



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
CARVEL STATE BUILDING
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DIVISION OF REVENUE

TECHNICAL INFORMATION MEMORANDUM 93-4

JUNE 30, 1993

SUBJECT: INCREASE IN HAZARDOUS SUBSTANCE CLEANUP TAX

House Bill 235, as amended, increases the Hazardous Substance Cleanup ("Superfund") Tax on the sale of petroleum products from 0.6% (.006) to 0.9% (.009). The Division of Revenue will apply this increase to gross receipts received on or after August 1, 1993. "Petroleum product" means crude oil, or any portion thereof liquid at 70 degrees Fahrenheit, and includes motor fuel, gasohol, other blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil and other petroleum based lubricants. House Bill 235 also extended the exclusion of crude oil from the definition of a petroleum product for purposes of the Superfund Tax through March 31, 1994.

The following is a summary of the wholesale and retail tax rates on the sale of petroleum products.

Wholesaler Requirements

1)	General Fund Tax Rate	.004	
2)	Hazardous Substance Tax Rate	.009 ¹	
3)	Petroleum Products Surcharge	<u>.0025</u> ²	
4)	Total Tax Rate	.0155	+
5)	General Fund Surtax .10 X (.004 + .0025) Less a monthly surtax credit of \$30.00		

¹ The Hazardous Substance Tax may be passed on to the purchaser.

² This surcharge is imposed on the wholesaler and may not be invoiced to the purchaser.

Retailer Requirements

House Bill 235 does not affect the exclusion from a retailer's taxable gross receipts of receipts attributable to the sale of petroleum products provided: 1) the retailer purchased the petroleum product from a wholesaler licensed by this state; and 2) such wholesaler has included the sale of the petroleum product in its taxable receipts. The invoice from the wholesaler indicating the amount of tax paid or passed on by the wholesaler or a letter from the wholesaler indicating that the tax was paid but not invoiced, shall be evidence that the wholesaler has included the receipts from the sale of the petroleum products as taxable receipts. If the Hazardous Substance Cleanup Tax has not been paid by the wholesaler, the retailer must pay this tax, .9% (.009), AND the existing retailer's tax of .75% (.0075). These taxes may not be invoiced to the ultimate consumer.

The Division of Revenue anticipates that all wholesalers will soon be invoicing the increased petroleum tax on all of their Delaware sales, and, consequently, most retailers will have ample evidence that their petroleum sales are not subject to the gross receipts taxes. To the extent that a retailer makes sales of petroleum products from inventory as of July 31, 1993 on which the hazardous substance tax was paid, sales of such product will be exempt from the retail gross receipts tax. Deliveries received after July 31, 1993 on which the Hazardous Substance Tax was paid at the old rate by the wholesaler shall be considered exempt from the retail gross receipts tax. In these cases the wholesaler is responsible for paying the revised hazardous substance tax and is permitted to subsequently invoice the tax to the purchaser.

Consumer Sales of Combustible Fuels for Heating or Cooking

House Bill 235 did not affect the treatment of the sale of a combustible fuel consumed by the customer for heating or cooking. The gross receipts of a wholesaler attributable to the sale of any form of combustible petroleum product for heating or cooking which is sold for ultimate consumption and not for resale are exempt from the gross receipts tax. This exemption will generally apply to the sale of home heating oil sold to the ultimate consumer. The exemption does not, however, apply to a wholesaler's purchase of combustible fuel within this state.

Replacement Payment Coupon Books

All wholesalers and retailers licensed to sell petroleum products will receive a replacement payment coupon book during the month of July. When you receive this replacement coupon book, please use the vouchers for the months of August through December 1993. *The coupon to renew your business license for 1994 and the Reconciliation coupon are contained in the ORIGINAL coupon booklet -- they will not be in the replacement book.*

Robert W. Chastant
Director of Revenue