Paths (Counties over 500,000 population)	605 ILCS 5/5-701.13
• Grade Separations and Approaches	605 ILCS 5/5-701.14
• Non-dedicated Subdivision Roads established before July 23, 1959	605 ILCS 5/5-701.15
• Joint Improvements / Construction or Maintenance Agreements	605 ILCS 5/4-409, 605 ILCS 5/9-101

### Allotment of Funds for:

• Investments and Deposits	50 ILCS 340/1
• Retirement of Indebtedness (MFT Eligible Items)	605 ILCS 5/5-701.4
• Paying Bonds for Superhighways	605 ILCS 5/5-701.5
• Engineering Investigations	605 ILCS 5/5-701.6
• Matching Federal-aid Projects or Projects Eligible for Federal-aid	605 ILCS 5/5-701.7
• Local Mass Transit Districts	605 ILCS 5/5-701.8
• Circuit Court or Other Governmental Expenses Related to County Highway Department (Counties over 1,000,000 population)	605 ILCS 5/5-701.10
• Payment of Principal and Interest on Road Bonds	605 ILCS 5/5-701.11 & 701.16

Although the Statutes do not explicitly state that MFT funds can be used for the work items below, IDOT has determined that the costs for these items are eligible if they are related to MFT maintenance or construction.

• Engineering Services	BLRS Man. Sect. 4-3.02(e)
• Right-of-Way	BLRS Man. Sect. 4-3.03(b)
• Salt Storage Facilities	BLRS Man. Sect. 4-3.03(b)
• Storm Sewers	BLRS Man. Sect. 4-3.03(b)
• Traffic Control Devices	BLRS Man. Sect. 4-3.03(b)
• Sidewalks and Curb Ramps	BLRS Man. Sect. 4.3.03(b)
• Equipment Operating Costs	BLRS Man. Sect. 4-3.03(b)
• Utility Adjustments	BLRS Man. Sect. 4-3-03(b)
• Salary and Expenses of County Engineer	BLRS Man. Sect. 4-3.03(c)
• Wages and Salaries	BLRS Man. Sect. 4-3.03(c)
• Holidays, Vacation, and Sick Leave	BLRS Man. Sect. 4-3.03(c)
• Workers' Compensation Insurance Premiums	BLRS Man. Sect. 4-3.03(c)
• Retirement Fund and Social Security Fund	BLRS Man. Sect. 4-3.03(c)
• Health, Hospitalization, and Life Insurance	BLRS Man. Sect. 4-3.03(c)
• Asset Management	BLRS Man. Sect. 4-3.06
• Miscellaneous Expenses in Connection with Bond Issue Improvements	BLRS Man. Sect. 4-4.02
• Tree Trimming and Tree Removal	BLRS Man. Sect. 14-1.03(i)
• Railroad Signal Protection and Crossing Work	BLRS Man. Chapter 40

