

**New York State Department of Taxation and Finance  
Taxpayer Services Division  
Technical Services Bureau**

TSB-M-94 (5) M  
Article 13 A  
August 26, 1994

**ARTICLE 13-A CHANGES EFFECTIVE September 1, 1994**

The Petroleum Business Tax was amended, effective September 1, 1994, to provide certain exemptions and reimbursements. These changes are:

- A BAD DEBT REFUND
- A MANUFACTURER'S EXEMPTION AND REIMBURSEMENT
- A COMMERCIAL GALLONAGE CREDIT/REIMBURSEMENT
- A FARMER'S EXEMPTION AND REIMBURSEMENT
- A COMMERCIAL FISHERMAN REIMBURSEMENT

**BAD DEBT REFUND**

A registered petroleum business or aviation fuel business may apply for a refund of the petroleum business tax (including the applicable surcharge) for consumer bad debt where:

- a) the tax was imposed on the petroleum business or aviation fuel business and the tax was paid by such business on its tax return for periods beginning on or after September 1, 1994;
- b) the fuel was sold in bulk by the petroleum business or aviation fuel business to a purchaser for the purchaser's own use and consumption, or the fuel sold was motor fuel or enhanced diesel motor fuel sold in bulk to a filling station; and
- c) the sale gave rise to a debt that became worthless and the debt is deducted for federal income tax purposes for the taxable year covering the month in which the refund claim relating to the debt is filed.

A debt arising from a retail sale at a filling station does not qualify as a bad debt for petroleum business tax refund purposes. Nor does a qualifying bad debt arise from any other sale where the fuel is delivered directly into the fuel tank of a motor vehicle, airplane or other conveyance.

***Write-off of Partially-Paid Transactions***

Any partial payment received from the customer must be apportioned between the petroleum business tax and the other components of the total selling price. The amount of the petroleum business tax remaining unpaid after application of the partial payment is the amount to claim as a refund.

***Federal Disallowance of a Bad Debt***

Any disallowance, for federal tax purposes, of a bad debt for which a refund of the petroleum business tax was paid, will be treated as a report of federal change, correction or disallowance. For purposes of the petroleum business tax, the change, correction or disallowance must be reported to the New York State Tax Department within 90 days after the final determination. A petroleum business or aviation fuel business that is a corporation filing a combined report under Article 9-A must report such change within 120 days.

**NOTE: A listing of form titles for all form numbers used herein appears at the end of this memorandum.**

Likewise, if a payment is subsequently received on an amount taken as a bad debt for which a refund of the petroleum business tax was granted, such subsequent collection must be reported to the New York State Tax Department and the appropriate tax remitted on the next return due. The tax due is determined in the same manner as is described above for the apportioning of partial payments.

No interest is allowed to be paid on refunds mailed by the Tax Department within 90 days of receipt of a processible application.

Petroleum businesses or aviation fuel businesses must file Form AU-474 to claim a bad debt refund. Bad debts **cannot** be applied as either a credit or an off-set on the petroleum business tax return.

### **MANUFACTURER'S EXEMPTION AND REIMBURSEMENT**

Beginning September 1, 1994, manufacturers may purchase unenhanced diesel motor fuel or residual petroleum product exempt from the supplemental tax and related surcharge. To qualify for exemption, the fuel must be delivered to the manufacturing site for use directly and exclusively in the production of tangible personal property **for sale**, by manufacturing, processing or assembly (hereinafter called *manufacturing*).

To claim this exemption, the manufacturer must give the seller a completed Form FT-1012. The seller must keep a copy of the properly completed certification to substantiate its sales taxed at the manufacturing rate. *(See page 4 of this memorandum for the petroleum business tax rates applicable to manufacturing use.)*

A manufacturer may claim a reimbursement of the supplemental tax and the related surcharge for unenhanced diesel motor fuel and residual petroleum product purchased before September 1, 1994, and used in manufacturing on or after September 1, 1994. Such reimbursement should be requested on Form FT-925. Manufacturers have two years from the date of purchase to claim the reimbursement.

Where unenhanced diesel motor fuel or residual petroleum product is put into a common tank and used for both manufacturing purposes and other purposes, the petroleum business may pay the petroleum business tax at the manufacturing rate on the portion of fuel to be used for manufacturing purposes. When claiming exemption on such purchases, the manufacturer must indicate on the exemption document the percentage of fuel used in qualified manufacturing and the percentage used for other purposes. The manufacturer must maintain adequate records to substantiate the percentage attributed to manufacturing. (Such substantiation may be in the form of an engineering survey or other formulae.)

Product consumed in the production of tangible personal property for sale by refining, mining or extracting and product consumed in the production of gas, electricity, refrigeration or steam for sale, does not qualify for this manufacturing exemption. *(However, see commercial gallonage below.)*

Likewise, diesel motor fuel consumed in motor vehicles operating on the highways of this state does not qualify for this exemption. Nor does diesel motor fuel delivered into a tank equipped with a nozzle or other device that can fuel a motor vehicle, or delivered to a filling station.

A petroleum business that, on or after September 1, 1994, purchases unenhanced diesel motor fuel or residual petroleum product on which it absorbs the petroleum business tax at a rate above the applicable manufacturing rate, and sells such product to manufacturers who claim exemption, may request a reimbursement of the supplemental tax and related surcharge on its petroleum business tax return.

A petroleum business claiming exemption or reimbursement for fuel sold or used in qualified manufacturing does so by reporting the total gallons sold or used for manufacturing purposes on line 50 of Form PT-102, line 19 of Form PT-103, line 19 of Form PT-106, or line 19 of Form PT-201.

## **COMMERCIAL GALLONAGE CREDIT/REIMBURSEMENT**

Beginning September 1, 1994, the tax law provides for a reduced rate of petroleum business tax, in the form of a credit or reimbursement, on nonautomotive-type diesel motor fuel or residual petroleum product that qualifies as commercial gallonage. Commercial gallonage is nonautomotive-type diesel motor fuel (unenhanced) or residual petroleum product other than that which qualifies for the manufacturing exemption or for the utility credit.

Nonautomotive-type diesel motor fuel or residual petroleum product used to heat manufacturing facilities, farm buildings, office buildings, stores, churches, hotels or similar structures is considered commercial gallonage. Additionally, where such product is used in the production of gas, refrigeration or steam for sale, or in the production of tangible personal property for sale by refining, extracting or mining it would be considered commercial gallonage.

*( Nonautomotive-type diesel motor fuel or residual petroleum product sold for **residential** heating purposes is exempt from the petroleum business tax and, therefore, is not considered commercial gallonage.)*

Consumers who, after September 1, 1994, purchase fuel with the full amount of petroleum business tax included, which otherwise qualifies as commercial gallonage, may apply for a reimbursement. See listing of reimbursement rates at the end of this memorandum for the commercial gallonage reimbursement. A claim for reimbursement should be made by filing Form AU-473. Such claims should not be made more often than monthly.

A petroleum business seeking credit or reimbursement of tax for product sold or used for commercial gallonage purposes does so by reporting such gallonage on line 51 of Form PT-102, line 20 of Form PT-103, line 20 of Form PT-106, or line 20 of Form PT-201.

## **FARMER'S EXEMPTION AND REIMBURSEMENT**

- **Diesel Motor Fuel and Residual Petroleum Product**

Beginning September 1, 1994, sales of diesel motor fuel and residual petroleum product to farmers for use directly and exclusively in farm production, for sale, are exempt from the petroleum business tax provided all the product is delivered to the farm site and is consumed other than on the highways of this state (except for the use of the highway to reach adjacent farmlands). The petroleum business must retain a properly completed Form FT-1004 from each farmer.

However, unless the farmer gets prior permission from the Tax Department to purchase more than 4,500 gallons of diesel motor fuel in a thirty-day period exempt from the petroleum business tax, such sales are subject to the tax at the automotive-type diesel motor fuel rate.

- **Motor Fuel**

Beginning September 1, 1994, a farmer may claim a reimbursement of the petroleum business tax paid on motor fuel (gasoline) used directly and exclusively in farm production by filing Form AU-472. The fuel must have been delivered to the farm site and consumed other than on the highways of this state (except the use of the highway to reach adjacent farmlands). A farmer will not receive reimbursement for more than 1,500 gallons of motor fuel purchased in a thirty-day period unless the farmer received permission from the Tax Department to make the purchase.

**Commercial Fisherman Reimbursement**

Beginning September 1, 1994, commercial fishermen who purchase diesel motor fuel or motor fuel at retail for use in the operation of commercial fishing vessels engaged in the harvesting of fish for sale may get a reimbursement of the petroleum business tax paid on that fuel. Reimbursements should be claimed by filing Form AU-631.

**"Commercial fisherman"** means a person licensed by an appropriate federal or state agency for, and engaged in the business of, the commercial harvesting of fish for sale. In claiming status as a commercial fisherman, consideration should be given to the amount of time, capital and effort consumed in the harvesting of fish for sale.

**"Commercial fishing vessel"** means a vessel used directly and predominantly in the harvesting of fish for sale and, if required, is currently documented with the United States Coast Guard and has a current fisheries endorsement on such documentation.

The following is a listing of petroleum business tax rates as of September 1, 1994:

Motor fuel . . . . .	\$ .1451
Aviation gasoline . . . . .	\$ .1451
Karo-jet fuel . . . . .	\$ .1451
Automotive-type diesel motor fuel . . . . .	\$ .1451
Nonautomotive-type diesel motor fuel . . . . .	\$ .1373
<b>when sold for:</b>	
Farm use . . . . .	none*
Manufacturing . . . . .	\$.0788*
Commercial gallonage . . . . .	\$.1080*
Electric corporation <i>(with a direct     pay permit)</i> . . . . .	none
Residual petroleum product . . . . .	\$ .1215
<b>when sold for:</b>	
Farm use . . . . .	none*
Manufacturing . . . . .	\$.0630*
Commercial gallonage . . . . .	\$.0922*
Electric corporation <i>(with a direct     pay permit)</i> . . . . .	none

**CREDITS AND REIMBURSEMENTS**

Electric utility credit for	
No. 2 heating oil . . . . .	\$ .0508
Residual petroleum product . . . . .	\$ .0487
Manufacturing . . . . .	\$.0585*
Commercial gallonage . . . . .	\$.0293*
Motor fuel used in farm production . . . . .	\$ .1451*

\* Takes Effect September 1, 1994.

**FORMS MENTIONED IN THIS MEMORANDUM**

<b>Form #</b>	<b>Title</b>
FT-925 .....	<i>Application for Reimbursement of Supplemental Business Tax &amp; Applicable Surcharge on Petroleum Product Purchased at Retail for Use in Manufacturing</i>
FT-1004 .....	<i>Farmers' Exemption Certificate for Purchases of Diesel Motor Fuel</i>
FT-1012 .....	<i>Manufacturing Certification for Certain Taxes Imposed on Diesel Motor Fuel and Residual Petroleum Product</i>
FT-1025 .....	<i>Certificate for Exemption from Certain Taxes Imposed on Diesel Motor Fuel</i>
AU-472 .....	<i>Application for Reimbursement by Farmers Purchasing Motor Fuel (Gasoline)</i>
AU-473 .....	<i>Application for Reimbursement of the Petroleum Business Tax on Fuel Sold or Used for Commercial Gallonage Purposes</i>
AU-474 .....	<i>Application for Refund of the Petroleum Business Tax as a Result of a Bad Debt</i>
AU-631 .....	<i>Application for Reimbursement of Taxes on Fuel Used in a Vessel Engaged in Commercial Fishing</i>