



## **Technical Amendments Related to Diesel Motor Fuel**

This TSB-M explains changes to the Tax Law related to the petroleum and sales taxes on diesel motor fuel and alternative fuels.

Chapter 59 of the Laws of 2012 made technical amendments to the diesel motor fuel excise tax (Article 12-A), petroleum business tax (Article 13-A), and prepaid sales tax (Article 28) to address current industry practices. The amendments, effective June 1, 2012, allow tax-free interdistributor sales of undyed qualified biodiesel, and delete *crude oil* from the definition of *diesel motor fuel*. In addition, exemptions for certain alternative fuels have been extended through August 31, 2014.

### **Exemption for interdistributor sales of undyed qualified biodiesel**

On or after June 1, 2012, a registered distributor may sell undyed qualified biodiesel to another registered distributor exempt from the excise tax, the petroleum business tax, and the prepaid sales tax. The exemption does not apply if the sale to another distributor is a retail sale, or if the sale involves a delivery at a filling station or into a tank equipped with a nozzle capable of fueling a motor vehicle.

*Qualified biodiesel* is a diesel motor fuel substitute produced from nonpetroleum renewable resources that meets:

- the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 USC 7545); and
- the ASTM International active standard D6751 for biodiesel fuel.

In general, a registered distributor may only sell tax-free diesel motor fuel to another registered distributor or retailer of non-highway diesel motor fuel only (RONDO) if the fuel is non-highway diesel motor fuel. *Non-highway diesel motor fuel* is any diesel motor fuel designated for use other than on a public highway (except for the use of the public highway by farmers to reach adjacent farmlands), and is dyed diesel motor fuel. The interdistributor exemption for qualified biodiesel applies regardless of whether the fuel is dyed or undyed.

A RONDO may **not** purchase undyed diesel motor fuel, including undyed qualified biodiesel, for resale.

### **Definition of diesel motor fuel**

Effective June 1, 2012, the definition of *diesel motor fuel* was amended to delete crude oil. *Diesel motor fuel* is No.1 diesel fuel, No.2 diesel fuel, biodiesel, kerosene, fuel oil or other middle distillate, and motor fuel suitable for use in the operation of a diesel engine. Diesel motor fuel does not include any product specifically designated No. 4 diesel fuel.

This amendment is intended to recognize that crude oil, in its unrefined state, is not a middle distillate or motor fuel suitable for use in the operation of a diesel engine. In addition, since crude oil is no longer considered diesel motor fuel, the specific exemption for crude oil in section 301-b(5) of the petroleum business tax has been deleted.

### **Exemptions for alternative fuels extended**

The tax exemptions for E-85, CNG, and hydrogen, and the partial exemption for B-20, are extended through August 31, 2014. For more information regarding these 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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