

Petroleum Business Tax Reimbursement/Exemption for Passenger Commuter Ferries

On September 20, 2000, Governor George E. Pataki signed into law Chapter 468 of the Laws of 2000, which is effective December 1, 2000, and applies to sales and uses occurring prior to, on, or after that date. This law authorizes a reimbursement of and an exemption from the Article 13-A petroleum business tax on diesel motor fuel or residual petroleum product used exclusively in the operation of a passenger commuter ferry. A passenger commuter ferry is a vessel providing mass transportation service as recognized by: the state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), or political subdivisions; or by the United States of America or any of its agencies and instrumentalities; or as designated by the Tax Department based on industry or regulatory practice.

(See Tax Law, sections 300(n), 301-b(i), and 301-c(m).)

Reimbursement

There are three means by which a passenger commuter ferry operator may claim a reimbursement of the petroleum business tax paid on fuel used exclusively in mass transportation service.

- Where the petroleum business tax was paid at the time of purchasing **diesel motor fuel**, a passenger commuter ferry operator may claim a reimbursement on Form PT-350, *Petroleum Business Tax Consumption Return -- Commercial Vessels*. On the return, the passenger commuter ferry operator should exclude from total working days in New York State territorial waters, those working days, or a portion thereof, used exclusively to provide mass transportation service in New York State.
- Where the petroleum business tax was previously paid on Form PT-350 on the use of **diesel motor fuel**, a passenger commuter ferry operator may claim a reimbursement by filing an amended return. On the amended Form PT-350, the passenger commuter ferry operator should exclude from total working days in New York State territorial waters, those working days, or a portion thereof, used exclusively to provide mass transportation service in New York State.
- Where the petroleum business tax was paid at the time of purchasing **residual petroleum product**, a passenger commuter ferry operator may claim a reimbursement by filing Form AU-630, *Application for Reimbursement of the Petroleum Business Tax*. (Residual petroleum product purchased as bunker fuel is exempt from the petroleum business tax provided the operator of the vessel gives the seller a properly completed Form PT-301, *Petroleum Business Tax - Residual Petroleum Product Exemption Certification*.)

Generally, the reimbursement must be claimed within two years from the date of purchase. However, if the fuel was purchased without the petroleum business tax included, and payment of the tax was made directly to the Tax Department, the reimbursement must be claimed within two years from the date of payment. All claims for reimbursement of tax paid when diesel motor fuel or residual petroleum product was purchased are limited to the petroleum business tax paid by the passenger commuter ferry operator that can be substantiated by purchase invoices. The petroleum business tax imposed on **diesel motor fuel** used by a passenger commuter ferry operator for purposes other than in mass transportation service is **not** reimbursable.

Exemption

A passenger commuter ferry operator who purchases diesel motor fuel without the petroleum business tax included in the purchase price (i.e., purchased outside New York State) is not required to pay the petroleum business consumption tax on the fuel used exclusively to provide mass transportation service within New York State. Therefore, for example, a passenger commuter ferry operator filing Form PT-350, covering any period, is not required to include those working days, or a portion thereof, used exclusively to provide mass transportation service in New York State as total working days in New York State territorial waters. A passenger commuter ferry operator must include as total working days in New York State territorial waters on Form PT-350, those working days, or a portion thereof, used in New York State territorial waters for purposes other than mass transportation service in New York State.