



## Registration and Reporting Requirements for Wholesalers of Motor Fuel in the Metropolitan Commuter Transportation District

This memorandum explains the new requirements for certain wholesalers of motor fuel that purchase or sell motor fuel in the Metropolitan Commuter Transportation District (MCTD).

Chapter 60 of the Laws of 2016 (Part UU) amended the Tax Law to require certain businesses that purchase or sell motor fuel in the MCTD<sup>1</sup> to register with the Tax Department and meet certain reporting requirements. These wholesalers are referred to as *MCTD motor fuel wholesalers*.

The new requirements apply **only** to businesses that:

- make purchases of motor fuel within the MCTD for resale, or
- make sales (other than retail sales not in bulk) of motor fuel within the MCTD.

The new requirements **do not apply** to any business that:

- is (or is required to be) registered as a distributor of motor fuel (i.e., someone who imports motor fuel into New York State or produces motor fuel in New York State),
- makes **only** retail sales of motor fuel delivered directly into a motor vehicle for use in operating the vehicle,
- does not make purchases or sales of motor fuel within the MCTD, or
- does not make any sales of motor fuel in New York State.

### Registration

Tax Law section 283-d(a) requires MCTD motor fuel wholesalers to be registered with the Tax Department before making any sales of motor fuel in New York State (other than retail sales not in bulk) on or after December 1, 2016. These wholesalers must use [Form TP-650, Application for Registration Under Articles 12-A and 13-A](#), to apply for registration. Current MCTD motor fuel wholesalers must have their registration approved before December 1, 2016. MCTD motor fuel wholesalers that begin business after December 1, 2016, must be registered before they begin making sales.

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<sup>1</sup> The MCTD is divided into two regions:

**Region 1** – New York City (Bronx, Kings (Brooklyn), New York (Manhattan), Richmond (Staten Island) and Queens counties), Dutchess County, Orange County, Putnam County, Rockland County and Westchester County.

**Region 2** – Nassau County and Suffolk County

Tax Law section 283-d authorizes the Tax Department to refuse to register an MCTD motor fuel wholesaler and to cancel or suspend an MCTD motor fuel wholesaler's registration. For more information about this authority, see Tax Law sections 283-d(a), (c), and (d).

## **Bonding**

As a condition of registration, the Tax Department may require an MCTD motor fuel wholesaler to file and maintain a bond or other security in an amount sufficient to secure the wholesaler's performance of all duties and responsibilities required under the excise tax (Article 12-A) and sales and use tax (Articles 28 and 29). The Tax Department may at any time require that the bond be increased if it determines that an increase is necessary to secure the wholesaler's continued performance.

## **MCTD motor fuel wholesaler reporting requirements**

Tax Law section 287 requires every MCTD motor fuel wholesaler to report monthly the number of gallons of motor fuel purchased and sold in New York State during the prior month. Accordingly, Form FT-945/1045, *Prepaid Sales Tax on Motor Fuel/Diesel Motor Fuel Return*, has been revised to allow these wholesalers to provide the necessary information. MCTD motor fuel wholesalers **must Web File** Form FT-945/1045 within 20 days from the end of the month covered by the report. For more information, see [Web File your prepaid sales tax on motor fuel and diesel motor fuel](#).

## **Motor fuel regional tax adjustment**

At times, MCTD motor fuel wholesalers may need to move inventory in bulk from one region to another. The bulk transfer of motor fuel from one region to a different region requires an adjustment of the sales tax previously prepaid to the seller on the transferred fuel to reflect the rate in effect at the destination region.

If the motor fuel is sold in a region that has a higher prepaid sales tax rate than the region in which the wholesaler purchased the fuel, the wholesaler must pay the difference in rates for the gallonage sold.

If the motor fuel is sold in a region that has a lower prepaid sales tax rate than the region in which the wholesaler purchased the fuel, the wholesaler is entitled to a credit or refund for the difference in rates for the gallonage sold.

## **Penalties**

A person required to register as an MCTD motor fuel wholesaler who fails to register and who, while not registered, makes a sale of motor fuel in this state other than a retail sale not in bulk, may be subject to criminal prosecution and a jail sentence. (See Tax Law section 1812-g.)

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department 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.