



Department of Taxation and Finance

Important

The information concerning the Petroleum Business Tax in this TSB-M is out-of-date and is provided only for historical purposes.

For the most up-to-date information about the Petroleum Business Tax including rates, see [Petroleum business tax](#).

The TSB-M begins on page 2 below.

Article 13-A-Exclusion for Aviation Fuel

Chapter 641 of the Laws of 1987 amended Article 13-A (tax on petroleum businesses) to permit a petroleum business to exclude sales of aviation fuel from its computation of gross receipts. However, it is presumed that no receipts are from a sale of aviation fuel unless the purchaser furnishes the seller with a valid Aviation Fuel Exclusion Certificate, and the Certificate is accepted in good faith by the seller. Thus, aviation fuel will not be taxed until it is consumed by the ultimate consumer of that fuel. The ultimate consumer should allocate according to the method shown in TSBM-83(22.1)C.

Chapter 641 takes effect on October 1, 1987 and is applicable to taxable years beginning on or after that date and to any portion of a taxable year which includes the period which commences with October 1, 1987. The exclusion is available for consideration that is given or contracted to be given for aviation fuel on or after October 1, 1987.

Aviation Fuel Exclusion Certificates issued pursuant to Article 13-A may be issued for periods of up to one year, to coincide with the period stated on the Certificate of Registration, which is required to be attached to the Aviation Fuel Exclusion Certificate.

However, if Article 13-A taxpayers cease to be subject to tax at the end of their calendar or fiscal year they will be required to notify all of their suppliers of the change in status and issue amended Aviation Fuel Exclusion Certificates to all of their suppliers. Such amended certificate will only be valid only through the end of the taxpayer's taxable year.

In addition, within 10 days of the close of their taxable year, they must notify the Miscellaneous Tax Audit Administrator, Department of Taxation and Finance, District Office Audit Bureau, Building 9, W.A. Harriman Campus, Albany, NY 12227 of the change in their status. If a taxpayer fails to notify the Department and its suppliers, he or she may be subject to the penalty provisions of Section 311(a). Such penalty is 5% of the gross receipts that would have been taxable had the Aviation Fuel Exclusion Certificate not been issued.

Aviation Fuel Exclusion Certificates may only be issued by corporations or unincorporated businesses that are petroleum businesses as defined in Article 13-A of the Tax Law. The Aviation Fuel Exclusion Certificate must be accompanied by a copy of a Certificate of Registration to be valid. The petroleum business presenting the Aviation Fuel Exclusion Certificate and Certificate of Registration to an Article 13-A seller should appear on the listing of Article 13-A taxpayers, currently being issued by the Department of Taxation and Finance on a quarterly basis.

If the names of purchasers do not appear on the latest listing, the current status of their Certificate of Registration should be obtained in writing, from the Miscellaneous Tax Audit Administrator, Department of Taxation and Finance, District Office Audit Bureau, Building 9, W.A. Harriman Campus, Albany, NY 12227. Failure to do so may not be a "good faith acceptance" and could result in significant increases in the seller's tax liability under Article 13-A, including the imposition of the penalty provisions of Sections 1085 (a)(3), (b), (c), (e), (f), (g), (i), and (k) of Article 27 of the Tax Law. In addition, the buyer could be subject to the penalty provisions of Section 311(a) of Article 13-A of the Tax Law.