

FT/GT 2-99

Tax Refunds

Bad Debts and Lost, Destroyed, Stolen or Contaminated Product

Please note that the following forms, referenced in Ontario Tax Bulletin FT/GT 2-99, have been replaced as noted:

Previous Form Name (referenced in Bulletin)	Current Form Name(s)
Application for non-collectors who require a tax refund relating to Bad Debt under the <i>Fuel Tax Act</i> FT 840 (pg.2)	BDT Refund Application Debtor's Listing - Fuel Tax
Application for non-collectors who require a tax refund relating to Product Loss/Contamination under the <i>Fuel Tax Act</i> FT 840 (pg.2)	PRL Summary PRL 2
Application for non-collectors who require a tax refund relating to Bad Debt under the <i>Gasoline Tax Act</i> GT 52 (pg.4)	Bad Debt Application for Refund Debtor's Listing - Gasoline Tax
Application for non-collectors who require a tax refund relating to Product Loss/Contamination under the <i>Gasoline Tax Act</i> GT 52 (pg.4)	PRL Summary, and PRL 1 (gas), or PRL 6 (propane), or PRL 7 (aviation)



Tax Refunds

Bad Debts and Lost, Destroyed, Stolen or Contaminated Product

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

- This bulletin outlines the requirements for claiming tax refunds relating to bad debt and product loss /contamination under the *Gasoline Tax Act (GTA)* and the *Fuel Tax Act (FTA)*. These requirements, which are contained in *Ontario regulations 533(GTA)* and *466 (FTA)*, ensure that collectors and non-collectors, wholesalers, importers and retailers are aware of how to file and to substantiate their claims so that money is refunded when justified.
- This bulletin replaces two previous guide notes issued in 1988: *Gasoline Tax Refund for Bad Debts and Loss of Product* and *Fuel Tax Refund for Bad Debts and Loss of Product*.
- 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

Effective February 11, 1999, *Ontario regulations 65/99 (GTA)* and *64/99 (FTA)* amended *Ontario regulations 533(GTA)* and *466 (FTA)*, eliminating the requirement to first claim a bad debt deduction under the *Income Tax Act (Canada)* and to obtain approval from Revenue Canada. As a result, undue delays caused by the pre-condition for Revenue Canada approval will be avoided.

The regulations also extended the time limit to apply for a bad debt refund [bankruptcy or non-bankruptcy] or a tax refund related to product loss or contamination from three to four years.

Eligibility

Claimants are eligible to apply for a refund of tax paid, if the tax has been paid on a product that has been:

- sold and all or part of the sale price has not been paid and has become an uncollectible debt, or
- lost, stolen, destroyed or contaminated and cannot be sold or used.

No refunds will be paid if:

- any portion of the sale price has been assigned by private contract, with or without recourse other than for security purposes, to a person other than the Minister
- the refund claimant did not hold a valid licence with respect to the handling of taxable product at the time of sale or loss, destruction, theft or contamination of the taxable product
- the refund claimant has already received a refund of the tax or is otherwise entitled under the Act or its regulations to receive or apply for a refund or an allowance for the tax being claimed

- the refund claimant and the debtor were not dealing at arm's length at the time of the sale of the taxable product
- the Minister is not satisfied that:
 - i) the debt is uncollectible [*in the case of a bad debt refund*], or
 - ii) the taxable product cannot be used or sold and
 - iii) compensation relating to the amount of refund has not been received, or
- the refund application was not made within the designated four-year time limitation period.

Determination of Refund Amount

Bad debt: the refund amount will be equal to the portion of tax paid that the uncollectible debt bears to the total sale price of the product.

Receivership or bankruptcy debt: the refund amount will be equal to the portion of tax paid that the receivership or bankruptcy debt bears to the total sale price for the product.

Product lost, stolen, destroyed or contaminated: the refund amount will be equal to the tax paid on product identified in the claim.

Requirements for Non-Collectors

Bad Debt Refunds: If the refund claimant is not a collector under the *GTA* or *FTA*, a refund application must be submitted together with supporting information and documentation, including:

- 1) Copies of all invoices for sales claimed in the refund application.
- 2) Proof that the amount claimed was remitted directly or indirectly, through another supplier, to the Minister.
- 3) A signed statement certifying the amount of the debt and that the applicant does not have any right to receive total or partial payment of the debt from any person other than the debtor or the debtor's representative.
- 4) Proof that all reasonable collection action has been taken to obtain payment of the debt, the debt is unsecured and uncollectible and that the applicant has written off the debt as uncollectible in accordance with generally accepted accounting principles.
- 5) If the debt is a receivership debt, a signed statement certifying that the applicant has filed a claim for the debt to which the refund relates with the debtor's receiver.
- 6) If the debt is a bankruptcy debt, a copy of the applicant's proof of claim in the bankruptcy, proof that the claim was not disallowed and that the applicant will not receive payment of the debt from the trustee in bankruptcy or other person.
- 7) If the debt is a bankruptcy debt or a receivership debt, an assignment to the Minister of the portion of the debt equal to the amount of the refund claimed.

Requirements for Non- Collectors

Product Loss/Contamination: If the refund claimant is not a collector, a refund application for product lost, destroyed, stolen or contaminated, must be submitted together with supporting information and documentation, including:

- 1) A copy of an insurance company's settlement offer or written confirmation confirming settlement of any claim.
- 2) A copy of any police report for loss due to theft.
- 3) A copy of any fire marshal's report for a loss due to fire.
- 4) A copy of a Ministry of Revenue inspector's report for clear fuel contamination with coloured fuel.
- 5) Proof that the amount claimed was remitted directly or indirectly, through another supplier, to the Minister.

Requirements for Collectors

Bad Debt or Product Loss/Contamination Refunds: If the refund claimant is a collector, the following rules apply:

- 1) An application for the refund must be submitted with the collector's monthly tax return. The collector may deduct the refund amount claimed from payment due under 'other adjustments' (line 14 of the return) and take a tax credit with respect to the deduction.
- 2) The collector is no longer required to attach the supporting information and documentation to the refund application. However, this documentation must be retained by the collector for subsequent verification by the Minister.
- 3) If all or part of the refund is disallowed, the Minister will issue to the collector, a statement of disallowance. The collector is then required to remit, with the next tax return or at any earlier time, the amount of the refund disallowed, together with applicable interest, even if an objection or an appeal has been made.

Repayment of Refund

Refunds must be returned if debts become collectable, even if the money is received after the four-year time limitation period.

If a claimant receives payment for all or part of an uncollectible debt after a refund has been made, the claimant must reimburse the Minister for the portion of the payment relating to the tax applicable at the date of product sales.

Application Forms

Eligible collectors and non-collectors must complete:

- Form FT 840 for tax refund relating to bad debt and product loss/contamination under the *FTA*, or
- Form GT 52 for tax refund relating to bad debt and product loss/contamination under the *GTA*.

Time Limitation Period

All tax refunds listed below have a **four-year time limitation period**:

Type of Claim	Starting Date
Non- bankruptcy bad debt	The last day of the fiscal year debt was written off
Bankruptcy or receivership	Date claim filed with trustee in bankruptcy or receiver
Loss, destruction, theft , or contamination	Date incident took place

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: 905 433-5680
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.