



Important Notice

August 2006

**Notice to Distributors of Automotive Fuels -
Reporting Retail Sales of Fuel That is Not *Qualified Fuel***

Beginning with the June through August 2006 reporting period, retail sales of automotive fuel that is not *qualified fuel* should not be included on Schedule FR, *Sales and Use Tax on Motor Fuel and Diesel Motor Fuel*, and must be reported as described in this notice.

Any sale of automotive fuel that is not *qualified fuel* must be reported on the appropriate jurisdiction line on Form ST-100, *New York State and Local Quarterly Sales and Use Tax Return*, Form ST-810, *New York State and Local Quarterly Sales and Use Tax Return for Part-Quarterly Filers*, or Form ST-101, *New York State and Local Annual Sales and Use Tax Return*. This also applies to all sales of automotive fuel sold in bulk for any purpose for which the purchaser does not give the seller a properly completed Form ST-121, *Exempt Use Certificate*, asserting that the fuel will be used as *qualified fuel*.

Examples of the types of sales to be reported in this manner include fuel sold for commercial heating purposes, fuel sold for use in manufacturing or sales by fixed base operators of aviation gasoline or kero-jet fuel for use in an aircraft.

All sales of fuel that is not *qualified fuel* are subject to tax at the combined state and local percentage rate of tax in effect in the jurisdiction in which the fuel is delivered.

Prepaid sales tax

If the prepaid sales tax has been imposed on fuel that is not *qualified fuel* the distributor should take a credit for the prepaid tax on line 10a or 17a on Form FT-945/1045, *Report of Sales Tax Prepayment on Motor Fuel/Diesel Motor Fuel*. Alternatively, a distributor could request a refund of the prepaid tax by filing Form FT-949, *Application for Refund of Prepaid Sales Tax on Motor Fuel Sold Other Than at Retail Service Stations*, or Form FT-1010, *Application for Refund of Prepaid Sales Tax on Diesel Motor Fuel Sold Other Than at Retail Service Stations*.

Qualified fuel

All sales of *qualified fuel* must be reported on Schedule FR, *Sales and Use Tax on Motor Fuel and Diesel Motor Fuel*. For additional information 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*.

Definitions

Qualified fuel means motor fuel and diesel motor fuel, that is:

- sold for use directly and exclusively in the engine of a motor vehicle; or
- sold by a *retail gas station* (other than water-white kerosene sold exclusively for heating purposes in containers of no more than twenty gallons.) Note: If a place qualifies as a retail gas station, any motor fuel or diesel motor fuel it sells (other than water-white kerosene sold exclusively for heating purposes in containers of no more than twenty gallons) is qualified fuel regardless of how the fuel sold by the station is used by the purchaser. For example, if a retail gas station sells fuel to a purchaser who pumps the fuel into a five-gallon can for use in a lawnmower, snowmobile, ATV or other equipment, that fuel is qualified fuel.

Retail gas station means a filling station where motor fuel or diesel motor fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a motor vehicle to be consumed in the operation of such motor vehicle. A *retail gas station* also includes a filling station where motor fuel or diesel motor fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a vessel to be consumed in the operation of the vessel (e.g., a marina gas station).