

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-85 (1) C  
Corporation Tax  
March 28, 1985

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. C841126A

On November 26, 1984, a Petition for Advisory Opinion was received from Carbo Fuel Oil Company, Inc., 1 Bay Blvd., Lawrence, New York 11559.

The issue raised is to what extent a petroleum business is permitted to pass on to its customers the full amount of the gross receipts tax imposed under Article 13-A of the Tax Law.

The gross receipts tax is a tax imposed on any business which qualifies as a petroleum business as defined in Article 13-A of the Tax Law. The tax is imposed on all receipts from the sale of petroleum (with exceptions not here relevant) without any deductions for any cost or expense whatsoever. This tax is considered to be another cost of doing business and, as such, may be passed on to the customer of the petroleum business. No provision of the Tax Law either prohibits or requires such pass through. However, to the extent that any amount of tax is passed on to a customer, such amount must be included in the taxable gross receipts of the petroleum business, whether it is invoiced separately or included in the product price. Accordingly, the taxable gross receipts of the petroleum business must be increased by the amount of the tax passed through, causing an additional tax liability to the petroleum business.

The Tax Law has no provision regarding the amount of tax to be passed through to a customer. This is a matter to be agreed upon by the petroleum business and its customer when the purchase price of the petroleum is set.

DATED: March 22, 1985

FRANK J. PUCCIA  
Director  
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth herein.