

CHAPTER 18A
PETROLEUM GROSS RECEIPTS TAX

Authority

N.J.S.A. 54:50-1

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SUBCHAPTER 1. SCOPE AND DEFINITIONS

18:18A-1.1 Purpose and scope

The rules contained in this chapter are for the purpose of describing and explaining the application and implementation of the Petroleum Products Gross Receipts Tax Act, N.J.S.A. 54:15B-1 et seq. (P.L. 1990, c.42) and as subsequently amended. The scope of the rules is derived from the statute and the chapter is proposed and adopted pursuant to it.

18:18A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

The "Act" means the "Petroleum Products Gross Receipts Tax Act," P.L. 1990, c.42 (N.J.S.A. 54:15B-1 et seq.) and any amendments thereto.

"Blending" means combining, compounding, or mixing one or more petroleum products with additives or other substances resulting in a new or enhanced petroleum product.

"Book transfer" means:

1. An accounting procedure for simultaneously settling multiple petroleum delivery obligations in which the following occurs:

i. Three or more petroleum companies have sequential product supply obligations to each other for the same volume of product;

ii. Each customer of its supplier in the sequence agrees to release its supplier from its delivery obligation in consideration for that customer's supplier causing (directly or indirectly) its customer to be released from its delivery obligation to the next party in the sequence;

iii. The sequential releases continue down the chain until the first party in the delivery chain, which has been released from its delivery obligation, becomes the last party in the chain by releasing the penultimate party from its delivery obligation;

iv. No physical volume of product is ever transferred; and

v. All parties book identical volumes from beginning to end.

2. In addition, and for purposes of this chapter only, a book transfer may also mean and include a sale from a qualified distributor or direct payment permit holder to another qualified distributor or direct payment permit holder.

“Commercial consumers” means those companies that produce, consume, blend or distribute substantial quantities of petroleum products in the state, companies making sales pursuant to a written contract extending one year or longer to nonprofit entities qualifying under N.J.S.A. 54:32b-9(b) as evidenced by an invoice prescribed by N.J.A.C. 18:18A-1.2, and companies making sales to governmental entities qualifying under N.J.S.A. 54:32B-9(a), or such other company as may be licensed by the Director.

“Company” means a corporation, partnership, limited partnership association, individual, or any fiduciary or other person or entity engaged in activities subject to the Petroleum Products Gross Receipts Tax Act.

“Direct payment permit holder” means a commercial consumer which has registered with the Director pursuant to these rules and engages in blending, manufacturing, in the sale of No. 2, No. 4 or No. 6 fuel oil or kerosene used for residential heating purposes or propane used for residential heating purposes, or consumes bunkered fuels in interstate or foreign commerce, is a common carrier consuming aviation fuel in interstate or foreign commerce, or such other company as may be licensed by the Director pursuant to N.J.S.A. 54:15B-12. Direct payment permit holders are authorized to file reports and remit applicable tax directly to the Director.

“Director” means the Director of the Division of Taxation in the Department of Treasury.

“Distributor” means and includes every company, wherever resident or located, which imports into this State petroleum products for use, distribution, storage or sale in this State after the same shall reach this State; and also every company who produces, refines, manufactures, blends or compounds petroleum products and sells, uses, stores or distributes the same within this State, and which holds a distributors license under the New Jersey Motor Fuels Tax Act (see N.J.S.A. 54:39-3 and N.J.A.C. 18:18-1.1).

“Exchange agreement” means the loaning of a petroleum product by one company to another company to facilitate supply needs at a particular location. An exchange balance settlement is a common method used to balance out the product receivable at a specified time. An exchange balance settlement is an economic value established for the volumes involved and booked accordingly by each party to the exchange.

“Exempt organization” means an organization authorized as an exempt organization with the Division of Taxation for sales and use tax purposes.

“Exportation” or “export” means the conveyance of petroleum products from New Jersey to a location outside New Jersey for the purpose of sale or use outside the State.

“First sale of petroleum products within this State” means the initial sale of petroleum products delivered to a location in New Jersey and sold to a purchaser which is not a distributor or the holder of a direct payment permit. A “first sale of petroleum products within this State” does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.

“Gross receipts” means all consideration derived from first sales of petroleum products within this State as herein defined. Gross receipts shall not include:

1. Consideration derived from sales of petroleum products within this State sold for exportation from this State;
2. Consideration derived from sales of No. 2 fuel oil to be used exclusively for residential heating or sales of propane gas used for residential heating. In addition, on and after July 1, 1991 petroleum products do not include No. 4 fuel oil, No. 6 fuel oil, and kerosene to be used exclusively for residential use. Residential heating includes all forms of heating including, for example, the heating of air, water, or food; or
3. The tax imposed under N.J.A.C. 18:18A-2.1 (see N.J.A.C. 18:18A-2.1 for an example);
4. Consideration derived from receipts from sales on and after July 1, 1990 of petroleum products used by marine vessels engaged in interstate or foreign commerce;
5. Consideration derived from sales on and after July 1, 1990 of aviation fuels used by common carriers in interstate or foreign commerce other than the “burnout” portion taxable pursuant to calculations at N.J.A.C. 18:18A-6.3;
6. Consideration derived from sales of asphaltic materials on and after July 1, 1991;
7. Consideration derived from sales of petroleum products sold to a nonprofit entity on and after July 1, 1991 which:
 - i. Has been issued an ST-5 exemption certificate by the Division of Taxation pursuant to the Sales and Use Tax Act;
 - ii. Has a written contract with its vendor extending one year or longer; and
 - iii. Has a written invoice to evidence the transaction;

8. Consideration derived from sales of petroleum products sold on and after July 1, 1991 to:

- i. The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations or political subdivisions, and school boards; or
- ii. The United Nations or any international organization of which the United States of America is a member;

9. Consideration derived from sales of polymer grade propylene used in the manufacture of polypropylene sold on and after July 1, 1991; or

10. Consideration derived from the first sale of petroleum products on and after July 1, 1990 to the United States Government, or to any of its departments, agencies, or instrumentalities for use in a Federal government function or operation.

“Invoice” means a document related to a sale showing:

- 1. The name and address of the person from whom the petroleum products were purchased;
- 2. The name and address of the purchaser;
- 3. The date of purchase;
- 4. The type and quantity of the product purchased;
- 5. The price paid for the purchase of the product; and
- 6. An acknowledgment by the seller that payment of the cost of the product to the seller has been made. Such invoice shall be legibly written and shall be void if any correction or erasures shall appear on it.

“Petroleum products” means:

1. Refined products made from crude petroleum and its fractionation products through straight distillation of crude oil or through redistillation of unfinished derivatives but does not mean the products commonly known as No. 2 fuel oil and propane gas to be used exclusively for residential use. In addition, on and after July 1, 1991, petroleum products do not include No. 4 fuel oil, No. 6 fuel oil and kerosene to be used exclusively for residential use.

2. From July 1, 1990 through June 30, 1991, petroleum products are considered to include, for example, and without limitation: acid oil, alkylates, aromatic chemicals, asphalt and asphaltic materials (liquid and solid), benzene, butadene, butylene, coke (petroleum), ethylene, fractionation products of crude petroleum, gas (refinery or still oil), gases (liquefied petroleum), gasoline, greases (lubricating), hydro-carbon fluid, jet fuels, kerosene, mineral jelly, mineral oils (natural), mineral waxes (natural), naphtha, naphthenic acids, oils, partly refined sold for rerunning, oils and fuel (lubricating and illuminating),

paraffin wax, petrolatums, propylene, road materials (bituminous), road oils, solvents, and tar of residuum.

3. On and after July 1, 1991 receipts from sales of certain of the foregoing list of petroleum products in this definition shall not result in taxable gross receipts (see definition of gross receipts).

4. Petroleum products do not include any finished manufactured products that may include petroleum as an ingredient but are not themselves petroleum products such as plastics, animal feed, anti-freeze, ink, roofing shingles, synthetic fibers.

“Residential building” means a single or multi-family dwelling, nursing home, trailer, condominium, boarding house, apartment house or other structure designed primarily for use as a dwelling including a hospital, barracks, dormitory, or prison but not including a hotel, motel or like establishment offering shelter on a transient basis of less than 90 days.

“Sale for exportation” means a sale of petroleum products to a purchaser who itself exports the product as defined in this section.

“Use” means the exercise of any rights or power over a petroleum product by a purchaser or importer thereof including, but not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation or affixation to real or personal property, combustion or incorporation into a product for sale which product is not an identifiable petroleum product. The term “use” does not include blending, compounding, or packaging where the resulting product is also a petroleum product. The term “use” does not include storage or keeping of petroleum products held in inventory by a merchant that are exported from the State for sale or use outside the State.

SUBCHAPTER 2. TAX RATE; RECEIPTS AND IMPORTS

18:18A-2.1 Rate of tax

(a) For the period July 1, 1990 through June 30, 1991, the tax is imposed on receipts from sales of all products at a rate of two and three quarters percent (2.75 percent) multiplied by a company's gross receipts derived from first sales of petroleum products within this State as herein defined.

Example: Taxpayer has gross receipts of \$100.00. Gross receipts plus tax is \$102.75 (\$100.00 + .0275 x 100). This is the selling price. The tax due from the taxpayer, which is based on gross receipts net of the tax, is computed thus:

102.75 (selling price) ÷ 1.0275 = 100.00 (gross receipts net of tax)

100.00 × .0275 (Tax rate) = 2.75 Tax Due

(b) On and after July 1, 1991, the applicable tax rate for fuel oils, aviation fuels and motor fuels including propane sold as a motor fuel shall be converted by an adjustment to a cents per gallon rate. (The applicable rate for receipts from the sale of other products remains at 2.75 percent.) Calculations made pursuant to N.J.S.A. 54:15B-3 require that the rate be recalculated semiannually, but in any event a minimum cents per gallon rate is set forth in N.J.S.A. 54:15B-3. This minimum cents per gallon rate is determined by the average retail price of regular unleaded gasoline in the State in December 1990 as determined by the Board of Public Utilities, Office of the Economist. This price was \$1.442. At 2.75 percent, this yields a minimum rate of 3.9655 cents per gallon, which is rounded to four cents. The May 1991 survey by the Board of Public Utilities yields a price of \$1.149 per gallon or a tax rate of 3.16 cents, less than the minimum. Thus, for the period on and after July 1, 1991 through December 31, 1991 the minimum rate of four cents per gallon shall be applied to all sales of subject products. A new rate will be struck in December 1991 in accordance with the above procedures for the subsequent six months period through June 30, 1992 based on the November Board of Public Utilities survey. Thereafter, the Division will revise the rate semiannually and the public will be notified.

Example: Products such as, but not necessarily limited to, gasoline, diesel fuel, and jet fuel sold in August 1991 are taxed at four cents per gallon. Propane sold as a motor fuel to propel a vehicle is also taxed at four cents per gallon. Receipts from sales of products such as lubricating oil, and mineral jelly would be taxed at a rate of 2.75 percent.

Public Notice: Tax rate \$0.04 per gallon, effective January 1 through June 30, 1995.
See: 27 N.J.R. 247(b).

18:18A-2.2 Tax on imports

(a) A company which imports or causes to be imported petroleum products for use or consumption by it within this State shall be liable for a tax imposed at the rate of two and three quarters percent (2.75 percent) multiplied by the consideration given or contracted to be given or at the per gallon rate if applicable for such petroleum products provided that the consideration given or contracted to be given for all such deliveries made during a quarterly period exceeds a threshold amount of \$100,000 or \$5,000, on and after July 1, 1991. This tax is not imposed upon a company subject to and paying a tax under N.J.A.C. 18:18A-2.1 upon such company's gross receipts from first sales of petroleum products within this State which receipts include gross receipts attributable to such imported or caused to be imported petroleum products. Importation does not include the consumption of fuel as part of an interstate journey where the interstate vehicle consuming the fuel is simply passing through the State.

Example: Farmer A purchases \$95,000 worth of diesel fuel in Pennsylvania, which is delivered to a tank on his farm in Salem County during October, November and December, 1990. The farmer owes no tax on the purchase price of the fuel. Farmer B purchases \$105,000 worth of diesel fuel in Pennsylvania which is delivered during the same period to his farm in Salem County. Farmer B owes a tax of \$2,887.50 (\$105,000 × 2.75 percent).

(b) Effective on and after July 1, 1991, the threshold for imported petroleum products has been reduced to \$5,000 per quarter.

Example: In July 1991 Farmer A purchases 5,000 gallons of diesel fuel in Pennsylvania at 90 cents per gallon, for a total of \$4,500, which is delivered to a tank on his farm in Salem County during August and September 1991. The farmer owes no tax on the purchase price of the fuel since the price paid was less than \$5,000. Farmer B purchases 6,000 gallons worth of diesel fuel in Pennsylvania at 90 cents per gallon for a total of \$5,400, which is delivered during the same period to his farm in Salem County. Farmer B owes tax of \$240 (6,000 gallons × \$0.04). Receipts from sales of fuel oil (such as diesel fuel) are taxed at four cents per gallon on and after July 1, 1991.

18:18A-2.3 Receipts from sales subject to tax

(a) Receipts from first sales of petroleum products within this State as herein defined are subject to tax. Certain receipts, for example, from sales for exportation, sales of No. 2 fuel oil, propane for residential use, and the tax imposed by the Act are not included in arriving at gross receipts subject to tax. On and after July 1, 1991 the Act contains exemptions or exclusions for receipts from sales to the State, or municipal governments, their agencies or instrumentalities, and to qualified exempt organizations employing authorized purchase procedures. In addition, exemption from tax for receipts from sales to the Federal government is effective on and after July 1, 1990.

Example 1: Company R collects used oil from various generators and produces a recycled fuel. Subsequent sales of its petroleum product by company R are considered to produce gross receipts subject to tax under the Act. The statute contains no exemption for sales of recycled oil.

Example 2: In July of 1991 Company S sells petroleum products to Hudson County, Jersey City, the U.S. Government, and the New Jersey Transit Authority. The gross receipts of Company S attributable to such sales are not subject to tax. The taxing statute contains an exemption for a company's gross receipts derived from sales to all governmental agencies or authorities on and after July 1, 1991. Receipts from sales to the United States Government are not subject to tax on and after July 1, 1990 pursuant to P.L. 1991, c.19.

Example 3: In August of 1990 Company Q sells asphalt to Company M to make shingles, such sales result in taxable receipts whether or not the shingles are exported from New Jersey. The shingles are considered a manufactured product, not a petroleum product, under the statute and Company M is the user of the asphalt. On and after July 1, 1991 receipts from any sales of asphalt are no longer subject to tax.

(b) Receipts from first sales of petroleum products within this State are not subject to tax if the purchaser will sell, use or consume the product outside the State and if it properly documents the transaction with the seller.

18:18A-2.4 Imports

Purchases of petroleum products outside New Jersey for use in New Jersey are subject to tax. During the period July 1, 1990 through June 30, 1991 purchases of petroleum products imported from outside New Jersey are subject to a \$100,000 threshold per quarterly period in arriving at consideration subject to tax. On and after July 1, 1991 purchases of petroleum products imported from outside New Jersey are subject to a \$5,000 threshold per quarterly period in arriving at consideration subject to tax. Imports by the United States Government are not subject to tax. The term "use" does not include blending or compounding (see N.J.A.C. 18:18A-6.1).

Example 1: The United States Government purchases gasoline in Pennsylvania which it imports into New Jersey for use in a motor pool in Camden County. No tax is due on the transaction since gross receipts subject to tax do not include sales to the Federal government.

Example 2: On June 5, 1991 a New Jersey municipality purchased fuel oil from a Pennsylvania dealer not licensed in New Jersey. The municipality was required to pay the tax directly to the State of New Jersey if purchases exceeded \$100,000 per quarter since at that time the Act contained no provision which would exempt the purchase price from sales to municipalities from the tax. On and after July 1, 1991 municipalities which purchased fuel would pay no tax regardless of the amount of fuel oil purchased, since purchases by municipalities are no longer subject to tax.

Example 3: On January 5, 1991 Company G purchases motor oil and paint in Pennsylvania. It has the motor oil and paint delivered to its warehouse in Union, New Jersey. From the warehouse it distributes paint and motor oil to its 15 retail outlets in New Jersey and exports the remainder as a commodity for sale in its New York stores. The paint is not considered a petroleum product. Therefore, consideration from sales of paint are not taken into account in a tax calculation. The total purchase price of the lubricating oil purchased by Company G and stored within New Jersey exceeded the threshold amount of \$100,000. However, the threshold is inapplicable to merchandise inventory. Company G pays tax on the consideration for lubricating oil sold in its New Jersey stores.

SUBCHAPTER 3. DIRECT PAYMENTS BY DISTRIBUTORS AND DIRECT PAYMENT PERMIT HOLDERS; CERTAIN EXEMPT SALES

18:18A-3.1 Direct Payment Authority

(a) Commercial consumers may, upon application to and approval by the Director, elect to be recognized as direct pay permit holders and pay directly to the Division the taxes imposed by the Act. Commercial consumers are deemed to include those companies that produce, consume, blend or distribute substantial quantities of petroleum products in the State, companies making sales pursuant to a written contract extending one year or longer to nonprofit entities qualifying under N.J.S.A. 54:32B-9(b) as evidenced by an invoice prescribed by N.J.A.C. 18:18A-1.2, and companies making sales to governmental entities qualifying under N.J.S.A. 54:32B-9(a) and such other companies as may be licensed by the Director.

(b) A distributor as herein defined or holder of a direct payment permit issued under these rules may, upon request, refer its seller to either a copy of its listing contained in the official listing of New Jersey Licensed Motor Fuel Distributors or issue a direct payment certificate, respectively. A distributor may elect not to avail itself of its direct pay privilege. However, if it elects not to pay such tax directly to the Director such election is binding on all its transactions. It may not choose to be a direct payer for certain vendors. A seller shall retain such listing reference or direct payment certificate on file for the inspection of the Director or his agents. A direct payment certificate, properly executed by the buyer, once issued, shall remain valid unless voided by the Director. A company which is a distributor or the holder of a direct payment certificate which receives a direct payment certificate properly executed by the buyer shall maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales to the customer issuing the certificate and attributable to the certificate. Such records shall include date of sale, price, location of the transfer of the product, quantity of product, and type of product sold. Such supporting documentation shall be made available to the Director or his or her agents upon request. A properly documented sale to the issuer of a valid direct payment certificate or to a distributor is not a first sale of petroleum products within this State as defined in this chapter. When the purchaser who has issued such certificate in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a buyer which is not a distributor or the holder of a direct payment permit, the consideration from such sale results in gross receipts subject to tax, unless the sale otherwise qualifies for exemption, exclusion or deduction (as a sale for exportation, for example). Such seller must report and remit the tax to the Director in accordance with these rules. The Director may issue direct payment permits which are restricted to the purchases of specified products.

(c) The application for direct payment permit and the direct payment certificate shall be in the form found in Appendix I, incorporated herein by reference.

Example 1: Company T, a refiner and registered New Jersey distributor, sells 750,000 gallons of unleaded gasoline to Company J. While the gasoline is in the storage facility, Company J sells it to Company K, which in turn sells it to Company L, which in turn sells it to Company M. Companies J, K, and L are New Jersey registered distributors. Company M removes the gasoline from the terminal for use at its motor pool. Company L pays a tax on its gross receipts from its sale to Company M. Sales to J, K, and L are not subject to tax since they are sales to registered distributors, whose names are listed on the current Division official listing of licensed motor fuels distributors.

Example 2: Company A supplies a blender with blending naphthas. Company A may apply to the Division for a direct payment permit. In situations of this nature the Division generally will issue a direct payment permit.

18:18A-3.2 Direct payment—nonprofit customer

A merchant selling petroleum products to a qualified nonprofit entity may establish the exempt character of the sale if it uses invoices as provided by these rules and a contract which is in substantially the following form:

AGREEMENT OF SALE

This Agreement dated _____, 19__ between

(Name of distributor or direct pay permit holder) ("Seller")
and _____ (Name of nonprofit) ("Buyer"),

WHEREAS the Seller is a distributor of petroleum products pursuant to N.J.S.A. 54:39-1 et seq., or a direct pay permit holder; and

WHEREAS the Buyer is currently a qualified nonprofit entity as defined in N.J.S.A. 54:32B-9(b) and as evidenced by the ST-5 which is attached hereto and made a part hereof; and

WHEREAS N.J.S.A. 54:15B-1 et seq. provides an exemption for qualified nonprofit entities from the payment of a gross receipts tax on its purchases of petroleum products pursuant to a contract not less than 12 months in duration; and

WHEREAS the Buyer represents and warrants that it shall maintain its status as a qualified nonprofit entity for the duration of the term of this Agreement; and

WHEREAS the Buyer acknowledges that it will notify Seller within five days of any change in the Buyer's nonprofit status and that any breach by Buyer of the above warranty or notice provision shall result in immediate termination by Seller of this Agreement.

WITNESSETH:

1. The Buyer agrees to purchase petroleum products from the Seller for a period of not less than 12 months beginning on _____ and ending on _____, subject to the right of either party to terminate this Agreement by giving written notice to the other party not less than 30 days prior to such termination. Buyer agrees to reimburse seller for the amount of any petroleum products gross receipts taxes which Seller is required to pay as the result of contract termination prior to one year having elapsed.

2. The Buyer acknowledges that, in consideration for this Agreement with Seller to provide petroleum products to Buyer for a period of not less than 12 months, Seller's price to Buyer shall reflect the exemption of nonprofit entities from the gross receipts tax.

3. This Agreement shall not be binding upon the Seller until it is signed by an authorized representative of the Seller, and commencement of performance hereunder shall not constitute a waiver of this requirement.

(Seller) Name of Distributor	(Buyer) Name of Nonprofit
Registration # _____	Registration # _____
BY: _____	BY: _____
DATE: _____	DATE: _____

18:18A-3.3 Good faith; direct payment certificate

If the seller of petroleum products makes a sale to a customer in reliance upon the direct payment certificate, the seller must believe in good faith that the transaction is properly referenced to the exemption certificate and must have no reason to doubt the authenticity or propriety of the referenced transaction, otherwise such transaction results in taxable gross receipts to the seller.

18:18A-3.4 Permit application

A company seeking recognition as a direct payment permit holder shall file a completed application (see Appendix I) at the following address: New Jersey Division of Taxation, 50 Barrack Street, CN 243, Trenton, New Jersey 08646. Following review by the Division, the applicant shall be issued a Direct Payment Permit or, if such permit is not issued, shall be advised of the reason(s) why not. A holder of a direct payment permit may issue a direct payment certificate to its suppliers as provided for in the rules.

SUBCHAPTER 4. EXPORT TRANSACTIONS; ACCOUNTING METHODS

18:18A-4.1 Export certificates

(a) A company making a purchase of petroleum products from a distributor or other direct payment permit holder for exportation from this State may issue a properly executed export certificate to a selling company evidencing a sale for exportation to a destination outside this State.

(b) An export certificate may take the form of a blanket certificate. The gross receipts of the selling company resulting from sales to a customer properly issuing an export certificate shall be referenced to that certificate. The seller shall maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales for export for a given customer's account and attributable to the certificate. Such records shall include date of sale, price, quantity, type of product, and destination of the product. Such supporting documentation shall be made available to the Director or his or her agents upon request.

Example 1: Distributor X makes sales of gasoline to Whiz Bang Oil Company (WBOC). WBOC delivers gasoline within and outside New Jersey. X may set up two accounts for WBOC. Purchases charged to one account for fuel delivered to customers in New Jersey result in taxable gross receipts for X. Sales to the second account (export account) for fuel delivered entirely outside New Jersey by WBOC, do not result in taxable gross receipts for X provided a proper export certificate has been issued to it.

Example 2: A Pennsylvania company makes purchases by truck at a New Jersey terminal. If the purchaser certifies that the product purchased will be exported outside the state as defined in these rules for sale outside the state, the seller is not required to pay any tax upon the transaction. A blanket transaction certificate may be issued from the buyer to the seller, provided that the seller's records document each transaction for export to the buyer.

Example 3: Purchaser purchases motor oil from a New Jersey supplier which is delivered to its warehouse in New Jersey. From the warehouse the motor oil is distributed to purchaser's stores in five other states (the East Region). In computing the portion of each delivery to the New Jersey warehouse on which the gross receipts tax should not be charged by the manufacturer, a purchaser may supply the manufacturer with an export certificate indicating the percentage of the prior month's warehouse shipments which were shipped out of state. Purchaser would maintain shipping reports to substantiate the exempt purchase. This method would enable suppliers to have and use actual rather than estimated figures for export compliance purposes, although figures submitted would be one month subsequent. The method would enable the Division auditors to audit based upon actual figures. The method may also be used quarterly where the customer's quarterly period ends in the months prior to the month when the reconciliation report is due.

Example 4: A utility company purchases fuel oil in New Jersey where it is temporarily stored. A pipeline connects the storage facility with the buyer's location outside the state where the utility burns the fuel. No tax is imposed upon receipts derived from the sale of fuel to the utility since the fuel is being used outside the State by the buyer. (See N.J.S.A. 54:15B-5).

18:18A-4.2 Good faith; export certificate

If the seller of petroleum products makes a sale to a customer in reliance upon the export certificate, the seller must believe in good faith that the transaction is properly referenced to the certificate and must have no reason to doubt the authenticity or propriety of the referenced transaction, otherwise such transaction results in taxable gross receipts to the seller.

18:18A-4.3 Accounting methods

Where a company using petroleum products in New Jersey makes purchases in New Jersey and also imports petroleum products into the State, and if, subsequently, it exports petroleum products outside the State by pipeline, barge or tank wagon, for example, such company shall use a "first in, first out" (FIFO) accounting method for petroleum products commingled in storage in New Jersey and subsequently exported from the State.

SUBCHAPTER 5. FUEL OIL AND PROPANE DEALERS

18:18A-5.1 Fuel oil dealers

(a) Companies in the business of selling No. 2, No. 4 or No. 6 fuel oil or kerosene for exempt use (such as residential use, nonprofit, or governmental use) and for commercial use shall apply to the Director for a direct payment permit, in accordance with N.J.A.C. 18:18A-3.4. Upon registration with and authorization from the Director, such dealers shall report and pay directly to the Director the tax applicable on their gross receipts from taxable sales of such fuel oil or kerosene. Such companies, when registered, would qualify to purchase such fuel oil or kerosene in nontaxable transactions from registered sellers.

(b) Gross receipts from sales of No. 2, No. 4 or No. 6 fuel oil and kerosene for residential use are not subject to tax. If a company sells and dispenses fuel into a single tank which operates a heating system of a building containing residential and commercial units, the entire sale shall result in gross receipts subject to tax unless the purchaser furnishes a certification, under oath, that a portion of the fuels purchased shall be used for nontaxable purposes.

1. The taxable portion of the sale shall be computed by multiplying the total selling price of the petroleum product by a fraction, the numerator of which shall be the number of square feet in the building which are devoted to office, retail or other nonresidential use including stairwells and halls and denominator of which shall be the total number of square feet in the building.

Example: A fuel oil dealer obtains a direct payment permit from the Director. In the past, 90 percent of his sales of No. 2 fuel oil were for residential use. This year the taxpayer obtains a new commercial account which produces additional gross sales receipts. Taxpayer now remits the gross receipt tax on 30 percent of his total receipts, which now include the receipts from his new account.

Example: Company T in New Jersey deals in gasoline and No. 2 fuel oil but is not a licensed distributor. Company T may obtain a direct payment permit for its sales of No. 2 fuel oil. Its purchases of gasoline, however, result in the taxable gross receipts to its seller.

18:18A-5.2 Propane dealers

(a) Companies in the business of selling propane for exempt use (such as residential use, nonprofit or governmental use) and commercial use shall apply to the Director for a direct payment permit. Upon registration with and authorization from the Director, propane dealers shall be qualified to report and pay to the Director the tax applicable on their taxable receipts. Such companies, once registered would qualify to purchase propane in nontaxable transactions from registered sellers.

(b) Gross receipts from sales of propane for residential use are not subject to tax.

Example: A fill station may register to pay the tax directly to the Division of Taxation. Its sales of propane for residential use are not subject to tax.

SUBCHAPTER 6. BLENDING AND SPECIAL INDUSTRIES

18:18A-6.1 Blending

If a company acquires petroleum products, blends them and later sells the blended petroleum product, the sales of the blended product result in gross receipts subject to tax. A blender may apply to the Director for a direct payment permit. When the blender issues a Direct Payment Permit to its seller, the seller will not pay gross receipts tax upon petroleum products sold to the blender and which become an ingredient of a second petroleum product which is later sold. Tax would be calculated upon receipts from sales of the final product to New Jersey destinations.

18:18A-6.2 Fuels used by marine vessels

On and after July 1, 1990 sales of petroleum products bunkered into marine vessels engaged in interstate or foreign commerce do not result in taxable gross receipts. Commercial fishing or shell fishing vessels are deemed to be vessels engaged in interstate commerce. Other vessels engaged in charter, sport fishing or commercial party boat (head boat) fishing do not qualify for exempt purchases of fuel.

18:18A-6.3 Aviation fuels

(a) On and after July 1, 1990 aviation fuels used by common carriers in interstate or foreign commerce are not subject to tax except for the portion of the fuel used and consumed in New Jersey.

1. Use and consumption of aviation fuels subject to tax under this subchapter shall mean the fuel consumed as follows:

i. For flights taking off from New Jersey and landing outside the state:

(1) Fuel consumed in taxiing from the loading gate to the take-off area; and

(2) Fuel consumed in take-off. "Take-off" means the point the brake is released until such time as control of the flight transfers to New Jersey Air Route Traffic Control Center or other Regional Air Traffic Control Centers. The following chart indicates standard aircraft fuel consumption to be used in calculating fuel consumed under this subsection:

Aircraft Type	Taxi Fuel	Take-Off Fuel	Total Fuel
BAC-11	69	100	169
F-28	77	105	182
L-1011	252	475	727
SST	720	1360	2080
A-300	156	380	536
A-320	56	146	202
B707	234	390	624
B727	120	220	340
B737	89	140	229
B747	355	629	984
B757	136	230	366
B767	156	315	471
DC-8	216	260	476
DC-9	77	170	247
DC-10	198	500	698

ii. All fuel consumed in a flight that originates and terminates in New Jersey.

(b) Fuel used in aircraft descent and landing is not taxed except as it may be taxed under (a)li(2) above.

SUBCHAPTER 7. RECORDS, ASSESSMENTS AND CLAIMS

18:18A-7.1 Record retention

Taxpayers under the Act shall retain records for a period of five years. Such records shall be made available to the Director or his or her agents for inspection upon request.

18:18A-7.2 Assessment

(a) The Director may assess a tax under the Act at any time until five years have elapsed after the date of the receipt by him or her of a report or return filed pursuant to the Act. A taxpayer may consent to a longer period of time in a particular instance.

(b) In the event of fraud, no limitation period is applicable for an assessment by the Director.

18:18A-7.3 Refund claim

(a) A taxpayer may claim a refund of an overpayment of tax as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:49-14.

(b) In a case where a company has erroneously paid a tax, before that company applies for a refund from the Division of Taxation, such company must seek a credit from its supplier. A refund claim should be filed only if a credit is not available from the supplier. If a refund claim by a company is made, it must contain the statement that the company has applied for and not been able to receive a credit from its supplier. Any credit or refund claimed by a supplier/taxpayer from the Division of Taxation must contain the statement that an appropriate credit or refund has been given to its customer. The goal and purpose of this procedure is ease and efficiency of administration. A form (PPG-5) has been created by the Division for use in connection with certain claims for credit under the Act.

Example: Township P buys 1,000 gallons of gasoline from Dealer Y who does not have a direct pay permit and charges the township the tax equivalent amount and remits the tax to the State. When the invoice is processed by the township six weeks later, Dealer Y is no longer the township's supplier since Dealer M agreed to supply the township at a better price. Dealer Y refuses to give the township the tax refund and take a credit on its return. The township makes a claim for refund with the Division for a refund of tax paid since it was unable to recover the amount from Dealer Y.

18:18A-7.4 Credit

A credit will be permitted against a taxpayer's New Jersey liability for a similar tax on gross receipts paid previously to another state on the same petroleum products. Such credit shall not exceed the tax that the taxpayer would have been required to pay to New Jersey. Credit shall not be taken against a New Jersey liability more than two years after the transaction for which credit is being claimed.

SUBCHAPTER 8. FILING DATES

18:18A-8.1 Filing

(a) For the fiscal year July 1, 1990 to June 30, 1991, unless the filing date has been extended by the Director, a tax return on the form and in the manner prescribed by the Director together with payment of applicable tax due shall be filed at the Division of Taxation on or before January 20, April 20, July 20, and October 20 reflecting gross receipts for the quarterly periods ending on the last day of December, March, June and September respectively.

(b) Pursuant to N.J.S.A. 54:15B-7 as amended by P.L. 1991, c.181, § 4, on and after July 1, 1991 filing and tax payment dates are as follows:

1. On or before July 20, 1991, a return and tax payment is due for the quarterly period April 1, 1991 to June 30, 1991.
2. On August 25, 1991, taxpayers file a monthly remittance and pay the full amount of the tax due on gross receipts subject to tax during July.
3. On September 25, 1991, taxpayers file a monthly remittance and pay the full amount of the tax due on gross receipts subject to tax during August.
4. On October 25, 1991, taxpayers file and remit a quarterly reconciliation return and pay tax due for the quarterly period July 1 through September 30, 1991.
5. The monthly and quarterly remittance system will then continue in effect for monthly and quarterly periods with filings made on or before the 25th day of the month with respect to the preceding monthly or quarterly periods.

18:18A-8.2 Applicability of State Tax Uniform Procedure Law

The tax imposed under the Act is governed in all respects by the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., except to the extent that a specific provision of the Act is in conflict therewith and in such event the provisions of the Act shall govern.

18:18A-8.3 Effective date

These rules shall be effective on and after July 1, 1990.

APPENDIX

PPT-6-B (11-90)

STATE OF NEW JERSEY
 DIVISION OF TAXATION
 PETROLEUM PRODUCTS GROSS RECEIPTS TAX
 CN 269
 Trenton, NJ 08646-0269

APPLICATION FOR DIRECT PAYMENT PERMIT

GENERAL INFORMATION

A Direct Payment Permit, Form PPT-6, is evidence that the buyer designated thereon is authorized to issue a Direct Payment Certificate, Form PPT-6A, in certain cases, in lieu of payment of the Petroleum Products Gross Receipts Tax at the time of purchase, and subsequently to file reports and remit the tax directly to the Director.

When the purchaser who has issued the Direct Payment Certificate in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a buyer which is not a distributor or the holder of a Direct Payment Permit, the consideration from such sale results in gross receipts subject to tax unless the sale otherwise qualifies for exemption, exclusion, or deduction. Such seller must report and remit the tax to the Director.

Taxpayers who could qualify for the Direct Payment Authority include (a) those selling number 2 fuel for residential heating purposes, (b) those selling propane for residential heating purposes, and (c) blenders of petroleum products where the final product is a petroleum product.

1. FID # - OR Soc. Sec. # of Owner - -

2. Name _____
IF INCORPORATED - give Corp Name, IF NOT - give Last Name, First Name, MI of Owner(s)

3. Trade Name _____

4. Business Location:
 Street _____
 City _____ State
 Zip Code - -
(Give 9-digit Zip)

5. Mailing Name and Address - (if different from business address)
 Name _____
 Street _____
 City _____ State
 Zip Code - -
(Give 9-digit Zip)

6. Beginning Date For This Business In New Jersey _____
month / day / year

7. Type of Ownership (check one):
 NJ Corporation Sole Proprietor Partnership Out-of-State Corporation Limited Partnership
 Other - explain _____

8. Telephone Numbers: Contact Person _____ Title _____
 Daytime: () _____ Ext _____ Evening: () _____ Ext _____

9. IF A CORPORATION, complete the following:
 Date of Incorp. _____ month / day / year State of Incorp.

10. Provide the following information for the owner, partners or responsible corporate officers. (If more space is needed, attach rider).

NAME <small>(Last Name, First, MI)</small>	SOCIAL SECURITY NUMBER	HOME ADDRESS	% OWNED
	TITLE	<small>(Street, City, Zip)</small>	

NOTE: On a separate sheet of paper provide the name of stockholders owning 10% or more of the outstanding shares of stock in the corporation.

- 11. List parent company, wholly owned subsidiaries, and/or any affiliates _____
- 12. Give name, title and address of agent in New Jersey or registered New Jersey agent on whom service may be made. _____
- 13. List all suppliers of petroleum products. _____
- 14. Is applicant registered with the Division of Taxation for any other New Jersey State taxes? YES NO
If yes, list the taxes _____
- 15. Type of business activity (check one):
 Number 2 heating oil dealer (companies in the business of selling No. 2 heating oil for residential use)
 Propane dealer (companies in the business of selling propane for residential use)
 Blenders (companies in the business of acquiring petroleum products, blending them, and later selling the blended petroleum product)
 Other (please explain) _____
- 16. Describe in detail your business operation and reason why you would qualify for a Direct Payment Permit. _____
- 17. If a blender, describe types of petroleum products to be blended and the percentage of the final product which is a petroleum product. _____
- 18. The undersigned applicant states, (under penalty of perjury), that all the information contained in this application is true and accurate in every particular.

Name of Applicant

Signature of Owner, Partner or Officer

Title

Date

*The information submitted will assist this office in the processing of your permit request.
The Division of Taxation reserves the right to conduct a thorough investigation prior to issuing this permit.*

FOR DIVISION USE ONLY

Permit No. _____ Investigation initiated _____

Effective Date _____ Investigation completed _____

Approved _____

Recommendations: _____

PPT-6-B (11-8)

PPT-6-A (11-90)

STATE OF NEW JERSEY
 DIVISION OF TAXATION
 PETROLEUM PRODUCTS GROSS RECEIPTS TAX
 CN 269
 Trenton, NJ 08646-0269

DIRECT PAYMENT CERTIFICATE

BUYER INFORMATION	Name of Buyer		Employer Identification Number
	Address (Number and street or rural route)		
	DP - _____	City	State
			Zip Code

This certificate covers transactions beginning _____, 19 _____

CERTIFICATION OF BUYER		
The undersigned certifies that:		
<ol style="list-style-type: none"> The issuer of this certificate is registered with the New Jersey Division of Taxation, holds a valid Direct Payment Permit, and is authorized to file reports and remit the applicable Petroleum Products Gross Receipts Tax directly to the New Jersey Division of Taxation. The issuer of this certificate is principally engaged in the following (indicate nature of business) _____ The petroleum products being purchased are described as follows: _____ _____ I agree to make my books and records available to the New Jersey Division of Taxation for audit so that it may verify that the sales, use, and/or consumption of the petroleum products purchased are properly reported. I, the undersigned purchaser, have read and complied with the instructions and rules promulgated pursuant to the New Jersey Petroleum Products Gross Receipts Tax Act with respect to the use of the Direct Payment Certificate, and it is my belief that the seller named herein is not required to pay or remit the Petroleum Products Gross Receipts Tax on receipts from the transaction or transactions covered by this Certificate. The undersigned purchaser hereby swears (under penalties for perjury and false swearing) that all of the information shown on this Certificate is true. 		
Signature of buyer	Title	Date

A COPY OF THE BUYER'S DIRECT PAYMENT PERMIT MUST BE ATTACHED

SELLER INFORMATION	Name of Seller	
	Address (Number and street or rural route)	
	City	State
		Zip Code

FORM MAY BE REPRODUCED

INSTRUCTIONS FOR USE OF DIRECT PAYMENT CERTIFICATE
GENERAL INFORMATION

A Direct Payment Permit, Form PPT-6, is evidence that the buyer designated thereon is authorized to issue a Direct Payment Certificate, Form PPT-6A, in certain cases, in lieu of payment of the Petroleum Products Gross Receipts Tax at the time of purchase, and subsequently to file reports and remit the tax directly to the Director.

When the purchaser who has issued the Direct Payment Certificate in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a buyer which is not a distributor or the holder of a Direct Payment Permit, the consideration from such sale results in gross receipts subject to tax unless the sale otherwise qualifies for exemption, exclusion, or deduction. Such seller must report and remit the tax to the Director.

- 1 **Good Faith** - In general, a seller who accepts an exemption certificate in "good faith" is relieved of liability for payment of tax upon transactions covered by the certificate. The question of "good faith" is one of fact and depends upon a consideration of all the conditions surrounding the transaction. A vendor is presumed to be familiar with the law and the regulations pertinent to the business in which he deals.

In order for "good faith" to be established, the following conditions must be met:

- (a) The certificate must contain no statement or entry which the seller knows, or has reason to know, is false or misleading
- (b) The certificate must be an officially promulgated certificate form or a substantial and proper reproduction thereof.
- (c) The certificate must be dated and executed in accordance with the published instructions, and must be complete and regular in every respect

The seller may, therefore, accept this "good faith" Direct Payment Certificate as a basis for exempting sales to the signatory purchaser provided that:

- (d) The purchaser's Employer Identification Number, indicating that the purchaser is registered with the New Jersey Division of Taxation, is entered on the face of the Certificate as reflected on the Petroleum Products Gross Receipts Tax Certificate of Authority
 - (e) The purchaser has entered all other information required on the form.
 - (f) A copy of the purchaser's Direct Payment Permit is attached to the form.
 - (g) The seller has no reason to believe that the petroleum product to be purchased is of a type not ordinarily used in the purchaser's business for the purpose described in this certificate.
- 2 **Improper Certificate** - Transactions which are not supported by properly executed direct payment certificates shall be deemed to result in taxable gross receipts to the seller. The burden of proof that the consideration received may be deducted from gross receipts and that the tax was not required to be paid is upon the seller.
 - 3 **Correction of Certificate** - In general, sellers have 60 days after date of sale to obtain a corrected certificate where the original certificate lacked material information to be set forth in said certificate or where such information is incorrectly stated
 - 4 **Documentation of Sale** - Records shall be maintained identifying all sales to the customer issuing the certificate and attributable to the certificate. Such records shall include date of sale, price, location of the transfer of the product, quantity of product, and type of product sold
 - 5 **Additional Purchases by Same Purchaser** - This Certificate will serve to cover additional purchases by the same purchaser of the same product. However, each subsequent sales slip or purchase invoice based on this Certificate must show the purchaser's name, address, and Direct Payment Permit number for the purposes of verification.
 - 6 **Retention of Certificates** - Certificates must be retained by the seller for a period of not less than five years from the date of the last sale covered by the certificate. Certificates must be in the physical possession of the seller and available for inspection on or before the 60th day following the date of the transaction to which the certificate relates.
 - 7 **Restrictions** - A Direct Payment Certificate may be issued, (and subsequently accepted by a seller), only by the holder of a valid Direct Payment Permit.