



## **Extension of Alternative Fuel Tax Exemptions and Modification of the Definition of E85 Fuel**

This memorandum summarizes the amendments to the Tax Law that provide, in part, an extension of the current sales tax exemptions for alternative fuels. The amendments also make a technical change to the definition of E85 fuel.

Chapter 61 of the Laws of 2011 amended the Tax Law to extend the current tax exemptions for the alternative fuels E85, compressed natural gas (CNG), hydrogen, and B20. This extension continues the full exemptions for E85, CNG, and hydrogen, and the partial exemption for B20 from the motor fuel taxes (Article 12-A), the petroleum business taxes (Article 13-A), the fuel use taxes (Article 21-A), and the state and local sales and compensating use taxes (Articles 28 and 29) through August 31, 2012. Under current law, the exemptions were due to expire on August 31, 2011. Chapter 61 also amended the definition of E85 fuel as described below.

This TSB-M deals with the exemption from sales and compensating use taxes and includes a brief explanation of the amendment to the definition of E85 fuel. For more information on how the exemption applies to the other taxes described above, see [TSB-M-11\(5\)M, \(8\)S](#), *Amendments to Articles 12-A, 13-A, and 28 of the Tax Law to Modify Certain Definitions and to Extend Exemptions for Alternative Fuels*.

### **Prepaid sales tax**

Chapter 61 continues the exemptions from prepaid sales tax for CNG and hydrogen fuels. In addition, E85 fuel will be exempt from the prepaid tax, provided it is delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This exemption from the prepaid sales tax continues to apply to CNG, hydrogen, and E85 fuels through August 31, 2012. The exemption from the prepaid sales tax does not apply to sales of B20. Thus, the prepaid sales tax with respect to B20 must be computed at the full amount and may not be reduced by 20%.

### **State and local sales and compensating use taxes**

Chapter 61 also continues the current full exemption from state and local sales taxes for retail sales of qualified E85, CNG, and hydrogen, and the 20% exemption for retail sales of qualifying B20 fuel. This exemption will remain in effect through August 31, 2012.

### **Technical change to definition of E85**

Chapter 61 also made a technical change to the definition of E85 fuel to more appropriately describe it as a fuel blend consisting of ethanol and motor fuel, which meets the American Society for Testing and Materials (ASTM) International active standard D5798 for fuel ethanol. This new definition recognizes that at certain times of the year, E85 fuel may not contain exactly 85% ethanol. The new definition was effective March 31, 2011.

### **Additional information**

For additional information regarding how the sales and use tax exemptions apply to alternative fuels, including applicable definitions and situations where an exemption document may be required, see [TSB-M-06\(10\)S](#), *Sales Tax Exemptions and Reductions for Certain Alternative Fuels Beginning September 1, 2006*. Except as modified by this TSB-M, all the information in TSB-M-06(10)S remains in effect.

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.