MOTOR FUEL/SPECIAL FUEL TAX

- Statutory Provision

  Title 30, Delaware Code, Chapter 51.

- Collection/Administrative Agency

  The Department of Transportation, Motor Fuel Tax Administration, administers this tax.

- General Liability

  Delaware imposes an excise tax on each gallon of gasoline sold or used in the state. The tax is collected by and paid to the state by licensed distributors. An excise tax is also imposed on the retail sale or use of special fuel, which includes all combustible gases and liquids suitable for propulsion of motor vehicles except fuels that are determined to be gasoline or gasohol. The special fuel tax is collected by and paid to the state by licensed suppliers, users, and dealers. Another excise tax is imposed for certain aviation jet fuel designed for use in the operation of jet or turbo-prop aircraft.

- Tax Rates

  The excise tax rate is 23 cents per gallon of gasoline, 22 cents per gallon of special fuel, or 5 cents per gallon of aviation jet fuel, sold or used in the state.

- Tax Receipts ($ millions)[1]

Fiscal Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Total ($)	124.6	129.5	131.6	142.8	138.7	128.5	136.7	136.1	135.1	132.4

[1] Figures are for gasoline, special fuel and aviation jet fuel receipts

- Tax Preferences

The following table identifies motor, special fuel and aviation jet fuel tax preferences within the Delaware Code along with annual estimated costs. Links within the table navigate to more detailed analysis of each tax preference.

TAX PREFERENCE	FY 25 (EST)	FY 26 (EST)
3.01 Motor Fuel Tax Exemptions	$99,000	$105,000
3.02 Motor Fuel Tax Refunds	$35,000	$37,000
3.03 Special Fuel Exemptions	$47,000	$50,000
3.04 Aviation Jet Fuel Exemptions	(D)	(D)

(D) = Per 30 Del. C. §368, the Department of Finance is prohibited from disclosing tax return information identifying specific taxpayers.

3.01 Motor Fuel Tax Exemptions

1. Statutory Provision
   Title 30, Delaware Code, Chapter 51, Subchapter I, §5111(a)(5).

2. Description
   This provision exempts gasoline sold to volunteer fire companies, veterans' groups, and civic ambulance companies from the motor fuel tax.
   Section 5111 of the Delaware Code also exempts gasoline sold to the federal or state government from the motor fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled "Delaware Tax Provisions Not Included" for more discussion.)

3. Estimated Revenue Loss
   FY 25: $99,000
   FY 26: $105,000

4. Assessment
   Whether the tax code is the most appropriate policy tool to provide public support for these activities is open to question. Proponents of the preference may argue that the exemption is justified because these organizations perform quasi-public service functions that the state or one of its political subdivisions would otherwise provide.

5. Inadvertent Effects
   None noted.

3.02 Motor Fuel Tax Refunds

1. Statutory Provision
   Title 30, Delaware Code, Chapter 51, Subchapter I, §5120(a).

2. Description
   This provision allows for a refund of motor fuel taxes in the following circumstances:

   - Gas sold for use in stationary engines, tractors, motor boats, aircraft, and any other vehicle or machine that does not utilize public highways within the State; or,

   - Gas sold to operators of a taxicab business with a base of operations in Delaware.

3. Estimated Revenue Loss
FY 25: $35,000
FY 26: $37,000

4. Assessment
Because the motor fuel excise tax is intended to be a road use tax, the exemption of fuel in off-highway vehicles and machines is considered legitimate. However, one may question the exemption for taxicabs, as their operation undoubtedly occurs on public roads and highways. Additionally, with the rise of ride-sharing services, the equity of this preference for taxicabs is further brought into question.

5. Inadvertent Effects
None noted.

3.03 Special Fuel Exemptions

1. Statutory Provision
Title 30, Delaware Code, Chapter 51, §5133(a).

2. Description
This provision exempts special fuels—primarily diesel—sold to volunteer fire companies, veterans' groups, and civic ambulance companies from the special fuel tax.

Section 5111 of the Delaware Code also exempts fuel sold to the federal or state government from the special fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled "Delaware Tax Provisions Not Included" for more discussion.)

3. Estimated Revenue Loss
FY 25: $47,000
FY 26: $50,000

4. Assessment
The rationale for exempting special fuels used by eligible vehicles is consistent with the exemption of such vehicles from the motor fuels tax. Please refer to the discussion in Items 3.01 and 3.02.

5. Inadvertent Effects
None noted.

3.04 Aviation Jet Fuel Exemptions

2. Statutory Provision
Title 30, Delaware Code, Chapter 51, §5172(b).

3. Description
This provision exempts aviation jet fuels used for aerial application within the State from the aviation jet fuel tax. It also exempts, for a temporary period not to exceed 5 years, aviation jet fuel used for the purpose of economic development and job creation in the aviation industry in the State. This exemption must be approved by the Council on Development Finance and the Director of Small Business.

Section 5172 of the Delaware Code also exempts fuel sold to the federal or state government from the aviation jet fuel tax. However, these exemptions for governments are not considered tax preferences for the purpose of this report. (Please see section titled "Delaware Tax Provisions Not Included" for more discussion.)

4. Estimated Revenue Loss
FY 25: (D)
FY 26: (D)

5. Assessment
Aviation jet fuel used for aerial application, which is spraying crops with crop protection products from an agricultural aircraft, is a business input in the agricultural process, not a final product. Taxing business inputs violates several tax policy principles and causes economic distortions.

6. Inadvertent Effects
None noted.

(D) = Per 30 Del. C. §368, the Department of Finance is prohibited from disclosing tax return information identifying specific taxpayers.