



Effect for Petroleum Products Gross Earnings Tax Purposes of Federal Excise Tax Rate Change on 10% Gasohol

Purpose: This Special Notice summarizes changes made by the American Jobs Creation Act of 2004 (Pub. L. No. 108-357), reducing the federal excise tax rate on most alcohol-blended fuels and how, if at all, those changes affect the computation of the Connecticut petroleum products gross earnings tax on a distributor's gross earnings from making the first sale in Connecticut of 10% gasohol.

Effective Date: Effective January 1, 2005, and applicable to quarterly periods beginning on or after January 1, 2005.

Statutory Authority: Conn. Gen. Stat. §12-587(a); and Conn. Agencies Regs. §12-602-1a(c).

Gross Earnings for Petroleum Products Gross Earnings Tax Purposes: Gross earnings is defined in Conn. Gen. Stat. §12-587(a)(3) as meaning "all consideration received from the first sale within this state of a petroleum product." That consideration includes, the Connecticut Supreme Court has concluded, any amount that a distributor collects from its customers for the petroleum products gross earnings tax, even if the distributor separately bills that amount to its customers. *Texaco Refining & Marketing Co. v. Commissioner*, 202 Conn. 583, 598 (1987).

Gross earnings "do not include the amount of state or federal excise taxes on gasoline or special fuel." Conn. Agencies Regs. §12-602-1a(c). The Connecticut Supreme Court has found this regulation to be "entirely reasonable and consistent with the statutory mandate of [Conn. Gen. Stat.] §12-587." *Texaco Refining & Marketing Co. v. Commissioner*, 202 Conn. 583, 599 (1987).

Federal Excise Tax Rates on Alcohol-Blended Fuels Prior to January 1, 2005: The federal excise tax rate on 10% gasohol was 13.2¢ per gallon. (This was the excess of the rate that would otherwise have applied under Section 4081(a)(2)(A) and (B) of the Internal Revenue Code (18.4¢), over the applicable blender rate (as defined in Section 4041(b)(2)(C)(ii) of the Internal Revenue Code) (5.2¢).)

Federal Excise Tax Rates on Alcohol-Blended Fuels After December 31, 2004: While the federal excise tax rate on 10% gasohol is 18.4¢ per gallon (under Section 4081(a)(2)(A) and (B)), an alcohol fuel mixture credit is allowed against the tax imposed under Section 4081 equal to 5.1¢ per gallon (under Section 6426(b)(1) and (2)(A)), so that the net federal excise tax rate on 10% gasohol is 13.3¢ per gallon.

Gross Earnings of a Distributor Making First Sale in Connecticut of 10% Gasohol: Under Conn. Agencies Regs. §12-602-1a(c), a distributor making the first sale in Connecticut of 10% gasohol on or after January 1, 2005 may, on account of federal excise tax, exclude from its gross receipts such sales not more than 13.3¢ per gallon of 10% gasohol. (Before January 1, 2005, the distributor could have, on account of federal excise tax, excluded from its gross receipts not more than 13.2¢ per gallon of 10% gasohol.)

Examples: While it is distributors, and generally not their customers, who are subject to the petroleum products gross earnings tax, many distributors choose to itemize the tax on their bill to customers. (This practice is not required by the Department of Revenue Services (DRS). Typically, a line on the customer's bill will show a 5.25% "tax" computed on the distributor's charges to the customer, and this computation will not take into account any federal excise tax or Connecticut motor vehicle fuels tax payable (which will typically be separately itemized on the bill). As noted above, the Connecticut Supreme Court has concluded any amount that a distributor collects from its customers for the petroleum products gross earnings tax is includible in the distributor's gross earnings. In the following examples, the assumption is that the distributor is making the first sale in Connecticut of 10% gasohol, so the distributor's gross receipts from the sale would be subject to the petroleum products gross earnings tax.

Example 1

Sample bill for sale made before January 1, 2005

	Price per gal.	Charges
Quantity 8,000 gal.	\$1.25	\$10,000
State excise tax	0.25	2,000
Federal excise tax	0.132	1,056
State gross receipts tax 0.0525		<u>525*</u>
(* \$10,000 multiplied by 0.0525)		\$13,581

The amount includible from this sale in the distributor's gross receipts for petroleum products gross earnings tax purposes is **\$10,525**.

Example 2

Sample bill for sale made on or after January 1, 2005

	Price per gal.	Charges
Quantity 8,000 gal.	\$1.25	\$10,000
State excise tax	0.25	2,000
Federal excise tax	0.184	1,472
Federal tax credit (0.051)		(408)
State gross receipts tax 0.0525		<u>525*</u>
(* \$10,000 multiplied by 0.0525)		\$13,589

The amount includible from this sale in the distributor's gross receipts for petroleum products gross earnings tax purposes is **\$10,525**.

Example 3

Sample bill for sale made on or after January 1, 2005

	Price per gal.	Charges
Quantity 8,000 gal.	\$1.25	\$10,000
State excise tax	0.25	2,000
Federal excise tax	0.184	1,472
Federal tax credit (0.051)		(408)
State gross receipts tax 0.0525		<u>503.58*</u>
(* \$9,592 multiplied by 0.0525)		\$13,567.58

The amount includible from this sale in the distributor's gross receipts for petroleum products gross earnings tax purposes is **\$10,503.58**.

In this example, the distributor has **incorrectly** assumed that it may, on account of federal excise tax, exclude from its gross receipts 18.4¢ per gallon, which is 5.1¢ per gallon (or \$408 on the sale of 8,000 gallons) more than it is allowed to exclude. The distributor may not, on account of federal excise tax, exclude more than 13.3¢ per gallon of 10% gasohol from its gross earnings.

Example 4

Sample bill for sale made on or after January 1, 2005

	Price per gal.	Charges
Quantity 8,000 gal.	\$1.199	\$9,592
State excise tax	0.25	2,000
Federal excise tax	0.184	1,472
State gross receipts tax 0.0525		<u>503.58*</u>
(* \$9,592 multiplied by 0.0525)		\$13,567.58

The amount includible from this sale in the distributor's gross receipts for petroleum products gross earnings tax purposes is **\$10,503.58**.

In this example, the distributor has **incorrectly** assumed that it may circumvent the rule prohibiting the exclusion from its gross receipts, on account of federal excise tax, of not more than 13.3¢ per gallon, by showing the excess exclusion as a 5.1¢ reduction in the price per gallon of gasohol (from \$1.25 to \$1.199, or \$408 on the sale of 8,000 gallons). The distributor may not, on account of federal excise tax, exclude, *by any means*, more than 13.3¢ per gallon of 10% gasohol from its gross earnings.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

For Further Information on the Petroleum Products Gross Earnings Tax or this Special Notice: For further information on the petroleum products gross earnings tax or this Special Notice, call the Excise Taxes Unit of the Audit Division at 860-541-3224 from 8:00 a.m. to 5:00 p.m., Monday through Friday.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

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Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at **www.ct.gov/DRS**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.

Telephone: Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file sales and use taxes, business use tax, room occupancy tax, estimated corporation tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
 - **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
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