

**Additional Information Regarding B20 Fuel  
Under the Excise Tax and Petroleum Business Tax  
(Articles 12-A and 13-A)**

Attention: Retailers of Heating Oil Only and Distributors of Diesel Motor Fuel

On August 11, 2006, the Tax Department issued TSB-M-06(2)M, *Excise Tax and Petroleum Business Tax Exemptions for Certain Alternative Fuels Beginning September 1, 2006*. One of the alternative fuels discussed in the TSB-M was B20, a mixture consisting by volume of 20% biodiesel and the remainder of which is diesel motor fuel (80%).

In addition to explaining the exemption for B20, TSB-M-06(2)M advised that, “[s]ince B20 is enhanced diesel motor fuel, it may not be sold by a retailer of heating oil only.” However, B20 is not always enhanced diesel motor fuel. Specifically, B20 designated and sold as heating oil, kerosene, or fuel oil is not considered enhanced diesel motor fuel. For instance, fuels designated as *No. 2 heating oil dyed B20 biodiesel*, *low sulfur kero dyed B20*, or other similar designations are not considered to be enhanced diesel motor fuel.

The Tax Law provides that a person registered as a retailer of heating oil only (ROHO) may sell only unenhanced diesel motor fuel for heating or for the production for sale of tangible personal property, gas, electricity, refrigeration, or steam (Tax Law, sections 282-a(2) and (3)(b)). Thus, a ROHO is only permitted to sell B20 that is unenhanced diesel motor fuel as described above.

A ROHO is **not** permitted to sell B20 that is enhanced diesel motor fuel. Enhanced diesel motor fuel includes any product specifically designated *diesel fuel* or *No. 1 diesel fuel* or *No. 2 diesel fuel* or any like industry designation commonly used to refer to a fuel used in the operation of a motor vehicle engine of the diesel type (Tax Law, section 282(16)). Accordingly, a ROHO may not sell fuel designated as *B20 diesel fuel*, *No. 1 diesel fuel B20*, or other similar *diesel* designations.