



## Department of Taxation and Finance

### Important:

The Franchise Tax on Certain Oil Companies was repealed, effective for tax years beginning on or after the first day of July, 1983, by Chapter 400 of the Laws of 1983. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the Franchise Tax on Certain Oil Companies.

For additional information concerning Article 13-A of the Tax Law, which was enacted by Chapter 400 of the Laws of 1983, see [Petroleum business tax](#).

### Additional Franchise Tax on Oil Companies

On June 18, 1980, Chapters 271 and 272 of the Laws of 1980 were signed into law. They added a new Section 182 to Article 9 of the Tax Law. The new section imposes an annual additional franchise tax upon every oil company taxable in New York State. The additional franchise tax applies to taxable years ending on or after June 18, 1980.

An "oil company" is defined as every corporation formed for or engaged in the business of importing petroleum or causing it to be imported into New York State for sale in New York State and every corporation formed for or engaged in the business of extracting, producing, refining, manufacturing, compounding or selling petroleum. A corporation will not be considered an oil company for purposes of Section 182 if it falls into one of the following categories:

1. a corporation neither formed for nor engaged in the business of extracting, producing, refining, manufacturing or compounding petroleum BUT is solely engaged in the business of selling petroleum or other products or services AND has sold in New York State sixty million gallons or less of petroleum during the immediately preceding taxable year applicable under the tax imposed on it by Article 9 or 9-A of the Tax Law OR reasonably expects such sales in its current taxable year if such taxable year is the corporation's first taxable year applicable under the tax imposed on it by Article 9 or 9-A of the Tax Law.
2. a corporation which is principally engaged in selling fuel oil (excluding diesel motor fuel) used for residential purposes.

Any corporation taxable under Section 183, 184, 185 or 186 of Article 9 of the Tax Law is not subject to tax under Section 182.

The tax is 2% of the allocated adjusted gross receipts of the oil company or \$250.00, whichever is higher.

Total gross receipts are all receipts (within and without the United States) whether in cash, credits or property of any kind or nature, without deduction for the cost of the property sold, the cost of materials used, labor, services or other costs, interest or discount paid, or any other expense. Receipts from the sale of a company's capital stock or money lent such company are NOT considered total gross receipts.

Adjusted gross receipts are total gross receipts less:

1. Receipts from any sale of fuel oil (excluding diesel motor fuel) used for residential purposes.
2. Receipts from any sale for resale to a purchaser which is an oil company subject to tax under Section 182 of the Tax Law. It shall be presumed that no receipts are receipts from a sale for resale to such a purchaser, unless the purchaser furnishes the oil company with a resale certificate, Form CT-182R, and such certificate is accepted in good faith by such oil company.

Adjusted gross receipts are multiplied by the allocation percentage to determine allocated adjusted gross receipts. The allocation percentage is determined by dividing gross receipts derived in the ordinary course of business from New York State, by gross receipts derived in the ordinary course of business from within and without New York State. Sales for resale and sales of residential fuel oil are included in the computation of the allocation percentage; interest, dividends or receipts from the sale of a capital asset are not included in the computation of the allocation percentage.

An oil company taxable under Section 182 of Article 9 of the Tax Law, will be required to file Form CT-182 (Additional Franchise Tax on Oil Companies), Form CT-182C (Anti-Pass Through Certification of Oil Companies), and Form CT-182-I (Information Report from Oil Companies).

Form CT-182 is required to be filed on or before the 15th day of the third month following the close of the taxable year, except that for the taxable period ended June 30, 1980 such form is required to be filed on or before October 15, 1980. If an extension is needed, Form CT-182E, Application for 3 Month Extension For Filing Tax Return for the Additional Franchise Tax on Oil Companies, should be filed.

The certification, Form CT-182C, must be filed on or before the 15th day of the 3rd month following the close of the taxable year, without regard to extensions. However, the certification for the taxable period ended June 30, 1980 is not due until October 15, 1980.

The information report (Form CT-182-I) is due only once and is required to be filed on or before November 14, 1980. It will contain information concerning the taxable year under Article 9-A of the Tax Law or the taxable year for Federal Income Tax purposes immediately preceding the first period taxable under Section 182.

The following penalties are imposed by Section 182:

1. If a resale certificate, Form CT-182R, is determined to be false or fraudulent, then the company that furnished such certificate shall be subject to a penalty equal to 3% of the gross receipts that would have been taxable if such certificate had not been furnished.
2. If the anti-pass through certificate, Form CT-182C, is not filed or is filed late, then a penalty will be imposed equal to 1% of the tax due for the taxable year of the certificate, for each day of such failure or late filing.

3. If it is determined that the oil company has included the tax and/or penalty pertaining to Section 182 in the selling price of its products sold in New York State, then a penalty equal to 100% of the tax due under Section 182 for the taxable year involved will be imposed.

The additional franchise tax under Section 182 must be added back in computing entire net income for Article 9-A. A line is provided on Schedule B of Form CT-3 for the addback of the franchise taxes that were deducted on the federal return.

For taxable periods beginning on or after January 1, 1980 and ending on or before November 30, 1981, declarations of estimated tax and payments of estimated tax for Section 182 of Article 9 of the Tax Law are required to be paid in two equal installments. The declaration and payment of estimated taxes will be filed on form CT-400.1 and are due as indicated below:

<u>If the Taxable Year ends on</u>	<u>Declaration and Payment of Estimated Tax Due Dates</u>	
	<u>Installments</u>	
	<u>First</u>	<u>Second</u>
Jun. 30, 1980	-----	-----
Jul. 31, 1980	-----	-----
Aug. 31, 1980	-----	-----
Sep. 30, 1980	-----	-----
Oct. 31, 1980	-----	-----
Nov. 30, 1980	-----	-----
Dec. 31, 1980	Oct. 15, 1980	Jan. 15, 1981
Jan. 31, 1981	Nov. 15, 1980	Feb. 15, 1981
Feb. 28, 1981	Dec. 15, 1980	Mar. 15, 1981
Mar. 31, 1981	Jan. 15, 1981	Apr. 15, 1981
Apr. 30, 1981	Feb. 15, 1981	May 15, 1981
May 31, 1981	Mar. 15, 1981	Jun. 15, 1981
Jun. 30, 1981	Apr. 15, 1981	Jul. 15, 1981
Jul. 31, 1981	May 15, 1981	Aug. 15, 1981
Aug. 31, 1981	Jun. 15, 1981	Sep. 15, 1981
Sep. 30, 1981	Jul. 15, 1981	Oct. 15, 1981
Oct. 31, 1981	Aug. 15, 1981	Nov. 15, 1981
Nov. 30, 1981	Sep. 15, 1981	Dec. 15, 1981

For taxable periods beginning on or after December 1, 1981, the declarations and payments of estimated tax will be made in three equal installments.

Declarations and payments of estimated tax for short period reports will have to be determined on an individual basis. For a determination, please write to:

Department of Taxation and Finance  
Technical Service Bureau  
Instructions and Interpretations Section  
Corporation Tax  
State Campus  
Albany, New York 12227

Forms may be obtained from:

Form Control Section  
Taxpayer Assistance Bureau  
State Campus  
Albany, New York 12227  
Phone Number (518)457-3688