

**New York State Department of Taxation and Finance  
Office of Tax Policy Analysis  
Technical Services Division**

TSB-M-02(7)C  
TSB-M-02(9)S  
TSB-M-02(7)M  
TSB-M-02(3)R  
November 4, 2002

**Nonprofit Property/Casualty Insurance Companies**

Governor George E. Pataki signed into law an act which added a new Article 67 to the Insurance Law regarding the establishment of nonprofit property/casualty insurance companies and providing exemptions for those insurance companies from certain taxes. The act also amended Article 33 of the Tax Law to specifically exempt nonprofit property/casualty insurance companies organized under Article 67 of the Insurance Law from the franchise taxes imposed on insurance companies. The provisions of the act are effective as of December 20, 2000.

A corporation that qualifies as a nonprofit property/casualty insurance company (NPCIC) organized under Article 67 of the Insurance Law (NY-NPCIC) is exempt from

“any fees, taxes, special ad valorem levies or assessments of any kind, including, but not limited to, franchise taxes, sales taxes or other taxes, ...”

The exemption from taxes provided by the act includes, but is not limited to, those taxes detailed in this memorandum.

(Insurance Law, Section 6707; Tax Law, Section 1512(a)(9))

**Letter of exemption for certain taxes**

To make purchases exempt from State and local sales and use taxes, the excise taxes on motor fuel and diesel motor fuel, the petroleum business tax and the State wireless communications service surcharge, a NY-NPCIC must obtain a letter of exemption from the Tax Department and furnish a copy of it to vendors. To obtain the exemption letter, a NY-NPCIC must submit a copy of its license issued by the New York State Superintendent of Insurance to:

**NYS DEPARTMENT OF TAXATION AND FINANCE  
SALES TAX EXEMPT ORGANIZATIONS UNIT  
BUILDING 8, ROOM 425  
W A HARRIMAN CAMPUS  
ALBANY, NY 12227**

The letter issued by the Tax Department will state that the NY-NPCIC is exempt from State and local sales taxes (Articles 28 and 29 of the Tax Law), the excise taxes on motor fuel and diesel motor fuel (Article 12-A), the petroleum business tax (Article 13-A) and the State wireless communications service surcharge.

## **Sales and use taxes**

Every NY-NPCIC is exempt from all New York State and local sales and use taxes. When making a purchase, it must supply the vendor with a copy of the exemption letter received from the Tax Department within 90-days after delivery of the property or the rendition of the service which is otherwise subject to tax.

A NY-NPCIC that has paid the state and local sales taxes may apply for a refund by filing:

- Form AU-11, *Application for Credit or Refund of Sales or Use Tax*, or
- Form FT-500, *Application for Refund of Sales Tax Paid on Automotive Fuels* (for purchases of motor fuel and diesel motor fuel only).

## **Wireless communications service surcharge**

A NY-NPCIC is exempt from the state wireless communications service surcharge which is imposed on wireless communications devices. A wireless communications device is any equipment used to access a wireless communications service. Examples of devices on which the surcharge is imposed include cellular telephones, two-way beepers, and other devices (for example, PDAs and handheld or laptop computers, etc.) that have two-way wireless communications capabilities over a public switched network.

To claim exemption from this surcharge, the NY-NPCIC must give to its wireless communications service provider a copy of the letter of exemption received from the Tax Department.

## **Excise taxes on motor fuel and diesel motor fuel and petroleum business tax**

Every NY-NPCIC is exempt from the State excise taxes on motor fuel and diesel motor fuel (Article 12-A) and the petroleum business tax (Article 13-A).

### ***Purchases at filling stations***

Generally, when gasoline or diesel motor fuel is purchased at a filling station located in New York State, the taxes must be paid because the pump prices are preset to include taxes, and the attendants are not equipped to deduct the taxes at the register. However, if the NY-NPCIC has a credit account with the filling station, the filling station owner, upon receiving a copy of the Tax Department's letter of exemption, might agree to bill the NY-NPCIC without the taxes. Filling station owners may then claim a refund of the excise tax on Form FT-946/1046, *Motor/Diesel Motor*

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*Fuel Refund Application*, and the petroleum business tax on Form AU-630, *Application for Reimbursement of the Petroleum Business Tax*.

***All other motor fuel and diesel fuel purchases***

To claim exemption from these taxes, the NY-NPCIC must give to its supplier(s) a copy of the letter of exemption received from the Tax Department.

These suppliers must include the exempt sales on their tax return and then enter the amount of tax not collected on the *adjustment* line on the return. The sales invoices must clearly show that the taxes have not been included in the sales price.

***Refund of taxes paid***

A NY-NPCIC that has paid the Article 12- A or 13-A taxes may apply for a refund of the tax paid on the appropriate form below:

- FT-946/1046, *Motor/Diesel Motor Fuel Refund Application*; or
- AU-630, *Application for Reimbursement of the Petroleum Business Tax*.

**Corporation taxes**

A NY-NPCIC is not required to file any returns or reports under Articles 9, 9-A, 13, 32, 33 or 33-A of the Tax Law.

**Real estate transfer tax**

Section 1404(a) of the Tax Law provides that the real estate transfer tax is paid by the grantor (the person making the conveyance of real property or interest therein). If the grantor is exempt from the payment of this tax, the grantee (the person who obtains real property or interest therein as a result of the conveyance) has the responsibility of paying the tax.

Therefore, where real property is conveyed by a NY-NPCIC as grantor, the NY-NPCIC is not liable for the payment of the real estate transfer tax. However, the grantee of the real property is liable for the payment of the tax.

Conversely, where real property is conveyed to a NY-NPCIC as grantee, the grantor remains liable for payment of the real estate transfer tax, regardless of the exempt status of the NY-NPCIC.

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### **Mortgage recording tax**

Real property mortgages of a NY-NPCIC are exempt from the mortgage recording tax. To assert its entitlement to this exemption, an affidavit, in duplicate, must be filed at the time the mortgage is presented for recording. The affidavit must describe the mortgage and set forth the basis for claiming the exemption. The affidavit may be signed by either the mortgagor, the mortgagee or any other person who has knowledge of the facts.