

CHAPTER 18A

PETROLEUM GROSS RECEIPTS TAX

Authority

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

Source and Effective Date

R.1992 d.30, effective February 3, 1992.
See: 23 N.J.R. 3715(a), 24 N.J.R. 473(a).

Executive Order No. 66(1978) Expiration Date

Chapter 18A, Petroleum Gross Receipts Tax expires on February 3, 1997.

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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 distributor's 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;

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 TITLE	HOME ADDRESS <small>(Street, City, Zip)</small>	% OWNED