



Tax Treatment of Unverifiable Fuel Losses and Unverifiable Gasoline Losses

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

- This bulletin contains important information for fuel tax collectors under the *Fuel Tax Act* (FTA) and gasoline tax collectors under the *Gasoline Tax Act* (GTA) as well as others involved in the distribution of petroleum products.

Highlights

- The FTA and the GTA were amended to provide authority for the Minister to assess a penalty where a person's unverifiable losses of fuel or unverifiable losses of gasoline are in excess of a prescribed threshold. The amendments were made December 5, 2001.
- Regulation amendments were introduced to provide the method for calculating a threshold for unverifiable losses as well as a method for calculating unverifiable losses and excess unverifiable losses. These amendments to Regulation 464, R.R.O. 1990 made under the FTA and Regulation 534, R.R.O. 1990 made under the GTA are effective **February 27, 2004**.
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Fuel Tax Act* and *Gasoline Tax Act* and its regulations.

Background

Penalty for Unverifiable Losses which Exceed Threshold

While the Ministry acknowledges that there are legitimate unverifiable product losses in the course of manufacturing and distribution of fuel and gasoline, it has been determined that the tax revenue erosion resulting from unverifiable losses which exceed a certain threshold is not acceptable.

The purpose of the amendments described in this bulletin is to provide an incentive to reduce unverifiable product losses while limiting tax revenue erosion.

Subsection 13(4.2) of the FTA and subsection 11(7.1) of the GTA provide for the assessment of a penalty where a person's unverifiable losses of fuel or gasoline is found to be in excess of a prescribed threshold. The penalty is an amount equal to the tax that would have been collectable by the person if the fuel or gasoline had been sold to a purchaser liable to pay tax.

Regulations 464 and 533, as amended, provide the method for calculating unverifiable losses, excess unverifiable losses, and also provide a threshold for unverifiable losses. The method of calculation of losses and the threshold are detailed below.

These amendments do not apply to losses which may be verified by supporting documentation. For further information on lost, destroyed, stolen, or contaminated fuel or gasoline, please refer to [Ontario Tax Bulletin FT/GT 2-99](#), published August 1999.

Elements of Calculation

An **unverifiable loss** exists where an amount of fuel or gasoline cannot be accounted for.

Available inventory is the amount of fuel or gasoline that must be accounted for. It is the total of opening fuel or gasoline inventory plus additions to inventory during a selected period, less closing inventory. A person's unverifiable loss is that portion of the available inventory which cannot be shown, to the satisfaction of the Minister, to have been sold, lost, stolen, destroyed, contaminated, consumed or distributed.

Thresholds for acceptable losses have been prescribed. Any loss of fuel or gasoline which exceeds the applicable threshold is an **excess loss** and it is on any excess loss that a penalty may be assessed.

The threshold is not an allowance. Only where the person has satisfied the Minister that inventory reconciliations show unverifiable losses, will those losses be recognized.

Method of Calculation

Available Inventory A person's **available inventory** of fuel or gasoline is calculated over any period of 36 consecutive months using the formula:

$$A + B - C$$

In this formula,

"**A**" is the amount of the person's opening inventory of fuel/gasoline at the beginning of the period,

"**B**" is the amount of fuel/gasoline produced, received or purchased by the person during the period, and

"**C**" is the amount of the person's closing inventory of fuel/gasoline at the end of the period.

Unverifiable Losses **Unverifiable losses** is the amount of a person's available inventory less the amount of fuel or gasoline that the person verifies, to the satisfaction of the Minister, to have been sold, lost, stolen, destroyed, contaminated, consumed or distributed.

Prescribed Threshold for Fuel The prescribed **threshold** for an unverifiable loss of fuel is 0.125% (one-eighth of one percent).

Prescribed Threshold for Gasoline The prescribed **threshold** for an unverifiable loss of gasoline is 0.25% (one-quarter of one percent).

Excess Unverifiable Losses **Excess unverifiable losses** exist where the person's unverifiable losses exceed the threshold multiplied by the person's available inventory. That is:

$$\text{excess unverifiable losses} = \text{unverifiable losses} - (\text{threshold} \times \text{available inventory})$$

If this calculation results in a negative figure, the person does not have excess unverifiable losses.

Penalty

Penalty on Excess Unverifiable Losses	A penalty may be assessed on any excess unverifiable losses. The penalty is an amount equal to the tax that would have been collectable by the person if the fuel or gasoline had been sold to a purchaser liable to pay tax.
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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 *Gasoline Tax Act* and Ontario's other public statutes and regulations may be obtained online at www.e-laws.gov.on.ca.

Ce bulletin est disponible en français.

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