

State of New Jersey
DIVISION OF TAXATION
SPILL COMPENSATION AND CONTROL TAX
N.J.S.A. 58:10-23.11h
TAX RETURN INSTRUCTIONS
GENERAL INFORMATION

- A. DUE DATE** - The SCC-5 return must be filed by the 20th day of the month following the close of the taxable period.
- B. TAXABLE PERIOD DEFINED** - Taxable period means that period commencing with the first day of the calendar month and ending with the last day of said month.
- C. FILING** - An SCC-5 tax return must be filed on a monthly basis by all registered operators of major facilities regardless of whether tax liability has been incurred for a given month. A late filing penalty may be imposed on registrants who fail to file timely returns. Registrants no longer subject to the tax are required to submit a written request for termination of their registration prior to ceasing return filing.
- D. FORM SCC-8** - Reconciliation form **only** to be used by those taxpayers who qualify under one of the "cap" provisions provided for in Section b. of N.J.S.A. 58:10-23.11h. This form must be filed along with the tax return on which the limitation is met. Refer to the note on page 4 for additional information.
- E. TAXPAYERS** - All owners and operators of major facilities including pipelines and vessels who are transferees are considered to be taxpayers for purposes of the Spill Compensation and Control Tax. If a major facility operates as a public storage terminal, then the owner of the hazardous substance transferred to such terminal is considered to be the transferee and taxpayer for the purposes of the tax.
- F. MAJOR FACILITY DEFINED** - "Major Facility" includes but is not limited to any refinery, storage or transfer terminal, pipeline, deep water port, vessel, drilling platform or any appurtenance related to any of the preceding that is primarily used or intended to be used to refine, produce, store, handle, transfer, process or transport hazardous substances or petroleum products. Facilities with total combined above-ground or buried storage capacity, primarily used or intended to be used, for storage of petroleum or petroleum products of more than 200,000 gallons, or the non-fluid equivalent thereof, are major facilities. Facilities storing non-petroleum hazardous substances are considered to be major facilities if their storage capacity is over 20,000 gallons, or the non-fluid equivalent thereof. When a facility meeting such standards is located within the confines of a larger premises, the terms "use" and "intended use" refer to the facility itself and not the character of the entire complex. Storage capacity means only that capacity which is dedicated to, used for or intended to be used for storage of hazardous substances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces.
- G. PUBLIC STORAGE TERMINAL** - A public storage terminal means a public or privately owned major facility which is engaged in the business of providing storage space to the general public and for the exclusive storage of hazardous substances owned by others. When a hazardous substance is transferred to a major facility which qualifies as a public storage terminal on or after January 18, 1979, the owner of the hazardous substance is considered the transferee and the taxpayer for purposes of the tax.
- H. TRANSFER DEFINED** - "Transfer" means onloading or offloading between major facilities and vessels or vessels and major facilities, and from vessel to vessel or major facility to major facility, but not including fueling or refueling operations. In the case of non-petroleum hazardous substances, "transfer" also includes any onloading of or offloading from a major facility.
- I. SECONDARY TRANSFERS - Form SCC-2** - The Act provides that "the same barrel, including any products derived therefrom, subject to multiple transfers from or between major facilities shall be taxed only once at the point of the first transfer." Each subsequent transfer is regarded as a secondary transfer and as such, is exempt from further taxation. Secondary transferees, however, bear the burden of proof that transfers received were previously subjected to the tax. The only acceptable documentation of a secondary transfer is a valid Secondary Transfer Certificate (Form SCC-2).
- J. HAZARDOUS SUBSTANCES** - "Hazardous Substances" means such elements and compounds, including petroleum products as defined in N.J.S.A. 58:10-23.11b. Effective October 7, 1996, metals in either their pure elemental form or alloyed, in solid pieces with at least one dimensional measurement equal to or exceeding 100 micrometers (0.004 inches) or chemically bonded to an inert substrate shall not be considered hazardous substances. Also, hazardous substances determined by the Department of Environmental Protection not to be subject to regulation under the Act shall not be subject to taxation. The list of hazardous substances may be obtained by writing to: New Jersey Division of Taxation, Audit Services Branch, PO Box 189, Trenton, NJ 08695-0189.
- K. PETROLEUM AND PETROLEUM PRODUCTS DEFINED** - "Petroleum" or "Petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances shall not be considered petroleum or a petroleum product for the purposes of this act, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State.
- L. PRECIOUS METALS DEFINED** - Precious metals include gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium and copper.
- M. ELECTRONIC FUNDS TRANSFERS** - The Division of Revenue has established procedures to allow the remittance of tax payments through Electronic Funds Transfer (EFT). Taxpayers with a prior year's liability of \$10,000 or more in any one tax are required to remit all tax payments using EFT. If you have any questions concerning the EFT program, call (609) 984-9830 or write to N.J. Division of Revenue, EFT Section, PO Box 191, Trenton, NJ 08646-0191.

SPECIFIC INSTRUCTIONS

THE LINE NUMBERS BELOW REFER TO THE CORRESPONDING LINES ON THE TAX RETURN - FORM (SCC-5)

Line 1 - Total Quantity of Hazardous Substances Transferred to You

Total quantity of liquid petroleum and petroleum products (Column (A)-1), other liquid hazardous substances (Column (B)-1), and liquid hazardous substances which are or contain precious metals, elemental phosphorus, elemental antimony or antimony trioxide (Column (C)-1), received by the taxpayer during the preceding month stated in gallons.

Total quantity of non-liquid petroleum products (Column (A)-2), other non-liquid hazardous substances (Column (B)-2), and non-liquid hazardous substances which are or contain precious metals, elemental phosphorus, elemental antimony or antimony trioxide (Column (C)-2) received by the taxpayer during the preceding month stated in pounds. Liquids and solids are to be measured at 60 degrees Fahrenheit.

THE FOLLOWING TRANSFERS OF PETROLEUM, OTHER HAZARDOUS SUBSTANCES, AND HAZARDOUS SUBSTANCES WHICH ARE OR CONTAIN PRECIOUS METALS, ELEMENTAL PHOSPHORUS, ELEMENTAL ANTIMONY OR ANTIMONY TRIOXIDE RECEIVED BY MAJOR FACILITIES ARE SUBJECT TO THE TAX AND MUST BE INCLUDED ON LINE 1. THE OWNERS OR OPERATORS OF THE RECEIVING MAJOR FACILITIES ARE CONSIDERED TO BE THE TRANSFEREES AND TAXPAYERS.

- (A) Transfers received from vessels, regardless of origin.
- (B) Transfers originating at major facilities which are received by pipeline or by motor truck, semi-trailer, railroad rolling stock, airplane, or any other contrivance which is practically capable of being used as a means of commercial transportation of petroleum or hazardous substances over any roadway, railroad, street or rapid transit railway, elevated viaduct, across virgin soil, through any subterranean tunnel or passage, or in the air space over the State of New Jersey and its territorial waters.
- (C) All vessel to vessel transfers.

THE FOLLOWING TRANSFERS ARE ALSO SUBJECT TO TAX AND, IF APPLICABLE, MUST BE INCLUDED ON LINE 1:

- (D) Transfers from a major in-state facility to a non-major facility, including vessels, of a hazardous substance other than petroleum which has not been previously taxed. In such instances the transferor major facility is the taxpayer.
- (E) Transfers of any hazardous substance to a major facility operating as a public storage terminal. In such instances, the owner of the hazardous substance (or his authorized agent) upon delivery at the public storage terminal is the transferee and taxpayer.
- (F) Transfers of precious metals are reportable on line 1 in the following manner: A precious metal which is listed as a hazardous substance and transferred into New Jersey to be recycled, refined or re-refined or transferred into New Jersey subsequent to being recycled, refined or re-refined is subject to tax at the \$.023 per barrel rate, not the fair market value rate. Precious metals listed as hazardous substances are: silver and copper. A precious metal which is not listed as a hazardous substance but transferred into New Jersey in a substance containing a hazardous substance to be recycled, refined or re-refined or transferred into New Jersey in such substance subsequent to being recycled, refined or re-refined is subject to tax at the \$.023 per barrel rate of the hazardous substance only. The fair market value tax rate is not applicable. Precious metals not listed as hazardous substances are: gold, platinum, palladium, iridium, rhodium and ruthenium.
- (G) Transfers of substances which are or contain elemental phosphorus are reportable on line 1 in the following manner: Prior to June 27, 1997 at a rate of the greater of \$.0150 per barrel or 1.0% of fair market value plus \$0.0025 per barrel of the elemental phosphorus; on and after June 27, 1997 but prior to January 1, 2004, at a rate of \$.0150 per barrel of the elemental phosphorus; on and after January 1, 2004 at a rate of \$.023 per barrel of the elemental phosphorus.
- (H) Transfers of qualified elemental antimony or antimony trioxide are reportable on line 1 in the following manner: Prior to April 1, 2002 at a rate of the greater of \$.0150 per barrel or 1.0% of fair market value plus \$0.0025 per barrel of the elemental antimony or antimony trioxide; on and after April 1, 2002 and prior to January 1, 2004 and if sold for use in the manufacture or for the purpose of fire retardants and if annually qualifying pursuant to N.J.S.A. 58:10-23.11h at a rate of \$.0150 per barrel of the elemental antimony or antimony trioxide; if qualified on and after January 1, 2004 at a rate of \$.023 per barrel of the elemental antimony or antimony trioxide.

Line 2 - Hazardous Substances Received in a Non-taxable Manner - Other than pre-taxed hazardous substances which should be reported on Line 4.

Include the following transfers of petroleum or other hazardous substances when completing Line 2.

- (1) Transfers received for use in tax exempt fueling and refueling operations. The terms "fueling and refueling" refer to fuel that is used by the receiving facility itself for heating or locomotion.
- (2) Transfers received from a non-major facility by any conveyance other than a vessel.

SPECIFIC INSTRUCTIONS - Continued

Line 3 - Taxable Hazardous Substance Transfers -

Line 1 minus Line 2.

Line 4 - Hazardous Substances Received on Which Tax Previously Paid -

Enter the total quantity of previously taxed hazardous substances, as documented by Secondary Transfer Certificates, on Line 4. Both the transferee and transferor of previously taxed petroleum or any other hazardous substance must retain a copy or duplicate of all Secondary Transfer Certificates (Form SCC-2) unless a single certificate has been used to cover multiple transfers to the same transferee of the same general type of product. Taxpayers must comply with all instructions and regulations pertaining to the use of Secondary Transfer Certificates.

Line 5 - Hazardous Substance Transfers Subject to Tax -

Line 3 minus Line 4.

Line 6 - Conversion to Barrels -

All transfers subject to tax must be measured in barrels.

Liquids - A barrel is 42 United States gallons. Liquid barrels are to be measured at 60 degrees Fahrenheit. Divide all liquid gallons of Hazardous Substance Transfers Subject to Tax (Line 5) by 42.

Solids - The solid equivalent of one barrel of fluid at 60 degrees Fahrenheit is 350.79 pounds. Divide all non-liquid pounds of Hazardous Substance Transfers Subject to Tax (Line 5) net of packaging and containers by 350.79.

Gases - Gases measured in cubic feet at 60 degrees Fahrenheit are to be converted from volume to the equivalent weight of one barrel of liquid. The taxpayer must determine and indicate the measure of conversion employed on the tax return form. N.J.A.C. 7:1E-1.7(b), effective October 7, 1996, states that any flammable or inert gas on the List of Hazardous Substances designated by an asterisk shall not be considered a hazardous substance.

Line 7 - Barrels of Hazardous Substances Subject to Tax -

Add Line 6 Column (A)-1 to Line 6 Column (A)-2 for barrels of petroleum and petroleum products subject to tax.

Add Line 6 Column (B)-1 to Line 6 Column (B)-2 for barrels of other hazardous substances subject to tax.

Add Line 6 Column (C)-1 to Line 6 Column (C)-2 for barrels of hazardous substances which are or contain precious metals, elemental phosphorus, elemental antimony or antimony trioxide, subject to tax.

Line 8 - Fair Market Value of Barrels Subject to Tax -

Applicable only to Column (B) Other Hazardous Substances. Fair Market Value of Barrels Subject to Tax is the total of all invoice prices, including transportation charges, of all non-petroleum hazardous substance transfers for the taxable period that are subject to tax. Where no invoice price is so fixed, fair market value is the market price as of the nearest day to the transfer paid for similar non-petroleum hazardous substances.

Line 9 - Tax Rate per Barrel -

Petroleum and Petroleum Products (Column A) - The tax rate is currently set at \$0.023 for each taxable barrel transferred.

Other Hazardous Substances (Column B) - The tax shall be 1.53% of the fair market value of the product.

Precious Metals, Elemental Phosphorus, Elemental Antimony or Antimony Trioxide (Column C) - The tax rate is currently set at \$0.023 for each taxable barrel of the Hazardous Substance transferred.

Note: Under certain circumstances provided for by the statute, the tax rate for petroleum and petroleum products may be raised at the discretion of the Administrator of the New Jersey Spill Compensation Fund.

Line 10 - Tax Due -

Petroleum and Petroleum Products (Column A) - Multiply Line 7 by Line 9. Enter amount on Line 10(A).

Other Hazardous Substance (Column B) - Multiply Line 8 by Line 9. Enter amount on Line 10(B).

Precious Metals, Elemental Phosphorus, Elemental Antimony or Antimony Trioxide (Column C) - Multiply Line 7 by Line 9. Enter amount on Line 10(C). **Note:** ONLY that portion of the precious metal substance that is listed as hazardous is subject to tax.

SPECIFIC INSTRUCTIONS - Continued

Line 11 - Credit from Part II of Reconciliation Form SCC-8 -

Enter the amount from Part II, Line 9 of Form SCC-8 in Column A, B or C, whichever is applicable.

Line 12 - Amount of Tax Due -

Subtract Line 11 from Line 10 in each column.

Line 13 - Total Amount of Tax Due -

Add Line 12 Column A, Line 12 Column B, and Line 12 Column C. Enter Total Amount of Tax Due on Line 13.

Line 14 - Credit from Part I of Reconciliation Form SCC-8 -

Enter the amount from Part I, Line 7 of Form SCC-8 in Column C.

Line 15 - Balance of Tax Due -

Subtract Line 14 from Line 13. If Line 14 is greater than Line 13, enter zero on Line 15.

Line 16 - Penalty and Interest Due -

Calculation of penalty and interest is as follows:

LATE PAYMENT PENALTY - 5% of the tax amount received after the due date may be imposed.

LATE FILING PENALTY - 5% per month or fraction thereof on the amount of underpayment not to exceed 25% of that underpayment, except if no return has been filed within 30 days of the date on which the first notice of delinquency in filing the return was sent, the penalty shall accrue at 5% per month or fraction thereof of the **total** tax liability not to exceed 25% of such tax liability. Also, a penalty of \$100 for each month the return is delinquent may be imposed.

INTEREST - The annual interest rate is 3% above the average predominant prime rate. Interest is imposed each month or fraction thereof on the unpaid balance of tax from the original due date to the date of payment. At the end of each calendar year, any tax, penalties and interest remaining due will become part of the balance on which interest will be charged.

Note: The average predominant prime rate is the rate as determined by the Board of Governors of the Federal Reserve System, quoted by commercial banks to large businesses on December 1st of the calendar year immediately preceding the calendar year in which payment was due or as redetermined by the Director in accordance with N.J.S.A. 54:48-2.

Line 17 - Total Balance Due -

Line 15 plus Line 16.

Signature - This return must be signed by an officer of the taxpayer authorized to act to the effect that the statements contained therein are true. Tax preparers who fail to sign the return and provide their assigned tax identification number shall be liable for a \$25 penalty for each such failure. If the tax preparer is not self-employed, the name of the tax preparer's employer and the employer's tax identification number should also be provided.

NOTE: Any owner or operator of a major facility that was subject to the Spill Compensation and Control Tax in 1986 and made tax payments in 1986, and certain of their successors in interest to such major facilities, should request a copy of the "Spill Tax Cap Guidelines" to determine if, and to what extent, the cap on annual tax payments provided for under N.J.S.A. 58:10-23.11h.b.(1)(a) of the Spill Compensation and Control Act applies to them.

Inquiries may be directed to the Audit Services Branch Section at 609-984-7171 or in writing to the NJ Division of Taxation, Audit Services Branch, PO Box 189, Trenton, NJ 08695-0189. Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page from your computer at: <http://www.state.nj.us/treasury/taxation/>