

Motor Fuel Tax Rates Linked to Fuel Prices  
by Megan Moore  
for the Revenue and Transportation Interim Committee  
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The committee requested information on whether any states raise the motor fuels tax<sup>1</sup> as the price of motor fuels declines. The premise stated in the request is that taxpayers may be less impacted by a tax increase implemented at the time of a reduced price.

An analysis of state motor fuels taxes reveals that several states do the opposite: increase motor fuels taxes as the price of motor fuels increases. There was, however, a bill proposed in the 2016 Virginia General Assembly to increase a regional motor fuel tax as the price of motor fuel declines.

Some States Increase Motor Fuel Tax as Prices Increase

The states that increase the motor fuel tax as motor fuel prices increase calculate all or a portion of the motor fuels tax based on a percentage of the average wholesale price and convert the percentage to a tax per gallon. Motor fuels tax policy in these states is discussed below.

Kentucky

Kentucky levies a 9% excise tax on gasoline based on the average wholesale price. The tax is paid on a per gallon basis and added to an additional tax of 5 cents per gallon of gasoline.<sup>2</sup> The average wholesale price is calculated each fiscal year based on an annual survey but may not be more than 110% of the previous fiscal year average wholesale price or less than 90% of the previous fiscal year average wholesale price.<sup>3</sup>

Nebraska

The Nebraska motor fuels tax is currently 26.8 cents per gallon and has three components:

- a fixed 11.8 cents per gallon;
- a wholesale portion that is 5% of the average wholesale cost of fuel in the previous 6-month period (12.5 cents per gallon for January 2016 through June 2016); and
- a variable portion based on a variable percentage rate times the base cost of fuel purchased by the state (2.5 cents per gallon for January 2016 through June 2016).<sup>4</sup>

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<sup>1</sup>The term motor fuel tax is used here because in some states the same tax applies to gasoline and special fuels such as diesel. In states that have a different special fuels tax rate, the gasoline tax rate is the one discussed.

<sup>2</sup>Section [138.220](#), Kentucky Revised Statutes.

<sup>3</sup>Section [138.228](#), Kentucky Revised Statutes.

<sup>4</sup>"Motor Fuels Frequently Asked Questions," *Nebraska Department of Revenue*, available from <http://www.revenue.nebraska.gov/fuels/faq.html#mf01>, accessed May 3, 2016.

## Utah

The motor fuels tax is 12% of the statewide average rack price of a gallon of motor fuel per gallon. Before January 1, 2019, the average rack price is calculated using prices for the previous fiscal year. Beginning January 1, 2019, the average rack price is calculated using prices for the previous three fiscal years. The minimum statewide average rack price is \$2.45 and once the minimum is achieved, the minimum average rack price is adjusted annually based on the consumer price index. The maximum average rack price is \$3.33 per gallon.<sup>5</sup> The current motor fuels tax is 29.4 cents per gallon.<sup>6</sup>

## Virginia

Virginia imposes a 5.1% motor fuels tax on the statewide average wholesale price of a gallon of unleaded gasoline. The statewide average wholesale price is calculated for July 1 through December 31 using a base period of the previous December 1 through May 31 and for January 1 through June 30 using a base period of the previous June 1 through November 30. The average price may not be less than the statewide average wholesale price on February 20, 2013.<sup>7</sup> The current rate of 16.2 cents per gallon is based on the February 20, 2013, floor price.<sup>8</sup>

## West Virginia

The West Virginia motor fuels tax is composed of a flat rate of 20.5 cents per gallon plus a variable component of 5% of the average wholesale price. The average wholesale price is determined using sales data from the preceding July 1 through October 31. The average wholesale price may not be less than \$2.34 per gallon and may not vary by more than 10 percent from the previous calendar year.<sup>9</sup> The current tax is 33.2 cents per gallon for calendar year 2016.<sup>10</sup>

## Proposed Virginia Bill Increases Motor Fuel Tax as Prices Decline

[Senate Bill No. 742](#), introduced in the 2016 Virginia legislative session, aimed to link a regional motor fuels tax to the wholesale price of fuel but the bill differs from the laws discussed above because the tax per gallon increases when the wholesale fuel price decreases. The bill set three levels of wholesale fuel prices: \$2.50 and below, \$2.50 through \$3.00, and \$3.01 and above and three corresponding tax rates: 14 cents per gallon, 8 cents per gallon, and 5 cents per gallon.

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<sup>5</sup>[Section 59-13-201](#), Utah Code.

<sup>6</sup>"Fuel Tax Rates," *Utah State Tax Commission*, available from <http://tax.utah.gov/fuel/rates>, accessed May 4, 2016.

<sup>7</sup>[Section 58.1-2217](#), Code of Virginia. If Congress enacts the Marketplace Fairness Act (allowing for sales tax collection on Internet sales regardless of whether the retailer has a physical presence in the state), the motor fuels tax rate is reduced to 3.5%

<sup>8</sup>"Fuels Tax Rates and Alternative Fuels Conversion," *Virginia Department of Motor Vehicles*, available from [https://www.dmv.virginia.gov/commercial/#taxact/tax\\_rates.asp](https://www.dmv.virginia.gov/commercial/#taxact/tax_rates.asp), accessed May 4, 2016.

<sup>9</sup>[Section 11-14C-5](#), West Virginia Code.

<sup>10</sup>[Administrative Notice 2015-26](#)" *State of West Virginia Department of Revenue*, Nov. 20, 2015, p. 4.

The bill requires the Tax Commissioner to calculate the average wholesale price each calendar month as a base period to be used for the period beginning two calendar months later. After passing the Senate, the bill was continued to the 2017 legislative session.

#### Considerations for a Policy to Increase Motor Fuels Tax as Prices Decrease

The request for information on whether any states implement a motor fuel tax increase when prices decrease indicated an interest in keeping the increase in effect if or when prices increase. If designing such a policy, thinking about the following questions may be useful:

- Is the tax rate based on an average price and, if so, over what time period are prices averaged?
- What price reduction triggers an increase in motor fuels tax and what is the increased tax?
- What happens if prices fluctuate? Is a tax increase triggered each time prices drop?

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