New York State Department of Taxation and Finance

CT-13-A-I
(10/86)

Instructions for Form CT-13-A
Tax Report for Petroleum Businesses

1986

Taxable Under Article 13-A

General Information

Article 13-A of the Tax Law imposes an annual tax upon every petroleum business taxable in New York State. The tax under Article 13-A became effective on July 1, 1983.

Chapters 67 and 68 of the Laws of 1984 amended Article 13-A to include a tax on petroleum consumed within New York State. This amendment extended the definition of a "petroleum business" to include every corporation and unincorporated business importing or causing to be imported (by a person other than one which is subject to tax under this article) petroleum into the state for its own consumption within the state. Petroleum brought into the state in the ordinary fuel tank of a motor vehicle and used for the operation of the vehicle will not be considered imported for consumption unless it is removed from the tank other than by normal operation of the vehicle. The amendment to Article 13-A became effective on April 1, 1984.

The tax applies directly to gross receipts from sales of petroleum if shipments are made to points within New York State.

This tax, as amended, now also applies to purchases of petroleum shipped to points within New York State for consumption within this state.

For more information about this tax, see Technical Services Memorandum TSB-M-83(22)C, TSB-M-83(22.1)C, TSB-M-83(22.2)C, TSB-M-83(22.3)C, TSB-M-83(22.4)C and TSB-M-85(7)C.

Change of Business Information

If there have been any changes in your business' name, ID number, mailing address, business address, telephone number or owner/officer information, complete the enclosed Form DTF-95, *Change of Business Information*. If no form is enclosed, call **1-800-462-8100** (from out of state (518) 438-1073) to request one.

Mail your completed Form DTF-95 to:

New York State Tax Department
Registration Section —
Building 8, Room 409
W. A. Harriman Campus
Albany, NY 12227-0125

If there are no changes to your business' information, keep this Form DTF-95 in your files. In the event a change occurs, complete the form and send it to the Tax Department as soon as possible.

WHO MUST FILE

A petroleum business becomes taxable under Article 13-A on the day it meets the definition of a petroleum business as defined in Article 13-A. The petroleum business will remain taxable for the balance of its current taxable period and for all subsequent taxable periods. However, if a petroleum business anticipates that it will not meet the definition of a petroleum business under Article 13-A and will, therefore, not be subject to tax under that article, it must notify the Department of Taxation and Finance immediately of the change in taxable status.

The following sellers of petroleum are not subject to tax under Article 13-A:

1. Exempt organizations as described in Section 1116(a) of Article 28 of the New York State Sales Tax Law.
2. A seller of petroleum in New York State who does not import petroleum or cause petroleum to be imported into New York State.
3. A seller of petroleum who only delivers petroleum into the state and does not engage in business, do business, employ capital, own or lease property or maintain an office in New York State.

The following commercial consumers of petroleum are not subject to tax under Article 13-A (as amended):

1. Exempt organizations as described in Section 1116(a) of Article 28 of the New York State Sales Tax Law.
2. A user of petroleum in New York State which does not import petroleum or cause petroleum to be imported into New York State.

TAX RATE

The tax rate for Article 13-A filers is reduced from 3.25% to 2.75% of the gross receipts from sales of petroleum shipped to points in New York State, or $250, whichever is higher. Chapter 29 of the Laws of 1985 amended Section 301(a) of Article 13-A of the Tax Law by making the 2¾% tax rate permanent. This tax rate applies to the gross receipts from all taxable sales of petroleum after March 31, 1984 and to all taxable purchases of petroleum for consumption after March 31, 1984.

Sales made from:	are taxed at:
July 1, 1983 to March 31, 1984	3.25%
April 1, 1984, or after	2.75%

Purchases made from:	are taxed at:
April 1, 1984, or after	2.75%

TIME TO FILE

A petroleum business must file its return, Form CT-13-A, on or before the 15th day of the third month following the close of the taxable year.

EXTENSION OF TIME FOR FILING TAX RETURN

A request for an extension of time to file a tax return must be filed on Form CT-13-AE on or before the due date of the return for the taxable period for which the extension is requested.

PAYMENT OF TAX

The entire tax is required to be paid on or before the original due date of the return. An extension of time for filing the tax return does not extend the date for payment of tax.

SIGNATURE

The return must be certified by the president, treasurer, assistant treasurer, chief accounting officer or a person duly authorized to act for the taxpayer. It must also be signed by any person, firm or corporation who prepares the form.

Meaning of Terms

"Petroleum," under Article 13-A, means crude oil, plant condensate, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil and liquefiable gases such as butane, ethane or propane. Products not listed are taxable if used as or blended with a product that is taxable (for example, naphtha is taxable for Article 13-A purposes when used as aviation fuel).

"Residential fuel oil" includes No. 2, No. 4 and No. 6 fuel oil, kerosene, and propane or other liquefied gases sold in containers of one hundred or more pounds used for residential purposes.

"Residential purposes" means any use of a structure or part of a structure as a place of abode, maintained by or for a person, whether or not owned by such person, on other than a temporary or transient basis. A structure or part of a structure is maintained on a temporary or transient basis when it is occupied by the same person for less than 90 consecutive days. Examples of structures that would generally be considered used for residential purposes are college dormitories, nursing homes, federal and state prisons, orphanages and military barracks used to house armed services personnel permanently assigned to the facility. Examples of structures that would not generally be considered used for residences are hospitals, county and local jails, schools, shelters for runaways, etc., and military barracks used to house reservists for summer training programs.

"Petroleum business" means every corporation **AND** every unincorporated business formed for, engaged in, or conducting the business, trade or occupation of importing (or causing to be imported by a person other than the person who is subject to tax under this article) petroleum into this state, for sale in this state, or extracting, producing, refining, manufacturing, or compounding petroleum. An "unincorporated business" means any trade, business or occupation conducted, engaged in, or being liquidated by an individual or unincorporated entity, including a partnership, joint venture, sole proprietorship, unincorporated association, fiduciary, or a corporation in liquidation.

"Petroleum business", for purposes of the consumption tax, means every corporation and unincorporated business importing or causing petroleum to be imported into New York State for consumption by it within this state.

"Importing petroleum into New York State" — Occurs when a petroleum business takes title to petroleum outside New York State and ships or causes to be shipped into New York State 20,000 gallons or more during its taxable year.

For purposes of the consumption tax, there is **no threshold** after which a petroleum business would be considered as having imported petroleum into New York State.

"Causing to be imported" — Occurs when a petroleum business purchases 20,000 gallons or more of petroleum located outside New York State for delivery into New York State from a seller not subject to tax under Article 13-A of the Tax Law.

For purposes of the consumption tax, there is **no threshold** after which a petroleum business would be considered as having caused the importation of petroleum into New York State.

"Total gross receipts from sales of petroleum" includes all receipts from sales of petroleum **where shipments are made to points in New York State** whether in cash, credits or property of any kind, 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. Total gross receipts from sales of petroleum **include** receipts (where shipments are made to points in New York State) from the sale of fuel oil used for residential purposes, receipts from any sale for resale to a petroleum business subject to tax under Article 13-A, sales of petroleum for immediate export, and any exchange sale between petroleum businesses subject to Article 13-A. Taxes on the sales of petroleum which are imposed directly on the purchaser are deductible from the total gross receipts from the sale of petroleum.

"Adjusted gross receipts from sales of petroleum" are total gross receipts from sales of petroleum less (1) receipts from any sale for resale where shipments are

made to points in New York State to a petroleum business subject to tax under Article 13-A of the Tax Law; (2) receipts from any sale of fuel oil used for residential purposes where shipments are made to points in New York State; (3) receipts from any sale of petroleum where shipments are made to points in New York State if such petroleum is sold for immediate export from New York State for use outside New York State; (4) receipts from any exchange sale, where shipments are made to points in New York State between petroleum businesses subject to Article 13-A; and (5) receipts from any sale for consumption, where shipments are made to points within New York State to a petroleum business subject to Article 13-A.

"**Sales for resale**" are receipts from any sale of petroleum shipped to points in New York State to a petroleum business subject to tax under Article 13-A of the Tax Law. It shall be presumed that no receipts are received from sale for resale to such a purchaser unless the purchaser furnishes the petroleum business with a resale certificate, Form CT-13-AR. The resale certificate must be accompanied by a Certificate of Registration under Article 13-A, which is obtained from: Department of Taxation and Finance, Oil Tax Audit Unit.
For more specific information see the instructions for Form CT-13-AR and TSB-M-83(22.2)C.

"Sales for residential use" are receipts from any sale of fuel oil (excluding diesel motor fuel) or liquefied or liquefiable gases (except when sold in containers of less than 100 pounds) where shipments are made to points in New York State and the fuel is used for residential purposes. It shall be presumed that no receipts are received by reason of any sale of fuel oil (excluding diesel motor fuel) or liquefied or liquefiable gases (except when sold in containers of less than 100 pounds) used for residential purposes unless the purchaser furnishes the petroleum business with a residential use certificate, Form CT-13-AH. However, the ultimate consumer is not required to provide the seller with Form CT-13-AH. For more specific information see instructions for Form CT-13-AH.

"Sales for immediate export" are receipts from any sale of petroleum if such petroleum is sold for immediate export from New York State for use outside the state and if, in conjunction with such sale, such petroleum is immediately shipped to facilities of the petroleum business's buyer outside this state (regardless of whether the delivery of the petroleum to the buyer occurs in New York State) to the extent that such sale is included in the gross receipts from the sale of petroleum in New York State. It shall be presumed that no sale is for immediate export unless the buyer furnishes the Article 13-A taxpayer (seller) with an export certificate, Form CT-13-AX. Immediate export means that the petroleum product is removed from the state by the buyer within 48 hours of its purchase from the seller. For more specific information see instructions for Form CT-13-AX (CT-13-AX-I).

"Exchange sales" are receipts from any exchange sale of petroleum, where shipments are made to points in New York State, between petroleum businesses subject to Article 13-A to the extent that such exchange sales are not recognized as income or reduction of costs for federal income tax purposes, unless the Tax Commission finds that the primary purpose for such exchange sale is the avoidance or evasion of the tax imposed under Article 13-A.

"Consumption sales" are receipts from any sale of petroleum, where shipments are made to points in New York State, between petroleum businesses subject to Article 13-A, for consumption by the purchaser within New York State. For more specific information see instructions for Form CT-13-AC.

All necessary forms (except Certificate of Registration) may be obtained from:

Taxpayer Assistance Bureau
Building 8
W. A. Harriman Campus
Albany, New York 12227-0125

From New York State, call toll free **1 – 800 – 462-8100**
From outside New York State, call **1 – 518 – 438-1073**

Telephone assistance is available from 8 a.m. to 5 p.m. Monday through Friday.

Specific Instructions

- **Schedule A, Line 1** - Enter adjusted gross receipts from sales of petroleum shipped to points in New York State. Transfer this amount from Schedule B, line 17, and multiply by .0275 (2¾%).

- **Schedule A, line 2** - Enter purchases of petroleum consumed in New York State - from Attachments 1, 2, 3 and 4.

- **Schedule A, Line 6** - If the tax shown on line 5 exceeds $1,000 and Form CT-13-AE was not filed, a mandatory first installment is required for the period following that covered by this return.

Please note: If the tax on line 5 is based on a period of less than 12 months, such tax must be annualized for purposes of this mandatory installment. Enter 25% of the tax shown on line 5 or 25% of the annualized tax, whichever is greater.

- **Schedule A, Line 8** - Enter the amount of total prepayments as listed in the schedule on page 4.

- **Schedule A, Line 10** - If the tax is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from the due date to the date paid. The interest rate should be determined in accordance with Part 603 of the Tax Regulations.

- **Schedule A, Line 11a** - Late Filing - Additional Charges

Additional charges for late filing are computed on the amount of tax less any payment made on or before the prescribed due date.

a. If a return is not filed when due or if the application for extension is invalid add to the tax 5% per month up to 25% (Section 1085(a)(1))(A)).

b. If a return is not filed within 60 days of the prescribed due date the addition to tax cannot be less than the smaller of $100 or 100% of the amount required to be shown as tax (Section 1085(a)(1)(B)).

c. In case of failure to pay the tax shown on a return, add to the tax, ½% per month up to 25% (Section 1085(a)(2))

d. The total of the additional charges in a and c may not exceed 5% for any one month, except as provided for in b above.

If you think you are not liable for these additional charges, attach a statement to your return explaining the delay in filing and/or payment (Section 1085).

- **Schedule A, Line 11b** - Underpayment of estimated tax, refer to instructions on Form CT-222.
- **Schedule B, Line 15** - Enter total gross receipts from sales of petroleum shipped to points in New York State. This line must include any amounts deducted on lines 16a through 16e.

- **Schedule B, Line 16a** - Enter the amount of sales for resale (see definition under Meaning of Terms) from Schedule C, line 18. To qualify as a sale for resale **all** of the following are required:
  1. Both the buyer and seller are Article 13-A taxpayers;
  2. The seller of petroleum **must** report the gross receipts from the sale of petroleum on Form CT-13-A, Schedule B, line 15;
  3. The petroleum was delivered to the buyer at a point in New York State; **and**
  4. The buyer submitted to the seller a *Resale Certificate*, Form CT-13-AR, and a *Certificate of Registration*.

- **Schedule B, Line 16b** - Enter the amount of sales for residential use (see definition under Meaning of Terms) from Schedule D, line 19c. To qualify as a sale for residential use on Schedule D, line 19a **all** of the following are required:
  1. The buyer is a fuel oil dealer **not** subject to tax under Article 13-A and the seller is an Article 13-A taxpayer;
  2. The seller of petroleum **must** report the gross receipts from the sale of petroleum on Form CT-13-A, Schedule B, line 15;
  3. The petroleum must be delivered to the buyer (a fuel oil dealer) at a point in New York State and subsequently resold by the buyer (a fuel oil dealer) for residential use in New York State: **and**
  4. The buyer (a fuel oil dealer) submitted to the seller a *Residential Use Certificate*, Form CT-13-AH.
- **Schedule B, Line 16c** - Enter the amount of sales for immediate export (see definition under Meaning of Terms) from Schedule E, line 20. To qualify as a sale for immediate export **all** of the following are required:
  1. The buyer is **not** subject to tax under Article 13-A and the seller **is** an Article 13-A taxpayer;
  2. The seller of petroleum **must** report the gross receipts from the sale of petroleum on Form CT-13-A, Schedule B, line 15;
  3. The petroleum was shipped to a facility of the buyer outside New York State within 48 hours of its purchase from the seller; **and**
  4. The buyer submitted to the seller a *New York State Export Certificate*, Form CT-13-AC.

- **Schedule B, Line 16d** - Enter the amount of sales for consumption (see definition under Meaning of Terms) from Schedule F, line 21. To qualify as a sale for consumption **all** of the following are required:
  1. Both the buyer and seller are Article 13-A taxpayers;
  2. The seller of petroleum **must** report gross receipts from the sale of petroleum on Form CT-13-A, Schedule B, line 15;
  3. Title to the petroleum must pass outside New York State and the petroleum must be delivered to the buyer in New York State for consumption by the buyer in New York State; **and**
  4. The buyer submitted to the seller a *Certificate of Consumption*, Form CT-13-AC and a *Certificate of Registration*.

- **Schedule B, Line 16e** - Enter the amount of exchange sales (see definition under Meaning of Terms) from Schedule G, line 22. Exchange sales deducted on this line must be included on line 15.

- **Schedule B, Line 16f** - Add lines 16a through 16e.

- **Schedule B, Line 17** - Subtract line 16f from line 15 and transfer the difference to line 1 of Schedule A.

- **Schedule C** - Use this schedule to substantiate any deduction taken on line 16a of Schedule B (Sales for Resale).

- **Schedule D** - Use this schedule to substantiate any deduction taken on line 16b of Schedule B (Sales for Residential Use).

- **Schedule E** - Use this schedule to substantiate any deduction taken on line 16c of Schedule B (Sales for Immediate Export).

- **Schedule F** - Use this schedule to substantiate any deduction taken on line 16d of Schedule B (Sales for Consumption).

- **Schedule G** - Use this schedule to substantiate any deduction taken on line 16e of Schedule B (Exchange Sales).

Forms and Schedules Required

Form CT-13-A is required to be filed by all businesses taxable under Article 13-A. In addition, taxpayers who are subject to the gross receipts and consumption portions of the tax or the consumption tax only under Article 13-A must file supplemental schedules and attachments.

Attachment 1 (Schedules H, I, and J) must be completed by all businesses taxable under Article 13-A. Attachment 2 (Schedule K) must be completed by aviation businesses. Attachment 3 (Schedule L) must be completed by businesses engaged in the operation of vessels in New York State territorial waters. Attachment 4 (Schedule M) must be completed by businesses engaged in trucking or omnibus operations.

For definitions of terms, refer to the foregoing instructions and Technical Services Bureau Memorandums TSB-M-83(22)C and TSB-M-83(22.1)C. For consumption factors to be used in the operation of vessels in New York State refer to TSB-M-83(22.3)C and TSB-M-83(22.4)C.