54:15B-5

LEGISLATIVE HISTORY CHECKLIST
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(Petroleum gross receipts tax--exempts Federal government)

LAWS OF: 1991

CHAPTER: 19

Bill No: A3993

Sponsor(s): Charles and Marsella

Date Introduced: October 4, 1990

Committee: Assembly: Appropriations

Senate: Revenue, Finance & Appropriations

Amended during passage: No

Date of Passage: Assembly: December 17, 1990

Senate: January 29, 1991

Date of Approval: January 31, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

§§2-4 -
C.54:15B-9
to 54:15B-11
§5-Note to
§§1-4

P.L.1991, CHAPTER 19, *approved January 31, 1991*
1990 Assembly No. 3993

AN ACT concerning the taxation of petroleum products purchased for use by the United States government, amending and supplementing P.L.1990, c.42.

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

1. Section 5 of P.L.1990, c.42 (C.54:15B-5) is amended to read as follows:

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]<u>.</u>

<u>b. 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 to the United States government, or to any of its departments, agencies or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products the gross receipts from which are exempt from tax pursuant to this subsection shall report such sales to the director at such times and in such detail as the director may require. This exemption may be claimed by a company otherwise subject to the tax under this act at any time within two years after the date of the first sale of petroleum products within this State for which the exemption is claimed, but no claim made after the expiration of that two year period shall be recognized for any purpose by the State or any agency thereof.</u>

[b.] <u>c.</u> 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

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

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.

(cf: P.L.1990, c.42, s.5)

2. (New section) a. A person who shall purchase or otherwise acquire petroleum products, upon which the petroleum products gross receipts tax has not been paid and is not due pursuant to subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a reimbursement payment has been paid pursuant to section 3 of this act, from a federal government department, agency or instrumentality, or any agent or officer thereof, for use not specifically associated with any federal government function or operation, shall pay to the State a tax equivalent to two and three quarters percent (2 3/4%) of the consideration given or contracted to be given for the purchase or acquisition of the petroleum products in accordance with the procedures set forth in the "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.).

b. A person who knowingly uses, or who conspires with an official, agent or employee of a federal government department, agency or instrumentality, for the use of, a requisition, purchase order, or a card or an authority to which the person is not specifically entitled by government regulations, with the intent to obtain petroleum products from a federal government department, agency or instrumentality for a use not specifically associated with a federal government function or operation, upon which the petroleum products gross receipts tax has not been paid, is guilty of a crime of the fourth degree.

3. (New section) a. A federal government department, agency or instrumentality, that purchases petroleum products other than by the first sale of that product in this State for use in a federal government function or operation, upon which petroleum products the petroleum products gross receipts tax has been paid or is due and payable, shall be reimbursed and paid an amount equivalent to two and three quarters percent (2 3/4%) of the consideration given or contracted to be given by the federal government department, agency or instrumentality for the purchase of the petroleum products.

b. The reimbursement shall be claimed by presenting to the Director of the Division of Taxation in the Department of the Treasury an application for the reimbursement, on a form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement shall be supported by an invoice, or invoices, showing the name and address of the person from whom the petroleum products were purchased, the name of the purchaser, the date of purchase, the quantity of the product purchased, the price paid for the purchase of the product, and an acknowledgment by the seller that payment of the cost of the product to the seller, including the petroleum gross receipts tax due thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

c. If petroleum products are sold to a federal government department, agency or instrumentality that shall be entitled to a reimbursement under this act, the seller of the petroleum products shall supply the purchaser with an invoice that conforms with the requirements of subsection b. of this section.

4. (New section) a. Upon approval by the director of an application for reimbursement, a warrant shall be drawn upon the State Treasurer for the amount of such claim in favor of the claimant and the warrant shall be paid from the revenue collected from the petroleum products gross receipts tax. The application for reimbursement shall be filed with the director on or before the last business day of the month following the calendar quarter in which the petroleum products in question were purchased.

b. A person who makes a false or fraudulent statement in an application required for reimbursement under this act, or who shall knowingly collect or cause to be repaid to any person or claimant any such reimbursement without being entitled to the same, is guilty of a crime of the fourth degree.

5. This act shall take effect immediately and reimbursements hereunder shall apply to purchases of petroleum products made on and after July 1, 1990.

STATEMENT

This bill effectively exempts the government of the United States from paying the petroleum products gross receipts tax on the refined petroleum products the federal government purchases for use in its government functions or operations. The petroleum products gross receipts tax is due upon the first sale of petroleum products in this State. However, under this bill, if a department, agency or instrumentality of the federal government is the first in-State purchaser, the receipt to the seller on that first sale of the petroleum products is exempted from the imposition of the tax, and the tax will not be passed on to federal government exempt purchases. If the federal government is not the first in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale refiner, the bill provides for reimbursement to the federal government for the costs of the 2.75% gross receipts tax included in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal government under the motor fuels excise tax.

STATE TAXATION

Exempts federal government from petroleum products gross receipts tax and provides for reimbursement by State of amount of tax paid on federal government purchases.

ASSEMBLY, No. 3993

STATE OF NEW JERSEY

INTRODUCED OCTOBER 4, 1990

By Assemblymen CHARLES and MARSELLA

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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. 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 to the United States government, or to any of its departments, agencies or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products the gross receipts from which are exempt from tax pursuant to this subsection shall report such sales to the director at such times and in such detail as the director may require. This exemption may be claimed by a company otherwise subject to the tax under this act at any time within two years after the date of the first sale of petroleum products within this State for which the exemption is claimed, but no claim made after the expiration of that two year period shall be recognized for any purpose by the State or any agency thereof.

[b.] c. 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

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2. (New section) a. A person who shall purchase or otherwise acquire petroleum products, upon which the petroleum products gross receipts tax has not been paid and is not due pursuant to subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a reimbursement payment has been paid pursuant to section 3 of this act, from a federal government department, agency or instrumentality, or any agent or officer thereof, for use not specifically associated with any federal government function or operation, shall pay to the State a tax equivalent to two and three quarters percent (2 3/4%) of the consideration given or contracted to be given for the purchase or acquisition of the petroleum products in accordance with the procedures set forth in the "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.).

b. A person who knowingly uses, or who conspires with an official, agent or employee of a federal government department, agency or instrumentality, for the use of, a requisition, purchase order, or a card or an authority to which the person is not specifically entitled by government regulations, with the intent to obtain petroleum products from a federal government department, agency or instrumentality for a use not specifically associated with a federal government function or operation, upon which the petroleum products gross receipts tax has not been paid, is guilty of a crime of the fourth degree.

3. (New section) a. A federal government department, agency or instrumentality, that purchases petroleum products other than by the first sale of that product in this State for use in a federal government function or operation, upon which petroleum products the petroleum products gross receipts tax has been paid or is due and payable, shall be reimbursed and paid an amount equivalent to two and three quarters percent (2 3/4%) of the consideration given or contracted to be given by the federal government department, agency or instrumentality for the purchase of the petroleum products.

b. The reimbursement shall be claimed by presenting to the Director of the Division of Taxation in the Department of the Treasury an application for the reimbursement, on a form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement shall be supported by an invoice, or invoices, showing the name and address of the person from whom the petroleum products were purchased, the name of the purchaser, the date of purchase, the quantity of the product purchased, the price paid for the purchase of the product, and an acknowledgment by the seller that payment of the cost of the product to the seller, including the petroleum gross receipts tax due thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

c. If petroleum products are sold to a federal government department, agency or instrumentality that shall be entitled to a reimbursement under this act, the seller of the petroleum products shall supply the purchaser with an invoice that conforms with the requirements of subsection b. of this section.

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b. A person who makes a false or fraudulent statement in an application required for reimbursement under this act, or who shall knowingly collect or cause to be repaid to any person or claimant any such reimbursement without being entitled to the same, is guilty of a crime of the fourth degree.

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STATE TAXATION

Exempts federal government from petroleum products gross receipts tax and provides for reimbursement by State of amount of tax paid on federal government purchases.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3993

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1990

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3993.

Assembly Bill No. 3993 exempts the federal government from paying the petroleum products gross receipts tax on the refined petroleum products which it purchases for use in its governmental functions and operations. The petroleum products gross receipts tax is due upon the first sale of petroleum products in this State. However, under this bill, if a department, agency or instrumentality of the federal government is the first in-State purchaser, the receipt to the seller on that first sale of the petroleum products is exempted from the imposition of the tax, and the tax will not be passed on to federal government exempt purchases. If the federal government is not the first in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale refiner, the bill provides for reimbursement to the federal government for the costs of the gross receipts tax included in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal government under the motor fuels excise tax.

FISCAL IMPACT

Without any statistical information to formulate an accurate estimate, and with the Middle-East crisis compounding oil prices, it has been stated that $13.5 million would be lost through this exemption.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3993

STATE OF NEW JERSEY

DATED: JANUARY 24, 1991

The Senate Revenue, Finance and Appropriations Committee reports favorably Assembly Bill No. 3993.

Assembly Bill No. 3993 effectively exempts the federal government from paying the petroleum products gross receipts tax on the refined petroleum products which it purchases for use in its governmental functions and operations. The petroleum products gross receipts tax is due upon the first sale of petroleum products in this State. However, under this bill, if a department, agency or instrumentality of the federal government is the first in-State purchaser, the receipts to the seller on that first sale of the petroleum products are exempt from the imposition of the tax, and the tax will not be passed on to federal government exempt purchases. If the federal government is not the first in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale refiner, the bill provides for reimbursement to the federal government for the costs of the gross receipts tax included in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal government under the motor fuels excise tax.

This bill is identical to Senate, No. 3253 of 1991.

FISCAL IMPACT

The Office of Legislative Services estimates that approximately 9% of the revenues generated by the petroleum products gross receipts tax (P.L.1990, c.42) results from sales to the federal government. The FY91 budget certifies total revenues from the petroleum products gross receipts tax at $150 million. Based on these estimates, the exemption provided in this bill will reduce State revenues in FY91 by $13.5 million.