

This TSB-M is obsolete and should not be used. See [TSB-M-06\(8\)S](#), *New Guidelines on the Sales of Motor Fuel and Diesel Motor Fuel Subject to the Cents-Per Gallon Sales Tax*. To continue reading this TSB-M, scroll down.

**Questions and Answers Related To TSB-M-06(7)S,
*Reduction in State Sales Tax on Motor Fuel, with Local Option***

This memorandum provides questions and answers relating to the information provided in recently issued TSB-M-06(7)S, *Reduction in State Sales Tax on Motor Fuel, with Local Option*. TSB-M-06(7)S explained the amendments to the Tax Law made by Chapter 35 of the Laws of 2006 that was signed into law May 21, 2006. Effective June 1, 2006, Chapter 35 changed the New York State percentage rate sales and compensating use taxes (sales tax) on motor fuel and diesel motor fuel to a cents-per-gallon method.

Chapter 35 also allows counties and cities which impose sales tax to elect a similar cents-per-gallon method, effective July 1, 2006, or at a later date beginning on the first day of a sales tax quarter. Localities must act by June 16, 2006, if they want to change to a cents-per-gallon method effective July 1, 2006. The Tax Department will issue further guidance to advise which localities have changed to the cents-per-gallon method.

The following questions and answers are intended to provide additional information based on inquiries the Tax Department has received since TSB-M-06(7)S was issued.

Questions and Answers

(1) (Q) Effective June 1, 2006, Chapter 35 changed the amount of prepaid tax on motor fuel and diesel motor fuel to 14¾ cents-per-gallon in Region 1 and 14 cents per gallon in Region 2. Did Chapter 35 change any other rules with respect to the application of the prepaid tax?

(A) No. Other than establishing new cents-per-gallon rates for the prepaid tax as described above, Chapter 35 made no changes to the application of the prepaid sales tax. The same products remain subject to the prepaid sales tax and the same rules apply regarding when the prepaid tax is due.

Note: The answers to questions (2) through (8), relating to the new cents-per-gallon method, apply to the state sales tax on or after June 1, 2006, and will also apply to local sales tax in those localities that change to the cents-per-gallon method.

(2) (Q) Does the cents-per-gallon method apply to the retail sale of No. 2 fuel oil for heating purposes?

(A) Yes. Since No. 2 fuel oil is diesel motor fuel under the Tax Law, the cents-per-gallon method will apply. However, No. 2 fuel oil used for residential heating purposes is exempt from state sales tax and may be exempt from local tax.

(3) (Q) Does the cents-per-gallon method apply to the retail sale of kero-jet fuel?

(A) Yes. However, kero-jet fuel sold to a commercial airline is exempt from both state and local sales tax.

(4) (Q) Does the cents-per-gallon method apply to the retail sale of E-85 fuel (or any other blend of gasoline and ethanol)?

(A) Yes.

(5) (Q) Does the cents-per-gallon method apply to the retail sale of liquefied petroleum gas (LPG) or compressed natural gas (CNG)?

(A) Yes, but only if the LPG or CNG, when sold at retail, is actually pumped into the fuel tank of a vehicle. Otherwise, these products are not considered motor fuel and the percentage rate of sales tax would apply to their sale.

(6) (Q) Does the cents-per-gallon method apply to retail sales of aviation gasoline (avgas)?

(A) Yes.

(7) (Q) Does the cents-per-gallon method apply to the retail sale of bio-diesel fuel?

(A) Yes.

(8) (Q) Does the cents-per-gallon method apply to a retail sale of gasoline or diesel fuel sold in bulk to an end user (e.g., an auto rental company)?

(A) Yes.