

CHAPTER 18A**PETROLEUM GROSS RECEIPTS TAX****Authority**

N.J.S.A. 54:15B-8(c) and 54:50-1.

Source and Effective Date

R.2007 d.313, effective September 14, 2007.

See: 39 N.J.R. 2476(b), 39 N.J.R. 4443(a).

Chapter Expiration Date

Chapter 18A, Petroleum Gross Receipts Tax, expires on September 14, 2012.

Chapter Historical Note

Chapter 18A, Petroleum Gross Receipts Tax, was adopted as R.1992 d.30, effective February 3, 1992. See: 23 N.J.R. 3715(a), 24 N.J.R. 473(a).

Pursuant to Executive Order No. 66(1978), Chapter 18A, Petroleum Gross Receipts Tax, was readopted as R.1997 d.74, effective January 23, 1997. See: 28 N.J.R. 5159(a), 29 N.J.R. 585(a).

Chapter 18A, Petroleum Gross Receipts Tax, was readopted as R.2002 d.211, effective June 10, 2002. See: 33 N.J.R. 4203(a), 34 N.J.R. 2324(a).

Chapter 18A, Petroleum Gross Receipts Tax, was readopted as R.2007 d.313, effective September 14, 2007. See: Source and Effective Date. See, also, section annotations.

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APPENDIX**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.

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617.

"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 receipt 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: