



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The Franchise Tax on Certain Oil Companies was repealed, effective for tax years beginning on or after the first day of July, 1983, by Chapter 400 of the Laws of 1983. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the Franchise Tax on Certain Oil Companies.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

This memorandum should be cross-referenced to TSB-M-80(10)C, dated November 1, 1980 and TSB-M-82(2)C, dated January 14, 1982.

1983 Legislation

Changes to the 2% Gross Receipts Tax

On Certain Oil Companies

(Sections 182 and 182-b of the Tax Law)

On March 28, 1983 Chapter 18 of the Laws of 1983 was enacted into law. It amended Section 182 and added Section 182-b to Article 9 of the Tax Law. The following are changes and clarifications as they apply to Sections 182 and 182-b respectively.

Section 182

1. Section 182 shall be effective for taxable years ending on or after June 18, 1980 through taxable years ending before December 31, 1983. Thus, the tax expires at the end of the 1982 calendar year or the end of the 1983 fiscal year.
2. Receipts from any sale for resale to a purchaser which is an oil company subject to tax under Section 182 shall be included as a receipt in the computation of the allocation percentage.
3. Where the Tax Commission decides that with respect to a certain oil company the statutory allocation does not fairly and equitably reflect its gross receipts from all sources within New York State, the Tax Commission shall prescribe methods of allocation which will fairly and equitably reflect gross receipts from all sources within the state.
4. Section 182.11 of Article 9 is repealed. This subdivision contained the anti pass-through provision and related penalties for violation of this provision. As a result of the repeal of this subdivision, a taxpayer may now pass on the cost of this tax to its customers.
5. Pursuant to a new subdivision 11 of section 182, if any amount of tax imposed by Section 182 is not paid prior to September 1, 1983, interest will be computed at a rate double the rate set by the Tax Commission. This doubled rate of interest shall be computed from September 1, 1983 to the date paid without regard to any extension of time for payment.
6. An application for judicial review of a deficiency of tax due under Section 182 or any penalty and interest due thereon may not be instituted unless the amount of such deficiency, penalty and interest is paid to the Tax Commission or is deposited with the Tax Commission at or before the time such application for review is made.

### Section 182-b

This new section of Article 9 was enacted to extend and revise Section 182 - the 2% Gross Receipts Tax on Oil Companies. Section 182-b will be in effect for taxable years beginning on or after January 1, 1983 through taxable years beginning before January 1, 1986. Thus, the tax applies to calendar years 1983, 1984 and 1985 or fiscal years ending in 1984 through 1986.

Section 182-b is substantially the same as Section 182, as that law read prior to the enactment of Chapter 18 on March 28, 1983, but with the following changes:

1. Unlike the original Section 182, there is no provision in Section 182-b prohibiting the pass-through of the cost of this tax to customers of an oil company subject to Section 182-b.
2. Sales for resale are included in the computation of the allocation percentage. These receipts should be included in total receipts and in New York receipts where applicable.
3. The State Tax Commission may allow a discretionary adjustment in the computation of the allocation percentage, where the statutory allocation formula does not provide a "fair and equitable result".
4. Estimated Payments

The declaration and payments of estimated tax made under Section 182-b shall be subject to the provisions as set forth in Sections 197-a, 197-b and 197-d of Article 9. For example, a calendar year taxpayer will file and pay a mandatory installment on March 15 equal to 25% of the preceding year's tax plus (3) three equal installments with declarations due on June 15, September 15 and December 15. The total of these installments should equal 100% of the preceding year's tax or 90% of the tax for the current year.

However, for a corporation's first taxable period under Section 182-b, payments will be made as follows:

A calendar year 1983 taxpayer will make both its March 15, 1983 25% mandatory installment and its June 15, 1983 installment (as well as file its declaration) on June 15, 1983. The mandatory installment shall ordinarily be computed on 25% of the taxpayer's preceding year's tax liability due under Section 182. If a taxpayer was not subject to Section 182 in the preceding year, the 25% mandatory installment must be based on the tax the corporation reasonably expects to pay under Section 182-b for the current taxable year.

Subsequent payments for a calendar year filer would be made on September 15, 1983 and December 15, 1983. The 25% mandatory installment paid on March 15, 1983 on account of Section 182 will not be refunded but will be credited to the 1983 tax liability due on account of Section 182-b on June 15, 1983. These same rules shall apply to those taxpayers filing on a fiscal year basis as follows: For the first taxable year under Section 182-b of a taxpayer filing on a fiscal year basis, the 25% mandatory installment, the second installment and the declaration shall be filed and paid (5½) five and one-half months after the beginning of its taxable year. The remaining two installments would be due (8½) eight and one-half and (11½) eleven and one-half months after the beginning of its taxable year.

The declaration and payment of estimated taxes will be filed on form CT-400.1. The due dates for filing and paying are as indicated below:

For Taxable Years Ending 12/31/83 through 11/30/84\*:

<u>If the Taxable Year Ends On</u>	<u>Declaration and Payment of Estimated Tax Due Dates</u>			
	<u>25% Mandatory 1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>
12/31/83	6/15/83	6/15/83	9/15/83	12/15/83
1/31/84	7/15/83	7/15/83	10/15/83	1/15/84
2/29/84	8/15/83	8/15/83	11/15/83	2/15/84
3/31/84	9/15/83	9/15/83	12/15/83	3/15/84
4/30/84	10/15/83	10/15/83	1/15/84	4/15/84
5/31/84	11/15/83	11/15/83	2/15/84	5/15/84
6/30/84	12/15/83	12/15/83	3/15/84	6/15/84
7/31/84	1/15/84	1/15/84	4/15/84	7/15/84
8/31/84	2/15/84	2/15/84	5/15/84	8/15/84
9/30/84	3/15/84	3/15/84	6/15/84	9/15/84
10/31/84	4/15/84	4/15/84	7/15/84	10/15/84
11/30/84	5/15/84	5/15/84	8/15/84	11/15/84

\*Assuming that such taxable year is first taxable period under §182-b.

For taxable years ending 12/31/84 through 11/30/86.

Declaration and Payment of Estimated Tax Due Dates

<u>If Taxable Year Ends On</u>	<u>25% Mandatory 1st</u>	<u>Installments</u>		
		<u>2nd</u>	<u>3rd</u>	<u>4th</u>
12/31/84	3/15/84	6/15/84	9/15/84	12/15/84
1/31/85	4/15/84	7/15/84	10/15/84	1/15/85
2/29/85	5/15/85	8/15/84	11/15/84	2/15/85
3/31/85	6/15/84	9/15/84	12/15/84	3/15/85
4/30/85	7/15/84	10/15/84	1/15/85	4/15/85
5/31/85	8/15/84	11/15/84	2/15/85	5/15/85
6/30/85	9/15/84	12/15/84	3/15/85	6/15/85
7/31/85	10/15/84	1/15/85	4/15/85	7/15/85
8/31/85	11/15/84	2/15/85	5/15/85	8/15/85
9/30/85	12/15/84	3/15/85	6/15/85	9/15/85
10/31/85	1/15/85	4/15/85	7/15/85	10/15/85
11/30/85	2/15/85	5/15/85	8/15/85	11/15/85
12/31/85	3/15/85	6/15/85	9/15/85	12/15/85
1/31/86	4/15/85	7/15/85	10/15/85	1/15/86
2/28/86	5/15/85	8/15/85	11/15/85	2/15/86
3/31/86	6/15/85	9/15/85	12/15/85	3/15/86
4/30/86	7/15/85	10/15/85	1/15/86	4/15/86
5/31/86	8/15/85	11/15/85	2/15/86	5/15/86
6/30/86	9/15/85	12/15/85	3/15/86	6/15/86
7/31/86	10/15/85	1/15/86	4/15/86	7/15/86
8/31/86	11/15/85	2/15/86	5/15/86	8/15/86
9/30/86	12/15/85	3/15/86	6/15/86	9/15/86
10/31/86	1/15/86	4/15/86	7/15/86	10/15/86
11/30/86	2/15/86	5/15/86	8/15/86	11/15/86