



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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NEW JERSEY SPILL COMPENSATION AND CONTROL TAX N.J.S.A. 58:10-23.11h

Spill Tax Cap Guidelines

Certain owners or operators of major facilities that are subject to the New Jersey Spill Compensation and Control Tax may qualify for an annual cap on their Spill Tax payments. To qualify for a cap (a maximum annual tax liability) a Spill taxpayer must satisfy one of the cap conditions provided for in the Spill Compensation and Control Act at N.J.S.A. 58:10-23.11h.b.(1)(a).

Basic Cap

The owner or operator of a major facility which incurred a 1986 Spill Tax liability shall be annually capped at 125% of the sum of their 1986 tax liability plus \$.0025 per barrel transferred.

Successor in Interest

Also a successor in interest, pursuant to a sale or qualified reorganization on or before June 1, 2001, would be entitled to the 125% cap limitation of the predecessor owner of such a 1986 tax liable major facility.

Special Cap Calculation for Taxpayers with Closed Facilities

There is an additional cap provision limited only to taxpayers qualified for the 125% cap who:

1. continuously filed Spill tax returns since 1986 and;
2. filed a combined return for more than one major facility in 1986 and;
3. have closed one or more of those major facilities prior to January 1, 1996.

Such taxpayers, including a successor in interest as stated above, should, for taxes due on and after January 1, 1996, compute their cap in any tax year at 125% of their 1986 taxes only from major facilities they operated in 1986 and currently continue to operate. They should not include in their 1986 tax base taxes attributable to facilities they discontinued operating between January 1, 1987 and December 31, 1995.

Special Cap Calculation for Phosphorus and Antimony

For taxpayers liable for tax on transfers of elemental phosphorus or elemental antimony or antimony trioxide (only if sold for use in fire retardants) in computing the 125% tax limitation, a taxpayer, including any subsequent owner or operator of a major facility which transfers elemental phosphorous, should calculate the 1986 tax base, for these substances only, at \$.015 per barrel transferred.

Alternative Cap for Subdivided Facilities

An alternative cap is provided for owners or operators, including subsequent owners or operators, of current major facilities that resulted from the subdivision of major facilities that existed and had a Spill tax liability in 1986. The owners or operators of the subdivided major facility qualifying under this provision, or prior owners or operators of that facility, must have incurred a Spill tax liability in 1999. They are annually capped at 100% of that 1999 tax liability.

Specific Substances - Additional Cap Benefit

If a taxpayer qualifies for the 125% cap, he can further qualify to pay no more than 100% of the sum of their 1986 tax liability plus \$.0025 per barrel transferred on certain specific substances only, i.e., those hazardous substances which are directly converted to and comprise more than 90% by weight of a non-hazardous final product. Taxpayers considering taking this additional cap benefit must get prior approval of the substance from the Division of Taxation.

Cap Year Defined

Both the 125% cap and the 100% cap are calculated on payments made during a calendar year. For any year, the cap year begins with the tax payments made in January for a December return period and extends for 12 months to the December payment for a November return period. Capped taxpayers must pay the tax on the subsequent December return due in January as this starts a new "cap year".

All Returns Must Be Filed

Although the payment of tax may not be required to be remitted after the cap is met, the taxpayer is still required to complete the information requested on lines 1 through 13 of the remaining monthly tax returns and file them with the Division of Taxation on or before the original due dates for filing.

SCC-8 Reconciliation Form

A form SCC-8 Reconciliation Form must be filed annually and attached to the SCC-5 tax return in the month when the cap limitation is met.

Prior to taking any of the cap benefits outlined above, Spill taxpayers must contact the Division of Taxation, Regulatory Services Branch (phone: (609) 292-5994) to verify their cap qualification.