

Tax Law Changes Affecting Aviation Gasoline and Kero-Jet Fuel

As a result of recent changes in the Petroleum Business Tax Law (Article 13-A) and the Motor Fuel Excise Tax Law (Article 12-A):

- Effective **September 1, 1995**, the rate of petroleum business tax imposed on kero-jet fuel is reduced to 5.59-cents-per-gallon.
- Starting **September 1, 1995**, fixed-base operators, who sell aviation gasoline at retail directly into the fuel tanks of aircraft, may register as *retail sellers of aviation gasoline*.
- Starting **September 1, 1995**, retail sellers of aviation gasoline may purchase aviation gasoline for sale or use free of the motor fuel excise tax and at a reduced rate of petroleum business tax (5.59-cents-per-gallon).

Registration as a Retail Seller of Aviation Gasoline

A fixed-base operator whose only activity in New York State regarding aviation gasoline is to sell and deliver such fuel into the fuel tanks of aircraft may register as a retail seller of aviation gasoline. To register as a retail seller of aviation gasoline, the fixed-base operator must complete Form TP-600, *Application for Registration as a Distributor of Diesel Motor Fuel, Retailer of Heating Oil Only, Distributor of Kero-jet Fuel Only or Retail Seller of Aviation Gasoline*. If the fixed-base operator is already registered as a distributor of kero-jet fuel only, it need only complete Form TP-601, *Short Form Registration under Article 13-A as a Retail Seller of Aviation Gasoline*.

Retail sellers of aviation gasoline must file Form FT-943, *Quarterly Inventory Report by Retail Service Stations and Fixed-Base Operators*, and must keep complete and accurate records of purchases and sales of aviation gasoline,

including individual invoices identifying each purchase or sale. These invoices should include the date of delivery, number of gallons and type of fuel and, if applicable, the customer's New York State tax registration number. The Tax Department must be notified on Form DTF-95, *Change in Business Information*, of any changes in business name, identification number, mailing address, business address, telephone number or owner/officer information.

Except for aviation gasoline brought into New York State in the fuel tanks of their own aircraft, retail sellers of aviation gasoline may not import aviation gasoline or other motor fuel into New York State unless they are also registered as a distributor of motor fuel.

Aviation gasoline

When importing aviation gasoline into New York State, distributors of motor fuel must continue to report and pay the motor fuel excise tax of 8-cents-per-gallon, the petroleum business tax at a rate of 13.87-cents-per-gallon and the petroleum testing fee using Form PT-101. They must also report and pay the prepaid sales tax using Form FT-945/1045.

Beginning September 1, 1995, under certain circumstances, registered distributors of motor fuel may, on sales of aviation gasoline, take a credit for the 8-cents-per-gallon motor fuel excise tax and for 8.28-cents-per-gallon of the petroleum business tax when filing Form PT-101. (After the credit, the effective rate of petroleum business tax on aviation gasoline is 5.59-cents-per-gallon.) These credits are allowed if:

- A distributor of motor fuel sells aviation gasoline to a registered retail seller of aviation gasoline. The distributor must receive an *Exemption Certificate for Purchases of Aviation Fuel* (Form FT-1013) from the retail seller of aviation gasoline.

- A distributor of motor fuel also registered as a retail seller of aviation gasoline imports aviation gasoline into the state and delivers it to a facility where the distributor is a fixed-base operator (i.e., operating as a retailer of aviation gasoline).
- An airline (as defined in regulations, 20 NYCRR section 528.10(b)) registered as a distributor of motor fuel, imports aviation gasoline into New York State for use in the operation of its own aircraft and the aviation gasoline is delivered to the facility where the airline fuels its aircraft.

To qualify for the above credits, the aviation gasoline must be delivered to a fixed-base operation and placed into a storage facility (or, in the case of an airline, the airline's storage facility) used exclusively for fueling aircraft.

In addition, a corporation or unincorporated business that imports aviation gasoline into New York State in the fuel tanks of its aircraft, for consumption in the state, must file a consumption return (Form PT-351) and pay the Article 13-A tax at the lower effective aviation gasoline rate on its in-state consumption. Form PT-351 must be requested by calling 1 800 462-8100 (from New York State only) or (518) 438-1073 if calling from outside New York State.

The Article 13-A tax rate for aviation gasoline, like other Article 13-A components, is subject to

revision each January 1 to reflect changes in the base rate, and each June 1 to reflect changes in the tax surcharge.

Kero-jet Fuel

Effective September 1, 1995, the petroleum business tax rate on kero-jet fuel is decreased to 5.59-cents-per-gallon. This rate, like that of other Article 13-A components, is subject to revision each January 1 to reflect changes in the base rate, and each June 1 to reflect changes in the surcharge.

Registered aviation fuel businesses will only pay the 5.59-cents-per-gallon on kero-jet fuel consumed in the operation of their aircraft in New York State. Unregistered purchasers pay the 5.59 - cents-per-gallon petroleum business tax on **all** kero-jet fuel purchased in New York State.

Also, effective September 1, 1995, the minimum petroleum business tax due from persons registered only as aviation fuel businesses, including persons registered as distributors of kero-jet fuel only, is reduced to \$2 per month.

In addition, persons, other than airlines as defined in the sales tax regulations, registered as aviation fuel businesses solely to report the consumption of kero-jet fuel in their own aircraft, will be required to file Form PT-400, *Aviation Fuel Business Consumption Return (Non-airline)*, annually.