

New York State Department of Taxation and Finance  
**Office of Tax Policy Analysis**  
**Technical Services Division**

TSB-M-03(7)M  
Petroleum Taxes  
TSB-M-03(8)S  
Sales Tax  
December 19, 2003

**Important Notice**  
**Taxability of Ethanol**  
(Articles 12-A, 13-A, 28, and 29)

As of January 1, 2004, the sale or importation of gasoline containing methyl tertiary-butyl ether (MTBE) will be banned in New York State. With respect to the ban, the Department has received inquiries regarding the taxability of ethanol, the accepted substitute for MTBE, when blended with gasoline. **In general, any person dealing in ethanol that is considered motor fuel will be subject to all tax, registration, transportation, certification, and reporting requirements in effect for motor fuel.** There is no reduction in the New York State motor fuel, petroleum business, or sales taxes for ethanol or gasoline blended with ethanol.

**When is ethanol considered motor fuel?**

Gasoline or any blend of gasoline is considered motor fuel and is subject to the motor fuel excise tax, the petroleum business tax, the petroleum testing fee, and the prepaid sales tax when it is imported into or produced in New York State. Ethanol or any other product that is **not** commonly or commercially known or sold as gasoline or a blend thereof, will be considered motor fuel when one of the following, whichever is the earliest, takes place.

- It is compounded or otherwise blended with any other product or products, the result of which is suitable for use in the operation of a motor vehicle engine.
- It is destined for use in the operation of a motor vehicle engine as is reasonably concluded from facts and circumstances concerning such product.
- It is specifically designated as a fuel suitable for use in the operation of a motor vehicle engine.
- It is pumped into the fuel tank of a motor vehicle for use in New York State in the operation thereof on the public highways of New York State or is pumped into the fuel tank of a pleasure or recreational motor boat for use in the operation thereof on the waterways of New York State, including any waterways bordering on the state.

**Ethanol being transported to or held at a motor fuel terminal or to any location where it will be blended with gasoline or to a location where motor fuel is ordinarily stored (for example, a bulk plant, service station, etc.) is considered motor fuel.**

**Note:** A person is not subject to the Article 12-A registration requirements on the importation of ethanol that is not considered motor fuel. Nor is this ethanol subject to the motor fuel excise tax, the petroleum business tax, the petroleum testing fee, and the prepaid sales tax.

For additional information:

**Call** the Business Tax Information Center at 1 800 972-1233; from areas outside the U.S. and outside Canada call (518) 485-6800.

**If you need to write**, address your letter to: NYS TAX DEPARTMENT  
BUSINESS TAX INFORMATION CENTER  
W A HARRIMAN CAMPUS  
ALBANY NY 12227