



Sales of Kerosene

This bulletin was revised June 2008 to incorporate formatting changes and changes in ministry name and contact information only.

- The purpose of this tax bulletin is to clarify the rules governing the sale of kerosene under Fuel Acquisition Permits (known as FAPs).
- The information in this bulletin will be of interest to fuel tax collectors and holders of FAPs.
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Fuel Tax Act* and its regulations.

General Notes

1-K Kerosene & the <i>Fuel Tax Act</i>	Effective January 1, 1992, kerosene became subject to the <i>Fuel Tax Act</i> (the “Act”) and regulations. This means that all kerosene is taxable under the Act, except kerosene sold to the holder of a valid FAP. 1-K kerosene means kerosene, which, according to the American Society for Testing and Material (ASTM) standards, contains 0.04% or less sulphur and has a flashpoint of 130 degrees Fahrenheit or higher. (The flashpoint is the temperature at which vapours will ignite and burn spontaneously). According to the ASTM, 1-K kerosene is suitable for use in flue-less, or unvented, portable kerosene lights, stoves, and heaters.
Acquiring clear kerosene	Clear kerosene which is certified as 1-K may be acquired, untaxed, by a packager holding a valid Fuel Acquisition Permit issued for this purpose.
Coloured Kerosene	Coloured kerosene (also called ‘dyed’ kerosene) may be purchased without paying fuel tax, for non-taxable uses, such as heating, lighting, and cooking. Coloured kerosene means kerosene dyed to the specifications established by the Minister of Revenue.

Sales of Clear Kerosene to FAP Holders

Who is a kerosene packager?	A packager of kerosene is, for the purpose of this bulletin, a person who packages 1-K kerosene, acquired in bulk, into any container that holds 210 litres or less (other than a fuel tank of a motor vehicle). The 1-K kerosene referred to here must be for resale to a consumer for use in cooking, heating, or lighting appliances designed to be used indoors and without venting.
“Kerosene in bulk” defined	Kerosene (fuel), in bulk, means fuel transported, or transferred, by any means other than in a fuel tank of a motor vehicle (in which fuel for generating power in the motor vehicle is kept).
Purchase of kerosene by	Designated fuel tax collectors may sell clear 1-K kerosene, without collecting fuel tax , to packagers holding a valid Fuel Acquisition Permit (FAP). The sale must respect all of the

packagers	restrictions and conditions stated on or attaching to the packager's Fuel Acquisition Permit. The collector must certify that the product sold is, in fact, 1-K kerosene.
What Are The Packaging Requirements for FAP Holders?	A packager may apply for a packager's FAP to acquire, without paying fuel tax, clear 1-K kerosene in bulk, as long as certain conditions are met: The packager will package the kerosene in containers of 25 litres or less and/or containers of between 25 and 210 litres (See details below). The kerosene must be packaged for resale to consumers, and be used in certain lighting, heating or cooking appliances designed to be used, indoors, without venting. Note: Packagers may repack 1-K kerosene in any size up to 210 litres. Each packager will hold only one FAP, permitting the packager to repack in one of the following three categories:
Category 1	Exclusively into containers up to 25 litres; or
Category 2	Exclusively into containers between 25 litres and 210 litres; or
Category 3	Into containers of both sizes (up to 25 litres and between 25 litres and 210 litres).
How much kerosene can a packager acquire?	Packagers holding a FAP in category 1 will have no acquisition limit. All other packagers (categories 2 and 3) will be able to acquire up to a maximum of 200,000 litres of 1-K kerosene each calendar year. Acquisitions by all related or associated companies (i.e., non arm's length) are included in the annual 200,000 litre limitation.
What if a packager goes over the limitation?	If a packager reaches or exceeds 200,000 litre annual limitation for kerosene, the ministry will suspend the packager's FAP for the remainder of the calendar year and notify all fuel tax collectors. In addition, the ministry will assess the packager an amount equal to the fuel tax, plus penalty and interest on the volume of untaxed fuel acquired which was over the limit.

Manufacturer's FAP

	Industrial manufacturers who have a valid Fuel Acquisition Permit may buy untaxed clear kerosene, as well as other clear fuel, from designated fuel tax collectors. The manufacturer's purchase of clear kerosene must respect the restrictions and conditions outlined in the FAP.
What are the conditions for getting a manufacturer's FAP?	An industrial manufacturer may apply for a manufacturer's FAP to buy clear kerosene (or other middle distillate fuel) exempt of tax. To qualify for this tax exemption, the purchased fuel must be delivered to an authorized location for use by the FAP-holder as a raw material which will either be made into or become part of goods for sale, and provided that the fuel or the manufactured product will not be used to generate power in a motor vehicle. No acquisition limit is placed on this type of permit.

Sales of Kerosene by a Collector to a FAP Holder

What are the collector's responsibilities?	A designated fuel tax collector may sell untaxed clear kerosene to FAP holders who are entitled to receive the product without paying tax. The collector must ensure that the purchaser presents him with a valid fuel acquisition permit at the time of sale. Collectors are required to report such sales on their monthly return to the ministry. Additional
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information required on the invoice delivered to the purchaser includes the collector's registration number and the purchaser's fuel acquisition permit number.

The collector and the FAP-holder who buys the untaxed clear kerosene must ensure that the conditions stated in his permit are met.

Sales of Kerosene by a Non-collector to a FAP Holder

What are a non-collector's responsibilities?

A dealer who is not an authorized fuel tax collector must pay the tax on clear fuel purchased from his supplier.

If such a dealer sells clear fuel, untaxed, to a Fuel Acquisition Permit holder, the dealer may qualify for a refund of the tax paid by the dealer to his supplier, by application to the ministry under section 13 of Ontario Reg. 464. (Or the dealer may recover the tax from the dealer's supplier, as long as the supplier is a designated fuel tax collector.)

A collector, as agent of the Minister, is required to exercise due diligence in an effort to ensure that untaxed clear fuel sold is not for a taxable use. The collector will not be held responsible for fuel tax on clear fuel delivered to a holder of, and in accordance with, a valid FAP, where the collector maintains:

a) a copy of the FAP valid for the period of time in question,

and

b) copies of all bills of lading, uniform manifests, or invoices indicating the volume of fuel delivered to the FAP-holder at the authorized location(s) during that time period. Certification of the fuel delivery by the driver(s) is also required.

Posting of Security

What is required?

The Act requires that the holder of a FAP, post security in an amount equal to the tax that, except for the FAP, would have been payable on the FAP-holder's average three months receipts of clear fuel, or \$100,000.00, whichever is greater.

Restrictions and Penalties

What restrictions apply to FAP-holders?

A FAP holder must not use kerosene or other fuel acquired under a Fuel Acquisition Permit, for any purposes other than those authorized by the permit.

Each FAP holder must, by the 25th of the month, send the ministry a fuel tax return (Form FT814), which reports all fuel acquired under the FAP. Form FT814 also reports the fuel sold or used in the preceding calendar month.

What are the penalties?

Failure to abide by a condition, or a limitation, under a Fuel Acquisition Permit can result in a fine of up to \$10,000. This fine will be in addition to the ministry's assessment for fuel tax, penalties, and interest.

Coloured kerosene

A Fuel Acquisition Permit is not required for purchases of coloured kerosene for non-taxable uses, such as lighting, heating, and cooking.

Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

Ministry of Revenue
Client Accounts and Services Branch
33 King Street West
Oshawa, ON L1H 8H9

Tel.: 1 866 ONT-TAXS (1 866 668-8297)
Fax: 905 436-4511
Teletypewriter (TTY): 1 800 263-7776

This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at ontario.ca/revenue.

The *Fuel Tax Act* and Ontario's other public statutes and regulations may be obtained online at www.e-laws.gov.on.ca.

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