54:15B-1

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 54:15B-1 et seq. ("Petroleum Products Gross Receipt Tax")

LAWS OF: 1990 **CHAPTER:** 42

Bill No: A3612

Sponsor(s): Roberts

Date Introduced: May 24, 1990

Committee: **Assembly:** Appropriations

Senate: -----

Amended during passage: No

Date of Passage: **Assembly:** June 18, 1990

Senate: June 20, 1990

Date of Approval: June 27, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: **Assembly:** Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

Title 54.
Subtitle 4.
Part.2B.(New)
Taxation of
Petroleum Products
Companies.
Chapter 15B.(New)
Petroleum Products
Gross Receipts
Tax.
§§1-8-C.54:15B-1
to 54:15B-8
§9-Note to §§1-8

P.L.1990, CHAPTER 42, *approved June 27, 1990*

1990 Assembly No. 3612

AN ACT imposing a tax on the sale and use of petroleum products, supplementing Title 54 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Petroleum Products Gross Receipts Tax Act."

2. For the purposes of this act:

"Company" includes a corporation, partnership, limited partnership, association, individual, or any fiduciary thereof.

"Director" means the Director of the Division of Taxation in the Department of Treasury.

"First sale of petroleum products within this State" means the initial sale of a petroleum product delivered to a location in this State. A sale of petroleum products is presumed to be a "first sale of petroleum products within this State" unless the seller is in receipt of a certification, in such form as the director may prescribe, indicating a prior "first sale of petroleum products within this State." A "first sale of petroleum products within this State" does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.

"Gross receipts" means all consideration derived from the first sale of petroleum products within this State.

"Petroleum products" means 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 and propane gas to be used exclusively for residential heating.

"Quarterly period" means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively.

3. a. There is imposed on each company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this State a tax at the rate of two and three quarters percent (2 3/4%) of its gross receipts derived from the first sale of petroleum products within this State; and

b. There is imposed on each company that imports or causes to be imported, other than by a company subject to and having paid the tax on those imported petroleum products that have generated gross receipts taxable under subsection a. of this section, petroleum products for use or consumption by it within this State a tax at the rate of two and three quarters percent (2 3/4%) of the consideration given or contracted to be given for such petroleum products if the consideration given or contracted to be given for all such deliveries made during a quarterly period exceeds $100,000.

4. The taxes imposed under the provisions of section 3 of this act shall be in addition to any other tax imposed by this State on such company.

5. a. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived from the first sale of petroleum products within this State sold for exportation from this State for use outside this State; and

b. A company shall be allowed a credit against the tax imposed by subsection a. of section 3 of this act if a purchaser of petroleum products first sold within this State subsequently sells the petroleum products for exportation from this State for use outside this State; provided:

(1) the purchaser who makes the sale for exportation from this State for use outside this State issues a certification, on such form as the director may prescribe, evidencing a sale outside this State, and

(2) the company liable for the tax imposed under the provisions of this act has paid to the purchaser making the sale outside this State an amount equal to the tax imposed on the gross receipts derived from the first sale of petroleum products within this State to such purchaser.

6. A company subject to tax under the provisions of this act shall, within 20 days after the first transaction subjecting such company to the provisions of this act, register with the director on such forms as the director shall prescribe. The failure to register with the director shall not absolve a company from filing a return and paying the tax imposed under the provisions of this act.

7. A company subject to tax under this act shall, on or before the 20th day following the end of each quarterly period, file a return under oath to the director on such forms as may be prescribed by the director and pay the full amount of the tax due on gross receipts derived from the first sale of petroleum products within this State and the consideration given or contracted to be given for all deliveries of petroleum products for use or consumption by it within this State for that preceding quarterly period ended.

8. a. (1) If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from the information available.

(2) If because of an affiliation of interests between a company subject to tax under this act and any purchaser the gross receipts from sale transactions are not indicative of or representative of market price, the director may at the director's discretion, utilize external indices to establish gross receipts.

Notice of a determination pursuant to this subsection shall be given to the company liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the company against which it is assessed, within 30 days after receiving notice of the determination, shall apply to the director for a hearing, or unless the director on the director's own motion shall redetermine the same. After such hearing the director shall give notice of the determination to the company to which the tax is assessed.

b. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that a prescribed certificate has not been issued, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder shall be prima facie evidence thereof.

c. In addition to the other powers granted to the director in this section, the director is hereby authorized and empowered:

(1) To delegate to any officer or employee of the division such powers and duties as the director may deem necessary to carry out the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this act.

d. The tax imposed by this act shall be governed in all respects by the provisions of the State Tax Uniform Procedure Law, R.S.54:49-1 et seq., except only to the extent that a specific provision of this act may be in conflict therewith.

9. This act shall take effect immediately but remain inoperative until July 1, 1990, and shall apply to first sales of petroleum products within this State and to deliveries of petroleum products for use or consumption within this State made on and after that date.

STATEMENT

This bill will impose a 2.75% tax, effective July 1,1990, on the gross receipts from the first sale in this State of petroleum products by any company engaged in the refining or distribution, or both, of petroleum products. Heating fuel and propane used for residential heating are excluded.

The tax will be levied at a rate of 2.75% of the companies gross receipts derived from the first sale of petroleum products in this State; a credit will be allowed for products sold for use outside of this State. Connecticut and New York levy similar taxes at rates of 3% and 2.75%, respectivelv.

The revenue raised will be used to replace funds for capital projects which were lapsed to balance the fiscal year 1990 budget.

STATE TAXATION

"Petroleum Products Gross Receipts Tax Act."

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Sponsor's STATEMENT

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products by any company engaged in the refining or distribution, or both, of petroleum products. Heating fuel and propane used for residential heating are excluded.

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STATE TAXATION

"Petroleum Products Gross Receipts Tax Act."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3612

STATE OF NEW JERSEY

DATED: JUNE 14, 1990

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3612.

Assembly Bill No. 3612 imposes a tax of 2 3/4% on the gross receipts of a refiner, distributor or importer from the sale of petroleum products in New Jersey. Receipts from the sale of home heating oil and propane gas used exclusively for residential heating are exempt from the tax. The tax is imposed on each company engaged in the refining or distributing, or both, of petroleum products for distribution in New Jersey and applies to the first sale of petroleum products which are sold within the State. A company that imports petroleum products for use in New Jersey, and which is not otherwise subject to payment of the gross receipts tax, is required to pay a use tax at the same rate on the cost of such products, if the cost is in excess of $100,000 in a calendar quarter. The bill provides for a credit against the tax imposed if a first purchaser of petroleum products subsequently sells the petroleum products for exportation from this State for use outside of this State. Each company will be required to file a return and pay the tax on a quarterly basis. The tax will apply to sales and deliveries made on and after July 1, 1990.

FISCAL IMPACT

A fiscal note has not been completed on this bill. However, the Department of the Treasury and the Office of Legislative Services have estimated that the tax will raise approximately $150 million in fiscal year 1991. Both estimates were prepared in May 1990 for presentation to the Joint Appropriations Committee.