

RECLASSIFICATION OF KERO-JET FUEL FROM  
MOTOR FUEL TO DIESEL MOTOR FUEL

The State Tax Commission in its decision in the Matter of Tenneco Oil Company dated February 18, 1986, held that kerosene type jet fuel (kero-jet fuel) when not compounded or mixed with other products, falls within the definition of diesel fuel.

Effective October 1, 1986, sellers of kerosene type jet fuel must account for this product as part of their diesel motor fuel inventory and no longer include it, for New York State sales and motor fuel excise tax purposes, in their inventory of unleaded motor fuel.

Both the sales tax and the excise tax on diesel motor fuel are imposed when diesel motor fuel is sold at retail or when it is consumed in a taxable manner. Accordingly, kero-jet fuel is no longer subject to the prepaid sales tax and motor fuel tax.

As a result of this decision;

Registered Motor Fuel Distributors:

- (1) Kero-jet fuel imported or manufactured in New York State on and after October 1, 1986, should not be included in the distributor's inventory of unleaded motor fuel subject to motor fuel and prepaid sales tax.
- (2) The inventory of unleaded motor fuel maintained for tax reporting purposes should be reduced by the amount of kero-jet fuel on hand at the close of business on September 30, 1986.
- (3) Distributors who have kero-jet fuel on hand on which the motor fuel and prepaid sales tax have been paid, should take a credit against tax due on their next motor fuel and sales tax returns. Such taxes may no longer be passed through to subsequent purchasers.

Wholesalers:

- (1) The inventory of unleaded motor fuel maintained for tax reporting purposes should be reduced by the amount of kero-jet fuel on hand at the close of business on September 30, 1986.
- (2) Wholesalers may apply for a refund of any motor fuel or prepaid sales tax (using Forms FT-946 and FT-949 respectively) paid on kero-jet fuel remaining in inventory at the close of business on September 30, 1986. Any claim for refund should be accompanied by a letter explaining that the refund resulted from the change in inventory treatment of kero-jet fuel.

- (3) The motor fuel excise tax and the prepaid sales tax may not be passed through on kero-jet fuel sold on and after October 1, 1986.

Retailers:

- (1) The inventory of unleaded motor fuel maintained for tax reporting purposes should be reduced by the amount of kero-jet fuel on hand at the close of business on September 30, 1986.
- (2) Kero-jet fuel sales (or taxable use) made after September 30, 1986, which were previously required to be reported on Schedule R, Report of Sales and Use Tax on Motor Fuel, should be reported on Schedule E, Report of Sales and Use Tax on Diesel Motor Fuel.

Airlines:

- (1) Airlines will not be required to register as motor fuel distributors in order to purchase kero-jet fuel without payment of motor fuel tax. However, an airline which is purchasing kero-jet fuel in volume for storage and subsequent self-use or which is making retail sales of kero-jet fuel or any other diesel motor fuel must register as a diesel motor fuel distributor and may do so by completing Form MT-130.8, Application for Registration as Distributor or User of Diesel Motor Fuel.
- (2) Airlines registered as sales tax vendors may continue to use Form FT-938, Certificate for Certain Purchases of Fuel, (checking box 4) to make purchases of kero-jet fuel for use in their airplanes without payment of sales tax.

Other Users of Kero-Jet Purchased in Bulk Must:

- (1) Register as 12A diesel motor fuel distributors and file quarterly Diesel Motor Fuel Returns (MT-104.25), even though no diesel motor fuel tax is due on off-highway use.
- (2) Pay sales tax to their suppliers on the actual purchase price.