

1985 LEGISLATION - CHAPTER 44

INFORMATION ON PURCHASES AND SALES OF DIESEL MOTOR FUEL

Chapter 44 of the Laws of 1985 became effective June 1, 1985. The following information highlights the current application of sales tax to diesel motor fuel transactions. Diesel motor fuel is defined as kerosene, crude oil and motor fuel commonly used in the operation of an engine of the diesel type.

COMPUTATION OF SALES AND USE TAX

Retail Sales

As of June 1, 1985, sales tax on diesel motor fuel is computed by multiplying the actual retail selling price (excluding the 15 cents per gallon federal and the 10 cents per gallon state diesel motor fuel taxes) by the combined state and local tax rate in effect where the sale takes place. Regional average retail sales prices are no longer used for computing sales tax on sales of diesel motor fuel.

Use Tax

Use tax on diesel motor fuel, used or consumed by the purchaser, is computed by multiplying the actual purchase price (excluding federal and state diesel motor fuel taxes) by the combined state and local sales tax rate in effect where the fuel is used. Regional average retail sales prices are no longer used to compute sales tax on self-use of diesel motor fuel.

A manufacturer or refiner computes tax on fuel that he uses himself based on the price at which he normally sells diesel motor fuel to others (excluding federal and state diesel motor fuel taxes) and at the combined state and local sales tax rate in effect for the locality where the fuel is used.

CHANGES IN EXEMPTIONS

Purchases in Bulk

Persons who purchase diesel motor fuel in bulk for use in motor vehicles they own, rent or otherwise control must now pay sales tax to their suppliers rather than pay the tax directly to the Department of Taxation and Finance. Effective June 1, 1985, Form TP-146.4, Certificate for Sales Tax Exemption on Purchases of Certain Fuels, can no longer be used.

Persons who purchase diesel motor fuel in bulk for sale, either in bulk or at retail, must give their suppliers a properly completed Form FT-938, Certificate for Certain Purchases of Fuel, to purchase without the payment of sales tax. Form TP-146.4 cannot be used as of June 1, 1985.

Immediate Export

There is no longer any sales tax exemption for diesel motor fuel purchased for immediate export to another state when the purchaser is duly licensed as a diesel motor fuel dealer in that state. Form TP-146.4, Certificate for Sales Tax Exemption on Purchases of Certain Fuels, can no longer be used. Tax must be paid at the time of purchase.

However, purchasers who immediately export diesel motor fuel for sale outside New York State may apply for a refund of the sales tax paid on those purchases. Nonresident purchasers who make all sales outside New York State may file Form ST-128.1, Application for Out-of-State Resale Permit. If a permit is issued, purchases for immediate export can be made without the payment of sales tax.

Transactions Unchanged by Chapter 44

Persons eligible to use Exempt Organization Certifications (Forms ST-119.1), Exempt Use Certificates (Forms ST-121), Direct Payment Permits (Forms ST-123 and AU-297) or governmental purchase orders may still use such documents to purchase diesel motor fuel without payment of sales tax.

REPORTING REQUIREMENTS

New sales tax reporting requirements will change the status of some vendors from quarterly to monthly filers of sales and use tax returns. Any person selling 100,000 gallons or more of automotive fuel (combined motor fuel and diesel motor fuel sales), whether taxable or not, in any one of the previous four quarters must file monthly sales tax returns.

Vendors selling diesel motor fuel in bulk to consumers must report these sales with their quarterly sales tax returns on Schedule E (ST-100.8). Those purchasing diesel motor fuel in bulk for their own use no longer need to file Schedule E unless they are making any sales of diesel motor fuel or must report use tax due on diesel motor fuel.

If, at any time, your filing requirements change, you should immediately notify the Sales Tax Processing Unit of the Department of Taxation and Finance, either by writing to them at the W. Averell Harriman State Office Building Campus, Albany, New York 12227, or by calling 518-457-7311.