

Information for Sellers and Users
of Diesel Motor Fuel

Although the Sales and Use Tax Law change affecting automotive fuel became effective September 1, 1982, there is still some confusion on the part of sellers and users of diesel motor fuel as to the proper application of the sales tax. This publication is intended to clarify the responsibilities of all purchasers and sellers of diesel motor fuel.

The change in the Sales and Use Tax Law requires the payment of sales tax on diesel motor fuel at the time the fuel is sold or consumed by a person required to be registered as a distributor under the Motor Fuel Tax Law (Article 12-A), and also requires all persons selling automotive fuel to be registered as sales tax vendors.

Under the Motor Fuel Tax Law a distributor is any person who purchases and/or stores diesel motor fuel in bulk for use in motor vehicles which he owns, rents or otherwise controls or, any person purchasing diesel motor fuel for sale to others where he delivers the fuel directly into the diesel powered motor vehicle for consumption in the vehicle's operation.

Therefore, every person who purchases diesel motor fuel in bulk quantities to fuel vehicles under his control must not only register under Motor Fuel Tax Law, he **MUST** also register as a sales tax vendor for the purpose of collecting and/or remitting sales or use taxes.

**SEE IMPORTANT NOTE ON PAGE 3 REGARDING SALES ON AND AFTER
JUNE 1, 1983 WHERE NO EXEMPTION DOCUMENTS ARE RECEIVED.**

Jobbers and Wholesalers

Jobbers and wholesalers purchasing diesel motor fuel in bulk for resale may purchase sales tax free by presenting their suppliers with properly completed copies of form TP-146.4, Certificate for Sales Tax Exemption on Purchases of Certain Fuels. When the diesel motor fuel is resold in bulk, no sales tax should be collected if a properly completed exemption certificate is obtained from the customer. Where diesel motor fuel is sold in bulk, the seller should not collect the diesel motor fuel tax.

A jobber or wholesaler who takes diesel motor fuel from inventory for use in his own vehicles, however, must report a use tax on Schedule E, Report of Diesel Motor Fuel Sale and Self-Use, which must accompany his periodic sales and use tax return. The use tax is based on such individual's cost for the fuel or the appropriate regional average retail sales price, whichever is lower, at the tax rate in effect in the locality where the fuel is placed into the motor vehicle. A jobber or wholesaler who uses the diesel motor fuel in this manner must also be registered under the Motor Fuel Tax Law and remit the 10¢ a gallon state diesel motor fuel tax.

Retailers

A service station or other retail outlet should purchase diesel motor fuel sales tax free by presenting the supplier a properly completed Certificate for Sales Tax Exemption on Purchases of Certain Fuels (form TP-146.4). When the diesel fuel is sold, the retailer must collect the appropriate sales tax from his customer.

The sales tax to be collected per gallon is determined by multiplying the appropriate quarterly regional average retail sales price (see Publication 790) by the state and local sales tax rate in effect for the locality where the retail outlet is located. If the retailer takes diesel motor fuel from inventory for his own use, he must report a use tax based on his cost for the fuel or on the appropriate regional average retail sales price, whichever is lower. The sales tax collected together with any use tax due must be remitted with the retailer's periodic sales and use tax return and reported on Schedule E, Report of Diesel Motor Fuel Sales and Self-Use. The diesel motor fuel tax must also be remitted along with the Motor Fuel Tax Return MT-104.10 or 104.25.

Bulk Purchase Consumers (Bulk Users)

Since bulk users of diesel motor fuel are classified as distributors under Motor Fuel Tax Law, they are required to be registered as sales tax vendors, file sales and use tax returns and remit the sales and use tax due on their use of diesel motor fuel directly to the Department of Taxation and Finance.

Therefore, bulk users of diesel motor fuel **SHOULD NOT** pay sales tax to their suppliers, but should instead, purchase the diesel motor fuel sales tax free by presenting properly completed copies of form TP-146.4, Certificate for Sales Tax Exemption on Purchases of Certain Fuels, to their suppliers. The diesel motor fuel tax should also not be paid to the supplier.

When the diesel motor fuel is used, the bulk users should compute the use tax due based on their cost for the fuel (excluding both federal and state motor fuel tax) or the appropriate average retail sales price, whichever is lower, at the state and local sales and use tax rate in effect for the locality where the fuel is put into the fuel tanks of their diesel powered motor vehicles. The use tax should be reported on and paid with Schedule E, Report of Diesel Motor Fuel Sales and Self-Use, which must accompany the periodic sales and use tax returns. (Diesel motor fuel tax returns must also be filed and the diesel motor fuel tax due on the fuel used in the operation of diesel powered motor vehicles must be remitted.)

Marinas

Marinas purchasing diesel fuel for sale for off highway use should purchase the fuel sales tax free by issuing their suppliers properly completed (box 7 checked) copies of form TP-146.4, Certificate for Sales Tax Exemption on Purchases of Certain Fuels. When the fuel is sold, the appropriate sales tax should be collected from the customer based on the selling price per gallon at the state and local sales tax rate in effect for the locality where the marina is physically located.

The marina must be registered as a sales tax vendor, must file sales and use tax returns and, must remit sales tax collected on sales of diesel fuel and all other taxable property and services. All sales tax collections should be reported on the appropriate line on page 2 of the sales and use tax return.

If the marina also sells diesel fuel through retail pumps where it is dispensed directly into the ordinary fuel tank of diesel powered motor vehicles, the marina must collect sales tax on this fuel computed on the appropriate regional average retail sales price as indicated on the most recent Publication 790 and must report these sales on Schedule E, Report of Diesel Motor Fuel Sales and Self-Use, which must accompany its sales and use tax returns.

Marinas selling diesel motor fuel through retail pumps directly into motor vehicles, must also register as diesel motor fuel distributors under the Motor Fuel Tax Law and must collect and remit the diesel motor fuel tax in addition to the sales tax. (Marinas selling diesel motor fuel into boats are not required to collect diesel motor fuel tax on these sales.)

IMPORTANT

Effective June 1, 1983 every person selling diesel motor fuel in bulk is required to collect sales tax unless the customer furnishes a properly completed Certificate for Sales Tax Exemption on Purchases of Certain Fuels (TP-146.4), Exempt Organization Certification (ST-119.1), Exempt Use Certificate (ST-121), Direct Payment Permit (ST-123 or AU-297) or a governmental purchase order. Vendors other than retail vendors (service station operators, etc.) should compute the sales tax based on the selling price minus any state or federal motor fuel taxes included in the selling price, at the rate in effect at the point of delivery. Retail vendors should compute the sales tax based on regional average retail sales price (see Publication 790) at the rate in effect at the point of delivery.

Where a bulk purchaser of diesel motor fuel has been required to pay sales tax to suppliers because of his failure to provide the form TP-146.4, the bulk purchaser is not relieved of his obligation to file sales and use tax returns reporting his taxable sales or use and the total tax due (including any amount paid to suppliers) or, to remit any additional sales or use taxes due as a result of his sales or use of the product as diesel motor fuel. When reporting his taxable sales or use, he will be permitted a credit against the tax due for the amount of tax paid to his supplier.