

This TSB-M is obsolete and should not be used. See [TSB-M-06\(8\)S](#), *New Guidelines on the Sales of Motor Fuel and Diesel Motor Fuel Subject to the Cents-Per Gallon Sales Tax*. To continue reading this TSB-M, scroll down.

Reduction in State Sales Tax on Motor Fuel, with Local Option

On May 21, 2006, Governor George E. Pataki signed into law Chapter 35 of the Laws of 2006. Part A of Chapter 35 amends the Tax Law to cap the amount of New York State sales and compensating use tax (sales tax) imposed on motor fuel and diesel motor fuel (together, “automotive fuels”). This cap also applies to the additional state sales tax imposed in the Metropolitan Commuter Transportation District (MCTD). The legislation also authorizes counties and cities (localities), including New York City, to cap the amount of their local sales tax imposed on automotive fuels. A discussion of the new law follows.

State sales tax

Under the new law, the state sales tax on automotive fuels is computed at the rate of 8 cents-per-gallon outside the MCTD and 8¾ cents-per-gallon within the MCTD. This new method of computing state sales tax on automotive fuel applies to sales and uses occurring on or after June 1, 2006.

Local sales tax options

The new law also allows localities that impose a local sales tax to: (1) continue to impose and compute their sales tax on automotive fuels at their current sales tax percentage rate; or (2) change the method of computing the local tax to a cents-per-gallon rate method. Localities may elect to impose the cents-per-gallon method effective for sales and uses occurring on or after July 1, 2006, or at a later date beginning on the first day of a sales tax quarter.

Until a locality has changed to the cents-per-gallon method, retail vendors of automotive fuel must compute the local sales tax using the rules that applied to local sales tax prior to June 1, 2006 (including the rules for computing the taxable sales amount). That is, retail vendors of automotive fuel multiply the taxable receipt for automotive fuel by the sales tax rate for the city or county where the sale occurs. In determining the taxable receipt, the retail vendor does not include the cents-per-gallon state sales tax, the local sales tax and any state excise taxes imposed under Article 12-A of the Tax Law. Schedule FR, *Sales and Use Tax on Motor Fuel and Diesel Motor Fuel*, will be revised to reflect the new law.

The chart on page 3 of this memorandum lists the various localities and the current local sales tax percentage rates. The Tax Department will be issuing further guidance for those localities that elect the cents-per-gallon method.

Authority to adjust cents-per-gallon tax

State and local cents-per-gallon rates may be adjusted quarterly due to reductions in automotive fuel prices or local rate changes. The Tax Department will notify vendors of cents-per-gallon rate changes prior to any such rate changes taking effect.

Changes to method of determining prepaid tax on automotive fuel

Chapter 35 also amended section 1111 of the Tax Law relating to the sales tax prepayment provisions for distributors of automotive fuel. The prepayment of state and local sales tax is computed based on the number of gallons of automotive fuel imported, manufactured or sold in either Region 1 or Region 2 of the state. Effective June 1, 2006, for Region 1, the new prepayment amount is 14¾ cents-per-gallon. For Region 2, the new prepayment amount is 14 cents-per-gallon. See Publication 787, *Chart for Prepayment of Sales Tax On Diesel Motor Fuel*, and Publication 790, *Chart for Prepayment of Sales Tax On Motor Fuel*, for further information on prepaid sales tax on automotive fuels.

Requirements for sellers and distributors to reduce prices they charge

The new law also amends the General Business Law and Tax Law (1) to require distributors of automotive fuel to reduce the price they charge their customers for automotive fuel by any reductions in the prepaid sales taxes paid by the distributor, and (2) to require retail vendors to reduce the price they charge their customers for automotive fuel to reflect the lower sales tax as a result of the new cents-per-gallon computation method. Furthermore, the Tax Department, in conjunction with the State Consumer Protection Board, is required to monitor prices to determine if they have been appropriately reduced. A penalty of up to \$5,000 per day for each violation may be imposed if a seller or distributor is found to be in violation of the price reduction requirements of the General Business Law. The Tax Department will provide notice to sellers or distributors of any violations found and will provide an opportunity for a hearing not less than 10 days after providing such notice.

(See Tax Law sections 1111(e), 1111(m), 1817(t), and General Business Law section 392-i.)

The following chart provides the current tax rates for automotive fuel applicable in the various counties and cities, as of June 1, 2006.

LOCALITY	RATE (%)	LOCALITY	RATE (%)
Albany County	4	Ontario County	3
Allegany County	4½	Orange County	3¾
Broome County	4	Orleans County	4
Cattaraugus County: (including city of Olean) (including city of Salamanca)	4	Oswego County: (including city of Fulton) (including city of Oswego)	4
Cayuga County: (including city of Auburn)	4	Otsego County	4
Chautauqua County	4¼	Putnam County	3½
Chemung County	4	Rensselaer County	4
Chenango County: (including city of Norwich)	4	Rockland County	3⅞
Clinton County	3¾	St. Lawrence County	3
Columbia County	4	Saratoga County: (including city of Saratoga Springs)	3
Cortland County	4	Schenectady County	4
Delaware County	4	Schoharie County	4
Dutchess County	3¾	Schuyler County	4
Erie County	4¾	Seneca County	4
Essex County	3¾	Steuben County: (including city of Corning) (including city of Hornell)	4
Franklin County	4	Suffolk County	4¼
Fulton County: (including city of Gloversville) (including city of Johnstown)	4	Sullivan County	3½
Genesee County	4	Tioga County	4
Greene County	4	Tompkins County: (including city of Ithaca)	4
Hamilton County	3	Ulster County	4
Herkimer County	4	Warren County: (including city of Glens Falls)	3
Jefferson County	3¾	Washington County	3
Lewis County	3¾	Wayne County	4
Livingston County	4	Westchester County except: (within city of Mount Vernon)	3
Madison County: (including city of Oneida)	4	(within city of New Rochelle)	4
Monroe County	4	(within city of White Plains)	3½
Montgomery County	4	(within city of Yonkers)	4
Nassau County	4¼	Wyoming County	4
Niagara County	4	Yates County	4
Oneida County: (including city of Rome) (including city of Sherrill) (including city of Utica)	5½	New York City	4
Onondaga County	4		