



Amendments to Articles 12-A, 13-A, and 28 of the Tax Law to Modify Certain Definitions and to Extend Exemptions for Alternative Fuels

This memorandum contains a summary of the following changes made to the Tax Law:

- The definitions of *motor fuel* and *E-85* have been modified
- The expiration date related to the exemptions for sales of E-85, compressed natural gas (CNG), hydrogen, and B-20 has been extended to September 1, 2012

Chapter 61 of the Laws of 2011 amended the Tax Law to update the definitions of motor fuel and E-85 and to extend for one year the tax exemptions for E-85, CNG, and hydrogen and the partial exemption for B-20.

Definitions

The definition of motor fuel has been amended to clarify that certain alternative fuels suitable for use in a motor vehicle engine are considered motor fuel.¹ *Motor fuel* means:

- gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E-85, fuel-grade ethanol that meets the ASTM International active standards specifications D4806 or D4814, or other product that is suitable for use in the operation of a motor vehicle engine.

The definition of *E-85* has been amended to mean:²

- a fuel blend consisting of ethanol and motor fuel that meets the ASTM International active standard D5798 for fuel ethanol.

Exemptions

The tax exemptions for E-85, CNG, and hydrogen and the partial exemption for B-20 are extended until September 1, 2012.

When E-85 is delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle, the distributor may

¹ This definition takes effect September 1, 2011. However, these products are already considered motor fuels under 20 NYCRR §410.2(a)(ii)(b). For more information, see [TSB-A-11\(1\)M](#).

² This definition was effective March 31, 2011.

exclude the excise tax, prepaid sales tax, and petroleum business tax from the selling price of the E-85. This exemption does not apply to the petroleum testing fee.

Sales of CNG or hydrogen suitable for use in the operation of a motor vehicle are exempt from the excise tax, prepaid sales tax, and petroleum business tax but are subject to the petroleum testing fee. The seller may exclude the amount of the tax or taxes imposed from the selling price with respect to the sale of CNG or hydrogen.

Sales of B-20 are partially exempt from the excise tax and petroleum business tax; the seller may exclude 20% of the amount of tax or taxes imposed from the selling price with respect to the sale of B20. The exemption from the prepaid sales tax does not apply to sales of B20; prepaid sales tax with respect to B20 must be computed at the full amount and may not be reduced by 20%.

For more information regarding the exemptions, see [TSB-M-06\(2\)M](#), *Excise Tax and Petroleum Business Tax Exemptions for Certain Alternative Fuels Beginning September 1, 2006*.

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