

**Refund Period Extended to Three Years for
Taxes on Motor Fuel and Diesel Motor Fuel and Petroleum Business Tax
(Articles 12-A and 13-A)**

On July 26, 2006, Governor Pataki signed Chapter 302 of the Laws of 2006. Chapter 302 amends the Tax Law, in part, to extend the period for claiming a refund, credit, or reimbursement of the taxes imposed by Articles 12-A and 13-A from two years to three years. In addition, Chapter 302 amends related provisions to conform them to the three-year refund period and provides a special transition provision.

Overview of amendments

The following provisions are amended relating to the three-year refund period for Articles 12-A and 13-A.

- **Claims for reimbursement:** All claims for reimbursement must be filed in such form prescribed by the Tax Department. Purchasers now have three years from the date of purchase, and sellers now have three years from the date of sale, to claim a reimbursement of the taxes imposed. (Tax Law, section 289-c(3)(c).)
- **Erroneous or excessive payments to a person claiming reimbursement:** The Tax Department may determine and recover the amount of any erroneous or excessive payment that was made to a person claiming reimbursement in the same manner as the taxes imposed. Determinations may now be made within three years of the date of the erroneous or excessive payment. (Tax Law, section 289-c(3)(c).)
- **Refunds or credits for moneys paid in error:** The tax paid may be refunded or credited when motor fuel or diesel motor fuel is sold under such circumstances that, if the tax had not been paid, the sale would not have been taxable. A claim for refund or credit must now be filed with the Tax Department within three years from the time the erroneous payment was made or within three years from the time the tax-paid motor fuel was sold. (Tax Law, section 289-c(6).)
- **Extension by agreement:** When a distributor and the Tax Department have consented in writing to extend the period of time in which a determination of tax may be made, and the agreement is made 1) within the three-year period for filing a claim for refund or credit, or 2) within three years from the date of purchase or sale (as the case may be) of the motor fuel or diesel motor fuel, the period for filing an application for refund or a claim for reimbursement is extended to six months after the expiration of the extended period within which a determination of tax may be made. (Tax Law, section 289-c(7).)

- **Record keeping:** The Tax Law is amended to require that supporting records and statements must now be preserved for a period of at least three years, unless the Tax Department requires that they be kept for a longer period. (Tax Law, section 286(1).)

Special transition provision

Chapter 302 provides that the amendments regarding the three-year refund provisions are effective July 26, 2006. Thus, the three-year limitation on refunds, credits, and reimbursements applies to any sale, purchase, or erroneous payment occurring on or after July 26, 2003.

If the three-year limitation period expires on or after July 26, 2006, and on or before October 24, 2006, a claim for refund, credit, or reimbursement may be filed no later than October 24, 2006.

***Example:** A distributor sold fuel to a tax-exempt entity on July 31, 2003, but failed to claim a refund prior to July 31, 2006. Under the transition provision of Chapter 302, the distributor has until October 24, 2006, to claim the refund, credit, or reimbursement.*

List of refund/reimbursement forms

The three-year refund period applies to the following excise tax and petroleum business tax refund/reimbursement forms:

Form	Title
AU-473	Reimbursement Application for Petroleum Business Tax on Fuel Used for Commercial Gallonage
AU-474	Application for Refund of the Petroleum Business Tax Because of a Bad Debt
AU-629	Application for Refund/Reimbursement of Taxes Paid on Fuel Sold to Governmental Entities by Registered Distributors
AU-630	Application for Reimbursement of the Petroleum Business Tax
AU-631	Claim for Refund/Reimbursement of Taxes Paid on Fuel Used in a Vessel Engaged in Commercial Fishing
FT-400	Application for Reimbursement of the NYS Petroleum Business Tax on Diesel Motor Fuel for An Omnibus Carrier/Nonpublic School Operator

Form	Title
FT-401	Application for Reimbursement of the NYS Petroleum Business Tax on Motor Fuel for An Omnibus Carrier/Nonpublic School Operator
FT-420	Refund Application for Farmers Purchasing Motor Fuel
FT-946/1046	Motor/Diesel Motor Fuel Tax Refund Application
FT-1006	Application for Refund of the New York State Diesel Motor Fuel Tax by an Omnibus Carrier
FT-1011	Claim for Partial Refund of the New York State Motor/Diesel Motor Fuel Tax by a Taxicab Licensee
PR-677	Aviation Gasoline Partial Reimbursement
PT-350	Petroleum Business Tax Return for Fuel Consumption - Commercial Vessels
PT-351	Aircraft Fuel Consumption Tax Return

These forms and instructions may be downloaded from our Web site at www.nystax.gov. They are also available by fax at 1 800 748-FORM (3676), or you can call 1 800 462-8100 to receive a copy by mail.