

**TAX TIPS FOR  
PETROLEUM WHOLESALERS AND RETAILERS  
CONDUCTING BUSINESS IN DELAWARE**

**Things You Should Know**

**Definitions, 30, Del. C., Ch 29**

A wholesaler is every person engaged as an owner or agent in the business of selling to or exchanging with another person goods for cash, barter or any consideration for the purpose of resale by the person acquiring the goods sold or exchanged and includes without limitation goods sold or exchanged through outlets, warehouses and distribution depots of persons whose principal place of business is located inside or outside Delaware. A wholesaler also includes any business that sells combustible petroleum products for heating of ambient space or cooking of foodstuff to the ultimate consumer.

A retailer is every person engaged as owner or agent in the business of selling or exchanging goods for cash or barter or any other consideration on the assumption that the purchaser of such goods has acquired the goods for ultimate consumption and not resale.

A petroleum product means crude oil, or any portion thereof, that is liquid at 70° Fahrenheit and at a standard atmospheric pressure, and includes motor fuel, gasohol, other alcohol blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil and other petroleum based lubricants.

Every person engaged in the wholesale or retail sale of petroleum products is exempt from the general wholesale and retail provisions and is subject to the following provisions.

***Hazardous Substance Cleanup Act  
7, Del. C., Ch 91, Sec 9114***

An additional Hazardous Substance Cleanup tax applies on the sale of petroleum products effective for gross receipts after December 31, 1990. The tax (HSCA) is imposed on the sale of most petroleum products at the rate of 0.9% and includes motor fuel, diesel fuel, motor oil, heating oil, aviation fuel, gasohol, other alcohol blended fuels and other petroleum based lubricants. Crude oil is exempt from the tax. Petroleum products used "for heating of ambient space" and "cooking of foodstuffs" are exempt from the gross receipts tax when sold to the ultimate consumer. The taxing structure imposes the Hazardous Substance Cleanup Tax on the sale of a petroleum product from the wholesaler or manufacturer to its customer. By statute, the wholesaler is not prohibited from passing this tax on to you as a retailer or a wholesaler. If a retailer purchases the petroleum product from a licensed wholesaler who is liable for the HSCA, the retailer is exempt from the general retail requirements with respect to the retail sale of that petroleum product. An invoice from the wholesaler showing that the HSCA was billed to the retailer would be documentation supporting the exemption.

Effective after June 30, 2007, House Bill 234 amended the HSCA on petroleum gross receipts to ensure that HSCA is paid only once regardless of how many times the petroleum product is resold in Delaware. Form 9114W is now required to be filed with the wholesaler gross receipts tax form as a means of obtaining credit for HSCA previously paid.

**Gross Receipts**

Gross receipts include total consideration received by a wholesaler for goods physically delivered within this State to the purchaser or his agent. Gross receipts for a retailer are based on goods sold within this State. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins, manufacturer's coupons and rebates and any other consideration of any kind.

**Gross Receipts Do Not Include:**

- Motor fuel taxes paid or payable to the State of Delaware
- Gasoline or special fuel taxes paid to the Federal government
- Home heating oil
- Returned merchandise or like kind exchanges
- Motor vehicles, trailers and motorcycles titled to the owner
- Goods delivered to the U.S. Mail or to a common carrier for delivery to a point outside of Delaware
- Goods picked-up by the purchaser for immediate delivery outside of Delaware. **Form 373, Wholesale Exemption Certificate**, required and available at Division of Revenue offices

**Gross Receipts May Not be Reduced By:**

- Cost of property sold
- Cost of material and/or labor

- Interest, discount or delivery costs
- State or Federal taxes, other then mentioned above.

### License and Gross Receipts Requirements

Both petroleum wholesalers and retailers are required to obtain a business license -- \$75 for each location for a wholesaler and \$90 for the first location and \$40 for additional locations for retailers -- which must be renewed annually on or before December 31st of each year. Gross Receipt taxes should be filed on-line or with a paper form. Both can be accessed from our website at [www.revenue.delaware.gov](http://www.revenue.delaware.gov) To register with the Division of Revenue and obtain a business license, complete a Combined Registration Application, available on the Internet and mail to the Division of Revenue with the appropriate fee or you can file on-line at our OneStop site using the link above.

**Petroleum wholesaler** at the rate of .4023% (.004023) on taxable gross receipts received from selling tangible personal property. The first \$100,000 (\$300,000 quarterly) of gross receipts received per month is exempt from the gross receipts tax. Plus .9% (.009) Hazardous Substance Cleanup Tax and .2514% (.002514) surtax on petroleum products gross receipts.

**Petroleum retailer** at the rate of .7543% (.007543) on taxable gross receipts received from selling tangible personal property plus .9% (.009) Hazardous Substance Cleanup Tax. The first \$100,000 (\$300,000 quarterly) of gross receipts received per month is exempt from the gross receipts tax. Note: For a petroleum retailer with sales of groceries, snacks, print material, etc, the receipts for these items must be included in the total gross receipts and a separate record must be maintained for petroleum product sales. (See example on the next page.) **Note: Petroleum retailers who have paid the hazardous substance tax to their supplier are exempt from the gross receipts tax on the retail sale of the petroleum product.**

**SPECIAL NOTE: ALL SALES TO THE STATE OF DELAWARE, THE UNITED STATES AND THEIR INSTRUMENTALITIES, AGENCIES AND POLITICAL SUBDIVISIONS ARE CONSIDERED WHOLESALE SALES.**

### Tax Rates and Exclusions

	Tax Rate	Monthly Exclusion
<b>Petroleum Wholesaler</b>	.004023	\$ 100,000
Sample Calculation:		
Line 1. Total Gross Receipts		\$773,000
Line 2. Less Exclusion		<u>100,000</u>
Line 3. Taxable Gross Receipts		\$673,000
Line 4. Line 3 x .004023		\$ 2,707
Line 5. Petroleum Gross Receipts		\$673,000
Line 6. Line 5 x .009		\$ 6,057
Line 7. Line 5 x .002514		<u>\$ 1,692</u>
Line 8. Tax Due (Add Lines 4, 6 & 7)		\$ 10,456
 <b>Petroleum Retailer</b>	 .007543	 \$100,000
Sample Calculation:		
Line 1. Total Gross Receipts		\$173,000
Line 2. Less Exclusion		<u>100,000</u>
Line 3. Taxable Gross Receipts		\$ 73,000
Line 4. Line 3 x .007543		551
Line 5. Petroleum Gross Receipts		\$ 73,000
Line 6. Line 5 x .009		<u>\$ 657</u>
Line 7. Tax Due (Add Lines 4 and 6)		\$ 1,208

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

### Due Dates of Returns

New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a "lookback" procedure and determine if the filing frequency should be changed.

Monthly Filers                      20<sup>th</sup> day of the following month  
 Quarterly Filers last day of the first month after the end of the calendar quarter.

### Gross Receipts Tax Exemption

Gross receipts (and for purposes of the tax imposed by Chapter 43, Title 30 of the Delaware Code “rent” and “lease rental payments”) from transactions between related entities are not subject to gross receipts tax. For this purpose, entities are “related” only if (i) the same five or fewer natural individuals own, directly, indirectly or beneficially, 80% or more of each entity, or (ii) 100% of each entity is owned by member or members of a single family. See Section 2120(b) of Title 30 of the Delaware Code for further details, including the definition of family member for purposes of this exclusion.

### Common Ownership/Direction

A business that operates through more than one branch or legal entity is only entitled to one monthly or quarterly exclusion from gross receipts, if the branches or entities making up the enterprise have common ownership or common direction and control.

### Caution Concerning Multiple Exclusions

Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line. However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as manufacturing and wholesaling. Please note that all Delaware manufacturers are also subject to the gross receipts tax as a Wholesaler or Retailer on sales to Delaware customers. Taxpayers who may have obtained separate licenses for each product line sold or manufactured should only renew **ONE** retailer's, wholesaler's or manufacturer's license for each place of business.

### Regulatory and Local Requirements

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

### General

If you have any questions, please contact one of the following offices

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801  (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901  (302) 744-1085	Division of Revenue 20653 Dupont Blvd Suite 2 Georgetown DE 19947  (302) 856-5358

or by e-mail at: [richard.jczyk@state.de.us](mailto:richard.jczyk@state.de.us) or telephone at (302) 577-8265

File Gross Receipts On-line:  
[www.grossreceiptsfiling.delaware.gov](http://www.grossreceiptsfiling.delaware.gov)

or

Print an Interactive Gross Receipts Coupon:  
[http://www.revenue.delaware.gov/services/Business\\_Tax/Forms\\_New.shtml#gr](http://www.revenue.delaware.gov/services/Business_Tax/Forms_New.shtml#gr)