



**Quarterly Notice Regarding Adjustment of the State and Local
Cents Per Gallon Rates of Sales and Use Taxes on
Certain Motor Fuel and Diesel Motor Fuel**

Cents per gallon sales tax rates effective December 1, 2009

The Commissioner has established the required average price applicable to the sales tax quarter beginning December 1, 2009. As a result, no local cents-per-gallon tax rate on qualified fuel is being adjusted effective December 1, 2009. Similarly, no adjustment is being made to the statutorily prescribed State cents-per-gallon rate (8 cents-per-gallon or 6 cents-per-gallon for B20 biodiesel) or the statutorily prescribed Metropolitan Commuter Transportation District (MCTD) cents-per-gallon rate ($\frac{3}{4}$ of one cent per gallon or $\frac{6}{10}$ of one cent per gallon for B20 biodiesel) on qualified fuel effective December 1, 2009. The Tax Department will issue a similar notice prior to the beginning of subsequent sales tax quarters.

Background and methodology

Effective June 1, 2006, Chapters 35 and 109 of the Laws of 2006 amended Section 1111 of the Tax Law to change the New York State percentage rate of sales and use taxes (sales tax) on certain motor fuel and diesel motor fuel (together, "qualified fuel" as described in TSB-M-06(8)S) to a cents-per-gallon method. In addition, Section 1111 of the Tax Law allows counties and cities that impose sales tax, including New York City, to change their percentage rate of sales tax to a cents-per-gallon method, effective for sales and uses of qualified fuel occurring on or after July 1, 2006. Several counties and cities have elected the cents per gallon rate of tax on qualified fuel. See Publication 718-F, *Local Sales and Use Tax Rates on Qualified Motor Fuel, Diesel Motor Fuel, and B20 Biodiesel*.

Section 1111(m) also requires the Commissioner of Taxation and Finance to establish an average price (not including the sales tax or fuel excise tax) of motor fuel and diesel fuel during a specified three month period. This average price is then multiplied by the local percentage sales tax rate in effect for each county or city that has elected the cents-per-gallon method. If the result of this computation is less than the county's or city's then-effective cents per gallon rate, the county's or city's cents-per-gallon rate is adjusted to the lower rate, rounded to the nearest cent. Any adjustment to a cents-per-gallon rate due to a change in the average price must be published by the Commissioner and will be effective on the first day of the next succeeding sales tax quarter.

The average price is also multiplied by the State percentage sales tax rate (4%) and by the MCTD percentage tax rate ($\frac{3}{8}$ %). If the result of these computations is a lower State cents-per-gallon rate than that prescribed by statute (8 cents-per-gallon or 6 cents-per-gallon for B20 biodiesel) or a lower MCTD cents-per-gallon rate than that prescribed by statute ($\frac{3}{4}$ of one cent per gallon or $\frac{6}{10}$ of one cent per gallon for B20 biodiesel), the statutorily prescribed State or MCTD cents-per-gallon rate is also adjusted to the lower rate. The State cents-per-gallon rate

must be rounded to the nearest cent and the MCTD cents-per-gallon rate must be rounded to the nearest one-tenth of one cent. The new State and MCTD cents-per-gallon rates would likewise be effective on the first day of the next succeeding sales tax quarter.

NOTE: An Important Notice is generally issued to announce a singular event, such as an update to a previously issued tax form or instruction, or to announce a new due date for filing returns and making payments of tax because of a natural disaster. The Department does not revise previously issued N-Notices.