



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The Franchise Tax on Certain Oil Companies was repealed, effective for tax years beginning on or after the first day of July, 1983, by Chapter 400 of the Laws of 1983. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the Franchise Tax on Certain Oil Companies.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

Information for Fuel Oil Dealers

Section 182-a, as amended by Chapter 1043 of the Laws of 1981, imposes a franchise tax upon certain corporations which are "Oil Companies." The tax is based on the corporation's allocated gross receipts from petroleum sales. Under the statute, the tax is imposed on "Oil Company" corporations and is a cost of doing business of the corporation. This cost to the corporation may be passed on to its customers in the form of a price increase.

A corporation is not considered to be an "Oil Company" for purposes of Section 182-a if more than 50% of its total gross receipts is from fuel oil used for residential purposes. See Technical Service Bureau memorandum TSB-M-81(5.1)C (Revised) for more information concerning the definition of an "Oil Company".

Gross receipts from the sale of petroleum which are exempt from the tax are gross receipts from the sale of petroleum which:

1. are for resale to a purchaser which is an "Oil Company" subject to the tax under Section 182-a of the Tax Law,

OR

2. are from the sales of fuel oil, excluding diesel motor fuel, or liquified or liquefiable gases (except when sold in containers of less than 100 lbs.) used for residential purposes.

OR

3. are made or delivered on or after July 1, 1981, between an oil company as defined by Section 182-a of the Tax Law and New York State or any of its agencies, instrumentalities or political subdivisions, provided that such sales are pursuant to:
 - a. any contract awarded or entered into prior to July 11, 1981 OR
 - b. a contract awarded or entered into after July 11, 1981 pursuant to a bid submitted prior to July 11, 1981.

The new law provides that "residential use certificates" (form CT-182-a-H and form CT-182-a-H/E) shall be used to determine the taxable gross receipts from the sales of fuel oil or liquified or liquifiable gases, for residential purposes.

When the purchaser of fuel oil or liquified or liquifiable gases is a consumer, then the "Oil Company" making such sales shall be required to maintain records of such transactions in such form as the tax commission may prescribe.

In order to assist the purchaser the from an "Oil Company," in completing its residential use certificates, the Tax Commission may require such OTHER purchasers of petroleum as it deems necessary to furnish their suppliers with the residential use certificates.

Penalties are imposed as follows:

1. If a false or fraudulent resale certificate, form CT-182-a-R, or residential use certificate, form CT-182-a-H or CT-182-a-H/E, has been furnished to an "Oil Company" or to any other person, the corporation or person furnishing such certificate shall be subject to a penalty equal to 3% of the gross receipts which would have been taxable to such "Oil Company" if such certificate had not been furnished.
2. If a purchaser which is required by Section 182-a.2(b) to provide an "Oil Company" or other supplier with a completed residential use certificate, fails to provide such a certificate OR provides a certificate which understates the amount of fuel oil (excluding diesel motor fuel) or liquified or liquefiable gases, (except when sold in containers of less than 100 lbs.) used for residential purposes, unless it is shown that such failure or understatement is due to reasonable cause and not to willful neglect, there shall be a penalty imposed on such purchaser of \$100.00 for each such failure or for each certificate containing such understatement. The total of such penalties imposed on such purchaser shall not exceed \$5,000 in any calendar year.

The following New York State forms have been developed to help businesses which sell fuel oil or liquified or liquefiable gases for residential purposes.

<u>Form Number</u>	<u>Title</u>	<u>Form to be Filled Out by:</u>
CT-182-a-R	Resale Certificate	An oil company as defined by Section 182-a of the Tax Law which buys petroleum for resale in New York State or an oil company of which 50% or less of its total gross receipts are for fuel oil used for residential purposes.
CT-182-a-H	Residential Use Certificate	A business entity which is not a corporation and which sells fuel oil or a corporation of which more than 50% of its total gross receipts are from sales of fuel oil

<u>Form Number</u>	<u>Title</u>	<u>Formed to be Filled Out by:</u>
CT-182-a-H/E	Estimated Residential Use Certificate	used for residential purposes. Same as the CT-182-a-H.

The supplier should send the appropriate form or forms to the purchaser. The form or forms may be used for any specified period of time agreeable to both parties, but may not exceed one year. The purchaser should fill out the forms and return them to the supplier. The supplier should retain these forms for three years. The CT-182-a-H/E and the CT-182-a-R will help the "Oil Company" corporation determine if the corporation is required to file a declaration of estimated tax and compute estimated tax payments. For more information concerning declaration and payment of estimated tax, please refer to Technical Service Bureau Memorandums TSB-M-81(5.2)C (Revised) and TSB-M-81(5.3)C(Revised).

The information from the CT-182-a-R and the CT-182-a-H will help the "Oil Company" corporation complete the return, Form CT-182-a, and compute the tax due.