

**Petroleum Business Tax Exemption
for Aircraft Operators Servicing
Four or More Cities Within New York State**

General

As mentioned in TSB-M-04(3)M, *Reduction of the Petroleum Business Tax for Aircraft Operators*, Governor Pataki has signed legislation which added subdivision (f) to section 301-e of the Tax Law, effective June 1, 2005. This subdivision states, “An aviation fuel business, which services four or more cities in the state with non-stop flights between such cities, shall be exempt from the tax imposed by this section and any surcharge imposed on such tax.”

Therefore, effective June 1, 2005, an aviation fuel business which services four or more cities within New York State with nonstop flights between those cities is exempt from the petroleum business tax on kero-jet fuel or aviation gasoline used in its aircraft. The exemption applies to aircraft operators registered as aviation fuel businesses, distributors of diesel motor fuel, distributors of kero-jet fuel, and distributors of motor fuel. An aircraft operator will qualify for the exemption if it provides regularly scheduled passenger service to four or more cities within New York State and provides nonstop service between any four of those cities.

Example 1: Company A provides regularly scheduled passenger service to four New York State cities, Albany, Rochester, Syracuse, and Buffalo. Company A has nonstop flights between Albany and Rochester and between Syracuse and Buffalo. Company A qualifies for the exemption because it provides regularly scheduled passenger service to four or more cities within New York State and provides nonstop service between any four of those cities.

*Example 2: Company B provides regularly scheduled passenger service to four New York State cities, Albany, Rochester, Syracuse, and Buffalo. Company B has nonstop flights between Albany and Rochester and between Albany and Syracuse. Company B has nonstop flights between Buffalo and airports outside New York State but no intrastate flights between Buffalo and any of the other three New York State cities. Company B does **not** qualify for the exemption because, although it provides regularly scheduled passenger service to four or more New York State cities, it provides nonstop service between only three of those cities.*

Example 3: Company C provides regularly scheduled passenger service to five New York State cities, Albany, Rochester, Syracuse, New York, and Buffalo. Company C has nonstop flights between Albany and Rochester, between Syracuse and New York, and between Buffalo and airports outside New York State. Company C qualifies for the exemption because it provides regularly scheduled passenger service to four or more

cities within New York State and provides nonstop service between any four of those cities (Albany, Rochester, Syracuse, and New York). The fact that Company C does not provide nonstop service between Buffalo and at least one of the other New York State cities does not disqualify Company C from the exemption.

When an aircraft operator meets the exemption criteria, all kero-jet fuel and aviation gasoline consumed in all of that operator's aircraft for any location in New York State (including locations not providing intrastate service) are exempt from the petroleum business tax. In addition, in cases where the petroleum business tax was assumed by the operator, a credit or refund of the petroleum business tax is allowed.

If an aircraft operator ceases to provide regularly scheduled passenger service to four or more cities within New York State or ceases to have nonstop flights between any four of those cities, the exemption does not apply and the kero-jet fuel and aviation gasoline consumed during takeoffs in New York State become subject to the petroleum business tax.

How to report the exemption

Aircraft operators which qualify for the exemption and that have paid the petroleum business tax on fuel used in their aircraft may claim a credit on the appropriate petroleum business tax return. Aircraft operators, even if they are exempt, are still required to provide all flight information on their petroleum business tax returns.