



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The Franchise Tax on Certain Oil Companies was repealed, effective for tax years beginning on or after the first day of July, 1983, by Chapter 400 of the Laws of 1983. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the Franchise Tax on Certain Oil Companies.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

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-81 (5)C
Corporation Tax
December 29, 1981

This memorandum supersedes memorandum TSB-M-81(5)C, dated July 23, 1981, which should be destroyed.

ATTENTION: Gasoline Retailers

Effect of Chapter 1043 of the Laws
of 1981 on Section 182-a (3/4 of
1% Tax Imposed on "Oil Companies")

Bill Section 57 of Chapter 1043 of the Laws of 1981 amended Section 182-a of the Tax Law. This changed the definition of an "Oil Company".

As a result of this amendment, retail gasoline corporations which only sell petroleum are not subject to the tax imposed by Section 182-a.

However, if the retail gasoline corporation imports petroleum or causes petroleum to be imported (by an entity other than a corporation subject to the tax imposed by Section 182-a) into New York State for sale in New York State, or extracts, produces, refines, manufactures or compounds petroleum, then the retail gasoline corporation is an "Oil Company" and is subject to the tax.

In most cases, a gasoline retailer will be subject to the tax based upon the clause, "importing petroleum or causing petroleum to be imported (by an entity other than a corporation subject to the tax imposed by Section 182-a) into New York State for sale in New York State". Therefore, the meaning of "importing or causing to be imported" for purposes of Section 182-a is explained in the following paragraphs.

A retail gasoline corporation is engaged in the business of importing petroleum into New York State if it owns petroleum located outside New York State and ships or causes it to be shipped to a point within New York State for sale in New York State.

A retail gasoline corporation is engaged in the business of causing petroleum to be imported (by an entity other than a corporation subject to the tax imposed by Section 182-a) into New York State if it purchases petroleum located outside New York State for delivery into New York State from a seller of petroleum which is not subject to tax under Section 182-a. The following sellers of petroleum are not taxable under Section 182-a:

1. Sole Proprietor
2. Partnership
3. A corporation not taxable under Article 9-A
4. A corporation taxable under Article 9, Section 183, 184, 185 or 186
5. A corporation principally engaged in selling fuel oil used for residential purposes

If a retail gasoline corporation makes occasional trips (one or two, during the taxable year) outside New York State to pick up petroleum from a corporation subject to the tax, the retail gasoline corporation is not subject to the tax imposed by Section 182-a.

The effective date of these changes is July 1, 1981.