

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

TSB-M-97(3)C
Corporation Tax
February 4, 1997

Important Notice

**Changes to Form CT-189 for
Gas Customers using Direct Pay Permits**

Effective December 1, 1996, section 189 of the Tax Law has been amended to broaden the criteria for the issuance of direct pay permits. Prior to December 1, 1996, only co-generation facilities were able to use them. The amendments provide that certain importers of natural gas services may now obtain a direct pay permit if they meet certain conditions. (See TSB-M-96(5.1)C for details.)

As a result of the amendments to section 189 of the Tax Law, Schedule B of Form CT-189 has been modified.

Effective with the quarter beginning December 1, 1996 and each quarter thereafter, if the gas services are delivered by a regulated public utility to a gas customer with a valid Form AU-260, Direct Pay Permit, the gas customer, including a co-generator, may compute taxable consideration based on the *annual average gas price* as defined by section 189.1(e) of the Tax Law. If the actual contract consideration is less than the amount computed using the annual average gas price, then actual contract consideration may be used.

If the gas services are delivered by other than a regulated public utility, then the tax must be computed based upon the actual consideration given or contracted to be given. For the purposes of Schedule B, a *regulated public utility* includes a utility that is subject to the regulation of any activity supervised by the public service commission, including but not limited to service, securities, safety, rates and charges, records, reports, or accounting.