



Passing Through the Petroleum Business Tax When Tax Rates Change

This TSB-M provides guidance on the amount of the petroleum business tax that should be passed through to the purchaser when fuel is produced, imported or purchased in one period and sold in a subsequent period after there has been a change in the tax rates.

The Tax Law provides that the petroleum business tax (PBT) is imposed when motor fuel is either produced in or imported into New York State or when diesel motor fuel is first sold in New York State (unless otherwise exempt). The tax must be passed through to the purchaser.

The PBT rates are indexed based upon changes in fuel prices and are revised as of January 1 each year. Therefore, in some instances, the PBT rate in effect at the time the fuel is produced, imported or purchased is different from the tax rate in effect when the fuel is sold in a subsequent period.

Instructions for registered distributors

If you produce, import or purchase motor fuel or diesel motor fuel subject to tax at the rate in effect prior to January 1, you should pass through the amount of tax calculated at that rate when the fuel is sold in a subsequent period. You should not pass through an amount calculated at the new tax rate applicable to the subsequent period.

If the tax rate increases, but you erroneously pass through the tax calculated at the higher rate applicable to the subsequent period, you must report and pay additional PBT on the gallons produced, imported or purchased at the old tax rate but sold at the new tax rate. The additional PBT on this fuel can be computed using the following worksheet:

PBT rate adjustment worksheet

a)	<i>Number of gallons produced, imported or purchased at the old rate but sold at the new rate</i>	
b)	<i>Higher PBT rate in effect on or after January 1</i>	
c)	<i>Lower PBT rate in effect prior to January 1</i>	
d)	<i>Difference (subtract line c from line b)</i>	
e)	<i>Additional PBT (multiply line a by line d)</i>	
<p>Enter the amount from line e on the adjustment line for your motor fuel return (Form PT-101) or diesel motor fuel return (Form PT-102) for the period in which the fuel was sold.</p>		

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.