

New York State Department of Taxation and Finance  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-M-90 (1) M  
Miscellaneous Tax

1989 Amendments to the Miscellaneous Tax Laws

This Technical Services Bureau memorandum provides a brief summary of the 1989 amendments relating to the Miscellaneous Tax Laws, including amendments to Article 12-A (Motor Fuel Tax and Diesel Motor Fuel Tax), Article 18 (Alcoholic Beverage Tax), Article 20 (Cigarette Tax and Tobacco Products Tax), Article 21 (Highway Use Tax) and Article 37 (Crimes and Other Offenses, Seizures and Forfeitures).

Motor Fuel and Diesel Motor Fuel  
Article 12-A

<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
282(1)(b)	245-5	N-89-50 N-89-54	Effective July 5, 1989, establishes a category of distributors of diesel motor fuel: persons registered with the Tax Department as Distributors of Kero-Jet Fuel Only.
282(14)	245-3	N-89-50	Effective July 5, 1989, excludes any product specifically designated "No. 4 diesel fuel" and not suitable as a fuel used in the operation of a motor vehicle engine from the definition of diesel motor fuel.
282(17)	245-6	N-89-50 N-89-54	Effective July 5, 1989, defines a fixed base operator.
282-a(2)	245-7	N-89-50 N-89-54	Effective July 5, 1989, provides for the registration of Distributors of Kero-Jet Fuel Only.
282-a(3)(b)	245-8	N-89-50 N-89-54	Effective July 5, 1989, allows an exemption for a sale of kero-jet fuel by a Distributor of Diesel Motor Fuel to a registered Distributor of Kero-Jet Fuel Only and an exemption for a retail sale of kero-jet fuel by a Distributor of Kero-Jet Fuel Only for use in airplanes under certain prescribed conditions.

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<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
285-b(3)(a)	245-9	N-89-50 N-89-54	Effective July 5, 1989, requires that the exemption for retail sales by a Distributor of Kero-Jet Fuel Only be established by means of an exempt transaction certificate and that the exempt transaction certificate, accepted in good faith, relieves the Distributor of Kero-Jet Fuel Only of the burden of proving the exemption.
285-b(3)(b)	245-9	N-89-50 N-89-54	Effective July 5, 1989, requires that the exemption for sale by a Distributor of Diesel Motor Fuel to a Distributor of Kero-Jet Fuel Only be established by means of an interdistributor sale certificate and that the interdistributor sale certificate, accepted in good faith, relieves the Distributor of Diesel Motor Fuel of the burden of proving the exemption.
289-b(1)(b),(d)	61-106	TSB-M-89(2.1)M	Effective September 1, 1989, incorporates new methods of computing interest on overpayments and underpayments of tax.
289-c(8)	61-107	"	
289-c(9)	61-108	"	
294(b)(2)	61-109	"	

Alcoholic Beverage Tax Article 18

<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
424(1)(a)-(f)	61-71	TSB-M-89(5)M "	Effective May 1, 1989, increases the tax rates on beer, wine, liquor and cider.
424(6)	61-72	-	Effective April 19, 1989, exempts the first 100,000 barrels of beer brewed in New York State and sold or used in New York State in a calendar year by a distributor whose principal executive office is located within New York State.

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<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
433(1)(b), (d)	61-111	TSB-M-89(2.1)M	Effective September 1, 1989, incorporates new methods of computing interest on underpayments and overpayments of tax.
434(1)	61-112	"	

Cigarette Tax and Tobacco Products Tax  
Article 20

<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
470	61-73	Pub 507	Defines tobacco products, wholesale price and distributor.
471(1) 471-a	61-74 61-75	TSB-M-89(6)M "	Effective May 1, 1989, increases the tax rate on cigarettes.
471-b	61-76	Pub 507	Effective July 1, 1989, imposes the tobacco products tax at a rate of fifteen percent of the wholesale price on all tobacco products possessed in the state for sale and requires distributors to pay the tax on all tobacco products imported into the state or manufactured in the state.
471-c	61-76	Pub 507	Effective July 1, 1989, imposes a use tax on all tobacco products used in the state unless the tax has already been paid, the tobacco products are exempt or a person carries into the state 250 cigars or less or 5 pounds or less of tobacco.
471-d	61-76	Pub 507	Effective July 1, 1989, imposes the tobacco products tax on persons who receive tobacco products on which the state was previously without the power to impose the tax.
472(3)	61-77	Pub 507	Effective April 19, 1989, authorizes the appointment of distributors of tobacco products and the filing of returns and payment of the tobacco products excise tax by such distributors. The Commissioner may require a bond or other security.

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<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
473-a	61-78	Pub 507	Effective July 1, 1989, requires appointed distributors to file monthly tax returns showing the quantity and wholesale price of all tobacco products imported or manufactured in the state during the preceding calendar month and such other required information and to pay the tax.
474(2)	61-79	Pub 507 N-89-31	Effective July 1, 1989, requires every person who possesses or transports more than 250 cigars or more than 5 pounds of tobacco on the public highways of New York State to have an invoice or delivery ticket containing specific information in that person's actual possession. The absence of such invoices or delivery tickets is prima facie evidence that such person is a dealer in tobacco products.
474(3)	61-79	Pub 507 N-89-31	Effective July 1, 1989, requires every dealer who possesses or transports more than 50 cigars or more than 1 pound of tobacco on the public highways of New York State to have an invoice or delivery ticket containing specific information in that person's actual possession. The absence of such invoices or delivery tickets is prima facie evidence that the tax on such tobacco products has not been paid and is due and owing.
474(4)	61-79	Pub 507	Effective July 1, 1989, requires distributors and wholesale dealers to keep a duplicate of all invoices for three years and dealers to keep the invoice for three years and authorizes the Commissioner to examine records of tobacco products.
476	61-80	Pub 507	Gives the conditions under which refunds of the tobacco products tax will be allowed.

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<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
480(1), (4)	61-81	Pub 507	Effective July 1, 1989, amends licensing provisions to refer to tobacco product distributors.
481(1)	61-82	Pub 507	Effective July 1, 1989, lists the civil penalties and interest concerning the filing of the tobacco products tax return and the paying of the tobacco products tax.
481(1)(a)(ii), 481(1)(a)(iv)	61-113 "	TSB-M-89(2.1)M "	Effective September 1, 1989, incorporates new methods for computing interest.
481(2)(a)	61-82	Pub 507	Effective July 1, 1989, establishes the presumption that tobacco products are subject to the tobacco products tax if more than 250 cigars or more than 5 pounds of tobacco are possessed, at any one time, by any person other than a distributor of tobacco products.
481(2)(b)	61-82	Pub 507	Effective July 1, 1989, lists the persons to which the provisions of section 481 do not apply.

Tobacco Products Tax Article 37

<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
1814	61-83	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, includes tobacco products in the section 1814 provisions.
1814(j)	61-84	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989 adds criminal penalties for knowingly transporting or possessing tobacco products on which the tobacco products excise tax has not been assumed or paid by an appointed distributor.

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1814-a(a)	61-85	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, subjects a person not appointed as a distributor of tobacco products to criminal penalties if the person acts as a distributor.
1814-a(b)	61-85	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, establishes the presumption of when tobacco products are possessed or transported for sale and subject to the tobacco products excise tax for purposes of the criminal penalty.
1846-a	61-86	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, adds seizure and forfeiture provisions for tobacco products.
1847	61-87	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, adds seizure and forfeiture provisions for vehicles or other means of transportation used to transport or for deposit or concealment of tobacco products.
1847(f)	61-88	TSB-M-85(8.3)M Pub 507	Effective July 1, 1989, if it is established by a preponderance of the evidence that forfeiture is not warranted or would not serve the ends of justice, forfeiture will not be adjudged.

Highway Use Tax  
Article 21

<u>Tax Law Section</u>	<u>Bill Chapter and Section</u>	<u>Reference *</u>	<u>Brief Summary</u>
§12(1)(b), (d) 513	61-114 61-115	TSB-M-89(2.1)M "	Effective September 1, 1989, incorporates new methods for computing interest on overpayments and under payments of tax.

\* For further information, see the applicable Memoranda, Notices or Publications.