

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

TSB-M-83 (11.1)S  
Sales Tax  
June 17, 1983

(This memorandum supplements TSB-M-83(11)S, dated June 15, 1983.)

SALES TAX TREATMENT OF NEW YORK STATE AND FEDERAL  
EXCISE TAXES ON DIESEL MOTOR FUEL AND AVIATION FUEL

Effective April 1, 1988, the federal excise tax on diesel motor fuel is to be included in the retail selling price on which sales tax is computed. This change results from an amendment to federal law relating to the imposition of federal excise tax on sales of this fuel.

Prior to April 1, 1988, both the 10 cent per gallon state excise tax and the 15.1 cent per gallon federal excise tax on diesel motor fuel were imposed directly on the consumer of such fuel and only collected by the seller. Therefore, they were not a part of the seller's receipt subject to tax.

Under the amendment to federal law, the federal excise tax on diesel motor fuel is now imposed on sales made by the producer of such fuel. Thus, the federal excise tax imposed on the producer now becomes an expense to the retail seller and is passed on to the customer by the seller. Since this tax is an expense of the seller it is part of the seller's receipt subject to sales tax.

No changes have occurred with respect to the imposition of the 10 cent New York State excise tax on this fuel.

Example. Assume that a retailer of diesel motor fuel paid 90.0 cents a gallon for diesel fuel, which included a federal excise tax of 15.1 cents, and the mark-up for each gallon is 10 cents. The sales tax per gallon of diesel motor fuel sold, assuming a 7% sales tax rate, is computed as follows:

Cost per gallon (including the federal excise tax, transportation, etc.)	\$ .900
Plus: Mark-up per gallon	<u>.100</u>
Equals: Amount subject to sales tax	\$1.000
Times: Applicable rate of 7%	<u>.07</u>
Amount of sales tax due per gallon	<u><u>\$ .07</u></u>

In this example the total selling price of the fuel, including all taxes, is \$1.17 (one dollar plus 7 cents sales tax plus 10 cents New York State diesel fuel tax).

NOTE: This change in the sales tax treatment of federal excise tax also applies to the 14.1 cent per gallon federal excise tax included in the retail sales price of aviation fuel.