

NEW JERSEY DIVISION OF TAXATION
TECHNICAL BULLETIN

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TAX: PETROLEUM PRODUCTS GROSS RECEIPTS TAX

TOPIC: Products Subject To Petroleum Products Gross Receipts Tax (PPGRT)

The Petroleum Products Gross Receipts Tax Act at N.J.S.A. 54:15B-1 et. seq. applies to gross receipts from the first sale or use of petroleum products in New Jersey. These sales are subject to tax at the rate of 2.75% but for fuel oil, aviation fuel and motor fuels, the tax is fixed at \$0.04 a gallon.

Petroleum refining operations normally refer to establishments that primarily engage in producing gasoline, kerosene, distillate fuel oils, and lubricants, through fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes. Establishments of this industry also produce aliphatic and aromatic chemicals as byproducts.

During the process of typical petroleum refining operations the following types of output can result: (1) Gasoline (motor gasoline and aviation gasoline); (2) Special Napthas (paint thinners, cleaners, solvents etc.); (3) Jet Fuel (naphtha – type Jet B and kerosene – type Jet A); (4) Kerosene & Range Oil (used in wick lamps, space heaters, water heaters, stoves etc.); (5) Distillate Fuel Oil (No. 1 and No. 2 Heating Oils & Light Diesel Fuel); (6) No. 4 Fuel oil (blend of distillate and residual fuel oil stocks); (7) Residual Fuel Oil (No. 5 & No. 6 Fuels, Navy Grade, Navy Special & Bunker C Fuel, Heavy Diesel Fuel); (8) Lubricating Oils (Bright Stock, Neutral and Others); (9) Asphalt (Asphaltic Cements, Fluxes & Emulsions); (10) Paraffin Wax (microcrystalline, crystalline – fully refined, crystalline – other); (11) Petroleum Coke (marketable, catalyst); (12) Road Oil (Surface Treatment Of Roads & Dust Palliative); (13) Still Gas (Petrochemical Feedstock Use and Other Uses); (14) Liquefied Refinery Gases which includes ethane-ethylene propane, propylene butane, butylene butane, and propane mix isobutene (petrochemical feedstock use and other use); (15) Naphtha – less than 400°F End Point (petrochemical feedstock use); (16) Other Oils – Over 400°F End Point (petrochemical feedstock use); and (17) Other Finished Products (petrolatum, absorption & specialty oils, rocket fuels etc.) (All other finished petrochemicals are excluded)

The Petroleum Products Gross Receipts Tax Act under N.J.S.A. 54:15B-2 defines petroleum products as refined products made from crude petroleum and its fractionation products, through straight distillation of crude oil or through redistillation of unfinished derivatives, but shall not mean the products commonly known as number 2 heating oil, number 4 heating oil, number 6 heating oil, kerosene and propane gas to be used exclusively for residential use.

The regulations at N.J.A.C. 18:18A-1.2 clarify the definition of taxable petroleum products as follows: Petroleum products means:

1. Refined products made from crude petroleum and its fractionation products through straight distillation of crude oil or through redistillation of unfinished derivatives but does not mean the products commonly known as No. 2 fuel oil and propane gas to be used exclusively for residential use. In addition, on and after July 1, 1991, petroleum products do not include No. 4 fuel oil, No. 6 fuel oil and kerosene to be used exclusively for residential use.
2. From July 1, 1990 through June 30, 1991, petroleum products were considered to include, for example, and without limitation: acid oil, alkylates, aromatic chemicals, asphalt and asphaltic materials (liquid and solid), benzene, butadiene, butylene, coke (petroleum), ethylene, fractionation products of crude petroleum, gas (refinery or still oil), gases (liquefied petroleum), gasoline, greases (lubricating), hydro-carbon fluid, jet fuels, kerosene, mineral jelly, mineral oils (natural), mineral waxes (natural), naphtha, naphthenic acids, oils, partly refined sold for rerunning, oils and fuel (lubricating and illuminating), paraffin wax, petrolatums, propylene, road materials (bituminous), road oils, solvents, and tar or residuum.
3. On and after July 1, 1991 receipts from sales of certain of the foregoing list of petroleum products in this definition shall not result in taxable gross receipts (see definition of gross receipts below).
4. Petroleum products do not include any finished manufactured products that may include petroleum as an ingredient but are not themselves petroleum products such as plastics, candles, animal feed, anti-freeze, ink, roofing shingles, and synthetic fibers.

Based on the foregoing, certain products sold at retail which contain petroleum and are burned as fuel, used for lubrication, or as a solvent or sealant are subject to the petroleum products gross receipts tax. For example, WD-40 is a petroleum product that is used as a lubricant and subject to tax under the Act. Moreover, mineral oil and petroleum jelly are also used as lubricants and are subject to tax.

Any of the output products stated above that result from the process of typical petroleum refining operations are subject to the petroleum products gross receipts tax. This includes, among other things, various personal care products sold at retail.

The definition of Gross Receipts is also set forth at N.J.A.C. 18:18A-1.2 which states in part that: Gross receipts means all consideration derived from first sales of petroleum products within this State as herein defined. Gross receipt shall not include:

- Consideration derived from sales of No. 2 fuel oil to be used exclusively for residential heating or sales of propane gas used for residential heating. In addition, on and after July 1, 1991 petroleum products do not include No. 4 fuel oil, No. 6

fuel oil, and kerosene to be used exclusively for residential use. Residential heating includes all forms of heating including, for example, the heating of air, water, or food;

- Consideration derived from receipts from sales on and after July 1, 1990 of petroleum products used by marine vessels engaged in interstate or foreign commerce;
- Consideration derived from sales on and after July 1, 1990 of aviation fuels used by common carriers in interstate or foreign commerce other than the “burnout” portion taxable pursuant to calculations at N.J.A.C. 18:18A-6.3;
- Consideration derived from sales of asphaltic materials on and after July 1, 1991; or
- Consideration derived from sales of polymer grade propylene used in the manufacture of polypropylene sold on and after July 1, 1991.

PRODUCT EXEMPTIONS

It is important to note that N.J.A.C. 18:18A-1.2(4) only exempts certain finished manufactured products that have lost their petroleum identity which includes the following types of products made from petroleum that are finished manufactured products that are not subject to tax: animal feed, anti-freeze, candles, ink, plastics, roofing shingles, synthetic fibers and tires. The list of finished manufactured products was not intended to be exclusive; candles were recently added to the list of finished manufactured products during the 2007 readoption of the regulations at N.J.A.C. 18:18A-1 et. seq.

The products mentioned in the regulation are exempt finished manufactured products because they are not burned for energy or used to lubricate or used as a solvent or sealant, which are uses would be consistent with a petroleum identity. In addition, petroleum products which contain additional active medical ingredients, e.g. certain medicated lip balms, are deemed to be exempt from the tax because these products have lost their identity as a petroleum product by virtue of the inclusion of an active medical ingredient that is not a petroleum product.

Petrolatum is not considered to be a medical ingredient under any circumstances because petrolatum is a petroleum product. The fact that mineral oil or petrolatum is sold in a form similar to other consumer products does not alter the petroleum identity or use of the product itself. For example, although petrolatum is commonly sold as petroleum jelly, petroleum jelly is still considered a petroleum product because it is used for lubrication and results from the process of typical petroleum refining operations.

Consequently, the tax is properly imposed on certain petroleum based lotions, ointments and lip balms that do not contain additional active medical ingredients other than petrolatum.

Lastly, asphaltic materials and polymer grade propylene used in the manufacture of polypropylene are also exempt under the law.

PETROLEUM PRODUCTS SUBJECT TO TAX

In general, petroleum-based product lines, including but not limited to the following, are subject to tax:

Baby Lotion

Baby Oil

Body Cream/Lotion

Biodiesel

Brass Cleaner

Butane Injectors

Charcoal Lighter Fluid

Cold Cream

Cooking Spray

Engine Cleaner

Ethanol

Foot Ointment

Fuel

Fuel Stabilizer

Furniture Polish

Gear Oils

Hair Care

Hair Clipper Oil

Lawn Mower Oil

Lighter Fuel

Lighter Products

Lip Balms

Liquefied Petroleum Gas

Makeup Remover

Mineral Oil

Mineral Wax

Motor Oil

Nail Care/Dryer

Nail Polish Remover

Nail Strengthener/Nourishment

Paint Thinner

Paraffin Based Hand Wax

Paraffin Wax

Personal Care Items

Personal Lubricants

Petroleum Jelly

Shoe Polish

Skin Care Lotion

Scissor Oil

Solvents

Starter Fluid

Transmission Fluid

Two Cycle Motor Oil

Wood Polish

Wood Treatment