

Clarification of Petroleum Business Tax (PBT) Rates on Diesel Motor Fuel and Residual Petroleum Product

In March 2001, the Tax Department issued TSB-M-01(3)M, *Reduced Petroleum Business Tax (PBT) Rates for Nonresidential Heating and PBT Reimbursement for Mining and Extracting*, which was mailed with revised Publication 908 (4/01), *Fuel Tax Rates*.

That TSB-M alerted industry to a change in the Tax Law that provided for lower PBT rates on diesel motor fuel and residual petroleum product sold to consumers exclusively for the purpose of nonresidential heating. Publication 908 (4/01) was revised to include the new nonresidential heating category for diesel motor fuel and residual petroleum product. These nonresidential heating rates, which became effective April 1, 2001, are currently 6.1 cents per gallon for diesel motor fuel and 4.7 cents per gallon for residual petroleum product. Effective January 1, 2002, (March 1, 2002, for quarterly filers) these rates will be 6.3 cents per gallon for diesel motor fuel and 4.9 cents per gallon for residual petroleum product. See Publication 908 (1/02), for the January 1, 2002, PBT rates.

Since the issuance of TSB-M-01(3)M and the revised publication, the department has received inquiries regarding the types of sales to which the commercial gallonage rate would continue to apply. This TSB-M is being issued as a result of those inquiries.

Prior to the law change above, diesel motor fuel and residual petroleum product sold for nonresidential heating purposes were subject to the PBT at the commercial gallonage rate. Effective April 1, 2001, the commercial gallonage rates no longer apply to diesel motor fuel and residual petroleum product sold for nonresidential heating purposes. The **nonresidential heating** rates now apply to these sales.

The commercial gallonage rate for **unenanced diesel motor fuel** (with a properly completed certification) still applies to sales for the production of:

- gas, electricity (except sales to rate-regulated electric corporations), refrigeration, or steam, for sale, or
- tangible personal property for sale by mining, extracting, or refining.

The commercial gallonage rate for **residual petroleum product** still applies to:

- sales for the production of gas, electricity (except sales to rate-regulated electric corporations), refrigeration, or steam, for sale,
- sales for the production of tangible personal property for sale by mining, extracting, or refining, and
- all other nonexempt sales, except sales for nonresidential heating purposes.

Kerosene that has not been mixed or blended with any other product and that is not used or sold by a petroleum business as fuel to operate a motor vehicle, remains exempt from the PBT.

The charts on page 2 list the PBT rate categories and describe the diesel motor fuel and residual petroleum product sales to which each category applies.

Diesel motor fuel

PBT rate category	Type of sales/use
Nonresidential heating rate	Diesel motor fuel sold to heat commercial buildings. This rate also applies to sales to heat a boiler which produces steam used by a laundry or dry cleaner. Note: Sales of more than 4,500 gallons of enhanced diesel motor fuel sold for nonresidential heating purposes without a properly completed Form FT-1025, <i>Certificate of Tax Exemption on Purchases of Enhanced Diesel Motor Fuel</i> , are subject to the PBT at the automotive diesel motor fuel rate.
Commercial gallonage rate	Unenhanced diesel motor fuel sold for the production of gas, electricity (except sales to rate-regulated electric corporations), refrigeration, or steam, for sale, and for the production of tangible personal property for sale by mining, extracting, or refining.
Nonautomotive diesel motor fuel rate (full rate)	Unenhanced diesel motor fuel sold to rate-regulated electric corporations that do not give their supplier a copy of their direct pay permit.
Railroad diesel rate	Diesel motor fuel sold to railroads for use in locomotives and other self-propelled rolling stock that operate only on rails.
Automotive diesel motor fuel rate	Diesel motor fuel sold for all other purposes unless otherwise exempt. Also includes sales when delivery is to a tank equipped with a nozzle or other apparatus that can dispense fuel into a motor vehicle.

Residual petroleum product

PBT rate category	Type of sales/use
Nonresidential heating rate	Residual petroleum product sold to heat commercial buildings. This rate also applies to sales to heat a boiler which produces steam used by a laundry or dry cleaner.
Residual petroleum product rate (full rate)	Residual petroleum product sold to rate-regulated electric corporations that do not give their supplier a copy of their direct pay permit.
Commercial gallonage rate	Residual petroleum product sold for the production of gas, electricity (except sales to rate-regulated electric corporations), refrigeration, or steam, for sale, and for the production of tangible personal property for sale by mining, extracting, or refining. It includes all other nonexempt sales, except sales for nonresidential heating purposes.