



## **Exemptions and Refunds Related to Sales and Uses of Kerosene**

This TSB-M explains how exemption and refund (credit) provisions apply to sales of kerosene under the Tax Law, as amended effective September 1, 2011.

In general, kerosene is subject to tax as diesel motor fuel under the excise tax (Article 12-A), petroleum business tax (Article 13-A), and state and local sales taxes (Articles 28 and 29). However, certain exemption and refund (credit) provisions apply. For information on other sales and uses of kerosene and diesel motor fuel, see [TSB-M-11\(6\)M, \(11\)S](#), *Changes in the Taxation and Classification of Diesel Motor Fuel Beginning September 1, 2011*.

As explained below, kerosene is exempt from the petroleum business tax, and up-front exemptions for the excise tax and prepaid sales tax apply to sales of dyed kerosene. In addition, under certain circumstances, suppliers may sell undyed kerosene to consumers without these taxes included and claim a refund or credit on the appropriate tax return for taxes that they absorbed when they purchased it.

### **Petroleum business tax exemption**

Kerosene sold or used by a registered distributor (*distributor*) is exempt from the petroleum business tax, provided the kerosene is:

- 1) not blended or mixed with any other product constituting diesel motor fuel, motor fuel, or residual petroleum product; and
- 2) not used by the distributor or sold to a consumer as fuel to operate a motor vehicle.

Also see *Kerosene sold as highway diesel motor fuel* on page 4.

### **Dyed water-white kerosene sold to or by a retail filling station or other retail vendor**

The Tax Law provides exemptions related to water-white kerosene sold to or by retail filling stations or other retail vendors. These exemptions for water-white kerosene apply to **dyed** kerosene that meets the appropriate standards for K-1 kerosene.<sup>1</sup>

<sup>1</sup>*Water-white kerosene* refers to the grade of the kerosene (K-1) and its flashpoint. It does not refer to whether dye has been added to it. Accordingly, to qualify for the exemption, the kerosene must be dyed at the terminal for federal purposes to substantiate that it will be sold to consumers exclusively for heating and not for highway use.

## **Distributors**

You may sell dyed water-white kerosene exempt from the excise tax, petroleum business tax, and prepaid sales tax when it is delivered to a retail filling station for sale to consumers exclusively for heating in containers of 20 gallons or less. The retail filling station must provide you with Form FT-1020, *Exemption Certificate for Certain Taxes Imposed on Diesel Motor Fuel and Propane*.

### **Retail filling stations, distributors selling at retail, and RONDOS<sup>2</sup>**

You may sell dyed water-white kerosene exempt from the excise tax, petroleum business tax and retail sales tax when it is sold to consumers exclusively for **residential** heating in containers of 20 gallons or less. In certain localities, the **local** retail sales tax must be charged. See Publication 718-R, *Local Sales and Use Tax Rates on Residential Energy Sources and Services*.

No exemption form is required. However, you must keep a detailed record of all sales, including the customer's name and address, date of sale, number of gallons purchased, selling price per gallon, and the amount of any local sales tax charged.

## **Undyed kerosene sold to or by retail filling stations**

### **Distributors selling to retail filling stations**

You must pass through the excise tax and prepaid sales tax, but not the petroleum business tax, when you sell undyed kerosene to a retail filling station for resale to consumers exclusively for heating in containers of 20 gallons or less.

### **Retail filling stations**

You may sell undyed kerosene to consumers exclusively for heating in containers of 20 gallons or less without passing through the excise tax or the petroleum business tax.

You may sell undyed kerosene to consumers exclusively for **residential** heating in containers of 20 gallons or less without charging the retail sales tax (except for any applicable **local** sales tax; see Publication 718-R). You must charge the state and local retail sales tax on sales for **nonresidential** heating.

To substantiate that the kerosene is sold exclusively for exempt purposes, it must be stored and dispensed from a tank that is not capable of fueling a motor vehicle (such as a *blocked pump*), and you must keep a detailed record of all sales, including the

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<sup>2</sup> Retailers of non-highway diesel motor fuel only.

customer's name and address, date of sale, number of gallons purchased, selling price per gallon, and the amount of any local sales tax charged.

### **Distributors selling kerosene to residential customers in quantities of more than 20 gallons**

#### **Sales of dyed kerosene**

You may sell **dyed** kerosene directly to consumers for residential heating in quantities of more than 20 gallons exempt from the excise tax, petroleum business tax and retail sales tax. In certain localities, the local retail sales tax must be charged (see Publication 718-R).

#### **Sales of undyed kerosene**

You must pass through the excise tax when you sell **undyed** kerosene directly to consumers for residential heating in quantities of more than 20 gallons. You should not pass through the petroleum business tax or charge the retail sales tax except for any local sales tax that may be applicable (see Publication 718-R).

#### **Other requirements**

Your delivery ticket or invoice must indicate that the kerosene is being sold for residential purposes and delivered into a storage tank directly connected to the heating unit. The storage tank may not be equipped with a nozzle capable of fueling a motor vehicle. If the premises have both residential and nonresidential space but only one storage tank, the exemption must be apportioned, and the purchaser must give you a completed Form TP-385, *Certification of Residential Use of Energy Purchases*.

### **Distributors selling kerosene to other distributors or RONDOS**

#### **Sales of dyed kerosene**

You may sell **dyed** kerosene to another distributor or RONDO exempt from the excise tax, petroleum business tax, and prepaid sales tax. The purchaser must provide Form FT-1001, *Exemption Certificate of Diesel Motor Fuel Interdistributor Transactions*, and check box 1.

### **Sales of undyed kerosene**

You must pass through the excise tax and prepaid sales tax, but not the petroleum business tax, on **undyed** kerosene sold to another distributor. The purchaser must provide Form FT-1001, *Exemption Certificate of Diesel Motor Fuel Interdistributor Transactions*, and check box 3.

A RONDO may not purchase undyed kerosene for resale.

### **Kerosene sold as highway diesel motor fuel**

Any kerosene designated as ULSD #1, or that has a similar designation, is considered *diesel motor fuel*. Unless the fuel is dyed and designated for off-road use, it is considered *highway diesel motor fuel* subject to the excise, petroleum business, and sales taxes.

### **Refunds (credits) for taxes absorbed by suppliers**

#### **Excise tax**

- **Distributors** – Report any excise taxes and exemptions for sales of kerosene on Form PT-102, *Tax on Diesel Motor Fuel*.
- **RONDOS** – Report exemptions for dyed kerosene on your monthly or quarterly return (Form PT-106 or PT-201).
- **Retail filling stations** – You may apply for a refund of the taxes you absorbed when you purchased the undyed kerosene on Form FT-946/1046, *Motor/Diesel Motor Fuel Tax Refund Application*.

#### **Sales tax**

- **All suppliers** – You may claim a credit of the prepaid sales tax on Schedule FR, *Sales and Use Tax on Qualified Motor Fuel and Highway Diesel Motor Fuel*. Report any applicable local sales tax on residential sales and any state and local sales tax on nonresidential sales on the appropriate jurisdiction line of your sales tax return or Schedule B, *Consumer's Utility and Fuel Taxes for Residential and Nonresidential Gas, Electricity, Refrigeration, and Steam, and Sales of Heating Fuels*. (Since kerosene is not *qualified fuel*, these sales should not be reported on Schedule FR.)

### **Consumer refunds for residential heating**

A consumer may claim a refund for any taxes charged on undyed kerosene as follows:

Excise tax	Use Form FT-946/1046, <i>Motor/Diesel Motor Fuel Tax Refund Application</i> , to claim a refund for heating.
State and local sales taxes	Use Form FT-500, <i>Application for Refund of Sales Tax Paid on Petroleum Products</i> , to claim a refund for state and local sales taxes on fuel used in residential heating. In certain localities, a refund for the local retail sales tax may not be available (see Publication 718-R).
Petroleum business tax	Use Form AU-630, <i>Application for Reimbursement of the Petroleum Business Tax</i> , to claim a refund for nontaxable use.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.